MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: Colleen Dolan, UNR Intern (Stewart)
Bob Evans, UNR Intern (Rusk)
Paul Haefner, State Farm Insurance
Chuck King, Central Telephone Company
Joe Midmore, NV Consumer Finance Association
Bob Heaney, NV Trial Lawyers Association
Dave Gamble, NV Trial Lawyers Association
Sue Wagner
Roberto Brutolao
Norm Herring, State Public Defender
Richard R. Garrod, Farmers Insurance Group
Diane Campbell, NV Miners and Prospectors Assn.
Lyle E. Campbell
John W. Borda, NV Motor Transport Association
Mary Coffey, Prisons
Kathleen Dion, Prisons
Jean Ford, Senator
Steve Robinson, Department of Prisons
Chuck Wolff, Department of Prisons
Bob Shriver, NV Trial Lawyers Association
Keith Edwards
Drake DeLanoy, Attorney at Law
Virgil Anderson, American Automobile Assn.
David J. Carbon, Insurance Division
Charles Knaus, Insurance Division
Daryl E. Capurro, NV Motor Transport Assn.
Dean A. Rhoads, Assemblyman
Jac R. Shaw, Division of State Land
Robert C. Manley, Deputy Attorney General
John Eck, Southern Pacific Land Company
G. P. Etcheverry, NV League of Cities
Mr. Small, Carson City District Attorney
Bob Erickson, Legislative Counsel Bureau
Bill Maupin, N.F.D.C.

Chairman Stewart called the meeting to order at 8:00 a.m. He noted that Senator Wagner was present to testify on SB 55, and since she was pressed for time the Committee would hear this bill first.

SB 55: Revises eligibility for preliminary evaluation of convicted felons.

Senator Wagner explained that this was one of five bills that came from interim study dealing with the prison system. SB 55 actually had its genesis in the 1979 Legislature, when SB 575 was enacted. This latter bill provided for the commitment of certain convicted felons to the Department of Prisons for a period not exceeding 120 days for evaluation purposes prior to sentencing. In order to be eligible for this program, the law says that the convicted felon must have never been held in any detention facility for more than 30 consecutive days. The Department of Prisons told the subcommittee in April 1980 that only 11 persons had been sentenced to the Department under the 120 day program for evaluation purposes. Other testimony before the subcommittee suggested the law possibly excludes individuals from the program who, for example, are unable to post bail and are held in the county jail for more than 30 days while awaiting and during a trial. Thus SB 55, which the subcommittee feels to be a reasonable extension; i.e., requiring serving no more than six months in order to be eligible for this program.

Senator Wagner noted that it was her impression the Public Defender would be testifying in favor of another amendment to the original bill: encompassing gros misdemeanors to allow more young people to take advantage of the program. She added it was her belief the Department of Prisons also favored expansion of the program to some extent.

Mr. Sader asked Senator Wagner if she would explain the program to the Committee in more detail. Senator Wagner noted the program has two positive approaches: 1) It is an attempt at having an inmate or incarcerated individual have a 120 day experience in the prison system prior to sentencing; i.e., "scared straight". 2) It permits better investigation in terms of psychological, physical, and personal profile which, in turn, helps the judge in determining the sentence. These two benefits are what resulted from SB 575. SB 55 is simply an extension of this program to allow more people to participate in it.

Next to testify was Mr. Wolff, Department of Prisons Director. He stated that he was in support of the bill and that the Department of Prisons felt SB 55 to be a good bill. In reply to Mr. Malone, Mr. Wolff noted that this amendment allows those who are unable to be bonded out or cannot be released on their own recognizance to have the same opportunity as someone who is able to be bonded out. He added that he favored a year's time, but was willing to settle with 6 months.

Mr. Norm Herring, the State Public Defender, was next to testify on SB 55. He said the Public Defender has had considerable experience with this program, and that it has been extremely successful. He noted that the program provides a great deal of information which is most useful to the judge at time of sentencing; i.e., the psychological profile, which is not currently available through Parole and Probation; the physical profile; job studies, to determine the type of job the individual might hold on the outside and which put the individual in touch with some future employers; the attitudinal profile, to determine whether the individual will learn from his mistakes; etc.

Mr. Herring said a number of judges have, in the past, had problems with this law concerning the 30 days: it is not clear whether the 30 days is on the current charge, or on a previous charge. He added that no one gets to District Court before 30 days, nor would they be sentenced within 30 days. Thus, the Public Defender has been attempting to convince the judges that the 30 days does not refer to the current charge, but to a previous incarceration. SB 55's extension to six months helps clear up this problem.

Mr. Herring then stated that a number of District Judges have urged him to present to the Legislature their desire to have the program expanded to gros misdemeanants. Gros misdemeanants are sentenced in District Court before District Judges, and if it is a first time offense, typically, they receive probation. They can receive probation for up to three years, and the 120 day program would give the Parole Officer an extremely good profile of the individual for whom he will be responsible. Additionally, it will give what is typically a first offender on a very minor charge an opportunity to see what the prison is like.

As an example, Mr. Herring related the following: NRS 453.336 subparagraph 3 refers to, basically, a juvenile under 21 years of age who has been arrested for possession of less than 1 ounce of marijuana. The District Judge doesn't have to determine whether he is going to sentence this "child" to a felony or a gross misdemeanor until the time of sentencing. A number of District Judges have shown a desire to have the "children" placed in the 120 day program in order to get a real good look at and psychological profile of them before deciding the sentence. He noted the consequences of this are significant: if sentenced to a felony, the individual will lose his civil rights, the opportunity to pursue a number of job opportunities, the right to go into the military, etc. The 120 day program provides a viable alternative to judges who want to sentence the individual to jail time, as a condition of probation to show him the error of his ways. The 120 day program has a discernible benefit in that it allows assessment of the individual, while giving that person a firsthand look at prison life.

Mr. Herring reiterated he would like to see gros misdemeanants

added to the bill, and that the judges also favor this. He suggested this might be done by amending the bill to state: "any person being sentenced in District Court". Thus, both misdemeanants and felons would be included.

In reply to Mrs. Cafferata's question concerning the increased costs of this program, Mr. Herring admitted there would be a fairly significant impact upon the prison system, as this might involve approximately 100 people out of the State Public Defender system, in addition to those individuals from Clark and Washoe Counties.

As there was no further testimony on SB 55, Vice Chairman Sader, acting as Chairman in the temporary absence of Mr. Stewart, closed the hearing on this bill.

The next bill heard was SB 32.

SB 32: Requires juvenile judges and masters to attend National College of Juvenile Justice.

First to testify on this bill was Senator Jean Ford, Clark County, District 3. Senator Ford noted that this was another bill coming out of the Interim Committee looking at the problems regarding organizing and financing the Juvenile Court. Senator Ford pointed out that the Juvenile Court, by definition, operates differently from Criminal Courts. She said NRS 62 spells out this different process, which attempts to look at the child and come up with a program that will hopefully keep the child from returning to the juvenile justice system.

Senator Ford noted that there is not uniform application of all the options available to Juvenile Judges within the State. She said the training given to Juvenile Judges at the National College of Juvenile Justice had been extremely helpful to those who had attended it, and thus the Interim Committee felt it advisable to require this training for both Juvenile Judges and Masters.

The program lasts 2 weeks and is conducted a couple of times a year. It costs $551, plus travel. Price includes room and board and registration. Topics covered during the course include: An overview of the legal and social issues involved in juvenile justice; The case law; The human aspects of decision making, child abuse, dependency and neglect; The Juvenile Court and the community; etc.

Senator Ford pointed out that many of the Judges throughout the state have already attended this program. She noted that Clark County is in favor of this program, and as far as its fiscal impact is concerned, the County has this kind of program budgeted already. She added there was no opposition to this bill when it was heard in the Senate.

Senator Ford explained to Mrs. Cafferata that the order referred to on Page 2, line 5 of the bill is the one excusing a master from attending the program (see Page 1, line 23 and Page 2, line 4). She also told Mrs. Cafferata that there are 9 Judicial Districts, and that as far as she knew only 2 of these appointed masters. She added that judges from the larger counties had already attended the program in most cases, and that this bill would mainly affect the judges in rural areas. She pointed out that in these areas the judge often is in a Judicial District representing 3 counties, which would spread out the cost of the program and lessen its fiscal impact.

In reply to Mr. Beyer, Senator Ford said that Reno is not the only place such instruction is offered, however the bill limits attendance to this school for financial reasons. Mr. Beyer then pointed out that the word "there" in line 9, Page 1 of the bill, negates any previous training obtained from another program. Senator Ford noted this would not really affect the current situation, since all of the individuals involved who have had previous training have already attended the course in Reno, as well as other courses. Mr. Beyer pointed out that this could affect future judges and/or masters. Senator Ford admitted this could cause problems in the future, and said she had no objections to this section being reworded. Mr. Sader noted that this problem could be solved under Section 2.2 of the bill, wherein the individual may be excused from attending the course. Senator Ford agreed, pointing out that the reason for this section was specifically to allow for some flexibility in the law.

Mr. Sader then asked how this would apply to judges in smaller counties who have not attended the course, would they now be required to do so. Senator Ford said this was not clear to her, but she believes it applies only to those elected or appointed after July 1, 1981. Thus the current judges would not have to attend unless re-elected in the next election.

As there was no further testimony on SB 32, Chairman Stewart stated the Committee would now hear testimony on AB 72.

AB 72: Further restricts liability of landowners to persons using their land for recreational purposes.

First to testify on this Bill was Assemblyman Dean A. Rhoads, who explained that AB 72 was a result of one of the studies conducted during the interim period concerning problems of access to public lands. Mr. Rhoads stated that there was a great deal of access to public lands blocked by private lands. He noted these private lands are closed because of previous abuse by people using the lands and because Nevada's liability laws are not very strong.

AB 72 is an attempt to add people simply crossing over private

lands, and not using the lands for recreational purposes, to those for whom the landowner is covered on liability. It is hoped this will encourage additional access via private lands to public lands.

Mr. Sader said that the existing bill absolves the land owner from keeping the premises safe and from giving warnings, however it does not absolve him from active negligence. Mr. Rhoads said this was the case.

Mr. Beyer asked if there were existing statutes that would permit a landowner to block access to his lands. Mr. Rhoads said there were, and that a landowner has a right to close his land unless there is a designated access through it.

Mr. Jack Shaw, Division of State Lands, was next to testify on AB 72. He noted that one of the major hurdles in resolving the access problems that exist is the potential liability of the landowner. This amendment to this bill will solve that problem, as well as contribute to the overall resolution of access problems which have been such an issue in Nevada for so long.

Ms. Diane Campbell, representing the Nevada Miners and Prospectors Association, came forward next to note for the record that the small miners support the State's position for obtaining access to public lands, including via the mines.

First to testify against AB 72 was Mr. Bob Heaney, President of the Nevada Trial Lawyers Association. Mr. Heaney said he was not going to speak in opposition to the intent of the bill, which seeks to add crossing over private property to get to public lands. He is, however, opposed to the language contained on Page 2 of the bill, which attempts to amend the existing standard which now prevents suit without being able to show malice or an unusually hazardous condition. This new standard will cause a great deal of difficulty.

Mr. Heaney said that the current language of the bill, "willful or malicious", has been interpreted by the courts for a number of years and there is some definite understanding as to what that language means in courts of law. The proposed change in language will create many problems in determining what this means.

Mr. Heaney added that this new language entirely eliminates a situation of "willful" conduct or intent, which means the ridiculous extreme of the bill is that someone could actually set a trap intentionally, catch a person crossing over the land in that trap, and there would be no suit. Thus, the landowner might be criminally liable, but not civilly liable. Mr. Heaney stated the existing language should be retained.

Mr. Heaney stated that he also felt the bill was going too far

in that its language sets up a special classification for landowners or those who occupy land which does not exist in other areas of the law.

Mr. Heaney reiterated that while he appreciates the purpose of AB 72, the language proposed goes too far and will encounter a lot of problems when it comes to trying to enforce it in a court of law.

Mr. Price asked Mr. Heaney to explain what he meant by a "special classification" for landowners. Mr. Heaney said the bill takes landowners as a class, and gives them a special exemption that does not exist for other people generally in the law; i.e., it exempts them from liability for the purpose of providing access to the public to public lands and/or for recreational purposes. This portion is fine, but Page 2 goes too far. The intent of this bill can be carried out by the language on Page 1, without destroying very important safeguards in the existing law of negligence and the duty to maintain one's land and warn of known dangers. The words "willful or malicious" provide sufficient protection at present. Page 2 eliminates even active negligence and intent, and limits it to malice as well as requiring proof of "an unusually hazardous condition", whatever that may be.

Mr. Stewart then asked if a landowner set a legitimate trap in order to catch an animal, and someone crossing over the land stepped in that trap, would the landowner be liable. Mr. Heaney said he did not believe he would be liable, especially as the intent was not there. He added, however, that he did feel there was a duty to warn here, and that if a landowner has done that then he is protected under the bill.

Mr. Stewart pointed out that in general, landowners could care less if someone crossed over their land, and would probably prefer they didn't cross over. The landowner is willing to put up with the inconveniences which must, of necessity, occur from this and only asks that he not be held liable for anything except malicious acts.

Following this testimony, Mr. Sader directed one more question back to Mr. Rhoads. Mr. Sader noted that according to his understanding, Mr. Rhoads stated it was not the intent of the bill to absolve the landowner of willful or malicious acts, however this is what the bill does. He wondered if it was really Mr. Rhoads' intent when the bill was drafted to include the harsher wording on Page 2, or whether it was simply to add the term cross over.

Mr. Rhoads said there were two intents involved here. He noted that the two main complaints against the law as it is now are: 1) the statutes do not cover people crossing over property and 2) the law does not go far enough to protect the landowners for acts which were not their intentions but into which they were trapped.

In reply to Mr. Sader's request for an example of something a rancher might do which might be considered willful and against which the proposed bill would protect him, Mr. Rhoads cited the possibility of a rainstorm washing out a portion of a road, and the landowner does not get around to repairing it nor to putting a warning sign out. Should someone, perhaps at night, run into this gully, the landowner could be sued. The proposed bill would prevent such acts from being challenged.

As there was no further testimony on AB 72, Chairman Stewart moved on to AB 68.

AB 68: Increases statutory rate for interest on judgments from 8 to 12 percent.

Chairman Stewart noted that testimony on this bill had also been heard on 6 February, and that as time had run out before everyone had testified, he was continuing the hearing today. He asked that opponents of this bill testify first.

First to come forward was Mr. Drake DeLanoy, Attorney at Law. Mr. DeLanoy explained that he has been engaged in the practice of civil litigation in Las Vegas since 1962, and while he was not present during the previous day's testimony, he was disturbed by a comment reported in the press to the effect that frivolous appeals are being filed in civil cases to collect extra interest before paying a judgment, reportedly stated by the Nevada Trial Lawyers Association. Mr. DeLanoy stated it was his experience that this was not true.

Mr. DeLanoy went on to point out that an increase in the interest rate would adversely affect insurance rates, which in turn will have an effect upon the businessman, who in many instances is already partially self-insured and has an extremely high deductible.

Mr. DeLanoy also stated that an award of 12 percent interest would not necessarily go to the victim of the accident or the injury; there is no limitation in the bill, and most attorneys are on a contingent fee basis and get a part of the judgment.

Mr. DeLanoy then cited a case involving condemnation in which there was a $1 million award and said if the 12 percent interest provision had been in effect at the time this amount would have doubled in 5½ years. He noted this would have a major impact on local governments, as well as on State government.

Mr. Price asked what other methods States used in order to encourage swift settlement. Mr. DeLanoy supposed the appointment of more members of the judiciary to handle the litigation faster was one way. He said he did not feel AB 68 would be particularly effective in bringing about settlement any more quickly; it will add more cost, and thus benefit the attorneys involved.

Mr. Price then raised the issue of individuals and/or companies purposely delaying a case in order to hold on to the money involved longer and thus earn additional income on their investment. AB 68, he felt, would no longer make holding onto this money profitable, and the defendant would be more willing to pay the claim quickly.

Mr. DeLanoy replied that this implied there was some sort of collusion between the attorney and the defendant. Mr. DeLanoy pointed out that there are disciplinary prodecures for this type of activity by an attorney, and the lack of good faith on the part of the defendant could be grounds for further litigation.

Mr. Price also pointed out that on occasion there are frivolous appeals filed which make things even more difficult for the agrieved party. Mr. DeLanoy answered that civil suits often include special damages, loss of earnings, medical bills, etc. as well as conscience, pain and suffering from the time of the accident up until the time of the award. He added that the jury, on the whole, makes awards taking all of these into consideration.

Mr. Thompson said determination of what is a frivolous appeal depends upon whether or not you are the one appealing; a large sum of money is not frivolous. Mr. DeLanoy said that in civil litigation, unlike in criminal cases, the attorney must believe in the cause of the client. If he doesn't, yet goes on to file an appeal, then he is guilty of misconduct. He added that AB 68 is not the forum for handling this type of situation. Mr. DeLanoy went on to state that this bill affects a wide range of people: businessmen, the cities, the municipalities, the counties, the State, etc. He further noted that should a case go all the way to the Supreme Court, with both parties acting in good faith, it could take several years, with the interest building all the while.

Mr. Chaney attempted to explain some of the previous testimony which Mr. DeLanoy had not witnessed, pointing out some of the problems raised earlier.

Mr. Price noted that the individual who pays the interest is the original wrongdoer. AB 68 is an attempt to get these individuals to admit their culpability right away, rather than to delay the process. To this Mr. DeLanoy replied that in theory this is true, however, in practice everyone suffers as this eventually affects insurance rates.

Mrs. Cafferata asked if the interest was paid from the time the suit was filed, or whether it was paid from the time of appeal. When Mr. DeLanoy said it was from the time the suit was filed, Mrs. Cafferata noted that if a case is not heard for a year or more because of a crowded court docket, the defendant is still liable for the interest.

Following a 5 minute break, Chairman Stewart noted that he spoke for the Committee when he said there has always been interest on judgments, and that it was up to the Committee to decide the amount or percentage rate of this interest. He therefore requested that future testifiers concentrate on explaining to the Committee why the percentage rate should be 6 or 10 or 12 as opposed to some greater or lesser amount, including factors which should be considered by the Committee in determining the final amount.

Next to testify was Mr. Joe Midmore, representing the Nevada Consumer Finance Association, which is made up of the lenders who are licensed under Chapter 675 of NRS. The small loan companies feel that this bill is not at all unreasonable, especially since money, under the current rate of inflation, has become a very fragile commodity. Mr. Midmore pointed out that as long as another person has someone's money, until the courts decide who gets it, that person has something that is deteriorating in value and nothing can be done about it during that time. Thus a judgment of $100 may, in value, end up being only $60-$70 by the time payment is actually made.

Mr. Midmore added that not all trials are jury trials, and there are judges who are prone to delay, for whatever reasons. This costs the loan companies a great deal of money, and if the interest rates were more "realistic", both sides would have an interest in trying to persuade the judge to dispense speedy justice.

Mr. Sader noted this put the problem in a different perspective. He said there had been testimony that raising the interest rate would affect every businessman; but for everyone who owes a judgment, there is someone who is supposed to get that judgment. If there wasn't such a high inflation rate, then there would probably be no problem, according to Mr. Midmore, because the value of the money wouldn't change that much over a period of time. Under the present economic conditions, however, this is a very great problem. Mr. Midmore further noted that if the inflation rate drops drastically, a lot of Legislatures will be going into special session to adjust things accordingly.

Mr. Stewart then asked if the interest rates were already established by contract. Mr. Midmore said that, as he understood it, not in all cases. Mr. Stewart then said it was if the money had been obtained from a loan company, or a charge account. Mr. Stewart then opined that AB 68 would apply more to personal injury cases, etc. Mr. Midmore agreed.

Next to testify on this bill was Mr. Dick Garrod, of the Farmers Insurance Group. Mr. Garrod said that insurance companies have been the target of much of the discussion on this bill.

Next Mr. Garrod said he would attempt to clarify an earlier question asked by Mr. Thompson concerning restrictions of

investment capability of an insurance company. He noted that the Farmers Insurance Group is a California domestic company. Thus, it is governed by California state laws and insurance codes. Mr. Garrod then outlined the types of investment permitted by these laws and currently being made by Farmers Insurance Group. He noted that Farmers is a reciprocal; i.e., out of every premium dollar received, 12% goes to pay management costs, with the remainder going to the exchange of settlement and the processing of claims. If there is a surplus, it becomes the property of the exchange, which is the collective representation of all premiums paid in and which is designed by law to pay losses. Any investment benefit which the exchange receives returns to help hold down premium charges.

In explanation to Mr. Thompson, Mr. Garrod said that each insurance company's investment policy is regulated by the State in which it is based, but all States limit this investment capability. He further noted that there is a big difference between the limitations placed on a life company and a fire and casualty company. Life companies have much more freedom; i.e., they can mortgage, build buildings, etc. Fire and casualty companies are prohibited by law from investing in such things.

Mr. Price asked about the genesis of these restrictions. Mr. Garrod explained it was basically to prevent "fly-by-night" insurance companies and thus protect the policy buyer.

Mr. Price then speculated that a freer investment policy might be beneficial to all, and that perhaps Nevada ought to enact such a law in order to attract insurance companies to the State.

Next to testify was Mr. Keith Edwards, attorney at law, from Las Vegas. Mr. Edwards attempted to clarify what is a frivolous appeal. He noted that the Supreme Court has a special rule that frivolous appeals can be dismissed. He added that this determination is, and should be, determined by those men who are best qualified to make that determination. Thus, there is no need for this bill if its purpose is to punish and/or prevent frivolous appeals.

Mr. Edwards stated it has been his experience that the juries realize what factors are involved when recommending a judgment, and usually include these factors, including possible delays in payment, in the amount recommended, again negating the need for AB 68. He added that judgments go up as time passes; this increase is almost automatically built in.

Mr. Edwards next raised the point that AB 68 could encourage litigation, rather than discourage it, since the plaintiff would be making 12% on his money from the time he filed his complaint until the case came to court.

Mr. Edwards suggested that the judge trying the case is best qualified to determine interest rates, when they should be

applied and how they should be applied. He is best situated to determine whether there was intentional delay, and whether the rate might better be more that 12%. He further suggested the Legislature should give the judge the discretion to determine the case and the amount, and should only set the limits within which the determination must be made; e.g., 6% to 12%. This allows the judge to flow with the interest rates as they flow on the open market, to determine who has been dilatory in bringing a cause of action to trial or to settlement, and to properly determine the issues and the facts in each given case.

Mr. Price raised the point that, according to line 8 of this bill, the judge already has the right to specify the rate of interest, and that the interest rate specified in the bill is used only if there is no rate of interest provided by contract or if the judge does not specify a different percentage. He added that the subject of setting the percentage itself is appealable, or can be the cause for bringing another cause of action, if he remembered correctly.

At this point Mr. Garrod stated that Mr. Price's assumption was not correct. Line 8 of AB 68 refers to an agreed upon interest prior to the bringing of the action to trial. The judge has no discretion except to recognize 8% statutorily.

Mr. Sader noted he has never heard of a case where a judge has specified interest other than as indicated by the contract or otherwise by agreement.

Mr. Price asked if there was a possibility for arbitration even after a claim is filed with the court, thus permitting interest to accrue in case the arbitration is unsuccessful. Mr. Edwards noted that it is possible to get the case thrown out of court on the basis that arbitration has not been used. Thus, according to Mr. Edwards, AB 68 encourages early filing of claims, with arbitration being entered into with a lack of good faith, in order to get as much interest as possible.

Next to testify was Mr. Bill Maupin, attorney at law, from Las Vegas. Mr. Maupin noted first that he is against pre-judgment interest in any form, and he is against the raising of the interest rates at this juncture.

Mr. Maupin outlined a history of practical experience with pre-judgment and post-judgment interest. He noted that there are instances when the interest problem prevents legitimate appeals. He added that there is no need to raise the interest rates, they already have a major effect upon the appeal process. In fact, Mr. Maupin continued, raising the interest rate might very well have an adverse effect on appeals.

Another point raised by Mr. Maupin is that the higher interest rate might encourage delays by the plaintiff, in order to increase his payment.

Mr. Maupin further noted that the delay may be due to an over-crowded court docket, for which the defendant should not be penalized.

Mr. Maupin summarized by saying AB 68 would unduly punish a large sector of litigants in order to dissuade the small number of people who abuse the process.

Finally, Mr. Maupin stated that there are times when culpability is not crystal clear, and therefore the guilty party does not and possibly cannot immediately admit responsibility, as Mr. Price suggested should occur. Thus AB 68 unduly punishes the individual who is attempting to evaluate the claim; and it puts a tremendous strain upon the court system.

Mr. Price then wondered if setting a time period for arbitration, during which no interest would accrue, might not encourage settlement out of court. Mr. Maupin said this type of solution would require a great deal of consideration, and it is a problem the legal system has been dealing with for years by using such devices as offers of judgment, mandatory settlement conferences, etc. None of these seem to be adequate remedies.

Mr. Maupin said the real problem here is the streamlining of the litigation process for people who have rightful claims and are entitled to damages. While Mr. Maupin could not say how this problem can be solved, he suggested one step in the right direction would be to leave the issue of pre-judgment interest up to the discretion of the trial court. It could only then be reversed on a finding of abuse of discretion, which is a very difficult burden for an appellant to carry. Also, in a situation where it can be shown a litigant was purposely delaying, interest could be used, separately or with other sanctions, to punish and/or prevent this.

Mr. Price noted at this point that Mr. Thompson had checked with the bill drafters who stated it was very clear the judge has the right to set the interest rate, but as a practical matter seldom does it. Mr. Price went on to say that this means it would be possible to amend the bill to note the judge has the final determination, and to give the judge a range of limitation of, for example, 8% to 20%.

Mr. Maupin said it might be best to amend the bill further to inform the judges of practice that they should be using this rate as a sanction tool.

Mr. Price asked if the bill was amended to more clearly defer to the judge to set the rate within certain perimiters, and left it exclusively up to the judge to decide when to include interest in the judgment, would this encourage streamlining of the process.

Mr. Maupin was not sure such a procedure would be constitutional in Nevada.

Virgil Anderson of the American Automobile Association came forward next to register AAA's opposition to AB 68. He pointed out that AAA was, like Farmers Insurance Group, a reciprocal and that the result of this bill will be an increase in premiums which will ultimately have to be passed along to their customers.

Next to testify was Mr. Daryl Capurro representing the Nevada Motor Transport Association and the Nevada Franchised Auto Dealers Association. He said they did not have a problem with the idea of interest on judgment, however pre-judgment interest should be eliminated since it encourages the quick filing of suits in order to accumulate interest as soon as possible. This greatly hinders any chance of arbitration and/or pre-trial settlement.

Mr. Capurro cited several instances wherein the person who committed the wrong was not necessarily the one who ended up paying the interest. He related that if an individual lends his car to someone, and that person injures another party with that car, the owner of the automobile is responsible, not the driver.

Mr. Capurro encouraged the Committee to explore other ways of expediting the judicial process, as he did not believe pre-judgment interest does this; it simply clogs the court system more.

Mr. G. P. Etcheverry, the Executive Director of the Nevada League of Cities, testified next. Mr. Etcheverry said that from what he can see, raising of the interest rate from 7% to 8% has not reduced the number of litigations going to trial. Additionally, the last Legislature passed AB 26, which allowed local governments to accommodate themselves in trying to get self-insurance for local governments, including counties. The Nevada League of Cities has gone on record to change their bylaws to accommodate that with cities and counties jointly. The League is quite concerned that an increase in the interest rate from 8% to 12% will have an adverse effect on judgments made to local and state governments.

Following a second 5 minute break, Mr. David Gamble of the Nevada Trial Lawyers Association came forward to testify. Mr. Gamble reiterated that there is provision in the Nevada Rules of Appellate Procedure for the dismissal of frivolous appeals, although he admitted it must be a dynamically frivolous appeal. He also stated that just because an appeal fails, it does not mean it was frivolous. What is involved in deciding whether or not to appeal is a judgment call, and most appeals are believed, by the appellant, to have merit.

Mr. Gamble pointed out that the decision as to whether or not to appeal is definitely affected by the economic reality of pre-judgment interest.

Mr. Gamble went on to note that in some cases plaintiff's lawyers, following the entry of judgments in injury and other cases, are receiving offers from insurance companies to settle the case for less than the judgment or they will appeal. In Mr. Gamble's opinion, this indicates those companies must make money during an appeal, or at least get a free appeal and free use of the money.

Mr. Gamble stated that there is no interest unless there is a judgment, and if you believe in our current system of justice, there is no judgment unless one individual was responsible for injuring another. If this interest rate is meant to be punitive, Mr. Gamble wondered if 12% was high enough, or if the rate should be even more given the current interest rates in the market. He further noted that the injury occurred when the wrong was committed, not when the claim was filed, and thus pre-judgment interest is simply money due the victim from the time he was wronged. All he must do is prove he was wronged.

Mr. Gamble said Mr. Etcheverry's notation that an increase in the interest rate from 7% to 8% did not affect the number of claims filed is an irrelevant one, since the gap between these rates and the current market rate is so great. For this reason Mr. Gamble also doubts a 12% rate will be sufficient. He suggested floating the rate to coincide with the market rate.

Mr. Gamble's final point was that in many cases the victims are not limited, as are insurance companies, in the kinds of investments they can make; thus, they could be earning a much higher rate of interest than the 12% rate. He said this bill will not speed up the judicial process, and that the real purpose of the bill ought to be to pay the people who have been wronged the proper amount that they have lost, or at least an approximation thereof.

Mr. Banner then suggested that it be added to line 9 that interest is due from the time notice of a claim is filed, rather than from the time a complaint is filed with the court. Mr. Gamble agreed with this suggestion, reiterating the interest should be due from the time of injury, rather than from the time of filing the complaint with the court.

Mr. Bob Heaney of the Nevada Trial Lawyers Association was next to testify. He stated he wished to emphasize that point made by Mr. Gamble to the effect that pre-judgment interest is a misnomer; what is involved is judgment interest, and the current bill on this is a compromise which states the interest runs not from the time of the actual injury or loss, but from the time formal notice is served on the wrongdoer.

Mr. Heaney then pointed out that the 4-6% interest rate which insurance companies earn is tax-free interest because it is municipal bond interest. In the 50% tax bracket, 6% interest which is tax free equates to 12% interest in reality. He further

noted that in addition, some of the blue chip municipal bond investments are paying as much as 11-11½%, which would be the equivalent of 23% interest if taxed.

Mr. Heaney said that the insurance companies of the U.S. hold the greatest assets of any company in this country.

Next Mr. Heaney said that based on research done by Jury Verdict Research he finds that jury awards on certain kinds of injuries are not going up with the rate of interest, as was claimed by a previous witness.

Mr. Heaney also pointed out that a plaintiff could invest his money in government bonds and make more interest than 12%, thus it is unreasonable to say a plaintiff would delay trial in order to collect more interest on a potential, but uncertain, judgment.

Regarding the suggestion that judges determine whether or not interest should be paid, as well as the rate of any such interest, Mr. Heaney felt this would open the door for all kinds of claims that the judge abused his discretion by allowing 12% when he should have only allowed 8%, etc. Furthermore, Mr. Heaney felt most judges would be opposed to this, as it is not the type of discretion they want to have.

In summary, Mr. Heaney noted that 1) in terms of economic reality 12% is not enough; 2) at 8% the plaintiff is always losing and is still not made whole; 3) the unrealistic 8% rate delays resolution and increases the cost of litigation, thus having an adverse impact both on the court system as well as on the public; 4) increasing the interest rate will realize a tax savings by decreasing the number of cases brought to trial; 5) this bill encourages the payment of just debts; 6) this bill not only impacts on injury cases, but also on business people; 7) obtaining a judgment is the easy part, collecting that judgment is what is difficult, and an 8% interest rate adds to this difficulty.

Mr. Heaney ended by saying that AB 68 will help reduce insurance costs by saving costs on claims administration as well as defense costs, which form a significant part of the premium dollar.

Mr. Price called the Committee's attention to the fact that previous testimony was that the insurance companies did not make any money in Nevada, and that they have done very poorly in Nevada over the years.

Mr. Beyer asked whether, if this bill had not been introduced, the Nevada Trial Lawyers Association would have introduced it. Mr. Heaney said they would have, but they would have tied it into the prime interest rate based on the average of the three largest banks, as was done in 1975 regarding the usury laws.

Chairman Stewart asked Mr. Garrod if the interest on the municipal bonds to which he referred previously was tax-free. Mr. Garrod replied that it was tax-free, and that when compared to the regular market there is an increase of approximately 2½%. Mr. Garrod further explained that the higher the rating of a bond, the less interest it bears.

Mr. Garrod then replied to two statements made by previous witnesses. First of all, an insurance company is not taxed in the same way as is a corporation; they are only taxed on investment income and if they actually break at an approximately 30% ratio.

Mr. Garrod further noted that, as far as the State of Nevada is concerned, Farmers Insurance Group lost almost $5 million more than they received in premium in 1979, and the Mid-Century Company lost $6 million more than received in premium. He added that these figures have been verified by the Insurance Commissioner of the State of California and the Insurance Commissioner of the State of Nevada.

As there was no further testimony on AB 68, Chairman Stewart stated the hearing on this bill was closed.

The next bill to be heard was ACR 16.

ACR 16: Urges judges to impose suitable penalties for traffic violations.

First to testify on this bill was Mr. Bob Price, Assemblyman, who had chaired the interim study on insurance rates rating practices. He noted that after extensive hearings throughout the state it was the strong feeling of the Committee that the problem of driving under the influence, which has an affect on insurance rates, could be helped to some degree if the judges throughout the state would exercise and mete out stronger penalties which are already available to them under the law. This is the reason for ACR 16.

As there was no further testimony on this bill, Chairman Stewart declared the hearing closed.

Chairman Stewart then stated he wished to take action on ACR 16, SB 32, and SB 55.

Mr. Sader moved DO PASS ACR 16, seconded by Mrs. Cafferata, and passed unanimously, Mr. Banner being absent at the time of the vote.

Mrs. Cafferata moved DO PASS SB 32, seconded by Mr. Malone. Mrs. Cafferata then asked for discussion of the policy of paying for continuing education mandated by the Legislature. Ms. Foley noted that this was not really continuing education, as the course is required on a one-time basis, and $550 is not an exorbitant amount. Mr. Stewart did not feel that in this

situation cost was a significant factor.

Mrs. Cafferata said her problem was with the theory of the State, or the Counties, paying for the education of elected officials; she wondered if this was a matter of public policy.

It was pointed out that Municipal Court Judges and Justices of the Peace have to take mandated courses, and the Assemblymen get pre-session orientation, all of which are paid for by the taxpayer and all of which can be considered to be educational.

Mr. Beyer then suggested removal of the word "there" from line 9 of the bill, in order to allow for individuals who may have already taken a similar course at some other location.

Mr. Beyer moved AMEND SB 32 by removing the word "there" from page 1, line 9; seconded by Mrs. Cafferata, and passed unanimously, Mr. Banner being absent at the time of the vote.

Mrs. Cafferata moved DO PASS AS AMENDED SB 32, seconded by Mr. Sader, and passed unanimously, Mr. Banner being absent at the time of the vote.

Regarding SB 55, Mrs. Cafferata raised the question of fiscal impact and whether the Judiciary Committee could pass the bill prior to discussion with the Ways and Means Committee.

Ms. Foley also raised the point that the State Public Defender had asked for an amendment to this bill to include gross misdemeanants as well as felons, and that the Committee needed to discuss this aspect of the bill as well.

It was further noted that the Committee had not received several of the fiscal notes and that these should be included in the future.

Mr. Stewart agreed to check on all these questions, and to request the fiscal note be prepared both with and without the inclusion of gross misdemeanants; he will then return to the Committee with the information, and action on the bill can be taken up then.

Mr. Beyer proposed the Committee take action on AB 72, however Chairman Stewart noted there was some problem with the language of this bill and he would prefer to have it clarified before moving on this bill. Mr. Beyer agreed to the postponement.

Chairman Stewart then asked for the subcommittee's report on AB 83. Mr. Sader noted he had discussed with the bill drafter why the words "or combination of liens" had been added, and did this mean an aggregate of liens up to $750. This was not the intention of the people who favored the bill, they wanted each lien to be $750, and the bill drafter did not know why these words had been added. It was agreed that the removal

of this language altogether would be preferable. Thus the bill would read "except as provided in subsection 2, any lien in excess of $750..." eliminating the question of whether an amount of less than $750 is primary or secondary; it is a primary lien.

Ms. Ham then asked if the words "or liens" were also being deleted, to which Mr. Sader replied in the affirmative. He said this was because this wording also implied an aggregate, and this is not what is meant. Mrs. Cafferata then raised the point that this correction would also have to be made in lines 4 and 5.

Mr. Sader moved AMEND AB 83 by removing the words "or combination of liens" wherever it appears in Section 1, subsection 1; seconded by Mr. Beyer, and passed unanimously, Mr. Banner being absent at the time of the vote and Mr. Malone abstaining due to a possible conflict of interests.

Mr. Sader moved DO PASS AS AMENDED AB 83, seconded by Ms. Foley, and passed unanimously, Mr. Banner being absent at the time of the vote and Mr. Malone abstaining due to a possible conflict of interests.

Chairman Stewart then noted that as several Committee members had already made commitments for Thursday, there would be no meeting scheduled for that day.

Mrs. Cafferata reminded the Committee that Mr. Bryce Wilson would be testifying on AB 33 on Friday, even though this bill was not listed on the agenda. She noted that AB 53 was at the bill drafter's for amendment and possible new bill, and that AJR 14 on discipline had a backgrounder available.

At this point Mr. Price read the letter attached as EXHIBIT A, concerning AB 68, into the record.

Mr. Beyer then asked Chairman Stewart if a chairman for the subcommittee appointed to study the topic of sexual abuse in the prisons had been named. Chairman Stewart noted that since he had named Mr. Beyer to the subcommittee first, he could be the chairman.

As there was no further business the meeting was adjourned at 11:30 a.m.

Respectfully submitted,

Pamela B. Sleeper

Pamela B. Sleeper
Assembly Attache

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Thursday, 12 February 1981

SUBJECT: ACR 16: Urges judges to impose suitable penalties for traffic violations.

MOTION:

DO PASS XX AMEND ___ INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: SADER SECONDED BY: CAFFERATA

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	X	___	___	___	___	___
Foley	X	___	___	___	___	___
Beyer	X	___	___	___	___	___
Price	X	___	___	___	___	___
Sader	X	___	___	___	___	___
Stewart	X	___	___	___	___	___
Chaney	X	___	___	___	___	___
Malone	X	___	___	___	___	___
Cafferata	X	___	___	___	___	___
Ham	X	___	___	___	___	___
Banner	ABSENT		___	___	___	___
TALLY:	10	0	___	___	___	___

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Thursday, 12 February 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Thursday, 12 February 1981

SUBJECT: SB 32: Requires juvenile judges and masters to attend National College of Juvenile Justice.

MOTION:

DO PASS XX AMEND ___ INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: CAFFERATA SECONDED BY: MALONE

AMENDMENT:

Line 9, Page 1, delete "there".

MOVED BY: BEYER SECONDED BY: CAFFERATA

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	X		X			
Foley	X		X			
Beyer	X		X			
Price	X		X			
Sader	X		X			
Stewart	X		X			
Chaney	X		X			
Malone	X		X			
Cafferata	X		X			
Ham	X		X			
Banner	ABSENT		ABSENT			
TALLY:	10	0	10	0		

ORIGINAL MOTION: Passed _____ Defeated _____ Withdrawn _____

AMENDED & PASSED XX AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Thursday, 12 February 1981

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Thursday, 12 February 1981

SUBJECT: AB 83: Raises threshold amount over which certain statutory liens become secondary.

MOTION:

DO PASS XX AMEND ___ INDEFINITELY POSTPONE ___

RECONSIDER ___

MOVED BY: SADER SECONDED BY: FOLEY

AMENDMENT:

Section 1, subsection 1, delete "or combination of liens" throughout.

MOVED BY: SADER SECONDED BY: BEYER

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	X		X			
Foley	X		X			
Beyer	X		X			
Price	X		X			
Sader	X		X			
Stewart	X		X			
Chaney	X		X			
Malone	ABSTAIN		ABSTAIN			
Cafferata	X		X			
Ham	X		X			
Banner	ABSENT		ABSENT			
TALLY:	9	0	9	0		

ORIGINAL MOTION: Passed _____ Defeated _____ Withdrawn _____

AMENDED & PASSED XX AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Thursday, 12 February 1981

EXHIBIT A

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY
LAS VEGAS, NEVADA 89101

J. CHARLES THOMPSON
DISTRICT JUDGE

DEPARTMENT ONE
(702) 386-4011

February 6, 1981

Assemblyman Robert Price
Nevada State Assembly #224
Carson City, Nevada

Re: AB68

Dear Mr. Price:

I was pleased to see that you are proposing an increase in the 8% interest rate on judgments. I suggest that you consider amending NRS 37.175, 99.040, and at the same time 147.220. All these deal with the same subject but concern themselves with specialized judgments.

EMINENT DOMAIN NRS 37.175 deals with judgments in condemnation cases.

NRS 99.040 reflects the same rate of interest before the obligation becomes a judgment.

NRS 147.220 deals with claims against estates.

In the past all four statutes have received equal treatment. See chapter 448 of the 1979 Statutes of Nevada, at p. 827-830.

Best personal regards.

Sincerely,

J. Charles Thompson
District Judge

JCT/jw

eto. If the award be not so depos-
ecution as in civil cases; and if the
n, the court, upon showing to that
the entire proceedings, and restore
defendants, if possession has been

L § 9167]—(NRS A 1965, 995)

condemnation on deposit of award;
the award has been deposited as
bond given, if required by NRS
order of condemnation describing
purpose of such condemnation. A
in the office of the recorder of the
the property described therein shall
therein specified, except that when
erty shall vest in the state for any

NCL § 9168]—(NRS A 1965, 995;

or be placed in possession pending defendant's receipt of money on

of judgment, or pending an appeal
o the supreme court, whenever the
for the defendant the full amount
um as may be required by the court
es and costs that may be recovered
nages that may be sustained by the
perty shall not be finally taken for
possession, may continue therein,
tion of the plaintiff, authorize the
of NRS 342.250, if applicable, to
perty during the pendency of and
ation, and shall, if necessary, stay
the plaintiff on account thereof.
ve abandoned or waived the right
ying into court the amount of the
may be required by the court and
suant to this subsection.
to the money paid into court for
ntitled to demand and receive the
taining an order therefor from the
hall, upon application being made
parties, order and direct that the
delivered to him upon his filing a
his filing a receipt therefor, and

an abandonment of all defenses to the action or proceeding, except as to the amount of damages that he may be entitled to in the event that a new trial shall be granted. A payment to a defendant, as aforesaid, shall be held to be an abandonment by such defendant of all defenses interposed by him, excepting his claim for greater compensation.

3. If the amount of the compensation awarded upon final judgment exceeds the sum paid into court, the court shall enter judgment against the plaintiff and in favor of the defendant for the amount of the excess with interest thereon. If the amount of the compensation awarded upon final judgment is less than the sum paid into court and paid to the defendant, the court shall enter judgment in favor of the plaintiff and against the defendant for the amount of the excess with interest thereon.

[1911 CPA § 680; RL § 5622; NCL § 9169]—(NRS A 1959, 597; 1960, 420; 1965, 995; 1973, 152)

37.175 Interest paid by plaintiff.

1. The plaintiff shall pay interest on the final judgment at the rate of 8 percent per annum, but shall not pay interest on any sum deposited pursuant to the provisions of NRS 37.100 or 37.170.

2. Such interest shall run from the date of entry of judgment or, if the plaintiff has occupied the property of the defendant pursuant to the provisions of NRS 37.100, from the date fixed by order on which the plaintiff was entitled to such occupancy, until the final judgment is satisfied.

(Added to NRS by 1960, 421; A 1967, 816; 1979, 830)

37.180 Abandonment of condemnation proceedings; defendant's damages for plaintiff's occupancy.

1. Plaintiff may abandon the proceedings at any time after filing the complaint and before the expiration of 30 days after final judgment, by serving on defendants and filing in court a written notice of such abandonment. Upon such abandonment, on motion of any party, a judgment shall be entered dismissing the proceedings and awarding the defendants their costs and disbursements, which shall include all necessary expenses incurred in preparing for trial, reasonable attorney fees and those additional items set forth in subsection 1 of NRS 342.320, if applicable. These costs and disbursements may be claimed in and by a cost bill, to be prepared, served, filed and taxed as in civil actions; but upon judgment of dismissal on motion of plaintiff, any or all defendants may file a cost bill within 30 days after notice of entry of such judgment.

2. If the plaintiff has been placed in possession of the premises under the provisions of NRS 37.100 or 37.170, the defendant is entitled to all damages arising from such occupancy of the abandoned property.

[1911 CPA § 681.5; added 1955, 284]—(NRS A 1959, 597; 1965, 996; 1973, 152)

desire after receiving written disclosure to him of the cost of such insurance.

(e) Charges or premiums for insurance, written in connection with any credit transaction, against loss of or damage to property or against liability arising out of the ownership or use of property, if a clear, conspicuous, and specific statement in writing is furnished by the lender to the borrower setting forth the cost of the insurance if obtained from or through the lender and stating that the borrower may choose the person through whom the insurance is to be obtained.

(Added to NRS by 1979, 963)

99.040 Interest rate when no express written contract. When there is no express contract in writing fixing a different rate of interest, interest shall be allowed at the rate of 8 percent per annum upon all money from the time it becomes due, in the following cases:

1. Upon contracts, express or implied, other than book accounts.
2. Upon the settlement of book or store accounts from the day on which the balance is ascertained.
3. Upon money received to the use and benefit of another and detained without his consent.
4. Upon wages or salary, if it is unpaid when due, after demand therefor has been made.

[4:34:1861; A 1887, 82; 1917, 351; 1919 RL § 2499; NCL § 4322]—(NRS A 1979, 830)

99.050 Limitations on agreed interest rates. Parties may agree for the payment of any rate of interest on money due or to become due on any contract which does not exceed the rate of 18 percent per annum. In computing the rate of interest, any payment made or amount included in the obligation, as consideration for the extension of credit, which is computed as a percentage of the amount of the credit extended must be prorated over the period from the extention of credit to the date when the final payment is due. Any agreement for a greater rate of interest than specified in this section is void as to all interest.

[5:34:1861; A 1913, 31; 1919 RL § 2500; NCL § 4323]—(NRS A 1975, 1794; 1979, 583, 963)

99.060 "Effective interest rate" for bonds, securities issued by state, political subdivisions, public corporations: Definition. As applied to bonds or other securities issued by this state or any political subdivision or municipal or public corporation of this state, "effective interest rate" means the interest rate based on the actual price paid to the public entity, calculated to maturity of the obligation according to standard tables of bond values.

(Added to NRS by 1969, 1285)

LI

99.070 United States Association obligations provision of law, obligat or the Federal National ment of principal and i ment of the United State of the constitution of the

1. Insurance compan sons carrying on an insur
2. Executors, adminis liquidators, rehabilitators all other persons occupyi
3. Banks, bankers an
4. Savings and loan financial institutions;
5. Credit unions, ce benefit associations;
6. The state and any local government unit or
7. All other public of cies of the state and its po
8. Any other individ institution and fund of an

(Added to NRS by 1971

The

statement of claim filed with the clerk and shall be acted on as any other claim.

2. If an execution has been actually levied upon any property of the deceased in his lifetime the same may be sold for the satisfaction thereof, and the officer making the sale shall account to the executor or administrator for any surplus in his hands.

[132:107:1941; 1931 NCL § 9882.132]

147.220 Interest on claims. All claims paid shall bear interest from date of filing at the rate of 8 percent per annum unless a different rate is applicable by contract or otherwise.

[Part 120:107:1941; 1931 NCL § 9882.120]—(NRS A 1977, 296; 1979, 830)

147.230 Executor, administrator not chargeable with estate debts except on a writing. No executor or administrator shall be chargeable upon any special promise to answer damages or to pay the debts of the deceased out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by such executor or administrator, or by some other person by him thereunto specially authorized.

[202:107:1941; 1931 NCL § 9882.202]

The next page is 5117