The meeting was called to order at 1; 00 p.m. in Room 213 Senator Thomas R. C. Wilson was in the chair.

PRESENT: Senator Thomas R.C. Wilson, Chairman
Senator Richard E. Blakemore, Vice Chairman
Senator Don Ashworth
Senator Clifford E. McCorkle
Senator Melvin D. Close
Senator C. Clifton Young
Senator William H. Hernstadt

ABSENT: None

OTHERS PRESENT: See attached guest list page 1A.

AB 27 Establishes board to review functions of Nevada industrial commission.

Assemblyman James Banner explained AB 27, which is a result of an interim subcommittee study. He stated that it would establish a review board of the Nevada Industrial Commission and would eliminate the need for the legislature to pass legislation every 2 years for the purpose of interim studies.

Chairman Wilson asked the intent of the board's jurisdiction. Mr. Banner answered that the board would insist on compliance of its orders.

Senator Young expressed concern as to the purpose and jurisdiction of the proposed board. He stated that it might be improper to legislate this deligation of power and asked how far it would go with regard to hearings and appeals and whether it would be advisory or jurisdictional.

Mr. Banner explained to Senator Ashworth that the reason for the sunset clause is that if the board proves ineffective in 4 years, it will self-destruct. He explained that there can be all kinds of studies like the Stanford Research Institute study of the NIC, but the purpose of this board would be to review and hear complaints.

Don Hill, private citizen, testified in opposition to AB 27 for the reason that he feels it would ruin the concept of NIC. He stated that Nevada has the best workmen's compensation system in the United States; the rates are 1/2 as much as many other states. He explained to Senator Hernstadt that he has worked for Harrah's and is presently a consultant for Harvey's, but he is acting today strictly on his own behalf.

Jack Kenney, representing the Southern Nevada Home Builders, explained that he had been involved with the conception of AB 27. He explained that the present labor-management committee is appointed by executive [illegible]cree and has 10 members, 5 from management and 5 from labor. He [illegible]inued that the new board would have a member representing organized [illegible] and another representing non-union workers, probably a state [illegible]e; there would be a member representing small business, and

another representing large business; there would be a Certified Public Accountant, and, originally it had been proposed to have as board members 1 senator and 1 assemblyman. He explained that the board would be analogous to a board of directors and an oversight committee in terms of claimant's procedures. Mr. Kenney presented statistics regarding the NIC fund (see Exhibit A). He also presented a letter from Larry D. Struve, Chief Deputy Attorney General, regarding the Attorney General's views as to the constitutionality of AB 27 (see Exhibit B). Mr. Kenney explained that presently the 3 commissioners have the power to set and raise rates without the recourse of appeal; they can also increase or decrease reserves. He explained to Senator Ashworth that prior to 1975 the employers payed a base of $15,000 on wages; in 1975 the base was raised to $24,000. He continued that the rates, in general, have gone up because of the higher base.

Discussion followed regarding the state retirement fund which has about $4 and 1/2 million and on which the NIC system was based. Mr. Kenney stated that NIC could surely do better investing its profits.

Harold Knudson, Secretary Treasurer, Northern Nevada Labor Council, and member, Labor Advisory Board, testified in opposition to AB 27. He stated that since he has been on the board, Nevada has come from 27 in the nation to 8. He stated that the present Labor Advisory Board is adequate and that there is no need for another. He concluded that along with the amount of money in the NIC fund the benefits have been increased.

Tom Jones, Local 233, Steel Workers Union, White Pine Central Labor Council, Ely Nevada, concurred with the previous testimony.

Roland Oaks, representing the Associated General Contractors, and member, Labor and Management Board, stated that labor and management surely don't agree on everything. He stated that Nevada rates 5th in the nation not 8th, and the rates are very low based on the benefits. Mr. Oaks concurred with the testimony opposing AB 27. Mr. Oaks answered Senator Ashworth that when NIC reevaluated some of their reserves and set up a rehabilitation program they were able to save some money but that an actuary would have to answer why there is a $31 million profit.

Easton Blackburn, Sr. Safety Engineer, TIMET, Hendersen, Nevada, member Labor and Management Advisory Board, concurred with opposition to AB 27. He stated that it would be unconstitutional to not have an equal balance of power on the proposed advisory board. Mr. Blackburn stressed that NIC shows profits because the severity of injuries in Nevada have decreased because the workers have been educated and medical procedures are better.

Senator Ashworth stated that the legislature cannot bind future legislatures with regard to language on line 2, page 2 of the first reprint.

Max Blackham, representing the Nevada Mining Association, member, Labor and Management Advisory Board, concurred with the opposition to AB 27.

Mr. Blackham stressed if there is going to be a change in the system that it should be an improvement and not a tearing down of the accomplishments made thus far in the NIC system.

Chairman Wilson explained the actions of the Committee in revising AB 84 and asked if the advisory board has suggestions or recommendations for the Committee with regard to changing or strengthening the NIC system.

Mr. Blackham replied that there is a need for an interim subcommittee study.

Discussion followed. Senator Young observed that there has been a feeling throughout these hearings that there is a great lack of communicaton between labor, management and the NIC. Mr. Blackham answered that a reason for that could be technical language that, although true and honest, is not understandable by the layman; there is a need for a better communications linkage. Senator Hernstadt stated that if the board has been in existance for 20 years it should have had enough time to prove itself. Mr. Blackham replied that over those years there have been vast improvements in the workman's compensation program. Mr. Blackham agreed with Senator McCorkle that the reason for this lack of communication between the employers and employees and NIC is that the employers and employees don't understand the NIC system. He added that it is difficult to communicate with John Reiser, Chairman, NIC, becuase Mr. Reiser is so knowledgeable about insurance, but that he is always cooperative.

Joe Buckley, Director, Industrial Relations, SUMMA, President, Southern Nevada Personnel Association, testified in support of AB 27. Mr. Buckley stated that with many interm studies conducted through the years there is still a lot of dissatisfaction with the rates, the reserving system and the answers or lack of answers received. He explained that during the period of 1971 to 1978 SUMMA paid $2.9 million in premiums over and above its losses. He concluded that the Assembly Committees and the Assembly Floor had passed AB 27 unanimously. Mr. Buckley answered Senator Young that written questions have been submitted to the NIC with unsatisfactory response. Mr. Buckley answered Senator Hernstadt's question by stating that SUMMA feels that 80% to 90% of the problems with NIC were not addressed in the SRI report.

Chuck King, representing Central Telephone Company (CenTel), testified in support of AB 27. Mr. King stated that he believes that good advice has been given by the advisory board but that it has not been followed. Mr. King concluded that he feels that the proposed board should be jurisdictional.

Norman Anthonison, representing SUMMA, testified in support of AB 27. Mr. Anthonison explained that he had been on the ad hoc committee and that the employers had found that they have mutual problems with NIC.

Dick Lance, Gibbons Company which presently represents over 200 employers in the area of worker's compensation, testified in support of AB 27. Mr. Lance stated that the present hearings system is unsatisfactory because each individual employer should have the right to independent judgements made with regard to rates and premiums.

John Reiser, Chairman, NIC, explained to Senator McCorkle that Scudder, Stevens and Clark is the professional investment manager to NIC. Mr. Reiser stated that the state board of finance decides the firm that will advise with regard to investing. Senator McCorckle asked why NIC is not getting a higher return than 6% on its investments. Mr. Reise explained that the current rate on market is 8 1/2% on total portfolio and on bonds over 9%. He corrected that the average yeild on the market is 8 1/2%.

Chairman Wilson closed the public hearing on AB 27.

SB 11 Amends provision for obligations and assessments of Nevada Life and Health Insurance Guaranty Association.

For previous testimony, discussion and action on SB 11, see minutes of meetings dated January 24 and 31, 1979.

John R. Crossley, C.P.A., Legislative Auditor, presented information on the premium tax credits (see Exhibit C).

Chairman Wilson explained that SB 11 had been passed out of Committee but there arose a question regarding the bill.

Mr. Crossley explained that Nevada has allowed insurance companies to deduct the general guarantee fund assessment as a credit against the premium tax and referred to Exhibit C.

Donald A. Rhodes, Chief Deputy Research Director, Legislative Counsel Bureau presented alternatives to the premium tax credit contained in paragraph (c) of subsection 1 of NRS 687A.060 (see Exhibit D).

Ben Dasher, Chairman, Nevada Life and Health Guarantee Association, explained that the original intent of SB 11 was to change the method of assessing companies for the administrative expenses and to eliminate those claims made against the Association which were not truely resultant of a claim for life insurance, or accident and health insurance not honored because of a defunct company. He added that in the history of the Association there has been a total outlay of $104,000; the main concern is to not have a Nevadan suffer by virtue of an unpaid claim, the Association advances payment of the claim.

Milos Terzich, representing the American Council of Life Insurance, concurred with the previous testimony in support of SB 11. Mr. Tersizh added that life and health differs substantially from property and casualty because the property and casualty companies can increase rates and adjust them on their outstanding block of business. He continued that life and health insurance companies are on a long term and can not do that. Mr. Terzich explained that the first reprint of

SB 11 is the same as the original bill except that it limits cash values to $100,000 and the agregate of life insurance claims is raised to $300,000. He explained to Senator Ashworth that the rates on casualty are regulated by the insurance commissioner.

James Wadhams, Director, Department of Commerce, explained that the basic problem is upon whom shall the ultimate burdon for an insolvency rest. The two basic mechanisms are the premium tax offset, which is a deduction against the tax that an insurance company would pay; that system places the burdon on the general tax paying body of Nevada. He continued that the other alternative is through rate adjustment to make up for whatever assessments have been made; in that respect the burdon for the insolvent insurance company is placed upon the user of a similar kind of services. Mr. Wadhams stated that as a practical matter the present system seems fairly efficient. He concluded that SB 11 puts a limit on the liability.

Chairman Wilson closed the public hearing on SB 11.

SB 531 Revises certain provisions of law regulating architects.

Gary Owen, representing, John Hancock, Architect, testified in support of SB 531. Mr. Owen explained that SB 531 allows a multidisciplinary approach to professional services relating to development; a group of people together, could address development from numerous standpoints: architectural, engineering, planning, soil conservation, soil science, plant materials and others. He added that the Attorney General's office has determined that all architectural services must be performed by registered architects, or someone under his supervision; that non-architectural personnel must not hold out themselves as being able or qualified to perform architectural services. He stated that SB 531 would amend NRS 623.350 to incorporate what the Attorney General has previously indicated as the intent; that it does not prohibit a multi-disciplinary approach.

John Hancock, Architect, explained to Senator Blakemore that his firm is presently the architect on a junior high school as has a formal contract that ties it down to errors in omission or other problems during construction.

Mr. Owen explained to Senator Close that the language allows an officer of a corporation who is an architect to supervise people who are not architects. He added that the employee would do mechanical, ministerial types of work and the discretionary things would be done by the architect.

Discussion followed regarding "supervision" and "in residence". Mr. Owen felt that if there are three offices, one architect could oversee them and still be considered in residence. He explained that "administer construction" means a side office, a mobile home, for instance, located at a large construction project. He added if the registered architect is working for a corporation, he and not the corporation is responsible. Senators Ashworth and Young expressed concern that the language of the bill would require that every office

and every other place of business must have an architect right there. Mr. Owen stated that that language had not been in the original bill proposal, but could be amended out.

Chairman Wilson closed the public hearing on SB 531.

SB 530 Makes technical correction concerning terms of members of Oriental medicine advisory committee.

William Edwards, M.D., representing the State Board of Oriental Medicine, testified in support of SB 530. Dr. Edwards explained that the bill corrects that there are 5 members on the board and not 6.

Chairman Wilson closed the public hearing on SB 530.

SB 529 Corrects reference to another section of NRS in provision of law relating to physical therapists.

Chairman Wilson stated that SB 529 is another "house-cleaning" bill.

Chairman Wilson closed the public hearing on SB 529.

SB 528 Makes technical correction to provision of law relating to underground utility services.

Chairman Wilson stated that SB 528 is a "house-cleaning" bill.

Chairman Wilson closed the public hearing on SB 528.

AB 564 Clarifies compulsory insurance of musicians.

Assemblyman James Banner explained that AB 564 adds lounge musicians who are not now covered by workmen's compensation. He stated these people are not employed by the hotel. He added that the hotel would not be liable if there were a certificate of workmen's compensation.

Chairman Wilson closed the public hearing on AB 564.

AB 241 Provides for agreement as to what constitutes employee misconduct for purposes of unemployment compensation.

Ernest Newton, testified in support of AB 241. Mr. Newton explained that the bill changes the result applied to a person terminated for misconduct to the same result when a person quits without good cause. He stated that the employee would receive a copy of rules of employment at the time of hiring. Mr. Newton continued that language beginning with "Employers" on page 1, line 19 was not part of the proposed bill but has been added by the bill drafter, and he recommends that it be deleted. He further added that line 6, page 1 should read "successive 10 weeks". Mr. Newton explained to Senator Hernstadt that presently employees don't have incentive to continue to be good employees if they want a few weeks vacation to get themselves fired.

Larry McCracken, Executive Director, Employment Security Department, presented prepared testimony in explanation to AB 241 and a statement of position by Daniel P. Riordan, Acting ARA for Unemployment Insurance, United States Department of Labor (see Exhibits E and F). Mr. McCracken explained that presently the statutes provide that if a person is entitled to 22 weeks of unemployment and is terminated for misconduct he must wait 11 weeks before collecting; if he is not employed by the end of the end of the 11 weeks, he may only collect 11 weeks compensation. He continued that AB 241 would provide that if the person is fired again for misconduct within the benefit year, up to 90% of his benefits can be witheld. He added that if the bill passes, the maximum the fund will save would be $75,000 yearly.

Bob Long, Administrator, Unemployment Insurance Division stated that the division doesn't have enough information at this time to say whether ther would be an increase in cost to adminsiter the bill. He guessed that if there were an increase it would be minimal.

Mr. McCracken state that he does not like the bill but if the last line were deleted it could be administered. He added that presently Nevada has among the strongest penalties in the United States.

George Foster, Business Manager, Plumbers and Steam Fitter's Union, Reno Nevada, Member, Employment Security Advisory Council, testified in opposition to AB 241. He strongly objected to the "written contract" clause as well as to the rest of the bill. He added that all of the labor representatives he has been in touch with are opposed also.

Bill Montgomery, Member, Teamster's, testified in opposition to AB 241. Mr. Montgomery explained that if the last clause of the bill is deleted, there is no need for the remainder. He stated that misconduct is the most difficult thing there is to prove. He added that at the end of a season, in construction work, it is impossible to get work.

Norman Anthonison, representing SUMMA, testified in support of AB 241. Mr. Anthonison explained that AB 241 is not the bill that was passed out of the Assembly. He stated that he had proposed an amendment that was supposed to be added to the bill and presented it for the record (see Exhibit G). Mr. Anthonison explained that the employers feel that the penalty for termination for misconduct should be as strong as voluntary termination.

Chuck King, Central Telephone Company, explained that Nevada employment security is the second most expensive per capita program in the United States; Central Telephone paid in $379,000 in premiums and paid out $75,464.44.

Stan Jones, representing Northern Nevada Central Trades and Labor Counci testified that AB 241 is an imperfect bill. Mr. Jones read from the Nevada Revised Statutes as follows: "Provides in dealing with employers the individualworker is helpless to exercise actual liberty of contract and to protect his freedom of labor and thereby to obtain acceptable terms and conditions of employment." He explained that the point is that a person who has been out of work will sign anything that the

employer offers. At Senator Closes request, Mr. Jones considered Mr. Anthonison's proposed amendment and stated that he finds it equally repugnant. He stated that there are over 300,000 employees in Nevada who can't be involved in a collective bargaining agreement.

Senator McCorkle stated that he had had an experience where an employee was caught more than once on the job drinking beer, was not prompt and, who's attendance was irregular; the employee was terminated, requested a hearing, appealed the decision and won. He clarified that there is much difference of opinion as to what constitutes misconduct.

Richard Lance, representing the Gibbons Company, explained that the concept of unemployment insurance is for benefits for employees who become terminated at no fault of their own. He stated that he supports the amended AB 241. He concluded that it is the employer's responsibility to prove misconduct. Mr. Lance explained to Senator Young that the hearings procedure is fast, about within 30 days, but no compensation can be drawn during that time. He added that the majority of cases are ruled against the employer regarding misconduct: about 70%.

Chairman Wilson closed the public hearing on AB 241.

AB 464 Revises circumstances in which a limited used vehicle dealer's license is required for real estate broker in selling used mobile homes.

Gil Buck, representing the Nevada Association of Realtors, testified in support of AB 464.

Chairman Wilson closed the public hearing on AB 464.

There being no further business the meeting was adjourned at 5:00 p.m.

RESPECTFULLY SUBMITTED

Betty L. Kalicki

Betty L. Kalicki, Secretary

APPROVED:

Thomas R. C. Wilson, Chairman

SENATE Commerce and Labor COMMITTEE

GUEST LIST

DATE: Monday, April 30, 1979

NAME	AGENCY OR ORGANIZATION
Norman Anthonison	SUMMA
Chuck King	Central Telephone Company
[illegible]	NESD
John Crossley	LCB - audit
ROBERT O. DIMMICK	LCB - AUDIT
JOHN REISER	NIC
Tom Jones	W.P.C.L.C. - V.S.W.A.
Harold Knudson	N. Nev. Central Labor Council
JOHN MADOLE	NEV. ASSN. OF MECHANICAL CONTRS
SCOTT BAKER	NIC
Jim Wadhams	Commerce
Ben Dasher	Nev. Life + Health Guarantee Ass'n
Dan Rhodes	Legislative Counsel Bureau
STAN WARREN	NEVADA BELL
Stan Jones	N. Nevada Central Labor Council
[illegible] MD	State Board of Osteopathic Medicine
GIL BUCK	NEVADA ASSOC. OF REALTORS
JACK KENNEY	So NV Home Builders -
James Banner	Assemblyman
Don Hill	Private Citizen
Tom Jones	Local 233, Steel Workers Union
Roland Oaks	Associated General Contractors
Easton Blackburn	TIMET
Max Blackham	Nevada Mining Association
Joe Buckley	SUMMA

SENATE Commerce and Labor COMMITTEE

GUEST LIST

DATE: April 30, 1979

NAME	AGENCY OR ORGANIZATION
Dick Lance	The Gibbons Company
Milos Terzich	American Council of Life Insurance
Gary Owen	Attorney
John Hancock	Architect
Ernest Newton	
Larry McCracken	Executive Director, Employment Security
Bob Long	Administrator, Unemployment Insurance Divison
Bill Montgomery	Teamsters

NIC

Exhibit A

	Assets	Cash	Land Bldg Equip	Investments Long & Short	Premiums Receivable & Other	Income Receivable
1972	46,473,193	2,111,605	703,448	38,467,974	4,619,981	550,18
1973	61,194,676	639,073	698,262	53,664,375	5,518,493	674,47
1974	84,858,178	891,554	1,236,420	74,428,960	7,295,630	1,005,61
1975	103,709,890	1,352,393	2,773,091	90,169,894	8,055,632	1,358,38
1976	127,514,820	1,037,258	3,530,738	110,163,368	9,761,054	3,022,40
1977	164,550,938	1,053,526	5,716,644	142,071,183	13,641,807	2,067,77
1978	213,127,000	1,740,000	8,980,000	180,619,000	19,404,000	2,384,00

	Net Gain from Operations	Premiums	Liability for Incurred but Unpaid Losses	Admitted Surplus
1972	1,188,939	25,299,980	39,191,000	5,115,034
1973	2,505,391	32,759,194	51,358,000	7623,425
1974	4,959,470	43,630,181	66,702,000	12,755,509
1975	2,259,508	43,115,039	83,958,000	15,015,017
1976	<3,158,813>	53,626,736	111,769,000	11 856 204
1977	582,763	72,468,653	148,531,000	12,438,967
1978	31,030,000	92,492,000	167,248,000	43,468,000

Exibit B

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
CAPITOL COMPLEX
CARSON CITY 89710

RICHARD H. BRYAN
ATTORNEY GENERAL

LARRY D. STRUVE
CHIEF DEPUTY ATTORNEY GENERAL

April 30, 1979

The Honorable Thomas R.C. Wilson
Nevada State Senator
Chairman, Senate Committee on
Commerce and Labor
Legislative Building
Carson City, Nevada 89710

Re: A.B. 27

Dear Senator Wilson:

On April 26, 1979 A.B. 27 was assigned to your committee. The purpose of this letter is to inform you of the office of the Attorney General's concern relative to the constitutionality of this statute.

Let me first emphasize that the office of the Attorney General has no position one way or the other concerning the concept behind this bill. That is, we neither necessarily support nor oppose this bill. However, during the time that this bill was being read for the second time on the Assembly floor, amendments were proposed which would, among other things, require the office of the Attorney General to be the legal adviser for the proposed Nevada Industrial Commission Board of Review and to require the office to represent the Board in any legal proceeding to which it is a party. Since we believe that there are other provisions in this bill which would adversely affect our ability to properly represent the proposed Board, we feel it is necessary to contact you concerning this bill and to point out our concerns.

I would refer you to lines 13 through 15 on the first page of the bill. This would provide that the Legislative Commission shall appoint one member to the Board of Review who is a Senator and one member who is an Assemblyman. Then, lines 22 through 24 on page 2 provides that the Board of Review shall issue orders for the correction of procedures,

practices or policies which it finds to be improper. These orders are to be binding on the Nevada Industrial Commission.

In the opinion of this office, these two provisions in concert would probably violate Article 3, Section 1 of the Nevada Constitution. Article 3, Section 1, of course, concerns itself with the separation of powers principle in Nevada government. It provides that the government of the State of Nevada is to be divided into the legislation, executive and judicial branches. The provision goes on to state that:

> "no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases herein expressly directed or permitted."

A.B. 27 would create an executive agency, i.e., the NIC Board of Review, which would issue binding orders to the NIC. Under the proposed legislation, part of the membership of this executive agency would consist of legislators who would participate fully in the making of such binding orders. In our opinion this clearly violates Article 3, Section 1 since legislators would be exercising the functions appertaining to the executive department of government in participating on such a board.

The very first time that this Board of Review issues an order to the NIC, the Board will be opening itself up to what we believe would be a successful challenge to its authority to do so. This clearly affects not only the basic concept of what the Legislature is attempting to do by the enactment of this legislation but also affects the abilities of this office to properly represent the Board in any legal proceeding to which it is a party.

Alternatives to curing this problem would consist of either eliminating lines 13 through 15 on page 1 of the proposed bill or of eliminating lines 22 through 24 on page 2 of the bill and instead substitute provisions making the

decisions of the Board advisory only. A third alternative would perhaps be to provide that the Legislative Commission shall appoint non-legislators to the Board.

At any rate, we respectfully request that you take this information into consideration when considering A.B. 27. Once again, we wish to emphasize that this office is only concerned with insuring that whatever bill is passed meets constitutional muster. This office neither necessarily opposes nor supports the basic concept embodied by this bill.

Sincerely,

RICHARD H. BRYAN
Attorney General

By: Donald Klasic
Donald Klasic
Deputy Attorney General

DK/so

Exhibit C

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627
DONALD R. MELLO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640
FLOYD R. LAMB, *Senator, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

April 26, 1979

Senator James I. Gibson
Legislative Building
Carson City, Nevada

Dear Senator Gibson:

We have reviewed the statutory authority of insurance companies taking credits against their premium taxes. This letter outlines the reasons for the credits, and identifies how funding insolvent companies will be handled.

In the event that an insurance company becomes insolvent, its obligations must be met in some manner. There are two basic alternatives for handling the obligations of an insolvent insurance company.

1. The insurance companies join together and finance the insolvencies through a guaranty association.

   a) When the insurance companies deduct their guaranty fund assessment as a credit against the premium tax, it means that the general public is helping subsidize the defunct insurance companies.

   b) When insurance companies uniformly raise their rates to cover the assessments, it means that the policy holders are subsidizing the defunct insurance companies.

2. Each insurance company stands on its own and the individual policy holder suffers the loss.

Nevada has adopted the guaranty association concept in its law. This is explained in the following narrative, along with an explanation of how some other states have addressed this area.

EXHIBIT C

Nevada has two guaranty associations. One is per NRS 687A, which is for direct insurance, except for life and health. Under NRS 687A.060 that guaranty association will be obligated to the amount of each covered claim to the extent of $300,000. The other is per 686C, which is for life and health. Under 686C.210, that guaranty association will be obligated only up to $200,000 in regards to the death benefit coverage on any one life in a covered policy.

We made a survey of other states in an effort to determine their procedures pertaining to liability of insolvent insurance companies. The insurance divisions of the following states were interviewed:

Missouri
Nebraska
North Dakota
Pennsylvania
Tennessee
Washington

Each of the states has a Guaranty Association. Three of the states have Guaranty Associations which cover property and casualty, and life and health. Missouri has one association broken into workman's compensation, automobile, farmers mutual, and all others. North Dakota has one association which covers all liability except life, title, disability, and ocean marine. Tennessee has one association which covers only property and casualty.

All of the states except North Dakota and Pennsylvania permit the Guaranty Association assessments to be deducted from the premium tax. Pennsylvania permits the life and health assessment as a premium tax deduction but authorized the property and casualty companies to pass their assessments on to the policy holders.

All of the states which authorize premium tax credits permit the deduction at 20% a year for five consecutive years. Two exceptions to this are Tennessee, which permits its premium tax credit to be deducted at 25% per year for four consecutive years, and Washington life and health companies, which are permitted 10% a year for ten consecutive years.

Each of the states has a statutory maximum of $300,000 per claim for insolvent companies except Tennessee and Missouri. Tennessee has a $100,000 statutory maximum while Missouri only honors claims in excess of $100,000 up to a maximum of $50,000.

Some credits have been taken by the insurance companies already. We scheduled the amount of Guaranty Fund Assessment Tax credit claimed by insurers in accordance with NRS 686C.280 and 687A.060. This information was set forth on the Statement of Premium Tax and Fees on Retaliatory Basis Forms (copy attached) for calendar years 1976 and 1977.

The total credits claimed by calendar year for all property and casualty and life and health companies are set forth on the following schedule:

NRS		1976	1977
687A.060(1)(c)	Property and Casualty	$ 98,561.55	$84,573.96
686C.280(2)	Life and Health	5,890.27	9,001.89
	Total	$104,451.82	$93,575.85

These credits were originally permitted by statute in 1972, although the Insurance Division did not revise their form to show the deduction of these credits until 1976. During our review, we noted that many of the companies were claiming credits for the 1972-76 period on the 1976 form they submitted.

The following narrative outlines some of the major liabilities that might be taken as credits against the premium tax in future years.

NRS 687A.060 - DIRECT INSURANCE EXCEPT LIFE AND HEALTH

Under 687A.060, the 20% credit allowed against the premium tax cannot be taken until the final court order is issued. This is in accordance with the current Commerce Director's policy. This was not the way it was initially handled. From information we obtained, the companies were allowed to take the credit prior to the court order.

The total estimated debt is $2.5 million on the major cases in which two companies in California are involved. The guaranty company assessed that amount, but deferred one half and has collected only $1.25 million from the insurance companies. Since $2.5 million was assessed, they can collect the balance, if necessary. None of the amount assessed or collected has been taken as a credit against the premium tax. These cases, if settled as estimated, will amount to a credit of $250,000 each year for five years.

EXHIBIT C

NRS 686C.280 - LIFE AND HEALTH

Under NRS 686C.280, the 20% credit against the premium tax is permitted the year following the guaranty fund assessment. It is not necessary to obtain a court order prior to taking the credit.

The following schedule sets forth anticipated assessments, including operating costs, which will be levied against the life and health insurance companies on a calendar year basis. Most of the below assessments relate to an Indiana based company.

1978	$ 47,000
1979	125,000
1980	80,000
1981	40,000
1982	30,000
1983	10,000
1984	20,000

According to the association, these assessments are somewhat difficult to predict, as oftentimes the defunct companies are not too accurate in supplying information.

We also checked with the Legislative Counsel to determine what the State position was in regards to these credits. He offered the following:

1. NRS 686C.280 and 687A.060 are basically compatible in their operation.

2. The State of Nevada is subsidizing the reserve of each of the Guaranty Associations by permitting the member insurers to deduct 20% per year from their premium tax for five consecutive years for any amounts they are assessed by the Guaranty Associations as a result of the insolvency of any of their members.

3. In the event that a claim against an insolvent company exceeds the statutory maximum, the State of Nevada would not have any liability in the matter by way of it permitting the credit against the premium tax paid.

The potential credit against the premium tax is considerable in the event that several major companies become insolvent. This is illustrated on the attached schedule.

EXHIBIT

The Department of Commerce and the guaranty associations were extremely cooperative in helping us to obtain the above information.

Sincerely yours,

John R. Crossley, C.P.A.
Legislative Auditor

JRC:rie
Attachments

EXHIBIT G

INSURANCE DIVISION
SCHEDULE OF POTENTIAL MAXIMUM GUARANTY FUND ASSESSMENT TAX CREDIT
BASED ON 1972 THROUGH 1980 PREMIUM TAX

	TOTAL PREMIUM PAID	20% CREDIT ALLOWED ONE YEAR FOLLOWING ASSESSMENT PER NRS 686C.280 AND 687A.060								
		1973-74	1974-75	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82
1972-73	$ 4,493,875	$ 898,775	$ 898,775	$ 898,775	$ 898,775	$ 898,775	$ —	$ —	$ —	$ —
1973-74	5,017,290	—	1,003,458	1,003,458	1,003,458	1,003,458	1,003,458	—	—	—
1974-75	5,465,335	—	—	1,093,067	1,093,067	1,093,067	1,093,067	1,093,067	—	—
1975-76	6,001,728	—	—	—	1,200,346	1,200,346	1,200,346	1,200,346	1,200,346	—
1976-77	7,374,505(b)	—	—	—	—	1,454,010	1,454,010	1,454,010	1,454,010	1,454,010
1977-78	9,273,448(b)	—	—	—	—	—	1,835,974	1,835,974	1,835,974	1,835,974
1978-79	11,016,000(c)	—	—	—	—	—	—	2,203,200	2,203,200	2,203,200
1979-80	13,219,000(c)	—	—	—	—	—	—	—	2,643,800	2,643,800
1980-81	15,598,000(c)	—	—	—	—	—	—	—	—	3,119,600
Potential Total		$ 898,775	$1,902,233	$2,995,300	$4,195,646	$5,649,656	$ 6,586,855	$ 7,786,597	$ 9,337,330	$11,256,584
Actual Amount Claimed		——Not Readily Available——			$ 104,452 (a)	$ 93,576	——NOT YET AVAILABLE——			
Premium Tax		$5,017,290	$5,465,335	$6,001,728	$7,374,505 (b)	$9,273,448 (b)	$11,016,000 (c)	$13,219,000 (c)	$15,598,000 (c)	$ N/A

(a) Our review noted that many companies indicated on their 1976 form that the credit was for 1972 through 1976.

(b) Premium tax credit claimed added back to amount deposited for purposes of this schedule.

(c) Estimate.

EXHIBIT C

INSURANCE DIVISION
Carson City, Nevada 89710

STATEMENT OF PREMIUM TAX AND FEES ON RETALIATORY BASIS
YEAR ENDING DECEMBER 31, 19.....

From.....incorporated/organized under the laws of.....

and with its principal office in the United States located at.....(Street), ...(City)

.....(State), hereby submits the following Statement as required by law.

	(1) TAXES	(2) NEVADA BASIS	(3) STATE OF
1.	Gross Premiums/Considerations (See Instructions)		
2.	Current dividends applied to provide paid-up additions or to reduce endowments or premium-paying periods		
3.	Deductions, categorized by class of business according to applicable tax rate as necessary (See Instructions)		
	(a) Dividends paid or credited to policyholders		
	(b) Net premiums or considerations received from policies or contracts issued in connection with plans qualified or exempt under Sections 401, 403, 404 or 501 of U.S. Internal Revenue Code		
	(c) Other (Itemize)		
4.	Net taxable premiums (Item 1, Plus 2, Less 3)		
5.	Taxes payable (according to applicable tax rate) on Item 4. (Nevada @ 2%)	@ %	
	Additional taxes and assessments—Include Workmen's Compensation, Fire Marshal, Ocean Marine and/or any other State or Municipal Tax that would be levied on a Nevada company doing business in your state.		
6.	$ @ %	XXXXX	
7.	$ @ %	XXXXX	
8.	$ @ %	XXXXX	
9.	$ @ %	XXXXX	
10.	TOTAL TAXES (Lines 5 through 9)		
	FEES		
11.	Filing Annual Statement	$25.00	
12.	Annual License Fee, Nevada, One Class $100, Two or More $200		
13.	Filing Charter Documents (Nevada $10 each)		
14.	Filing Power of Attorney (Nevada $5 each)		
15.	Filing any other certificate form		
16.	Filing Certificate of Compliance		
17.	AGENTS LICENSES: (See Instructions)		
	Resident—Original Appointment (@ $2.00)	(@ $)	
	Resident—Renewal Appointment (@ $2.00)	(@ $)	
	Non-Resident—Original Appointment (@ $25.00)	(@ $)	
	Non-Resident—Renewal Appointment (@ $25.00)	(@ $)	
	Itemize other fees or charges on lines 18 through 19. Do not include publication fees.		
18.		XXXXX	
19.		XXXXX	
20.	Total All Taxes/Fees/Charges (Lines 10 through 19)		
21.	Subtract Total Amounts previously paid Nevada, per lines 11 through 19. COPIES OF RECEIPTS FOR AMOUNTS PREVIOUSLY PAID MUST BE ATTACHED		
22.	Total Taxes and Fees due Nevada on a retaliatory basis: THE GREATER AMOUNT OF COLUMN 2 and COLUMN 3, MAKE ALL CHECKS PAYABLE TO: COMMISSIONER OF INSURANCE, STATE OF NEVADA		
23.	Guaranty Fund Assessment Tax Credit		

STATE OF .....
COUNTY OF..... } ss.

.....being duly sworn, deposes and says: That he is the.....
of the.....and that the foregoing is a full, true and correct statement of all b
done in the State of Nevada, year ending December 31, 19....

Subscribed and sworn to before me this.....day of .....
....., 19.....

Exhibit D

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627
DONALD R. MELLO, *Assemblyman, Chairman*
Arthur J. Palmer, *Director, Secretary*

INTERIM FINANCE COMMITTEE (702) 885-5640
FLOYD R. LAMB, *Senator, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

FRANK W. DAYKIN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

April 30, 1979

TO: Senator Thomas "Spike" Wilson

FROM: Donald A. Rhodes, Chief Deputy Research Director

SUBJECT: Alternatives to the Premium Tax Credit Contained in Paragraph (c) of Subsection 1 of NRS 687A.060

Jim Wadhams, director of the department of commerce, met with John Crossley and me on Friday morning, April 27, 1979, and we discussed the following alternatives to the premium tax credit for assessments against casualty insurers for amounts necessary to pay the obligation of insolvent insurers.

1. Abolish the tax credit and leave the provision in NRS 687A.140 which permits casualty insurers to include recoupment allowances in their premiums.

2. Reduce the level of the tax credit to 10 percent per year for five successive years following the final order in the liquidation period for any amounts paid. This would cut in half the potential premium tax losses to the state authorized under existing law.

3. Abolish the tax credit and establish a property and liability insurance security fund similar to the one used in New York State. New York maintains a "bail out" fund for insolvent casualty insurers which is prefunded by assessments against all insurers. After the fund reaches a certain level, no assessments are made. Earnings on the fund are returned to insurers in a proportionate amount to the money each insurer has in the fund. The main criticism of New York's system is that money from the fund has been used for purposes other than rescuing insolvent insurers. (I understand that part of the money was used to help New York City out of its financial problems.) A copy of New York's statute is enclosed. (See § 334, "New York property and liability insurance security fund".)

4. Abolish the premium tax credit and require all casualty insurers to establish and maintain a guarantee fund reserve to meet the potential assessments under the Insurance Guarantee Act. The National Association of Insurance Commissioners advocates prefunding for several reasons including:

   a. Under the existing system, where no reserves are created, companies have had to advance assessment monies from their own funds. In times of financial trouble many companies have been hard pressed with problems of their own and complained about having to advance funds to troubled competitors at such an inauspicious time.

   b. Company held prefunded reserve money would not be in a single state-controlled fund where the state could appropriate the accumulated funds for purposes unrelated to the operation of guarantee funds.

   c. Tax difficulties for money earned on the reserve fund would be alleviated because the funds would be required by law. The Financial Accounting Standards Board has struck down the provision for catastrophe reserves because such items have been too speculative and have been used to "squirrel away" a portion of earnings in the hope that the insurer could avoid paying a current tax on such income. The guarantee fund reserve discussed here would be different; the business has encountered a predictable flow of insolvencies; statistics on the number and amount of losses caused by them are being accumulated.

   d. There has been a sufficient number of failures and assessments in the last several years to provide a statistical base to support the requirement for maintenance of a prefunded reserve for guarantee fund assessments.

5. Leave the status quo but encourage the commissioner of insurance to pursue the National Association of Insurance Commissioners' suggestion that an interstate body (i.e. the reciprocal interstate guarantee fund coordinating agency) operating under the auspices of the National Association of Insurance Commissioners be established for the purpose of assisting in the rescue of financially troubled member insurers. I have enclosed a memorandum from Robert E. Dineen to the Insurance Guaranty Funds (B3)

Subcommittee of the National Association of Insurance Commissioners describing how the system might work. The memorandum includes both descriptive language and a model law. The findings and intent section of the model law says:

> * * * Legislative Finding and Intent. The legislature finds that a method of promoting the stability of member insurers and performance of their contractual obligations through rescue of financially troubled insurers is a desirable regulatory option and in the public interest. However, where insurers functioning on an interstate basis are involved, it is impractical to provide a system of evaluating troubled insurers and implementing rescue or work out procedures in the public interest on a wholly intrastate basis. Therefore, the legislature has determined it appropriate for policyholders and insurers in this state to cooperate on an interstate basis to provide the expertise, administrative services and funding to operate such a rescue system utilizing required reserve funds previously accumulated by member insurers. The plan embodied in this amendment to the Guaranty Fund Act compemplates the creation of a central coordinating agency and is built around the existing multi-state system of guaranty fund associations. The legislature also finds that the RIGFCA, the central coordinating agency created herewith, should integrate the activities of the states. It is anticipated that this agency will be licensed in each state and should be subject to periodic examination by the appropriate state insurance departments. Each state association should be a member of the Reciprocal Interstate Guaranty Fund Coordinating Agency (hereinafter referred to as the RIGFCA) with voting rights on the board of directors of such agency limited to a single director nominated by, elected, and representing all Associations. The NAIC should also nominate and elect, through its Executive Committee, a single director representing all states. The legislature specifically finds that it would be inappropriate for any organization controlled by a group of insurers, e.g. a state guaranty fund association, to decide or recommend whether a competing company shall be rescued or liquidated. One of the chief purposes of RIGFCA is to assure representation to every state through the director nominated by the NAIC in which a financially troubled insurer is licensed and does business in determining whether such a financially troubled insurer shall be rescued and the financing of such rescues from the special reserve funds. The

RIGFCA operating under the auspices of the National Association of Insurance Commissioners is hereby recognized as the agency through which the Commissioner and the Association shall effectuate rescue procedures. The Association shall be a non-voting member of the RIGFCA. All state guaranty fund associations created under similar laws of other states shall similarly become and remain members of RIGFCA. Funding of plans of restoration shall be accomplished as provided in Section 13. The purpose of this section is to provide a means of making funds available, not in excess of three hundred fifty thousand dollars in any one year, to defray the expenses of the RIGFCA.

As you may know, the Life, Health Insurance Guaranty Act also provides for premium tax credits (see 686C.280.)

DAR/llp
Enc.

TESTIMONY

AB 241 - Increases Penalty for Simple Misconduct

This proposal would generally double the requalifying requirement for claimants found to have been discharged from their employment for misconduct. They must now earn at least five times their weekly benefit amount subsequent to such a discharge in order to requalify for benefits. The requirement in AB 241 is that they earn ten times their weekly benefit amount in order to so requalify.

This bill would also increase from one-half to 90 percent the total amount by which a claimant's entitlement can be reduced for misconduct during a benefit year. This bill also introduces the concept of a written contract between employers and employees setting forth and describing what constitutes misconduct. In administering this law change, the department would be bound by such contracts.

Employers and employees, both interested parties in any actions growing out of these contracts, would thus in effect be making eligibility determinations via these same contracts.

This would raise a conformity issue with a federal requirement that it is the responsibility of the department to make these determinations. "This responsibility may not be passed on to the claimant or the employer." (See Section 6013 A 1 Part V, Employment Security Manual.)

A lesser but still important objection to these contracts is that there is no bar to their including ridiculous rules to which a worker might be willing to stipulate as constituting misconduct, under duress of badly needing a job.

KLCA 2-15

Exhibit F

1-Mc)ado
2-Ma

M
STATE LIB CARS

SF USDOL

SAN FRAN CA #70855 4-27-79
LAWRENCE O MCCRACKEN
EXECUTIVE DIRECTOR
EMPLOYMENT SECURITY DEPT
500 E THIRD ST
CARSON CITY NV

WE UNDERSTAND THAT NEVADA ASSEMBLY BILL 241 HAS JUST PASSED THE ASSEMBLY, ESSENTIALLY IN THE FORM IN WHICH IT WAS INTRODUCED FEBRUARY 1, 1979. THIS BILL WOULD AMEND THE MISCONDUCT DISQUALIFICATION IN SECTION 612.385 NRS TO MAKE IT EVEN MORE SEVERE AND RESTRICTIVE THAN IT IS NOW. FURTHER, THE BILL WOULD ADD A NEW PROVISION THAT "EMPLOYERS AND EMPLOYEES MAY AGREE BY A WRITTEN CONTRACT WHICH DESCRIBES THE CONDUCT THAT CONSTITUTE... MISCONDUCT CONNECTED WITH THE EMPLOYEE'S WORK, AND THE EXECUTIVE DIRECTOR IS BOUND BY THAT CONTRACT."
OUR LETTER TO YOU OF FEBRUARY 28, 1979, COMMENTING ON THIS AND OTHER PROPOSALS POINTED OUT THAT SEVERE DISQUALIFICATIONS SUCH AS THIS SERVE TO "PUNISH" CLAIMANTS AND THEREBY FRUSTRATE PROGRAM OBJECTIVES. IT ALSO OUTLINED ISSUES OF CONFORMITY WITH FEDERAL LAW THAT WOULD BE PRESENTED SHOULD THE PROVISION QUOTED ABOVE BE ENACTED INTO THE NEVADA STATUTE.
THE PROPOSAL THAT EMPLOYERS AND EMPLOYEES MAY AGREE BY CONTRACT TO WHAT CONSTITUTES MISCONDUCT, AND THAT THE EXECUTIVE DIRECTOR SHALL BE BOUND BY SUCH CONTRACT, WOULD EFFECTIVELY PRECLUDE YOUR AGENCY FROM EXERCISING ITS RESPONSIBILITIES TO DISCOVER INFORMATION AND MAKE FINDINGS WITH REGARD TO BENEFIT ELIGIBILITY IN CASES TO WHICH IT WOULD BE APPLIED. SECTION 303(A)(1) OF THE SOCIAL SECURITY ACT (42 U.S.C. 503(A)(1)) REQUIRES THAT A STATE UI LAW INCLUDE PROVISION FOR "SUCH METHODS OF ADMINISTRATION...AS ARE FOUND BY THE SECRETARY (OF LABOR) TO BE REASONABLY CALCULATED TO INSURE FULL PAYMENT OF UNEMPLOYMENT COMPENSATION WHEN DUE." IN MEETING THIS REQUIREMENT OF FEDERAL LAW, IT HAS BEEN DETERMINED BY THE SECRETARY THAT A STATE AGENCY MUST OBTAIN PROMPTLY AND PRIOR TO A DETERMINATION OF AN INDIVIDUAL'S RIGHT TO BENEFITS, SUCH FACTS PERTAINING THERETO AS WILL BE SUFFICIENT REASONABLY TO INSURE THE PAYMENT OF BENEFITS WHEN DUE. IT IS THE RESPONSIBILITY OF THE AGENCY TO TAKE THE INITIATIVE IN THE DISCOVERY OF INFORMATION. THE AGENCY MAY NOT BE RELIEVED OF THAT RESPONSIBILITY CONSISTENTLY WITH THE REQUIREMENTS OF SECTION 303(A)(1).
ENACTMENT OF THE "CONTRACTURAL MISCONDUCT" PROVISION PROPOSED IN A.B. 241 WOULD RAISE AN ISSUE OF CONFORMITY WITH THE CITED SECTION OF THE SOCIAL SECURITY ACT, AND COULD LEAD TO THE WITHDRAWAL OF CERTIFICATION OF YOUR LAW FOR THE ADMINISTRATIVE GRANTS MADE AVAILABLE UNDER TITLE III OF THE ACT.
WE SUGGEST THAT YOUR LEGISLATURE BE MADE PROMPTLY AWARE OF THE ISSUES RAISED BY A.B. 241.

DANIEL P RIORDAN (IN TOD) ACTING ARA FOR UNEMPLOYMENT INSURANCE
US DEPT OF LABOR ETA SAN FRANCISCO CA TIM NO. 2122787776
END

FIRST REPRINT

ASSEMBLY BILL NO. 241 - COMMITTEE ON LABOR AND MANAGEMENT

February 1, 1979

Section 1. NRS 612.385 is hereby amended to read as follows:

612.385 (An individual shall be disqualified for benefits for the week in which he has filed a claim for benefits, if he has been discharged by his most recent employing unit, or by his next most recent employing unit, if he has not earned at least five times his weekly benefit amount following the work immediately preceding his most recent work, for misconduct connected with his work, 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 in each case according to the seriousness of the misconduct. 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.) A person is ineligible for benefits for the week in which he was discharged for misconduct connected with his work by his most recent employing unit, or by his next most recent employing unit, if so found by the executive director, and until he earns remuneration in covered employment equal to or exceeding his weekly benefit amount in each of 10 weeks.