

March 3, 1980

LB 798

SENATOR JOHNSON: Yes, Mr. Speaker, my amendments as Mr. O'Donnell has indicated are on page 701 of the Journal. Now my amendments really don't do a lot to what the Business and Labor Committee and Senator Maresh have done and I truly commend the committee for the piece of work in working through this problem. If anybody gets the statutes out and looks at 48-665 which LB 798 is replacing, you will read an extraordinarily confused statute where it becomes quite clear, quite painfully clear that a person who has received benefits as a result of his fraud is better off than a person who has received benefits mistakenly. Now the committee amendment to LB 798 specifically says that if you have been overpaid and it is not your fault, you have been overpaid and it is not your fault, in the commissioner's discretion you either repay the overpayment or in the alternative you don't get any more unemployment compensation until such time as the amount of the overpayment has been fully recouped out of future unemployment compensation benefits. Now the committee amendments go on to say that the commissioner can waive the recoupment process. He can waive the recoupment process if he finds that you were without fault in causing the overpayment and he finds that it will be against equity and good conscience to require you to repay the overpayment or it would be contrary to the purposes of the act. Okay? Obviously a claimant is in a better position with respect to repayment if the commissioner decides at the outset that he will attempt to effect a recovery through future unemployment compensation benefits than if he decides at the outset he will cause the claimant to repay directly. Now all my amendments do is say simply, it makes no difference what the commissioner's decision is, whether the claimant's got to repay directly or whether the claimant's got to repay through the loss of future unemployment compensation benefits, it is still possible for the claimant to establish that, (a) he was without fault in causing the overpayment and, (b) it would be against equity and good conscience or contrary to the purposes of the unemployment act to permit, to require that claimant to repay. So my amendment very simply provides complete parity between either route chosen by the commissioner, the repayment route or the recoupment route. That is all it does. Now to a large extent these concepts are already mirrored in a number of our programs. They are mirrored in the Social Security Act. You can get overpaid Social Security and if you are not at fault for that overpayment and it will be against equity and good conscience to not require you to repay or contrary to the purposes of the Social Security program, that is waiveable. Same thing would occur here. Furthermore, I have checked with the Commissioner of the