

MEMBERS PRESENT:

Chairman Banner
Vice Chairman Thompson
Mr. Bennett
Mrs. Cafferata
Ms. Foley
Mr. Hickey
Mr. Jeffrey
Mr. Rackley
Mr. Rhoads

MEMBERS ABSENT:

None

GUESTS PRESENT:

See attached guest list.

WITNESSES TESTIFYING:

Larry McCracken, Director, Employment Security Department
Robert Long, Insurance Administrator, Employment Security Department
William R. Gibbens, The Gibbens Company, Inc.
Milan Cerstvik, Retired Officers Association
Claude Evans, Executive Secretary-Treasurer, AFL-CIO
Jack Kenney, Southern Nevada Homebuilders

Chairman Banner called the meeting to order at 3:30 p.m. and announced to the committee that the first bill to be heard would be AB-294.

AB-294: Authorizes employment security department to expend certain federal money to improve property in City of Reno for use of department.

Mr. McCracken explained to the committee that this bill was supported by the Employment Security Advisory Council. It is a result of funds being distributed to the states many years ago into a particular fund that can be used for remodeling, upgrading facilities and also allows reimbursement of the fund from existing resources if the extra money is available. Employment Security wants to use this money now to remodel the Reno office. The remodeling would consist of painting and reconditioning of the upstairs of the Taylor Street office.

This bill asks for approval to expend the remaining balance of Reed Act funds not spent under prior appropriations. This request is for \$63,384.29 and will be used to remodel the Reno local office at 70 West Taylor Street, so that facility can be used by activities that are now causing the Department to pay rents. If excess administrative funds become available, they may be used to reimburse this Reed Act account. See testimony attached hereto as EXHIBIT A.

AB-295: Makes various administrative changes to the law governing unemployment compensation.

Mr. McCracken gave the committee members copies of his testimony pertaining to this bill, attached hereto as EXHIBIT B.

Mr. McCracken told the committee that this bill contains eight changes to NRS 612, Nevada's Unemployment Compensation Laws. They were drafted at the request of the Nevada Employment Security Council which also recommends their approval.

Chairman Banner requested that Mr. McCracken explain to the committee what the Advisory Council is. Mr. McCracken informed the committee that the Advisory Council is made up of nine members, three of which represent labor, three from management and three from the public. The Governor appoints the individuals to the Council but it is a requirement under Federal law that there be such a Council, the first one being formed in Nevada in 1939 and there has been one ever since that time. This body has statutory authority to make recommendations to the Legislature relative to suggested law changes. Consequently they have met several times discussing the problems relative to complex laws, especially with the Federal Government involved. Utilizing this Council's recommendations after their in-depth analysis, the proposed changes are presented in this bill.

NRS 612.245 changes are set forth under number one in EXHIBIT B. Appeal referees are not members of Mr. McCracken's staff. He has no control over appeal referees nor the board of review. The board of review is appointed by the Governor and the appeal referees are hired by the board and by the chief appeals referee. The recommendation is that they handle administrative hearings as well as appeals on eligibility.

NRS 612.250 changes are set forth under number two in EXHIBIT B. A conflict of interest appearance on the part of the Director pertaining to certain employer hearings would be eliminated by having appeal referees hold these hearings.

NRS 612.260 changes are set forth under number three in EXHIBIT B. The storage problems for records have increased and this bill would reduce the cost of storage as well as provide faster accessibility to the records.

Item number four in EXHIBIT B is described as a technical change required by the Federal Government and would have no known impact on benefit payout.

NRS 612.475 changes are set forth under number five in EXHIBIT B. This is merely a housekeeping change in keeping with current department practice and should have been amended in 1977.

NRS 612.480 changes are set forth as number six in EXHIBIT B. This will preclude any possibility of challenges by attorneys that the department can make redeterminations in cases even though an appeal has been heard and a decision rendered by the appeal referee.

NRS 612.315 and 320 changes are set forth under number seven in EXHIBIT B. This would provide for the abolition of the Rural Manpower Services Advisory Council as recommended by the Rural Manpower Council itself. The Employment Security Council would replace any purpose the Rural Manpower Council would have.

NRS 612.353 changes are set forth under number eight in EXHIBIT B. Wage credits have now been established from which to draw benefits by workers, thus eliminating the temporary provisions of this law previously established during a transition period.

AB-296: Revises certain conditions of eligibility for unemployment compensation.

Mr. McCracken explained that this bill proposes to make four changes in NRS Chapter 612, Nevada's Unemployment Compensation Law. These are four changes which are part of a package of legislation recommended by the Nevada Employment Security Council. The committee members were given copies of prepared testimony attached hereto as EXHIBIT C, and Mr. McCracken read the entire testimony to the committee.

The first change is set forth in EXHIBIT C and would have the effect of discontinuing the payment of unemployment insurance benefits to persons who become ill or disabled during a continuous period of claim filing.

The second change is set forth in EXHIBIT C and would eliminate an existing provision to prohibit the concurrent receipt of retirement income and unemployment insurance benefits derived from the same employment and it would also add a new provision which would require that any pension or retirement income attributable to any previous work be offset against unemployment insurance benefits to which a claimant is concurrently entitled.

In response to a question by Mr. Jeffrey, Mr. Robert Long answered that you can offset up to one half of the pension amount against the benefit because these days half of the retirement pension is probably more than the benefit amount.

The third change is set forth in EXHIBIT C and would provide the department with additional flexibility in applying penalties for persons who voluntarily quit work. Mr. McCracken explained that a non-union individual may, while employed, secure a better job. He quits his present employer and starts the new job. He may be laid off within three or four weeks and he would be paid benefits because he quit for good cause. This is not equal when the department is dealing with labor union individuals when they seek to better their position by quitting a job in anticipation of getting a better job they know is coming up. This bill would allow that individual to be eligible for benefits when the second job ends through no fault of his own before the 10 weeks has been earned.

The fourth change is set forth in EXHIBIT C and would repeal NRS 612.415, the so called "domestic quit" provision which essentially disqualifies an individual who voluntarily leaves work to marry or to accompany their spouse to a new location.

Mr. Jeffrey asked for clarification on this "domestic quit" provision. Mr. McCracken answered that if the major supporter of the family secured another job prior to moving then the department would adjudicate that it was for good cause, to keep the family together. He went on to explain that the law is discriminatory against women; 90 percent of the persons who are disqualified under this law are women.

Chairman Banner and Mrs. Cafferata requested a copy of a booklet of the Employment Security Laws of the State of Nevada, Chapter 612, Unemployment Compensation as amended by the 1977 Legislature. This booklet was provided to each member of the committee and a copy of same is on file with the secretary.

Mr. William Gibbens, The Gibbens Company, Inc., representing employers in unemployment compensation matters, and they are very much in favor of all three of the bills, AB-294, AB-295, and AB-296. They attended the meetings of the Advisory Council and think that as a unit this is good legislation.

Mr. Milan Cerstvik, Carson City Chapter Retired Officers Association. He is a retired naval officer and a member of that chapter. He is opposed to AB-296 as it would penalize all of the membership of the Retired Officers Association who are currently in the labor market. Only 13 states have implemented this Federal legislation since 1980, according to the Association, and they do not want Nevada to become the 14th as they regard it as discriminatory to retired enlisted people and others. They are not actually retired as they now have other jobs.

Mr. Claude Evans, Executive Secretary-Treasurer, AFL-CIO, opposed to AB-296. He said the Advisory Council's recommendations were not unanimous as the labor people did not agree to all of the provisions. They object to the provision that if you are laid off and then become ill, your unemployment benefits are terminated. There is no non-occupational act in Nevada so the only recourse is welfare.

Mr. Evans said the second part he disagrees with is that if an individual has an NIC accident and is being paid a periodic monthly payment based on previous work, this amount would be deducted from his unemployment. He told the committee that he thought this legislation is wrong and takes away a legitimately earned benefit.

Mr. Jack Kenney, Southern Nevada Homebuilders, wanted to make the point that this bill is asking the state by NRS to solve a problem that has been created by the collective bargaining system.

The committee unanimously approved an ACR regarding occupational diseases.

Assembly Committee on

Date: March 11, 1981

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Mr. Thompson moved to adjourn the meeting and Mrs. Cafferata seconded the motion. The meeting adjourned at 4:30 p.m.

Respectfully submitted,



Janice Fondi
Committee Secretary

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST

DATE: 3-11

NAME	REPRESENTING
Harry Bradley	ESD
Jim Oliver	ESD
Miles McCracken	
Larry McCracken	Employment Security
Jim Gibbs	ESD
Wm R. Hebburn	The Gibbens Co. Inc
JACK KENNEY	So NV HOME BUILDERS

MEMORANDUM

STATE OF NEVADA

EXHIBIT A

Assemblyman James J. EMPLOYMENT SECURITY DEPARTMENT
Banner, Chairman, and Members, Committee on

TO Labor and Management

DATE March 11, 1981

FROM Larry McCracken, Executive Director

SUBJECT A.B. 294

This Bill refers to Federal Law Section 903 of the Social Security Act, as amended, which relates to funds distributed to states from the Federal Government. These funds are from the Federal Unemployment Tax Fund, that exceeded federal statutory limits in 1956, 1957 and 1958, paid into by employers from every state to cover administration costs of the Employment Service and Unemployment Insurance operations. Because Nevada is one of the nation's largest states with one of the smallest population figures, the administrative cost of operations in Nevada has consistently exceeded that which Nevada employers have paid to the Federal Unemployment Tax Fund. Any additional funds distributed to Nevada by the Federal Government from the Unemployment Tax Fund is further evidence of Nevada receiving more than it has paid into the Fund. This Bill asks for approval to expend the remaining balance of Reed Act funds not spent under prior appropriations. This request is for \$63,384.29 and will be used to remodel the Reno Local Office at 70 West Taylor Street, so that facility can be used by activities that are now causing the Department to pay rents. If excess administrative granted funds become available, they may be used to reimburse this Reed Act account.

gjm

Assemblyman James J. Banner, Chairman and
Members, Committee on Labor and Management

TO _____ DATE March 11, 1981

FROM Larry McCracken, Executive Director

SUBJECT AB 295

This Bill contains eight changes to NRS Chapter 612, Nevada's Unemployment Compensation Laws. They were all drafted at the request of the Nevada Employment Security Council which also recommends their approval. A brief explanation of each change follows:

1. NRS 612.245 presently provides that the Executive Director will hold an administrative hearing for any employer who does not believe that his business should be subject to coverage under the State's Unemployment Compensation Law. This first change, which quotes this section beginning on line 1, page 1, and ending on line 6, page 2, would allow these hearings to be conducted by the appeal referees in the same manner as is now done in the case of appeals on eligibility for unemployment benefits. This change would greatly facilitate this process and result in cost savings. Presently it is necessary when these hearings are held for several people to travel to the hearing site which, more often than not, is in Las Vegas where there is a permanent, full-time staff of appeal referees. There are, on the average, only three or four such hearings each year, but the number is slowly increasing.
2. NRS 612.250 provides for an administrative hearing by the Executive Director for employers who believe that benefits may have been incorrectly or improperly charged to their account. The change in this section found on page 2, beginning on line 7 and ending on line 25, would provide for the appeal referees to hold these hearings instead of the Executive Director. Such hearings are held very infrequently, usually less than one per year, but in those cases where a hearing was necessary, this change would have the same advantages cited above in change 1.
3. NRS 612.260 generally provides for the retention of department records for four years. By adding the language to this section found on page 2, lines 46 through 50, the department would be authorized to destroy original records at any time after they were microphotographed in compliance with appropriate standards. This change would have obvious advantages in reducing storage space needs and increasing record accessibility.
4. This is a very minor technical change requested by the Solicitor General for the U.S. Department of Labor. It is found on page 3, line 6, where the word "in" is deleted and substituted by the word "for." This change is intended to make more clear that the exception for benefits provided in this section would apply to a person who worked for any educational institution, whether or not the work was actually performed in the institution. This change would have no known impact on benefit payout.

5. NRS 612.475 generally provides for employer notice that a claim for unemployment benefits has been filed. The change to this section, which is included on page 3, lines 22 through 47, would merely provide that the next-to-last employer receive this notice, as well as the last employer in those cases where the next-to-last employer could protest the payment of benefits. This is merely a housekeeping change because it is in keeping with current department practice. This section of the law should have been so amended in 1977. On page 4, lines 40 and 41, there is added language that merely cross-references this change to certain notice requirements found in NRS 612.495.
6. NRS 612.480 generally provides that the department may make a redetermination in certain cases where new or additional information becomes available. It has always been department practice not to do this in any case once a formal appeal had been entered. In recent months this has been challenged by attorneys who have insisted that the department can make redeterminations in cases even though an appeal has been heard and a decision rendered by the appeal referee. Although the department has successfully resisted these efforts so far, they represent a very serious threat to the administrative appeals process. The purpose of the new language in this section found on page 4, lines 24 and 25, is to preclude any possibility of that happening.
7. On page 4, line 50, NRS 612.315 and 320 are repealed. The repeal of these two sections would have the effect of abolishing the Rural Manpower Services Advisory Council. This Council has become inactive in recent years and it is believed that any purpose that would be served by its continuation could just as well be assumed by the Employment Security Council.
8. On page 4, line 50, NRS 612.353 is repealed. This section of the law no longer has any applicability because its purpose was to cover the initial transition period for newly covered workers, mainly state and local government employees, which became effective January 1, 1978.

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Assemblyman James J. Banner, Chairman and
Members, Committee on Labor and Management

TO _____ DATE March 10, 1981

FROM Larry McCracken, Executive Director *J* SUBJECT AB 296

This Bill proposes to make four changes in NRS Chapter 612, Nevada's Unemployment Compensation Law. These four changes are part of a package of legislation recommended by the Nevada Employment Security Council.

The first change is proposed by deleting certain language found on page 1, lines 14 through 20. This deletion would have the effect of discontinuing the payment of unemployment insurance benefits to persons who become ill or disabled during a continuous period of claim filing. No separate record is kept of these claims, but the number is believed to be quite small, perhaps on the order of 25 per week average statewide. The reduction in benefit payout is estimated to be about \$125,000 per year at the current rate.

The second change is proposed by deleting certain language found on page 2, lines 16 through 18, and adding new language on page 2, lines 18 through 26. This change would (1) eliminate an existing but ineffective provision to prohibit the concurrent receipt of retirement income and unemployment insurance benefits derived from the same employment, i.e., that "immediately preceding retirement"; (2) it would add a new provision which would require that any pension or retirement income attributable to any previous work must be offset against unemployment insurance benefits to which a claimant is concurrently entitled. There is a requirement in federal law that all states must offset at least one-half of such pension or retirement payments attributable to base period employment. The recommendation by the ES Council goes considerably beyond the federal requirement by requiring a total offset based on pension or retirement income earned during any previous employment. It is estimated that the partial offset required by federal law would reduce benefit payout by about \$1 million per year. The total offset recommended by the ES Council is estimated to reduce payout by about \$1.5 million per year.

You will note that this change includes an effective date of March 31, 1980. This effective date is part of the federal law requirement imposed on all states and found in Section 414 of Public Law 96-364. It is the department's intention, in implementing this change retroactively, to waive all of the overpayments which will result. The provision for the waiver of such overpayments is found in NRS 612.365. The purpose for establishing these overpayments and then subsequently to waive their recovery is solely to assure technical compliance with federal requirements and has been approved by Department of Labor representatives.

The third change is proposed by adding the language found on page 2, lines 33 through 36. This change would provide the department with additional flexibility in applying penalties for persons who voluntarily quit work. It addresses a problem brought to the ES Council by labor representatives which deals primarily with the situation where a person quits a job in order to seek better employment. Under current law, even if this individual is successful in securing better employment, he is subject to disqualification for the prior quit if the job ends before he earns remuneration equal to or exceeding his weekly benefit amount in each of ten weeks. The department is unable to estimate the effect of this change on payout except to say that payout would be increased but not significantly.

James J. Banner
March 10, 1981
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The fourth change is proposed by the language found on page 2, line 37, which would repeal NRS 612.415. This is the so-called "domestic quit" provision in Nevada law which essentially disqualifies an individual who voluntarily leaves work to marry or to accompany their spouse to a new location. Similar provisions in state laws have been found unconstitutional because they discriminate on the basis of sex and in at least one of these states, California, a large fund liability was levied retroactively by the court's decision. The Council's recommendation is made in light of this experience in other states, and a long-standing recommendation from the U. S. Department of Labor that such laws be repealed. Claimants who previously had their eligibility adjudicated under this section, will now be adjudicated under other sections of the law, most commonly NRS 612.380 for "voluntarily quitting without good cause." In those cases where a disqualification is assessed for voluntarily quitting, which previously have been assessed as a domestic quit, the penalty will be significantly more severe. However, not all persons disqualified for a domestic quit would be subject to disqualification for voluntarily quitting, since in many cases where the quit was necessary to preserve the family, that is, most commonly, to accompany a spouse to a new location, would be held to be for good cause. The net impact on benefit payout is expected to be nil.

bam

ASSEMBLY

AGENDA FOR COMMITTEE ON.....LABOR.....

WEDNESDAY

Date MARCH 11.....Time 3:00 P.M.....Room 316.....

Bills or Resolutions
to be considered

Subject

Counsel
requested*

Bills or Resolutions to be considered	Subject	Counsel requested*
AB-294	Authorizes employment security department to expend certain federal money to improve property in City of Reno for use of department.	
AB-295	Makes various administrative changes to the law governing unemployment compensation.	
AB-296	Revises certain conditions of eligibility for unemployment compensation.	

*Please do not ask for counsel unless necessary.