

MEMBERS PRESENT: Chairman Banner
Vice Chairman Thompson
Mr. Bennett
Mrs. Cafferata
Miss Foley
Mr. Jeffrey
Mr. Rackley
Mr. Rhoads

MEMBERS ABSENT: Mr. Hickey

GUEST PRESENT: Lee Harvey, J. C. Penney Company, Inc.
Joe Nusbaum, Chairman of Nevada Industrial
Commission
John Crossley, Legislative Auditor
Harry O'Nan, Deputy Legislative Auditor
Richard Stahl, Staff Counsel Hearings
Officer, Insurance Commissioner's Office
Ed McGoldrick, Nevada Labor Commissioner,
former member of the board
Jack Kenney, Southern Nevada Home Builders
Alan Traenkner, Director of Department of
Occupational Safety and Health of N.I.C.
Claude Evans, AFL-CIO
Glenn Taylor, Mediation Officer of Nevada
Labor Commission
Carole Vilardo, Citizens for Private Enter-
prise
Stan Jones, Northern Nevada Central Labor
Council
(see attached guest list)

Mr. Banner called the meeting to order at 5:00 p.m.

AB 207: Provides exceptions for charging benefits paid as unemployment compensation against employers.

Mr. Lee Harvey, J. C. Penney Company, Inc., spoke on the amendments to AB 207. EXHIBIT A Pages 1 through 3 (attached to these minutes)

AB 408: Amends provisions of laws relating to industrial insurance.

Mr. Joe Nusbaum, Chairman of the Nevada Industrial Commission summarized the various provisions of the bill, which can be broken down into three types of amendments: those recommended by the N.I.C., those recommended by the Advisory Board, and those recommended by the Legislative Auditor. EXHIBIT B Pages 1 through 5 (attached to these minutes)

Mr. John Crossley, Legislative Auditor and Mr. Harry O'Nan, Deputy Legislative Auditor stated that they were authorized by the last session of the Legislature to audit the N.I.C. for the determinant compliance of the law. The Legislative Auditor Legislative Recommendations to AB 408 are listed in EXHIBIT C Page 1 (attached to these minutes).

Mr. Richard Stahl, Staff Counsel Hearings Officer of the Insurance Commissioner's Office referred to Section 10, Page 2, Line 46 of AB 408. He said they should be included in the selection of the panel of physicians. He also referred to Page 3, Line 30. He said they support the allowance of the members of the medical board to be entitled to receive their usual fees.

Mr. Ed McGoldrick, Nevada Labor Commissioner and former member of the board spoke in behalf of Section 2. He said they are in favor of the apprenticeship coverage.

Mr. Jack Kenney, Southern Nevada Home Builders referred to Page 1, Line 18 of AB 408 and suggested that the word "covered" be added.

AB 409: Amends provisions relating to occupational safety and health.

Mr. Nusbaum read comments on AB 409 regarding matters concerning the Department of Occupational Safety and Health. See EXHIBIT D Pages 1 and 2 (attached to these minutes). He introduced Mr. Alan Traenkner, Director of Department of Occupational Safety and Health, who read and explained Page 3 of EXHIBIT D

Blackie Evans, AFL-CIO, stated that all labor members of the Advisory Board and AFL-CIO support AB 409 and urge its passage.

AB 368: Makes various changes in provisions regarding compensation, wages and hours of labor.

Mr. Ed McGoldrick, Nevada Labor Commissioner, spoke in support of AB 368. He stated that the main import of the bill is to raise the present state minimum wage from \$2.75 to \$3.35 to comply with the federal minimum wage. He expressed concern that the employer keep daily records of the employee hours so that overtime can be determined. It was his recommendation that the minimum wage be raised to \$3.60 in January, 1982 in anticipation of what the federal minimum wage would be at that time and to cope with the economic climate that we expect to have in 1982.

Mr. Glenn Taylor, Mediation Officer of Nevada Labor Commission, gave testimony regarding specifics and details of AB 368.

Mr. Banner, representing two employers, read proposed amendments to AB 368. The first was submitted by Clinton Knoll, Reno Employers Council. See EXHIBIT E attached to these minutes. The second was, ironically, another Glenn Taylor from Henderson, Nevada representing Basic Management. See EXHIBIT F, Pages 1 and 2, attached to these minutes.

Carole Vilardo, Citizens for Private Enterprise, made comments relating to the minimum wage for minors. She stated that if the minimum wage for minors is too high, employers would not hire them due to lack of skill.

Stan Jones, Northern Nevada Central Labor Council, expressed endorsement of AB 368 provisions. Regarding provision for the payment of a lesser rate to minors, he stated that no employer that is presently covered by the Federal Fair Labor Standards Act can utilize that provision as they are prohibited by that act from paying less than the federal minimum wage of \$3.35 per hour.

Ms. Foley moved the meeting adjourn and the motion was seconded by Mr. Thompson. The meeting adjourned at 6:15 p.m.

Respectfully submitted,

Christine Shaw

Lora Day

Christine Shaw
Lora Day, Secretaries

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST

AB 368

Date: April 7, 1981

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	B
HARRY OMAN	LCB - Audit	X		408
John Crossley	LCB - Audit	X		408
Max Blackham	Kennecott Minerals Co.			408
JACK KENNEDY	SONG HOME BUILDER	X	X	408 409
Vili Kelley	Rev. Richard G. ...	"		AB207
Lee Harney	J.C. Penney Co., Inc.	X		AB207
M.C. ANDERSON	SUMMA CORP.			
Glenn Taylor	Nev. Labor Commission	X		AB368
Ed McHoldrick	Nev. Labor Commissioner	X		AB368 368 408 409
BLACK F. EVANS	NFUA IN STATE AFF. C.O.	X		
Starz Jones	N. Nevada Central Labor Council			368 408 409
JACK MALL	AFL CIO	/		408 409
Joe Weinbaum	NIC	/		
J.B. Clark	N.L.C.	X		
Bob ...	NIC			
Clare O'Connell	Citizen Budget Union Com.			

AB 207

(AMENDMENTS)

In Section 1 of the bill delete Paragraph 4 of NRS 612.550 beginning on line 31 of page 2. Replace with the following:

1.- Benefits paid to a person up to and including the computation date (shall) must be charged against the experience-rating records of his base-period employers in the same percentage relationship that wages reported by individual employers represent to total wages reported by all base-period employers, but

a) When the claimant earned 75 percent or more of his base-period wages from one employer who pays contributions, benefits paid to such individual, except those based on wages earned with an employer that makes reimbursement in lieu of contributions, shall be charged only against the experience-rating record of the employer who paid the largest amount of wages to the person during his base period but no benefits may be charged to the experience-rating record of that employer when the recipient voluntarily left employment with that employer without good cause or was discharged from employment with that employer for misconduct connected with his work. When the Department has determined that a claimant earned 75 percent or more of his base-period wages from one employer, that employer shall be notified promptly and given the opportunity to protest the charging of benefits to his account. In order to acquire relief of charges the employer must within 10 days of the date of mailing of the notice provide documentation to substantiate to the satisfaction of the executive director that the claimant voluntarily left employment without good cause or was discharged from that employer for misconduct connected with the work. The Employment Security Department shall consider such facts together with any information in its possession and promptly issue its ruling to the employer as to the cause of the termination of employment of the claimant. Appeals may be taken from such rulings

in the manner provided for appeals taken from determinations on benefit claims. No ruling under the provisions of this section may constitute a basis for disqualification of any claimant.

b) No benefits paid to a multistate claimant based upon entitlement to benefits in more than one state may be charged to an employer's experience-rating record when no benefits would have been payable except for NRS 612.295.

c) Except for employers who have been given the right to make reimbursement in lieu of contributions, extended benefits paid to a person (shall) may not be charged against the accounts of his base-period employers.

d) When benefits paid to an individual are based on wages paid by one or more employers who make reimbursement in lieu of contributions and on wages paid by one or more employers who pay contributions, the amount of benefits payable by each employer who makes reimbursement in lieu of contributions shall be an amount which bears the same ratio to the total of benefits paid to a person as the total base period wages paid to that person by the employer bear to the total base period wages paid to that person by all of his based period employers, regardless of the reason for termination of employment. When benefits paid to an individual are based on wages entirely from employers that make reimbursement in lieu of contributions, the amount of benefits payable by each employer shall be an amount which bears the same ratio to the total of benefits paid to a person as the total base period wages paid to that person by the employer bears to the total base period wages paid to that person by all of his base period employers, regardless of the reason of termination.

e) The provisions of subsections a and d of this section shall become effective on July 1, 1981 and shall apply only with respect to charges and reimbursements in lieu of contributions based on benefit claims filed after June 30, 1981. For experience rating purposes, all previously accumulated benefit charges to employer's accounts prior to the effective date of subsections a and d shall not be changed.

Amend Paragraph 6 of NRS 612.550 beginning on line 15 of page 3 as follows:

2.- Each employer eligible for a contribution rate based upon experience and classified in accordance with the section (shall) must be assigned a contribution rate by the executive director for each calendar year according to the following classes:

Class 1	.....(0.6)	<u>0.3 percent</u>
Class 2	.....(0.9)	<u>0.6 percent</u>
Class 3	.....(1.2)	<u>0.9 percent</u>
Class 4	.....(1.5)	<u>1.2 percent</u>
Class 5	.....(1.8)	<u>1.5 percent</u>
Class 6	.....(2.1)	<u>1.8 percent</u>
Class 7	.....(2.4)	<u>2.1 percent</u>
Class 8	.....(2.7)	<u>2.4 percent</u>
Class 9	.....(3.0)	<u>2.7 percent</u>
<u>Class 10</u>	.....	<u>3.0 percent</u>
<u>Class 11</u>	.....	<u>3.3 percent</u>
<u>Class 12</u>	.....	<u>3.6 percent</u>

effective Jan 1 1982?

COMMENTS ON A.B. 408

JOE E. NUSBAUM, CHAIRMAN

NEVADA INDUSTRIAL COMMISSION

The Advisory Board of Review, the Legislative Auditor, and the Nevada Industrial Commission have recommended for the proposed legislation which appears in A.B. 408. I will summarize the various provisions of this bill.

This bill can be broken down into three different types of amendments. First, there are a few miscellaneous amendments submitted by the Nevada Industrial Commission. Second, there are amendments, concerning administrative and financial management matters, which were recommended by the Advisory Board. Third, there are a number of housekeeping amendments recommended by the Legislative Auditor in his NIC compliance review report.

The Nevada Industrial Commission proposes the following administrative and financial management amendments several of which were discussed but not specifically addressed by recommendations of the Advisory Board or the Legislative Auditor.

1. Section 2 re 616.088 Adds "apprenticeship trainees" as a new class of deemed employees. This is supported by the Labor Commissioner and is of a housekeeping nature.

2. Section 3 re 616.49711 Allows the Nevada Industrial Commission to participate in securities lending programs. The securities lending program will allow the Nevada Industrial Commission to loan its securities and receive full collateral for the market value of those securities plus a fee for lending the securities.

3. Section 4 re 616.49712 Although the Nevada Industrial Commission is currently writing and selling options we are doing so under the authority of NRS 616.4985. We prefer to incorporate specific authorization for options into the NRS. The objectives of entering into an options program are reduced volatility and an attempt to achieve a higher rate of return at the non-optioned level of risk or to receive an equivalent rate of return at a reduced risk.

4. Section 11 re 616.193 Clarifies the commission's authority to microphotograph records and files as long as it makes such microphotographs conveniently accessible. This allows for better management and storage of files.

5. Section 12 re 616.195 Allows for destruction of records once the procedures in Section 11 and NRS 239.050 have been followed. Again, this allows for better management and easier storage of files.

The second general category of amendments are recommendations of the Advisory Board concerning administrative and financial management matters. The Advisory Board suggested amendments as found in the following sections: —

1. Section 5 re 616.49821 Allows NIC to invest up to 10% of its funds in a commingled real estate fund. Many of the real estate funds currently have cash yields in excess of the rates available on bonds and offer the potential of greater capital appreciation. The commission prefers to use a commingled real estate fund and not internal staff because a large commingled real estate pool will be exposed to more and better properties than a small in-house staff.

2. Section 16 re NRS 616.460(2) and (3) Allows deposits to be secured

up to the daily average balance of each month rather than requiring that they be fully secured at all times. Due to the volatility of commission funds in banks and present banking practices, it is not feasible to completely meet the present requirement at all times.

3. Section 17 re NRS 616.4981 Allows the commission to purchase stocks which have not paid cash dividends for ^{each of the preceding} ~~a period of~~ five fiscal years but which, despite said fact, would be a good investment. The present language is too restrictive and does not allow the commission to make profitable purchases.

4. Section 18 re NRS 616.4982 Deletes the definition, restriction and limitation of first mortgages on improved unencumbered real property investments of NIC funds. Also deletes the 1/12 of 1/2% maximum payment to Mortgage Service Companies. The 50 percent restriction and the \$25,000 limitation are too restrictive to allow NIC to adequately participate in this market. Also the 1/12 of 1/2 percent payment to Mortgage Service Companies may in the near future be too restrictive.

The following sections of the bill draft deal with recommendations of the Legislative Auditor to amend NRS Chapters 616 (occupational injuries) and 617 (occupational diseases) to eliminate conflicts in definitions in the respective chapters. For example, the definition of a "casual" laborer in NRS Chapter 616 is different than the definition in NRS Chapter 617. To resolve these differences, please refer to the following sections:

1. Section 8 re 616.090 Makes the definitions of "employer" found in NRS Chapters 616 and 617 consistent.

2. Section 19 re 617.030 Brings the definition of "causal" into line

with the updated definition found in 616.030.

3. Section 20 re 617.060 Conforms the definition of total disability to that found in NRS 616.117.

4. Section 21 re 617.080 A fifth paragraph should be added referring to voluntary ski patrolmen so as to coincide with NRS 616.060.

5. Section 22 re 617.100 Drops the last 7 words of the section so as to coincide with the definition found in NRS 616.085.

6. Section 23 re 617.110 Makes the definition of "employer" in NRS Chapter 617 coincide with the definition of "employer" found in NRS Chapter 616.

7. Section 24 re 617.145 Adds one last sentence to 617.145 so that the "sole proprietor" definition is consistent with that of NRS 616.114.

The Legislative Auditor also recommended the amendments proposed in the following sections.

1. Section 9 re 616.150 Limits travel expenses of commissioners to those expenses provided by law.

2. Section 10 re 616.190 Restricts the composition of the Medical Review Board to allow medical specialists to review cases in the field of their expertise thus making use of the Medical Review Board more practical and valuable. (The Advisory Board also made this recommendation.)

3. Section 14 re 616.317(2) Requires proprietors electing coverage to take an initial physical exam as opposed to annual physical examinations.

4. Section 15 re 616.400(b) Allows routine mailings concerning employer account delinquency notices to be sent by first class rather than certified mail. This could save \$80,000 annually. (The Advisory Board concurred in this recommendation.)

Please note, that we request that Section 6, concerning the rehabilitation center, and Section 13, concerning commission subpoena powers, be deleted since they are already covered respectively, by Assembly Bills 115 and 117.

LEGISLATIVE AUDITOR
LEGISLATIVE RECOMMENDATION
AB 408

<u>Section</u>	<u>Scope</u>	<u>Report page</u>
6	Utilization of the Rehabilitation Center	53.36
9	Commissioner's Travel Expense	53.49
10	Medical Review Board Composition and Compensation	53.50
13	Subpeonas	53.51
14	Annual Physical Examinations for Sole Proprietors	53.108
15	Notice of Delinquent Accounts	53.109
8, 19, 20, 21, 23, 24	Conflicts between NRS Chapters 616-617	53.54

COMMENTS ON A.B. 409

JOE E. NUSBAUM, CHAIRMAN

NEVADA INDUSTRIAL COMMISSION

A.B. 409 deals exclusively with matters concerning the Department of Occupational Safety and Health. The proposed amendments are important so that the Nevada Department of Occupational Safety and Health can receive full certification from the federal government.

Three of the provisions of A.B. 409 are part of the Advisory Board's recommended legislation.

1. Section 2 re NRS 618.367 "The Advisory Board unanimously recommends legislation to expand the authority of DOSH to protect the identity of employees whose names appear on employers' records to include those employees who have made statements regarding the employer as well as those who have filed complaints." Please note: This change would provide greater protection to employees so they may air complaints concerning safety and health hazards more freely to DOSH personnel.

2. Section 3 re NRS 618.415 "A majority of the Advisory Board recommends legislation to delete the right of an employer to apply for a temporary, ex-parte variance from its standards." Please note: Per this change, affected employees must be given notice and an opportunity to participate in the variance hearing.

3. Section 5 re NRS 618.625 "The Advisory Board unanimously recommends legislation to broaden the authority of DOSH to collect fines so that fines not exceeding \$750 can be collected in any court of competent jurisdiction

(including small claims court). Please note: The present law requires that fines be recovered in district court, which makes recovery of small claims difficult.

The proposed bill also provides in Section 4 that the Occupational Safety and Health Review Board have authority to employ legal counsel. While the Board already has legal counsel, this amendment is proposed to clarify the fact that the Review Board specifically, as opposed to the Nevada Industrial Commission, can employ its own legal counsel. We suggest a minor amendment to this section, however, to change the "shall" language to "may" by dropping item 1(c) of Section 4 and adding the following language as Subsection 6 of Section 4:

6. The board may employ legal counsel to advise it concerning matters which come before the board.

The Nevada Industrial Commission also proposes that a new section be added, by amendment, to A.B. 409: "A majority of the Advisory Board endorsed the "Notice of Violation" trial procedure for handling non-serious safety violations without requiring citations." However, Federal OSHA authorities, in recently reviewing Nevada legislation, pointed out that the language of NRS 616.465 could be interpreted to require issuance of citations even for non-serious violations. To clear up this ambiguity, we propose an amendment, along the lines of the Advisory Board's endorsement, which will give DOSH more flexibility in working with employers. Please find attached proposed language to this effect.

MEMORANDUM TO: ASSEMBLYMAN JIM BANNER
FROM: ALAN TRAENKNER, DIRECTOR
DEPARTMENT OF OCCUPATIONAL SAFETY AND HEALTH
SUBJECT: A.B. 409
DATE: APRIL 6, 1981

I have reviewed A.B. 409 with NIC General Counsel Robert Gibb and would like to suggest the following minor changes:

- (1) Drop item 1(c) of section 4 as proposed to be included under NRS 618.585, and instead add the following language as subsection 6 of section 4.

6. The board may employ legal counsel to advise it concerning matters which come before the board.

NOTE: This allows the board to hire counsel if it so chooses.

- (2) We also propose to add a new section to AB 409 by rewording subsection 1 of NRS 618.465 as follows:

1. If, upon inspection or investigation, the director or his authorized representative believes that an employer has violated a requirement of this chapter, the department shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the section of this chapter or the provision of the standard, rule, regulation or order alleged to have been violated. In addition the citation shall fix a reasonable time for the abatement of the violation. The director may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health and nonserious violations which the employer agrees to correct within a reasonable period of time.

NOTE: This change is in conformance with a decision of the Advisory Board of Review for NIC which endorses the "Notice of Violation" procedure for employers who agree voluntarily to correct a violation.

PROPOSED AMENDMENTS TO A.B. 368
FOR CONSIDERATION BY MEMBERS OF THE
ASSEMBLY LABOR AND MANAGEMENT COMMITTEE

Page 2 Do not delete lines 44 and 45 on page 2.

Comment: Nevada law should not be in conflict with Federal wage and hour law relating to differential in minimum wage for minors.

Page 3 Add sentence to line 3 page 3 as follows:

"In the event the federal minimum wage does not become \$3.60 per hour, the Federal minimum rate shall apply."

Comment: We should not let Nevada's minimum wage exceed the federal minimum.

Respectfully submitted



Clinton G. Knott
RENO EMPLOYERS COUNCIL

JUSTIFICATIONS FOR ASSEMBLY BILL 368

NRS 608.018(3) (D)

The overtime provisions do not apply on retail commission salespersons if their regular rate is more than one and one-half the minimum wage, and more than one-half their compensation comes from commissions.

The words regular rate should be changed to read total compensation. As written, regular rate seems to mean base pay without commissions.

NRS 608.115(1) (D)

NRS 608.018 calls for overtime pay to non-exempt employees who work (a) more than 40 hours in any scheduled workweek; (b) more than 8 hours in any workday, unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled workweek.

However, 608.115, in specifying wage information requirements does not require a record of daily hours being maintained in wage information records. Because of this lack, the listing only of total hours for the pay period can mask unpaid overtime and it cannot be detected in many cases.

For example: An employee works a scheduled workweek of Monday through Sunday -

Monday	10 hours
Tuesday	12 hours
Wednesday	8 hours
Thursday	6 hours
Friday	4 hours
	<u>40 hours total for week</u>

This weekly total of hours without daily hours records would appear not to qualify for overtime, whereas 6 hours of overtime would, in fact, be due the employee. There is no method to accurately audit for overtime as called for in 608.018, unless records of daily hours are required.

NRS 608.250

This amendment will correct the discrepancy between federal minimum wage and state minimum wage for employees 18 years or older.

As now exists, the federal minimum wage, which applies to many large Nevada businesses, is \$3.35 an hour. The state minimum wage is \$2.75.

Justifications for AB 368
Page 2

In the course of our minimum wage audits, we will detect employers paying employees less than the \$3.35 amount, but because the difference in the state and federal minimum wage, we are unable to take action on the wage violation.

This amendment will enable employees to obtain stability with a monetary amount as considered reasonable by the federal law.

With 18 percent inflation and the spiraling cost of living, it is necessary to bring the state minimum wage into line with the federal minimum wage figure.

By setting the ceiling at \$3.60, an amount that is anticipated to be in line with the Federal Minimum Wage, the labor commissioner would be able to set the minimum wage to any amount up to \$3.60.