MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON COMMERCE AND LABOR

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
MARCH 4, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at 1:34 p.m., on Wednesday, March 4, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Thomas R. C. Wilson, Chairman
Senator Richard Blakemore, Vice Chairman
Senator Melvin D. Close
Senator Don Ashworth
Senator William Hernstadt
Senator William Raggio
Senator Clifford McCorkle

STAFF MEMBER PRESENT:

Betty Steele, Committee Secretary

SENATE BILL NO. 240--Makes administrative changes relating to chiropractic.

Mr. David Hagen, representing the Nevada Chiropractic Association, testified on Senate Bill No. 240. Mr. Hagen presented some amendments to the bill, suggested by the Chiropractic Association. In reply to Senator Wilson's question regarding the requirements for a chiropractic license applicant under NRS 634.090, Mr. Hagen answered the applicant must be a graduate of a recognized college of chiropractic with not less than 4,000 hours of study in the various subjects outlined in that statute.

Senator Raggio inquired if this bill was submitted by the Chiropractic Association and Mr. Hagen replied it was at the request of the Chiropractic Board. Senator Raggio referred to the second amendment submitted by Mr. Hagen which would provide for an applicant to practice chiropractic under the direction of a chiropractor who would be responsible for any liability

arising out of such practice. Senator Raggio said the phrase on responsibility for any liability was an unusual phrase to put into the law. Senator Raggio asked Mr. Hagen if that type of language might be more appropriate to some sort of negligence law. Mr. Hagen explained the reason for the language was to make the practicing chiropractor responsible for whatever liability the appplicant might have. Senator Raggio suggested the practicing chiropractor would be liable if he was negligent in his supervision of the applicant. Mr. Hagen asked if Senator Raggio felt the language was implied in the bill without it being specifically expressed; he said there would be no real problem if that language were omitted from the bill. Senator Raggio replied he was just concerned with the deviation from normal procedure, in this type of situation.

Senator Wilson asked Mr. Hagen if Senate Bill No. 240, with its proposed amendments, was consistent with similar provisions in other professions; particularly the concept of having an unlicensed applicant practice the profession for which he has studied. Mr. Hagen said the bill would allow the applicant for a chiropractic license to practice chiropractic but not manipulation. However, in answer to Senator Wilson's question, he said in other professions there are provisions for assistants to practice but he did not think there was any provision for an applicant to practice.

Senator Close asked if there is anything precluding an applicant from getting his license for up to two years or was there a waiting period. Mr. Hagen replied there is no waiting period but the examination is very difficult and an applicant may need more time to pass it. In answer to Senator Close's query, he said the two years referred to in the bill were meant to be continuous.

Senator Don Ashworth asked if the requirement to attend a two-day educational seminar of at least 10 hours could be fulfilled by attending varied seminars here in the west. Dr. Eugene Scrivner of the Nevada Chiropractor's Board answered Senator Ashworth by pointing out the ten-hour requirement is for license renewal, and every practicing chiropractor in the state must complete that requirement annually to have his license renewed. Senator McCorkle asked why the word "annual" did not appear in the language and Dr. Scrivner said he did not know but it should be there. Mr. Hagen also suggested some changes in wording.

With no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 240.

SENATE BILL NO. 230--Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits and narrows eligibility requirements.

Mr. Gary Nielson, J.C. Penney Company, testified in favor of the bill. In addition to his official statement (see Exhibit C) he said that recent legislation passed on the federal level would cut off the first week of extended benefits for those states which do not currently have a one-week waiting period.

Senator Raggio inquired if that meant the federal government would not fund the first week of extended benefits unless the state has a one-week waiting period, and Mr. Nielson said that was correct. Senator Wilson asked Mr. Nielson to define the term "extended benefits"and he was told it refers to benefits paid to a claimant beyond the 26 weeks the state already allows for. The federal government will pay for one-half of the extended benefits for 13 weeks and the state pays for the other half. Senator Hernstadt asked Mr. Nielson if part of the Reagan administration's plan for budget-cutting included cutting out the payment for extended benefits and Mr. Nielson agreed that it did.

Senator Wilson asked if the department has experienced problems presently as far as determining eligibility. Mr. Nielson said the problem he referred to was where the employer has no input; and with the one-week waiting period the employer would have more time for input. In reply to Senator Blakemore's question, Mr. Nielson said he was not sure of the specific dollar amount effect this would have on J.C. Penney stores in Nevada.

In response to Senator Wilson's suggestion that he comment on the basic equity of proposed legislation, Mr. Nielson said it seems only right the employer should have an opportunity to give information to the department of employment as to why there was a separation between employee and employer. Senator Hernstadt commented the director of the employment security department testified in a previous session that it takes 14 days for the unemployment benefit check to get to the person, without the one-week waiting period; with the one-week waiting period it would take 16 days. He asked Mr. Nielson whether he would testify the shorter waiting period has cost J.C. Penney Company money in terms of benefits paid to those who were not entitled to them. Mr. Nielson replied the company is never notified of those overpayments.

Senator Hernstadt commented the employer is usually notified that a person is receiving benefits; and, if that were the case, an efficient personnel department should be able to determine whether or not the person is eligible. If they are not eligible, the employer can fight it. Mr. Nielson said he had no figures to substantiate that J.C. Penney has lost money on benefits paid to ineligible recipients.

Mr. Norman C. Anthonisen, personnel services manager for Summa Corporation, was next to testify for Senate Bill No. 230. He stated the loss to the state of Nevada, in the event of an extended benefit period would be about $500,000. He said the savings to employers of the state if the bill is passed would be about $3.5 million.

Mr. Claude Evans, executive secretary-treasurer of the Nevada State AFL-CIO, testified in opposition to the bill. (For Mr. Evans' testimony, see Exhibit D.) He stated lines 15 through 21, page 1, of the bill particularly trouble him. The way he interprets that language, if an employee is laid off due to no fault of his own and draws unemployment benefits for a period of time and then becomes sick, his unemployment benefits would stop. He added it was his understanding that the unemployment fund is not in bad shape because a great deal of legislation was passed in the last three sessions to keep it solvent.

Senator Hernstadt asked Mr. Evans if he could indicate the type of benefits a person would be entitled to under the present law in a case like the ten-day shut-down of the Hilton. Mr. Evans said they would get about $100 for the week they were laid off. Senator Hernstadt commented that, under the proposed legislation, they would probably not get any benefits at all, due to the one-week waiting period.

Senator Raggio asked Mr. Evans if, during the last session, a bill was passed for a waiting period for those discharged with cause and if so, what was it. Mr. Evans said there was such legislation and it can be 15 weeks under certain circumstances. Mr. Evans cited an example of a person leaving a job to go to a job with better pay and being laid off the new job after a few weeks, through no fault of his own; he would not be eligible for unemployment compensation because of quitting his next-to-last job without just cause. He said the bill, Assembly Bill No. 241 of the 60th session, resulted in 3 percent less monies being paid out in benefits.

Mr. Larry McCracken, director of the employment security department, testified on Senate Bill No. 240. He distributed a handout for the committee outlining his testimony, with a chart indicating waiting periods after filing on different days. (See Exhibit E.)

Senator Wilson asked Mr. Mr. McCracken what was the rationale for deleting lines 15 through 21, on page 1 if, as Mr. McCracken stated, the reduction in benefit payout would be so small. Mr. McCracken answered that unemployment insurance should only be paid to individuals who are able and available for work. A disability program should be provided in separate legislation, either by the legislature or by an individual's own insurance program. He added unemployment insurance was not meant to cover the disability of an individual.

Senator Raggio asked Mr. McCracken what the language on line 18, page 2, means. Mr. McCracken replied that "wages which are paid for employment immediately preceding retirement..." means those wages paid by an employer who is also paying for the retirement and excludes those wages from any computations of subsequent benefits. In response to Senator Wilson's question, Mr. McCracken said that payment of benefits which are charged back to the employer who is paying the retirement is not equitable. Senator Blakemore commented they are two completely different type of payments and Mr. McCracken agreed. Senator Raggio asked how far back the "wages....for employment immediately preceding retirement" would go. Mr. McCracken said it refers to the base period which is the first four of the last five completed quarters, about 1-1/2 years.

Mr. Robert Long, administrator of unemployment insurance testified on the bill. He said a good response to Senator Raggio's question would be the example of a state employee who retired prior to 1979 (when this particular language was added to the law). He could draw unemployment benefits at the same time he drew his state retirement; which is no longer possible because the employment immediately preceding retirement was with the state.

Senator Blakemore commented it is the same situation on the federal level but he does not view it as "double-dipping" be- it is two separate funds, both of which are paid into by the employee. Senator Wilson asked if the same regulation applies to a non-state employee. Mr. Long said it would, even if the employee had contributed to funds out of his own pocket. He agreed with Senator Wilson this was probably not fair.

Mr. McCracken commented he was confident the law must be changed by congressional action. He said there is currently a federal provision requiring the offsetting of benefits by at least 50 percent of the retirement income. Senator Don Ashworth commented the rationale was probably that it is incongruous to receive a retirement pension as well as receive unemployment benefits.

Senator McCorkle asked what Mr. McCracken would suggest in regard to the two-week waiting period outlined in his handout (see Exhibit E) for claimants who file on Thursday or Friday of the week. Mr. McCracken was not sure of the intent of the bill on that issue but merely wanted to point out to the committee there would be an additional waiting period for new claimants who filed on Thursday or Friday.

Senator Hernstadt asked Mr. McCracken how many people were actually able to obtain unemployment benefits during the ten-day lay-off at the Hilton hotel. Mr. McCracken replied that because most of the unemployed had received wages during the week, the claim filing was very low; the last time he checked there were 68 claims processed on Hilton workers.

Mr. McCracken then turned to the extended benefits issue. He said that currently the state can trigger extended benefits after 26 weeks or the federal govenment can trigger those extended benefits. If the federal trigger was eliminated, the extended benefits would be paid only about half as often as they are presently. Based on the past record of paying extended benefits, it would cost the state about $500,000 a year to pick up what the federal government presently pays. With the elimination of the federal trigger, that figure would be reduced by about 50 percent. In reply to Senator Hernstadt's question, Mr. McCracken said by not having a one-week waiting period the state would lose $250,000. Senator Hernstadt commented the working people would lose $3.5 million and Mr. McCracken agreed that was an accurate figure. However, Mr. McCracken does not feel the program should be justified just because the department needs more time to administer the program. He said Nevada has one of the shortest waiting periods from the time a claim is filed to receipt of the first check. He also wanted to clarify his previous testimony, mentioned by Senator Hernstadt, about the one-week waiting period. He said with the one-week period it would take 18 to 21 days to process a check. Without it, the time is 12 to 14 days.

Senator Raggio asked Mr. McCracken to track through the chart (see Exhibit E, page 2) to illustrate what a claimant would

have to do in order to file a claim. Mr. McCracken explained if the claimant filed on a Monday it would be the beginning of the one-week waiting period. After waiting another week, he would file for the first compensable week; paper work is processed and the check is eventually issued. He said the citation in the law for the waiting week is Section 1022, Public Law 96499.

Mr. Joe Buckley, representing Summa Corporation, testified on Senate Bill No. 230. He asked if lines 18 through 21 were bracketed to be in compliance with federal law and Senator Wilson asked Mr. McCracken to respond to the question. Mr. McCracken replied it was bracketed out due to federal regulations, but he did not know the purpose behind it. Senator Raggio asked Mr. McCracken if there would be a penalty to the state by not deleting lines 18 through 21, page 2. Mr. McCracked replied the ultimate penalty would be the loss of the 2.7 percent offset to employers who pay a 3.4 percent tax on $6 thousand. In other words, if the state did not have an acceptable unemployment insurance program, the federal govenment would no longer give the employers in the state the 2.7 percent offset which is worth about $80 million per year to the employers.

Mr. Stan Jones, representing the Northern Nevada Central Labor Council, Carpenters' Local Union 971 and Laborers' Local Union 169, testified against Senate Bill No. 230. (See Exhibit F for his testimony.) Mr. Jones then read a letter to the committee which he wished to enter into the record. (See Exhibit G.)

Mr. William Champion, personnel director of the MGM Grand in Las Vegas, testified on the bill. He commented he was not sure that Mr. Evans' testimony, about an employee losing his unemployment benefits if he left one job to go to a better one and was laid off from the second job, was correct. He asked Mr. McCracken to clarify that type of situation. Mr. McCracked said, given the circumstances outlined by Mr. Evans, the department would probably rule the employee quit his first job for good cause. Therefore, if he lost the second job through no fault of his own, the department would more than likely pay the benefits.

There was considerable discussion between Senator Raggio and Mr. Champion concerning the concept of unemployment compensation and that the one-week waiting period might be an incentive for the unemployed to seriously look for work. Mr. Champion indicated a one-week waiting period would save the employers' costs which would normally be passed on to customers in higher prices.

Mr. Evans asked Mr. Champion if he felt that the employees who were laid off because of the MGM fire should have had a one-week waiting period. Mr. Champion replied a one-week waiting period was not relevant because it was a catastrophic situation.

Mr. Don Carruthers, Laborers' Local 169 testified against Senate Bill No. 230. He stated, in response to Senator Raggio's concern about people not looking very hard for work, it would be better to stop unemployment benefits at the end of the 26 weeks, rather than to delay them at the beginning.

With no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 230.

SENATE BILL NO. 242--Permits employees to include tips in wages for purposes of unemployment compensation.

SENATE BILL NO. 243--Allows employees to report tips as wages and increase coverage of industrial insurance.

Senator Hernstadt testified in support of Senate Bill No. 242, but said his comments were addressed to both Senate Bill No. 242 and Senate Bill No. 243. He distributed a handout which illustrates how the tip situation is handled in the various states. (See Exhibit H.) Senator Hernstadt stated that 40 percent of the 50 states currently include tips for the purpose of calculating unemployment benefits. He said that under the current state benefit programs, Nevada unemployment compensation service (NUCS) and industrial insurance (NIC), those who earn tips are considered second class citizens. He gave examples of the maximum and minimum benefits under NUCS and NIC for the minimum wage earner whose tips are not counted as income. He said that employees report the tip money to employers for social security benefits (FICA) which will benefit them in retirement; but during their working years they are being shortchanged. He pointed out that employees must pay federal income tax on tips they earn. Regular minimum wage earners have adjusted to living on a reduced salary and thus find it easier to adjust to the low benefits of NUCS and NIC. Tip earners, in contrast, are used to living on a much higher salary and find it very difficult to adjust to the reduced income of NUCS or NIC. Senator Hernstadt said in some cases the reduced income resulted in the loss of the workers' homes and cars. He said the tip earners do not seek charity, only worker equality and parity.

Mr. Jack Stafford, representing the Joint Board of Culinary Workers, Local 226, and the Bartenders' Local 165 in Las Vegas, addressed his remarks to Senate Bill No. 242 and Senate Bill No. 243, which he favors. He said the locals represent about 27,000 people, of whom approximately one-third are tip earners. He stated they are required to pay withholding taxes to the federal government on tip income and commented it was unfair to include tip income for taxation but exclude it from unemployment and workers' compensation benefits.

Ms. Agnes Boettger, testified on the bills. She stated she had worked for the MGM Grand for seven years prior to the fire in November 1980. Including her tip income, she made between $250 and $300 per week. She stated her unemployment compensation was $74 per week. She has tried to get a job in several places, even outside the union, to no avail.

Mr. Stafford commented her statements illustrate the unfairness of the law as it now stands. He said some employers in Clark County casinos have a showroom policy which guarantees gratuity on the tip income worker's paycheck, and in that case it is automatically added to their paycheck and does apply to unemployment compensation and NIC benefits, creating another inequity in the law.

Senator Hernstadt asked Ms. Boettger whether she was in any danger of losing a home or car because of the drastic drop in her income. She stated she has enough savings to cover those payments for the next four weeks; but after that she would have difficulty in making ends meet.

There was general discussion by the committee and witnesses on various facets of tip income reporting including how it was done, how it was verified, whether a sworn statement was required, how often employers needed to report to employment security, and whether it was possible for an employee to falsify his tip earnings in order to qualify for larger unemployment or workers' insurance compensation. (See Exhibit I.)

Senator McCorkle observed that, given the increase in taxes which would be paid, it would not be practical for an employee to falsify his reported tip income. Mr. Jim Gibbs, of employment security, said a provision of the law requires the claimant to earn 1-1/2 times his highest quarterly earnings in order to qualify for unemployment benefits, and if he comes up $50 short, he might be tempted to increase his reported tip income by that amount in order to quality for benefits.

Mr. Claude Evans, executive secretary-treasurer, AFL-CIO, stated the current law is inequitable to tip earners and he supports both Senate Bill No. 242 and Senate Bill No. 243. He said he hoped the committe would not refrain from processing the bill because there might be a few who would try to beat the system by falsifying their reported tip income. He indicated it was not fair that 99 percent of the honest people should pay for what the 1 percent who are dishonest may do.

Mr. Clint Knoll, general manager of the Nevada Association of Employers testifed against the bills. He said that both bills provided for "select participation" and that it is the employee's option to report his tip income. He stated the employers he represents are the people who would be hurt by this legislation; and he disagrees with Mr. Evans assessment of only 1 percent trying to beat the system. The most objectionable part of the bill is that it provides for voluntary participation in the program and he would like to see it made a mandatory participation.

Mr. Knoll continued that he was concerned if tip incomes were includable in overtime, then the factor by which overtime hours are multiplied would increase the amount an employer would have to pay an employee for any overtime hours he worked. Senator Wilson rephrased Mr. Knoll's concern by stating the question is whether or not the employer is responsible to pay time and a half on only the wages earned during overtime hours or time and a half on the wages plus the tips he earns. He asked Mr. Knoll what had been the practice in the past in this regard. Mr. Knoll replied the employer is supposed to pay overtime on both the wages and the tips earned during the overtime hours.

Mr. Jerry McHugh, trustee for Culinary Local #86, in Reno, testified on the bills. With him was Mr. Bob Zanger, research analyst, to testify on the bill with regard to dealers. He said dealers in the casinos accept the extremely low wages because they are confident the tips they earn will compensate. In 1979, the federal government required day shift dealers to pay taxes on $39.92, swing shift dealers were required to pay taxes on $42.32 and graveyard shift dealers were required to pay taxes on $27.28, for every day worked in the year. He said the Internal Revenue Service makes no adjustment for days in which a dealer does not work a full shift. In addition to this inequity, dealers must survive on $78 per week unemployment compensation benefits when laid off, not being allowed to report their tips as income for this purpose.

Senator Wilson asked Mr. Zanger if he would respond to the question raised by Mr. Knoll regarding whether an employer is liable to pay time and half on wages only or on wages and tips earned during overtime. Mr. Zanger stated the National Labor Relations Board holds that the employer is liable to pay overtime only on wages, not the tips. In regard to the concern over possible falsification of tip amounts received, in anticipation of a potential layoff, Mr. Zanger said the employee would have to begin at least three months prior to the lay off date and would have to pay the increased taxes on the reported tips.

Mr. McHugh stated he wished to have the record reflect that his local favors Senate Bill No. 242.

Mr. Harvey Whittemore, representing the Nevada Resort Association and the Nevada Gaming Industry Association testified. He stated employers do not have to pay premiums on tips the employer himself collects and disburses; and that the Nevada Revised Statutes do not define the term wage for the purpose of workmen's compensation. He added that NIC has a regulation indicating what they define as wages for the purpose of computing benefits; and it is extremely liberal in terms of what it allows in comparison with other states.

There was general discussion on the collection of tips in one area of the casino, with distribution to members of all areas of the casino; whether monthly reporting of tips for benefits would be more satisfactory; the problem of employee income taxes and the IRS and the reporting thereof; including reporting of income for FICA purposes. The committee asked Mr. Whittemore various questions regarding his suggestions on this legislation. Mr. Whittemore stated if the bill was passed, the monthly average wage of all employees throughout the state would be raised. He inferred this would be detrimental to the state because of NRS 616.027 which provides for benefits for the purposes of unemployment or workmen's compensation to be computed according to the lesser of the employee's actual monthly wage or the average monthly wage throughout the state. Mr. Whittemore's objection to including tip income was that it was controlled by the customer, not the employer or employee. He spoke about tips being applied to the minimum wage; the fact that the employers would be subject to subpoenas by the IRS regarding tip income records; and a variety of other items relating in one way or another to the reporting of tip income as wages.

Mr. Joe Nusbaum, chairman of the Nevada Industrial Commission testified on Senate Bill No. 243. In the past NIC has opposed

attempts made, through the judicial process to include tips as wages for the purposes of computing workers' compensation benefits. Mr. Nusbaum stated NIC took this position because: 1) it was not authorized by statute, 2) there were not adequate records for auditing purposes, 3) premiums are not paid on tips, and 4) a court decision that tips should be included for the purpose of computing NIC benefits would be retroactive, would have serious effects on the fund's liabilities. Mr. Nusbaum stated that Senate Bill No. 243 had overcome all of those listed objections, and he found nothing objectionable about the bill.

Mr. Ernest Newton, representing the Las Vegas Taxpayers' Association, testified on Senate Bill No. 242 and Senate Bill No. 243. He stated passage of the bills would cost employers approximately 4 percent of their payroll. Senator Hernstadt commented many employers pay a much lower percentage than that and in addition the 4 percent would not be the entire payroll, just the tip payroll. Mr. Newton stated the inclusion of tips for computing benefits would raise the average monthly wage for the whole state, and would increase the amount of taxes the employer would have to pay for unemployment compensation.

Mr. Bill Champion, representing the MGM Grand, suggested that tipped employees may not want employers to know how much they make in tip income. Senator Hernstadt reminded the committee the bills provide for voluntary reporting and not a mandatory system. Mr. Champion indicated that because employers pay a premium on the total amount of tips reported during a month and also the seniority system mentioned, benefits paid out to the unemployed would be inflated.

Mr. Joe Buckley, representing Summa Corporation, stated he was in agreement with Mr. Champion and did not support the bills.

Mr. Tom Stuart, a member of the Gibbons Company of Reno which frequently represents employers in NIC and NUCS hearings, spoke against the bill. He said he represents the Northern Nevada Personnel Association which feels the employment security department should only consider the reported income when calculating unemployment compensation benefits.

There was no further testimony and Chairman Wilson closed the hearings on Senate Bill No. 242, and Senate Bill No. 243.

SENATE BILL NO. 239--Makes various changes to law governing practice of traditional Oriental medicine.

Deputy Attorney General William Isaeff testified on Senate Bill No. 239. He distributed a copy of NRS 634A which regulates the practice and procedure of oriental medicine. (See Exhibit J.) Mr. Isaeff stated this bill attempts to make the definition of acupuncture read more like the definition of herbal medicine. Senator Hernstadt asked if there is any effect on the patient by changing the definitions, if the practitioner is only authorized to practice one or the other, but not both acupuncture and herbal medicine. Mr. Isaeff replied the practitioner would simply use whatever modality he was authorized to use.

Senator Raggio wondered if changing the bill would limit the practitioners in their present practice. Mr. Isaeff answered that he believes they are already practicing what the new definition outlines; the new outlines just define it better.

Mr. Isaeff then directed the attention of the committee to the changes in the various sections of the bill (see Exhibit J). He explained each change and indicated how it would improve the present statute. He stated that when the statute was originally drafted, acupuncture was fairly new to the United States and legislators made a requirement of ten years of practicing acupuncture a licensing requirement. That requirement has been dropped to six years in this bill. He wanted to go on record as objecting to the bill drafter's change of the words "acupuncture assistant" to "assistant in acupuncture" since the former was a commonly used term in the profession and perfectly adequate as it is.

With no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 239.

Chairman Wilson presented the following bill draft requests for committee introduction.

BDR 54-459--Provides for separate licensing of cosmeticians.
(SB 366)
The committee gave unanimous approval for the introduction of BDR 54-459.

BDR 57-942--Removes special exemption for agents of fraternal benefit societies.
(SB 365)

The committee gave unanimous approval for the introduction of BDR 57-942.

MEETING OF THE SENATE COMMITTEE ON COMMERCE AND LABOR
MARCH 4, 1981

SENATE BILL NO. 63--Removes upper limit on number of directors for savings and loan associations.

Chairman Wilson presented the Assembly amendments to Senate Bill No. 63 and the committee agreed to concur in the amendments. (See Exhibit K.)

Senator McCorkle asked the committee's permission for Ms. Linda Ryan to testify on the consumer advocacy bill. Ms. Ryan, from the state office of community services, testified on consumer advocacy in the Public Service Commission. She said the public utility office in the commission has granted Sierra Pacific Power, Southwest Gas and Nevada Power 58.4 percent of their requests in general rate raise cases. She said that without a consumer advocate's office in the PSC, Nevada is doing better than many other states that have consumer advocate's offices. Ms. Ryan indicated a consumer advocate's office in the Public Service Commission should stay away from an adversary position. Senator Wilson informed Ms. Ryan that the committee does not support a consumer advocate's office in the Public Service Commission, but instead supports the creation of a consumer advocate's office outside the commission, preferably within the Attorney General's office.

With no further business, the meeting was adjourned at 5:10 p.m.

Respectfully submitted,

Betty Steele, Committee Secretary

APPROVED:

Senator Thomas R. C. Wilson, Chairman

DATE: ____________________

EXHIBITS - MEETING, WEDNESDAY, MARCH 4, 1981

Exhibit A is the Meeting Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the position paper of J.C. Penney Co., on Senate Bill No. 230, submitted by Mr. Nielson.

Exhibit D is the testimony of Mr. Evans, regarding Senate Bill No. 230.

Exhibit E is a memorandum from the employment security department regarding Senate Bill No. 230, submitted by Mr. McCracken.

Exhibit F is the testimony of Stan Jones, of the Northern Nevada Central Labor Council, regarding Senate Bill No. 230.

Exhibit G is a letter from a private citizen in opposition to Senate Bill No. 230, submitted for the record by Mr. Jones.

Exhibit H is a memorandum submitted by Senator Hernstadt pertaining to Senate Bills No. 242 and 243.

Exhibit I is a memorandum from the employment security department regarding Senate Bill No. 242, submitted by Mr. McCracken.

Exhibit J is a copy of NRS Chapter 634A, Traditional Oriental Medicine, in reference to Senate Bill No. 239, submitted by Mr. Isaeff.

Exhibit K is a copy of the Assembly amendments to Senate Bill No. 63.

EXHIBIT A

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Commerce and Labor, Room 213.

Day Wednesday, Date March 4, Time 1:30 p.m.

S.B. No. 230--Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits and narrows eligibility requirements.

S.B. No. 242--Permits employees to include tips in wages for purposes of unemployment compensation.

S.B. No. 243--Allows employees to report tips as wages and increase coverage of industrial insurance.

S.B. No. 239--Makes various changes to law governing practice of traditional Oriental medicine.

S.B. No. 240--Makes administrative changes relating to chiropractic.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON Commerce and Labor

EXHIBIT B

DATE: March 4, 1981, 1:30 p.m.

PLEASE PRINT NAME	PLEASE PRINT PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
Russ Pearson	JC Penney Co.	
N.C. Anthonisen	Summa Corp	
Gary Nielson	JC Penney	
Clint Knight	Nev. Ass'n of Employers	329 4241
Art Peterson	" " " "	" "
Frank Byrne	N. Nev. Building Trades	322-3361
Harold Knudson	Sheet Metal Union	322-7447
B Barton	Circus Circus - 500 Sierra	826-[illegible]
Richard Koehler	Local -86	786-8686
L Shea Pierce	Local 86	786-8686
Jerry McHugh	Local 86 - Culinary	831-7184
[illegible]	Local 86 - Culinary	851-4518
Ron [illegible]	MGM	788-2000
Roland Christensen	Local #241 O.P.C.M.I.A.	329-5754
Howard H Sutherland	Carpenters Local #971 Reno Nev	882-3625
Agnes Boettger	Culinary Las Vegas 226	702-876-904[illegible]
Margaret [illegible]	Culinary Reno	354-03-0825
Kenneth R. Morrison	Local #971	883-0360
Douglas Matejovsky	✓ ✓	323-5784
[illegible]	Local 971	882-7239
Bob Zanger	Local #86 HMREBU	786 8686-3315[illegible]
Jack Stafford	Local Joint Board #226 & #165 HRE+BIU	702 384 7774
Gerald McHugh	Local 118 Ironworkers	786-8921

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON ______________________

DATE: ______________

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
David M. Hagen	Chiropractic Assn.	786-2366
Dr. E. M. Scrivner	" State Board	882-3583
Larry McCracken	Employment Security Dept	885-4635
Harold Monroe	JCPenney Co. Carson City	883-6500
Ken Gobrecht	JCPenney Co. Reno	827-2700
Blackie Evans	Nevada AFL-CIO	882-7490
J. [illegible]	AFL CIO	8827490
Stan Jones		
Don Carruthers	Laborers Local 169	323-0169
Walter [illegible]	Local 169	3220169
Wm Edwards	Board of Oriental Medicine	885-4800
Carole Vilardo	Citizens for Pvt Enterprise - South	457-5746
Joe [illegible]	NIC	885-5284
R.K. Schaffeta	NIC	
S Bybee	NRA	385-2111
J. M. [illegible]	- Self - "Concerned"	- 0 -
F. Harven Whittemore	NRA	323-5050
Linda Ryan	Office of Community Service	885-~~5022~~ 4420

672

3/4 - J. C. Penney

EXHIBIT C

SB 230

POSITION PAPER

NEVADA UNEMPLOYMENT COMPENSATION LAW

NEVADA IS ONE OF ONLY ELEVEN (11) STATES THAT DOES NOT IMPOSE A WAITING WEEK. A WAITING WEEK OFFERS SOME ADVANTAGES IN THE ADMINISTRATION OF UNEMPLOYMENT COMPENSATION:

1. IT PERMITS THE EMPLOYMENT SECURITY DEPARTMENT TO DETERMINE THAT THE CLAIMANT MEETS ALL ELIGIBILITY REQUIREMENTS PRIOR TO PAYMENT OF BENEFITS. THE DEPARTMENT HAS TIME TO VERIFY WAGES AND COMPUTE THE WEEKLY BENEFIT AMOUNT AS WELL AS NOTIFY ALL INTERESTED PARTIES THAT A CLAIM HAS BEEN FILED.
2. IT WOULD ELIMINATE THE NEED TO ADJUST AN INCORRECT PAYMENT MADE FOR THE INITIAL WEEK PAID.
3. IT WOULD CREATE AN INCENTIVE FOR THE CLAIMANT TO LOOK FOR, AND PREHAPS FIND, NEW EMPLOYMENT. IN THIS CASE, IT WOULD DETER THE PAYMENT OF BENEFITS AND IMPROVE THE SOLVENCY OF THE UNEMPLOYMENT TRUST FUND.

JCPenney

Gary L. Nielson
Field Tax Representative
Field Tax Office

J.C. Penney Company, Inc. 6131 Orangethorpe Avenue
Buena Park, California 90624, Tel. 714-523-6741

3/4 — AFL-CIO

February 18, 1981

EXHIBIT D

Testimony of Claude Evans, Executive Secretary-Treasurer of the Nevada State AFL-CIO, before the Senate Labor and Commerce Committee on March 4, 1981 regarding Senate Bill 230.

Mr. Chairman and Members of the Committee:

The Nevada State AFL-CIO strongly opposes this legislation. We have heard a great deal this evening about the employment security fund but it seems to me we have failed to discuss how this affects individual Nevada workers.

For example, during the shutdown of the Aladdin Hotel, the MGM fire and now the Hilton tragedy, a great many Nevada employees have been laid off through no fault of their own. And, a great deal of publicity was generated of how they were unable to pay their bills on the present unemployment benefits. This bill would reduce those benefits even further.

The people who were laid off at the respective hotels would have been penalized one week of unemployment benefits, and we have to keep in mind that the maximum benefit for a laid off employee now is $123.00 per week or approximately $17.57 per day. On this amount of money it is difficult to feed even one individual, let alone people who have families.

The <u>average</u> unemployment check is $100.00 per week and the average length of receiving these checks is 11 weeks.

In 1975 the Legislature passed legislation which reduced the pay out of unemployment benefits by 14%. In the 1977 session it was reduced by 8½%, and in 1979 by 3%, for a total reduction of 25½% in the last 3 sessions of the Legislature.

We think this is wrong and regressive legislation which affects legitimate laid off employees of Nevada. We urge your defeat of this legislation.

Wed 3/4 McCracken #1

MEMORANDUM

STATE OF NEVADA
EMPLOYMENT SECURITY DEPARTMENT

TO Senator Thomas R. C. Wilson, Chairman and Members, Committee on Commerce and Labor DATE February 26, 1981 EXHIBIT

FROM Larry McCracken, Executive Director SUBJECT Testimony - SB 230

On page 1, lines 15 through 21 of this Bill, language is deleted which previously has allowed for the payment of benefits to persons who become ill or disabled during a period of continuous claim filing. No separate record of such claims is kept, although the number is quite small. Consequently, the estimated reduction in benefit payout is also relatively small, amounting to approximately $125,000 per year. This same change has been recommended by the Nevada Employment Security Council and is included in the legislative package which has been drafted on the Council's behalf.

On page 2, lines 18 through 20 of this Bill, language is deleted which requires the department to disregard wages paid immediately preceding retirement in computing benefits payable to a claimant. This is the only provision currently in the law which requires any consideration of pensions or other retirement income for which claimants may be eligible. At the same time, there is a new requirement in federal law that all states must offset at least 50 percent of any pension or other retirement income to which claimants may be entitled by virtue of employment during their base period.

The Employment Security Council package includes a proposed change with respect to this same subject which goes well beyond the federal requirement. The change recommended by the Council would require a total offset of any pension or retirement income and without restricting it to base period employment.

On page 2, lines 20 through 27, a new section is added which requires a one-week waiting period before benefits are payable. This new section further requires that the waiting period be served either during the week when the new claim is filed or if the new claim is filed on Thursday or Friday, the waiting period is to be served the following week. Again, the Employment Security Council has recommended that Nevada adopt a one-week waiting period before benefits are payable and such a bill is included in the Council's package.

However, by adding the language on page 2, lines 24 through 27 in SB 230, several problems arise. First and foremost, is the fact that many persons filing new claims on Thursday or Friday would in effect have to serve a waiting period of two weeks because under this Bill, they would not be eligible to receive benefits until they had served the one-week waiting period; and according to the language in this Bill, they could not serve that waiting period, if they filed their new claim on Thursday or Friday, until the following, or second week, of their unemployment. It is estimated that in addition to the $3.5 million in reduced benefit payout during 1981 if a waiting week is adopted, a further reduction of $700,000 would result if many claimants are, as explained, required to wait two weeks before they may be paid benefits.

It has long been customary for certain claimants, for example, construction workers and culinary workers who are often reemployed late in the week, to wait until the end of the week before filing a claim. It seems certain that if SB 230 were approved as drafted, nearly all claimants would file new claims not later than Wednesday to avoid the risk of having to wait two weeks before they could be paid benefits. This would result in many claims being filed unnecessarily and would cause congestion in the claims offices by loading all of the new claim traffic onto the first part of the week.

bam

NESD - 1024 (Rev.2-71)

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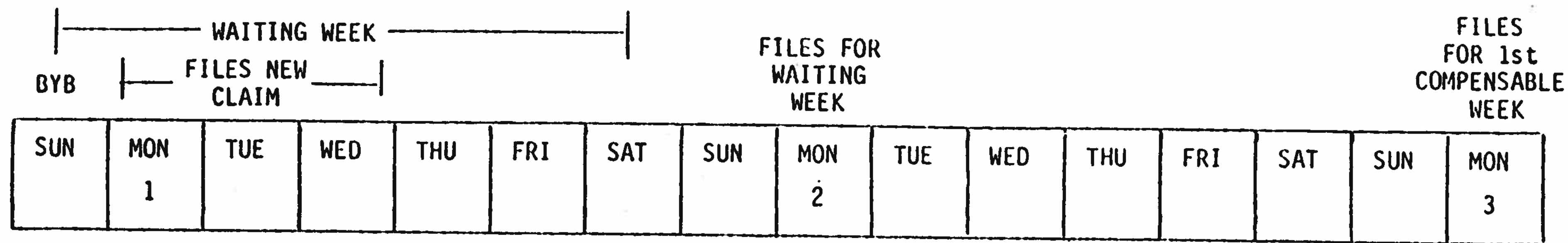
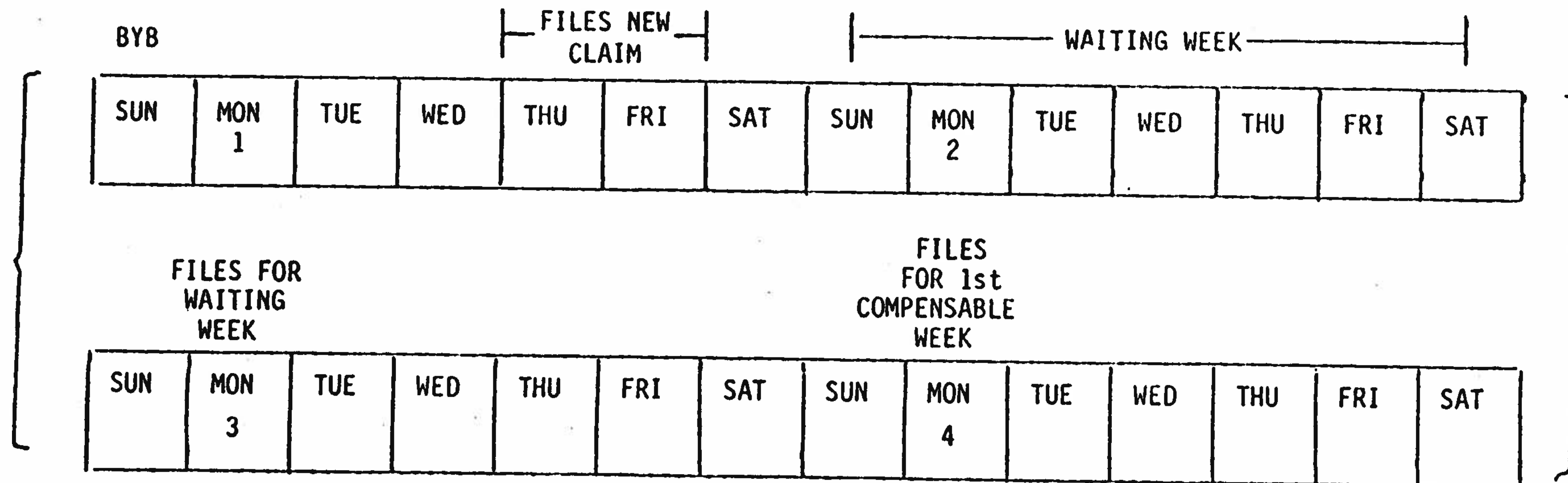
Nevada Employment Security Department
Impact of SB 230
March 4, 1981





S.B. 230 Wed 3/4 – [handwritten signature] March 3, 1981

EXHIBIT F

THE NORTHERN NEVADA CENTRAL LABOR COUNCIL IS OPPOSED TO S.B. 230 FROM A STANDPOINT OF SIMPLE HUMANITARIANISM.

TO THE INDIVIDUAL WHO SUFFERS THE HUMILIATION OF LOSS OF EMPLOYMENT THROUGH NO FAULT OF THEIR OWN.... THE FIRST WEEK PRESENTS THE SAME FINANCIAL HARDSHIP AS THE SECOND, THIRD, OR SUBSEQUENT WEEKS OF DEPRIVATION.

IT'S EASY ENOUGH FOR THE "HAVE'S" WHO AREN'T FACED WITH THE SAME HUMILIATION AS THE "HAVE-NOTS" WITH THEIR EMPLOYER TELLING THEM.... "SORRY CHARLIE, WE JUST DON'T HAVE ANY MORE WORK FOR YOU". TAKE THAT MESSAGE HOME TO A WIFE AND KIDS WHO LIVE FROM DAY TO DAY, AND TELL THEM THEY'LL NOT HAVE ANY INCOME AT ALL FOR 3 OR MORE WEEKS AND ONE OF THOSE 3 WILL BE DISQUALIFIED.

THE MAJORITY OF UNEMPLOYED INDIVIDUALS COME FROM THE LOW-INCOME MINIMUM WAGE EARNER WHO HAVE NO OPPORTUNITY OF BUILDING EVEN A ONE WEEK CUSHION AGAINST THE DAY CERTAIN..... WHEN THEY'RE TOLD THEIR EMPLOYMENT IS TERMINATED.

TO FURTHER HUMILIATE THEM BY DENYING THEM UNEMPLOYMENT COMPENSATION FOR ONE WEEK IS THE ABRIDGEMENT OF CONCERN FOR OUR FELLOW WORKER. REMEMBER.... THESE PEOPLE ARE JOBLESS NOT BY CHOICE, BUT BY THE FICKLE-FINGER-OF-FATE.

THE AFFILIATES OF THE NORTHERN NEVADA CENTRAL LABOR COUNCIL ASK OF YOU TO SEARCH YOUR CONSCIENCE AND DEFEAT THE SENSELESS S.B. 230. IMAGINE....IF YOU WILL, THE HEARTACHE A LAYOFF BRINGS. DON'T COMPOUND THAT HEARTACHE WITH THE BURDEN OF AN EMPTY TABLE. THEY'VE PAID THEIR DUES, OR THEY WOULDN'T BE ELIGIBLE IN THE FIRST PLACE.

THEIR FOOD PRICES, SHELTER COSTS, ENERGY COSTS GOES ON AND ON. THERE IS NO WEEKS MORATORIUM ON THEIR COSTS OF LIVING. IF FOR NO OTHER REASON... HUMANITARIANISM DICTATES S.B. 230 BE KILLED.

EXHIBIT G

March 2nd, 1981

Pat Miles
1632 York Way
Sparks, NV.

Dear Senator:

I'm writing this letter in regards to "one week waiting period," for my unemployment check.

-Employment Security- What happens to the word "Security," if you should pass this Senate Bill 230?

It is unfair to myself and all working men and women of Nevada.

I'm a single parent trying to raise my family. I have no other support accept my income.

Put yourself on our side. Unemployed and waiting for your first unemployment check. It ends up 3 wks. of waiting-not one. Could you - Senator - make it?

Sincerely,

Pat Miles

P.S. Unemployed 2 months, very hard times making ends meet.

BILL HERNSTADT
SENATOR
CLARK COUNTY DISTRICT 3
HOME: 3111 BEL AIR DRIVE, APT. 25G
LAS VEGAS, NEVADA 89109
732-2100
OFFICE: 401 S. CARSON STREET
CARSON CITY, NEVADA 89710
885-5829
1-800-992-0973

COMMITTEES
VICE CHAIRMAN
TRANSPORTATION
MEMBER
COMMERCE
JUDICIARY

EXHIBIT H

Nevada Legislature

SIXTY-FIRST SESSION

Senate Committee on Commerce & Labor

Wages subject to the tax under the Federal Unemployment Tax Act do not include tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer.

However, if the employee accounts to the employer for tips and gratuities received from customers, such tips and gratuities are taxable under federal law.

The mere reporting of tips by an employee to his employer for federal social security purposes does not mean that the tips are "accounted for" for unemployment insurance purposes.

Most state unemployment compensation laws now contain provisions regarding the application of the tax to tips or gratuities received by a worker in the course of his employment.

Forty percent of the states provide that such gratuities are covered for unemployment compensation if they are accounted for or reported to the employer.

Several states require tips or gratuities to be included by the employer as taxable wages only in certain cases, i. e., if such payments are a substantial part of the employees earnings. As an example, in South Dakota such payments are taxable only if they constitute 50 percent of the employees earnings, or if they are necessary to bring the individual's earnings up to the minimum wage level.

Categorization of State Unemployment Laws with Reference to Gratuity Coverage

A. States in which tips or gratuities are always considered wages and are therefore covered for unemployment compensation.

1. Alaska
2. Connecticut
3. Delaware
4. District of Columbia
5. Illinois
6. Maine
7. Minnesota
8. Missouri
9. Montana
10. New Jersey
11. New Mexico
12. New York
13. North Dakota
14. Ohio
15. Oklahoma
16. Rhoda Island
17. Utah
18. Vermont
19. Virginia
20. West Virginia

All tips are included as wages and are therefore covered for unemployment compensation.

B. States, like Nevada, in which tips and gratuities are never considered wages and therefore not covered under unemployment compensation, whether or not they are reported for federal social security requirements.

1. Nevada
2. Hawaii
3. Kansas
4. Nebraska
5. Oregon

C. States in which tips and gratuities may be considered wages if they are accounted for and/or turned in to employer.

1. Alabama
2. Arizona
3. Colorado

4. Idaho
5. Indiana
6. Kentucky
7. Louisiana
8. Massachusetts
9. Mississippi
10. Wisconsin

Issues involved are distribution and reporting.

D. States in which case tips would be wages only to meet minimum wage requirement at either state or federal level.

1. Arkansas
2. Colorado
3. Florida
4. Michigan
5. Pennsylvania
6. Wisconsin

E. States in which case tips would be wages if they are a fixed "service charge" which the patron is required to pay.

1. Florida
2. Kentucky
3. Louisiana
4. Michigan
5. Wisconsin
6. Washington

F. States in which cases only the tips or gratuities subject to FUTA or FICA are considered wages.

1. Georgia
2. Texas
3. Wyoming

G. States in which case tips and gratuities are included as wages only for the purpose of determining benefits.

1. California
2. New Hampshire
3. Wisconsin

H. Other information

Tennessee- Wages do not include tips except under

681

certain circumstances described by law.

California- "Tips and gratuities constitute wages in 'certain cases'."

South Dakota- Tips are included as wages if they constitute 50 percent of the individual's wages, i.e., yearly income.

3/4 - McCra

MEMORANDUM

STATE OF NEVADA
EMPLOYMENT SECURITY DEPARTMENT

EXHIBIT I

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

DATE February 26, 1981

FROM Larry McCracken, Executive Director

SUBJECT SB 242

This Bill would include cash tips and gratuities paid by a customer directly to an employee as wages. The department has generally opposed this practice in the past because it taxes an employer on amounts he cannot control and it permits benefit claimants to manipulate their eligibility for benefits and the amount for which they are eligible. In 1977 there were three states that included tips as wages. As of February 1981, there are twenty-three states that include tips paid directly by a customer to an employee as wages. The majority of these states include such tips as wages only to the extent that they have been reported to the employer by the employee. It would therefore appear that the trend among all the states is clearly toward including tips as wages.

Nevertheless, this issue is particularly important in Nevada because of the gaming industry. It is estimated that this Bill, if approved, would increase the average check by about 1.5% and thus increase annual benefit payout at the current rate by about $1 million. There would also be an increased tax liability for employers of about the same amount because many tip earners receive less than the taxable amount of wages as currently defined in the law.

Besides these general comments, there are several specific problems with SB 242 as follows:

On page 1, lines 3 and 4, the Bill states, "An employee may report any amount which he received as tips to his employer on forms provided by the Employment Security Department." This provision would be hard to administer because the department would not know which employers to provide forms to and in what quantity. It would also be expensive if all such employers stocked these forms in quantities sufficient to comfortably insure that they would have an ample supply. This process would also mean that employers would have another form to deal with. Further, a standard form generated by the department would not give employers flexibility in accounting for tips in a way best suited to their particular accounting system.

On page 1, line 9, the Bill states that "The executive director shall adopt regulations specifying:" And then, following on line 12, further states, "the intervals at which employees who report specified amounts of tips are required to report, which may not be more than once each month." This again provides employers with little flexibility in accounting for tips. Since contributions are paid on a quarterly basis and benefits are computed on quarterly wages, it would seem adequate to have the amount of tips accounted for on a payroll date basis, then wages paid and tips accounted for by payroll period could be similarly included in employer wage reports. Employers would then not have to have one system for payroll-pay-dates and another for tips-accounted-for-dates. A regulation could also not anticipate the various lead times needed by employers to process tip information.

On page 1, line 21, and page 2, line 5, the Bill refers to "premiums." Employers do not pay premiums to the Trust Fund and no where in Chapter 612 are premiums defined.

NESD - 1024 (Rev.2-71)

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Finally, it is very important that the language of the Bill also specify that tips shall be considered wages only to the extent that such tips or gratuities are reported to the employer. This will prevent claimants from later reporting increased tips to the department in order to manipulate their weekly benefit amount and/or their total entitlement. It would still not prevent employees from falsely inflating their wages in anticipation of being laid off. I see no way that this could be prevented.

bam

EXHIBIT J

CHAPTER 634A

TRADITIONAL ORIENTAL MEDICINE

CROSS REFERENCES

Advisory committee, members' terms, qualifications, vacancies, NRS 232A.020
Contracts for prepaid professional services, NRS 287.500 et seq.
County hospitals, equal privileges of practitioners, NRS 450.430
Gender, number, tense of words used in NRS, NRS 0.030
Medical malpractice—
- Actions, NRS ch. 41A
- Damages, NRS 42.020
- Limitation of actions, NRS 41A.097

"Physician" defined, NRS 0.040
Professional corporations and associations, NRS ch. 89
Records, health care, NRS 49.245, 49.265, 51.135, 52.325 et seq., 629.011 et seq.
Severability of invalid provisions on applications of NRS, NRS 0.020
State board of Oriental medicine—
- Accounting Procedures Law, State, NRS 353.291 et seq.
- Administrative Procedure Act, NRS ch. 233B
- Legislative review of public agencies, NRS ch. 232B
- Meetings open and public, NRS 241.010 et seq.
- Records open to public inspection, NRS 239.010
- Terms, qualifications, vacancies, NRS 232A.020

Summary suspension of licenses, NRS 233B.127
Tobacco, restrictions on smoking, NRS 202.249 et seq., 475.050

LEGISLATIVE DECLARATION; DEFINITIONS

634A.010 Legislative declaration. The practice of traditional Oriental medicine and any branch thereof is hereby declared to be a learned profession, affecting public safety and welfare and charged with the public interest, and therefore subject to protection and regulation by the state.

(Added to NRS by 1973, 635; A 1975, 231)

634A.020 Definitions. Unless the context otherwise requires, the words, phrases and derivatives thereof employed in this chapter have the meanings ascribed to them in this section.

1. "Acupuncture" means the insertion of needles into the human body by piercing the skin of the body, for the purpose of controlling and regulating the flow and balance of energy in the body.
2. "Board" means the state board of Oriental medicine.
3. "Doctor of acupuncture" means a person who has been licensed under the provisions of this chapter to practice the art of healing known as acupuncture.
4. "Doctor of herbal medicine" means a person who has been licensed under the provisions of this chapter to practice the art of healing known as herbal medicine.
5. "Doctor of traditional Oriental medicine" means a person who has been licensed under the provisions of this chapter to practice the art of healing through traditional Oriental medicine.
6. "Herbal medicine" and "practice of herbal medicine" mean suggesting, recommending, prescribing or directing the use of herbs for the cure, relief or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, fracture, bodily injury or deformity.
7. "Herbs" means plants or parts of plants valued for medicinal qualities.
8. "Licensed acupuncture assistant" means a person who assists in the practice of acupuncture under the direct supervision of a person licensed under the provisions of this chapter to practice traditional Oriental medicine or acupuncture.
9. "Traditional Oriental medicine" means that system of the healing art which places the chief emphasis on the flow and balance of energy in the body mechanism as being the most important single factor in maintaining the well-being of the organism in health and disease and includes the practice of acupuncture and herbal medicine.

(Added to NRS by 1973, 635; A 1975, 231)

BOARD OF ORIENTAL MEDICINE

634A.030 Board of Oriental medicine: Creation; appointment of members; oaths.

1. The state board of Oriental medicine, consisting of five members appointed by the governor, is hereby created.
2. The governor shall appoint the members as soon as feasible after April 19, 1973. Their terms shall be as follows:
   (a) Two members shall hold office for 1 year;
   (b) Two members shall hold office for 2 years;
   (c) One member shall hold office for 3 years; and
   (d) Thereafter, all terms shall be for 3 years.
3. The governor shall appoint persons to fill vacancies for the remainder of an unexpired term.
4. Each member of the board shall, before entering upon the duties of his office, take the oath of office prescribed by the constitution before someone qualified to administer oaths.

(Added to NRS by 1973, 636; A 1975, 232)

634A.040 Qualifications of members. All members of the board shall be citizens of the United States and residents of the State of Nevada.

(Added to NRS by 1973, 636)

634A.050 Compensation, expenses of members. Each member of the board shall receive:

1. A salary of not more than $40 per day, as fixed by the board, while engaged in the business of the board.
2. Actual expenses for subsistence and lodging, not to exceed $25 per day, and actual expenses for transportation, while traveling on business of the board.

(Added to NRS by 1973, 636; A 1975, 304)

634A.060 Officers of board. The board shall annually elect from its members a president, vice president and secretary-treasurer, and may fix and pay a salary to the secretary-treasurer.

(Added to NRS by 1973, 636)

634A.070 Powers of board. The board may:

1. Employ attorneys, investigators and other professional consultants and clerical personnel necessary to discharge its duties. For the purpose of conducting its examinations, the board may call to its aid persons of established reputation and known ability in traditional Oriental medicine;
2. Maintain offices in as many localities in the state as it finds necessary to carry out the provisions of this chapter;
3. Promulgate rules and regulations, or either of them, not inconsistent with the provisions of this chapter. Such rules and regulations

may include a code of ethics regulating the professional conduct of licensees; and

4. Compel the attendance of witnesses and the production of evidence by subpena and the board may administer oaths.

(Added to NRS by 1973, 636; A 1975, 232)

634A.080 Duties of board. The board shall:

1. Hold meetings at least once a year and at any other time at the request of the president or the majority of the members;
2. Have and use a common seal;
3. Deposit in interest-bearing accounts in the State of Nevada all moneys received under the provisions of this chapter, which shall be used to defray the expenses of the board;
4. Operate on the basis of the fiscal year beginning July 1, and ending June 30; and
5. Keep a record of its proceedings which shall be open to the public at all times and which shall also contain the name and business address of every registered licensee in this state.

(Added to NRS by 1973, 636)

634A.090 Approval of schools of traditional Oriental medicine.

1. A school or college of traditional Oriental medicine may be established and maintained in this state only if:

(a) Its establishment is approved by the board.

(b) Its curriculum is approved annually by the board for content and quality of instruction in accordance with the requirements of this chapter.

2. The board may prescribe the courses of study required for the respective degrees of doctor of acupuncture, doctor of herbal medicine and doctor of traditional Oriental medicine.

(Added to NRS by 1973, 635; A 1975, 233)

634A.100 Oriental medicine advisory committee: Creation; appointment, qualifications; compensation, terms of members; duties.

1. The Oriental medicine advisory committee, consisting of five members appointed by the governor, is hereby created.

2. The governor shall appoint the members of the advisory committee as soon as feasible after April 19, 1973. Their terms are as follows:

(a) One member shall hold office for 1 year;

(b) Two members shall hold office for 2 years;

(c) Two members shall hold office for 3 years; and

(d) Thereafter, all terms are for 3 years.

3. Members of the advisory committee shall be selected with special reference to their ability and fitness to advise with respect to the duties assigned by this chapter to the board.

4. The advisory committee shall advise the board regarding licensing, curriculum of a school or college of traditional Oriental medicine established pursuant to NRS 634A.090, or any other duties of the board created by this chapter.

5. The advisory committee may receive, if authorized by the board, the same salary, subsistence, and travel expense provided by NRS 634A.050.

(Added to NRS by 1973, 637; A 1975, 233; 1979, 714)

LICENSES

634A.110 Applications for licenses; fees. An applicant for examination for a license to practice traditional Oriental medicine or any branch thereof, shall:

1. Submit an application to the board on forms provided by the board;
2. Submit satisfactory evidence that he is 21 years or older and meets the appropriate educational requirements;
3. Pay a fee of $100; and
4. Pay any fees required by the board for an investigation of the applicant or for the services of a translator, if such translator is required to enable the applicant to take the examination.

(Added to NRS by 1973, 637; A 1975, 233)

634A.120 Examinations: Times; subjects covered.

1. Examinations shall be given at least twice a year at a time and place fixed by the board.
2. Applicants for licenses to practice acupuncture, herbal medicine and traditional Oriental medicine and to practice as an acupuncture assistant shall be examined in the respectively appropriate subjects as determined by the board.

(Added to NRS by 1973, 637; A 1975, 233)

634A.130 Waiver of examination; fee. The board may waive examination and grant a certificate of doctor of traditional Oriental medicine to any applicant who:

1. Has applied in writing to the board not later than 120 days after April 19, 1973;
2. Obtained a certificate from the Republic of China, the People's Republic of China, Korea or Japan acknowledging that the applicant was qualified to practice traditional Oriental medicine;
3. Has practiced traditional Oriental medicine for at least 20 years immediately prior to April 19, 1973; and
4. Submits with his application a filing fee of $100.

(Added to NRS by 1973, 637; A 1975, 233)

634A.140 Issuance of licenses to practice traditional Oriental medicine; acupuncture. The board shall issue a license for the practice of traditional Oriental medicine or a license for the practice of acupuncture where the applicant:

1. Has successfully completed a course of study of 48 months in traditional Oriental medicine or 36 months in acupuncture at a college

in Hong Kong or has qualifications considered equivalent by the board;

2. Has practiced traditional Oriental medicine or acupuncture for 10 years; and

3. Passes the examination of the board.

(Added to NRS by 1973, 637; A 1975, 234, 1814)

634A.150 Issuance of license for acupuncture assistant. An applicant for a license for acupuncture assistant shall be issued a license by the board if he:

1. Has successfully completed a course of study in acupuncture in any college or school in any country, territory, province or state requiring an attendance of 36 months;

2. Practiced acupuncture for not less than 3 years; and

3. Passes the examination of the board for acupuncture assistant.

(Added to NRS by 1973, 638)

634A.160 Display of licenses; annual registration fee; penalties for failure to pay fee.

1. Every license must be displayed in the office, place of business or place of employment of the holder thereof.

2. Every person holding a license shall pay to the board on or before February 1 of each year, the annual registration fee required pursuant to subsection 4. If the holder of a license fails to pay the registration fee his license must be suspended. The license may be reinstated by payment of the required fee within 90 days after February 1.

3. A license which is suspended for more than 3 months under the provisions of subsection 2 may be canceled by the board after 30 days' notice to the holder of the license.

4. The annual registration fees must be prescribed by the board and must not exceed the following amounts:

(a) Doctor of traditional Oriental medicine $500

(b) Doctor of acupuncture 500

(c) Doctor of herbal medicine 300

(d) Licensed acupuncture assistant 250

(Added to NRS by 1973, 638; A 1975, 234; 1979, 959)

634A.165 Issuance of temporary certificates for lecturing, educational seminars. The board may prescribe regulations for the issuance of temporary certificates to persons not licensed pursuant to this chapter. A temporary certificate may be issued:

1. In connection with a bona fide educational seminar concerning traditional Oriental medicine; or

2. For the purpose of authorizing a person to engage in lecturing on or teaching traditional Oriental medicine in this state on a short-term basis.
(Added to NRS by 1975, 214)

634A.170 Suspension, revocation or refusal of license: Grounds. The board may either refuse to issue or may suspend or revoke any license for any one or any combination of the following causes:

1. Conviction of a felony, conviction of any offense involving moral turpitude or conviction of a violation of any state or federal law regulating the possession, distribution or use of any controlled substance as defined in chapter 453 of NRS, as shown by a certified copy of record of the court;
2. The obtaining of or any attempt to obtain a license or practice in the profession for money or any other thing of value, by fraudulent misrepresentations;
3. Gross malpractice;
4. Advertising by means of knowingly false or deceptive statement;
5. Advertising, practicing or attempting to practice under a name other than one's own;
6. Habitual drunkenness or habitual addiction to the use of a controlled substance as defined in chapter 453 of NRS;
7. Using any false, fraudulent or forged statement or document, or engaging in any fraudulent, deceitful, dishonest or immoral practice in connection with the licensing requirements of this chapter;
8. Sustaining a physical or mental disability which renders further practice dangerous;
9. Engaging in any dishonorable, unethical or unprofessional conduct which may deceive, defraud or harm the public, or which is unbecoming a person licensed to practice under this chapter;
10. Using any false or fraudulent statement in connection with the practice of traditional Oriental medicine or any branch thereof;
11. Violating or attempting to violate, or assisting or abetting the violation of, or conspiring to violate any provision of this chapter;
12. Being adjudicated incompetent or insane;
13. Advertising in an unethical or unprofessional manner;
14. Obtaining a fee or financial benefit for any person by the use of fraudulent diagnosis, therapy or treatment;
15. Willful disclosure of a privileged communication;
16. Failure of a licensee to designate his school of practice in the professional use of his name by the term traditional Oriental doctor, doctor of acupuncture, doctor of herbal medicine or acupuncture assistant, as the case may be;
17. Willful violation of the law relating to the health, safety or welfare of the public or of the rules and regulations promulgated by the state board of health;
18. Administering, dispensing or prescribing any controlled substance as defined in chapter 453 of NRS, except for the prevention, alleviation or cure of disease or for relief from suffering; and

19. Performing, assisting or advising in the injection of any liquid silicone substance into the human body.
(Added to NRS by 1973, 638; A 1975, 122, 235)

634A.180 Suspension, revocation or refusal of license: Notice and hearing. The board shall not refuse to issue, refuse to renew, suspend or revoke any license for any of the causes enumerated in NRS 634A.170, unless the person accused has been given at least 20 days' notice in writing of the charge against him and a hearing by the board.
(Added to NRS by 1973, 639)

MISCELLANEOUS PROVISIONS

634A.190 Licensees not subject to chapter 630 of NRS. Persons licensed pursuant to this chapter are not subject to the provisions of chapter 630 of NRS.
(Added to NRS by 1973, 637; A 1975, 119)

634A.200 Applicability of chapter.
1. This chapter does not apply to Oriental physicians who are called into this state for consultation.
2. This chapter does not prohibit:
(a) Gratuitous services of druggists or other persons in cases of emergency;
(b) The domestic administration of family remedies;
(c) Any person from assisting any person in the practice of the healing arts licensed under this chapter, except that such person may not insert needles into the skin or prescribe herbal medicine.
(Added to NRS by 1973, 639; A 1975, 235)

634A.210 Reporting vital statistics. Doctors of traditional Oriental medicine and doctors of acupuncture shall observe and be subject to all state and municipal regulations relative to reporting all births and deaths in all matters pertaining to the public health.
(Added to NRS by 1973, 639; A 1975, 236)

UNLAWFUL ACTS; PENALTIES

634A.225 Seminars not in accordance with board regulations prohibited; penalty.
1. No seminar concerning traditional Oriental medicine may be conducted in this state except in accordance with regulations prescribed by the board for bona fide educational seminars.
2. Any person who violates subsection 1 is guilty of a misdemeanor.
(Added to NRS by 1975, 214)

634A.230 Practice without a license a gross misdemeanor. A person who represents himself as a practitioner of traditional Oriental medicine, or any branch thereof, and who engages in the practice of traditional Oriental medicine, or any branch thereof, in this state without holding a valid license issued by the board is guilty of a gross misdemeanor.

(Added to NRS by 1973, 640; A 1975, 236)

634A.240 Injunctive relief.

1. The board may maintain in any court of competent jurisdiction a suit for an injunction against any person who violates any provision of this chapter.

2. Such an injunction:

(a) May be issued without proof of actual damage sustained by any person, this provision being understood to be a preventive as well as a punitive measure.

(b) Shall not relieve such person from any criminal prosecution for the violation.

(Added to NRS by 1973, 640; A 1975, 236; 1977, 306)

The next page is 24185

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EXHIBIT K

1981 REGULAR SESSION (61st)

ASSEMBLY ACTION		SENATE ACTION	
Adopted	☐	Adopted	☐
Lost	☐	Lost	☐
Date:		Date:	
Initial:		Initial:	
Concurred in	☐	Concurred in	☐
Not concurred in	☐	Not concurred in	☐
Date:		Date:	
Initial:		Initial:	

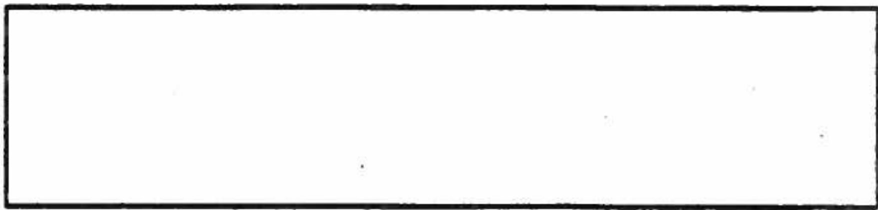
Assembly AMENDMENT BLANK

AMENDMENTS to Senate ~~Joint~~ Bill No. 63 ~~Resolution No.~~

BDR 56-361

Proposed by Committee on Commerce and Labor

Amendment Nº 82



Amend section 1, page 1, line 3, by deleting the bracket.

Amend section 1, page 1, line 4, by deleting "15]" and inserting:

"[15] 25".

Amend the title of the bill by deleting on the first line:

"removing" and inserting "raising".

To: E & E
LCB File
Journal
Engrossment
Bill

Drafted by DS:ml Date 2-19-81

1 (a)