

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

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 16, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at 1:32 p.m., on Monday, March 16, 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 Don Ashworth
Senator Melvin Close
Senator William Hernstadt
Senator William Raggio
Senator Clifford McCorkle

STAFF MEMBER PRESENT:

Frances A. Kindred, Committee Secretary

SENATE BILL NO. 285--Removes prohibition against taking security interest in real property on installment loans.

Vice Chairman Blakemore opened the hearing on Senate Bill No. 285.

Mr. Joe Midmore, representing the Nevada Consumer Finance Association, was initial speaker for the bill. He represents the small loan companies operating under Chapter 675 of NRS, which the bill would amend. Mr. Midmore commented, when Chapter 675 was originally drafted, times were vastly different in regard to loans. The legislation was drawn to cover the "necessitous borrower" who might have difficulty obtaining a conventional loan from his local bank. He stated the present impetus behind changing the law is to enable small loan companies to make loans with real property as security. Mr. Midmore stated this is allowed in 45 other states, making it possible for small loan companies to operate more profitably. In some states, a dual license operation allows a small loan company and a mortgage lending company to operate from the same office. Mr. Midmore commented that one increasing hazard for the small loan companies is the rising rate of bankruptcies, which are up to 60 percent in the state of Nevada.

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Mr. Midmore stated a variety of statistics to justify the change in legislation sought by Senate Bill No. 285. He said to use the words "uninformed borrower" to characterize those who patronize the small loan companies is unfair. He said that companies like Household Finance, Beneficial Finance, Associates, Inc., and Dial Finance do not depend on the state of Nevada to keep them in business. However, he stated they do generate a great deal of capital for the states in which they operate which is obviously good for the business climate in those states.

Mr. Midmore commented on the differences between thrift companies, savings and loans institutions and the small loan companies. He stated the small loan companies would create a more competitive situation in the second trust deed money market which would be beneficial to all concerned. He stated that Mr. Virgil Walker, representing Beneficial Finance and Mr. Gary Frandsen, from Associates Corporation were present if the committee had any questions.

Senator McCorkle stated he was supportive of anything to increase competition. However, as had been pointed out to him recently, the arguments used by Mr. Midmore were a double-edged sword in that existing real estate lenders might use the same arguments to ask for adjustments of the law so they could make loans secured by personal property. Mr. Midmore commented it was easy to get into the small loan business and, if the real estate industry wanted to do so, his group would have no objection.

Senator McCorkle remarked there are various licensure requirements for mortgage lending and questioned whether Mr. Midmore had any problem with the committee changing the bill by putting in the same requirements for the finance companies as exist in mortgage lending at the present time. Mr. Midmore explained they pioneered the second mortgage business long before it was considered a respectable type of loan; and had no objection to the changes.

Senator Hernstadt wanted to know why banks could not make second mortgages and was told they do in California, and call them home equity loans. Mr. Midmore said it depends on the bank. Senator Wilson asked whether either federal or state banking regulations might prohibit such action, and Mr. Midmore said he did not know the state banking regulations. Senator Hernstadt questioned Mr. Midmore if finance companies in this state would close their doors if the bill did not pass. Mr. Midmore said he had reason to believe that some of them would or perhaps apply for a license to operate under a different section of the law, as there is a section designed to serve the borrower who is considered less desirable by the banks.

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Senator Raggio questioned the percentage of the loan market that is served by finance companies and small loan companies and Mr. Midmore said he did not have the figures but perhaps someone from the department of commerce might have. Senator Raggio asked, if Senate Bill No. 285 is passed, might there be a danger to persons who need a loan but have no real estate to offer as security. Mr. Midmore replied that had not been any problem in all the other states allowing this type of transaction and he did not think it would be in Nevada. Senator Raggio then asked if a person sought a loan in a certain amount, would the loan company not seek real estate as security rather than personal property like a car. Mr. Walker, representing Beneficial Finance, replied that would depend on the size of the loan requested.

Senator Hernstadt voiced concern for a client who might lose their home, for example, over a \$2,000 loan and questioned whether the consumer finance association would object to a minimum limit. Mr. Midmore said they would not object to a floor of some kind if the committee wanted it.

Mr. Bill Cozart, of the Nevada Association of Realtors, stated his association was opposed to Senate Bill No. 285. However, he did understand the financial situation of Mr. Midmore's clients. He agreed there must be some type of floor to the amount of the loan that would be secured with real property. He also concurred with Senator McCorkle if the finance and small loan companies get into the real estate secondary trust market, they should have to comply with the same rules and regulations as the mortgage companies do. Senator Close was surprised at the realtor's opposition to this legislation as he thought it would represent a broader market for real estate loans.

Mr. Renny Ashleman, representing the Nevada Thrift Association and American Investor Management, a mortgage company, spoke on the \$3,500 gross limitation on the thrift companies. He stated the small loan companies in Nevada, like other lending institutions, had limitations on the amounts they could charge but with an overall limitation of 18 percent. Senate Bill 101 seems to be leading to a position of substantially higher interest charges. At any rate he questioned Mr. Midmore's statement that the small loan companies would not drop the necessitous borrower who did not have any real estate for security. He said that statement was contradicted by information from the California state department of corporations (see Exhibit C) which clearly indicated the shift from loans secured by personal property to those secured by real property. Mr. Ashleman cited the increase in owner occupied housing units, the increase in mortgage loans and overall amounts of these loans since 1973, which seemed to indicate a healthy loan situation.

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Mr. Ashleman cited a variety of facts and figures which he said all added up to the fact that there has been spectacular growth in the loan field and, given the freedom to raise interest rates, the small loan industry seems intent on diverting resources from one of the least-served markets to one of the most-served markets, mainly real estate mortgages.

Mr. James Wadhams, director of the department of commerce, stated he was accompanied by Mr. Joseph Sevigny, superintendent of banks, and Mr. Norman Okada, acting commissioner of savings and loans. He said the regulation of mortgage companies is included in his jurisdiction. He wanted to inform the committee of events which transpired last spring with regard to the small loan companies requesting permission to operate on the same premises as mortgage companies, for which they would obtain a separate license. After much discussion, research and a hearing, they came to the conclusion that NRS 675.350 precludes the superintendent of banks from allowing shared premises operations. Mr. Wadhams submitted a memorandum summarizing this decision. (See Exhibit D.) He stated at the present time there are fifteen branches of small loan companies which have surrendered their licenses to enlarge their scope by securing licenses as mortgage companies in order to service that segment of the market place.

Mr. Wadhams stated his concern was not so much the various forms of lending institutions but that the borrowers of the state ought to have access to those forms of credit they are capable of receiving. He said credit itself has become pretty much of a necessity and one's financial circumstances pretty much dictate what kind of lending institution one can go to.

In response to Senator Hernstadt's question on the availability of adequate lending institutions, Mr. Wadhams replied that the previous statement that Nevada is a capital-poor state just about summed it up. He said further there are not adequate funds available from savings and loans institutions at the present time which is why the Nevada housing division continues to make loans available. In reply to Senator Hernstadt's question, whether there were sufficient funds within the banking industry for loans, Mr. Sevigny stated there were but the banking industry prefers to place those funds in higher yielding commercial loans or securities.

Senator Hernstadt asked if there were adequate resources in the thrift companies and Mr. Sevigny replied there were. Mr. Wadhams noted that one of the reasons thrift companies had grown so well was because they were essentially free from any usury limitation for amounts over \$5,000. Senator Hernstadt commented they also paid their depositors more money and everyone has benefited from that.

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In response to Senator Hernstadt's question, Mr. Wadhams said the department of commerce neither supported nor opposed Senate Bill No. 285. He said they were present to represent the borrowing public. If testimony indicates small loan companies would discontinue lending to that sector of the economy, the department would support whatever measures necessary to keep the small loan companies available to the borrowers who need their services.

There was considerable discussion about the reasons so many small loan companies had closed their offices in this state or else taken out licenses as mortgage companies. The basic underlying reason seems to be that loans secured by real estate tend to be profitable while those secured by personal property are much more risky and less profitable. Replying to Senator Raggio's question as to what companies are presently licensed, Mr. Sevigny named the following loan companies: AFCO, City Corporation, Person to Person, Beneficial Finance, Public Finance, Transamerica Corporation, C.I.T. and Associates Corporation.

There was further discussion about the law to allow dual occupancy and Mr. Wadhams and Mr. Sevigny pointed out it is not allowed under the present statutes for small loan companies and mortgage companies to occupy the same office. In reply to Senator Hernstadt's question, Mr. Sevigny explained there are about 35 or 36 companies doing this directly and indirectly about 40, under the dual licenses. He stated that the only western state not allowing dual licenses was Nevada.

Senator Wilson wanted to know if the lending business secured by real property was really that much more lucrative. Mr. Sevigny answered that every financial institution wants to diversify its assets. Senator Wilson wanted a more specific answer and Mr. Sevigny said for the small loan business to really be profitable lenders would need a rate of 50 to 55 percent. Since the customer will not pay that much, the small loan company is being put in a tight spot. The delinquencies are much higher on loans secured by personal property.

There were diverse comments by the committee members with regard to the types of security required, the declining number of small loan companies, and the fact that the department of commerce did not have more reliable statistics to present to the committee. Mr. Wadhams stated they could acquire the statistics, given the time; and would provide whatever analyses the committee required. He explained the department took the position on Senate Bill No. 101 that competition ought to control the price of credit, and eliminate the "pigeon holes" Senator Hernstadt referred to.

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Mr. Harvey Whittemore, attorney with Lionel, Sawyer and Collins, in Reno, stated they were the general counsel for the thrift companies' association as well as for Silver State Thrift Loan Association. In substance, he agreed with Mr. Ashleman's statements with regard to Senate Bill No. 285. Mr. Whittemore stated the thrift industry is not opposing Senate Bill No. 101, which would raise usury limitations on the rate of interest charged on loans by the small loan companies. He stated he appreciated the point made by Senator McCorkle that competition would not drive out personal property loans; unless Senate Bill No. 101 is passed, which would change the picture.

Senator Hernstadt questioned where apartment renters would get loan funds and Mr. Whittemore replied that was exactly his point. By making it more profitable for the small loan companies to take real estate for security, the small loan industry will tend to make loans on that security rather than on personal property.

Mr. Sidney Stern, president of the Nevada Association of Thrift Companies stated the only point a lender really understands is whether the rate of interest is commensurate with the risk. He stated the allowable usury rate in Senate Bill No. 101 will range from 48 percent to 30 percent to 20 percent, on the Russell Sage Foundation formula for the small loan business. He referred to Mr. Ashleman's statement earlier that secondary lenders in this state had increased over 2,000 percent. Mr. Stern commented that lenders are hungry and always charge the highest possible rate. They are not humanitarians, they are businessmen. He pointed out another point about lending on a second mortgage is the dual responsibility of all in the lending field. Most of the money lent in Nevada by mortgage loan brokers are Nevada funds from banks, savings and loans, credit unions, etc., and the lenders are cognizant of that fact.

Mr. Midmore commented on Mr. Ashleman's figures on percentages in the small loan companies in California. He did not want to dispute those figures but felt the committee should be aware in California the small loan licensees have no limit on how much they can loan. In Nevada there is a \$10,000 limit. He said the small loan companies did not want to be associated with a 48 percent interest rate, as it would be disastrous from the viewpoint of public relations. He said the present limit is 18 percent, with the maximum amount of loan at \$10,000.

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Mr. Lewis Shuman, of American Investors, in Reno, submitted some census figures (see Exhibit E) which indicated 66,400 renters in the state in 1970 and 168,901 renters in 1980. He also submitted some statistics furnished to the Ways and Means Committee (see Exhibit E) which showed the small loan companies' portfolios increased from \$119 million in 1978 to \$158 million as of December 1980.

Mr. Ashleman commented that available data that was submitted (see Exhibit C) indicated that well over half of all loans made for under \$10,000 were secured at least in part by real estate. With regard to the dual license, he said every customer who can be put on a personal property and real property loan will be; as both kinds of securities will be put in the same package. He said the people in small loan companies are less able to analyze the competition among borrowers. He commented when they are talking about mortgage brokers, they refer to a more sophisticated customer and this is equally true of the banking and savings and loan customer. He stated this was the original finding of the legislature and why they set up the pattern originally.

Senator Raggio stated that Mr. Ashleman was a member of his law firm and he wanted the record to show that he did not participate in the deliberation or the vote on this matter.

With no further testimony, the hearing was closed on Senate Bill No. 285.

SENATE BILL NO. 323--Prohibits public utilities from charging certain franchise taxes to customers.

Chairman Wilson opened the hearing on Senate Bill No. 323.

Mr. Randolph Townsend, representing the Coalition for Affordable Energy, explained there were two other bills addressing the franchise fee that will also have to be dealt with sooner or later. He wanted to present an amendment to Senate Bill No. 323 which put the burden of the franchise fee on the stockholder rather than the rate payer.

Senator Wilson explained his understanding of the bill was that it did not pertain to assessment of a franchise tax by the municipality upon the utility. He said it does state no franchise tax imposed upon gross receipts can be assessed by the utilities upon their customers for a separate charge or treated as a cost for providing a service for the purpose of fixing rates.

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Senator Wilson felt Senate Bill No. 323 already did what Mr. Townsend's amendment proposes to do. Senator Raggio wanted to know why the franchise cost should be treated differently from any other cost. Mr. Townsend explained it was licensing a business to a community and, if the rate payer was charged for a license which was coming into the city treasury anyway, in effect they were just paying themselves. Senator Raggio then asked if Mr. Townsend wished to abolish the franchise. Mr. Townsend replied they were looking at the impact to the community of removing the franchise tax and, if the impact is too great, another way will have to be found to pay it. He said further, the coalition does not feel the rate payer should pay for the business license of a private company with whom they do business. Senator Hernstadt explained that basically the franchise fee is a form of sales tax.

The members of the committee discussed the various aspects of the bill in relation to disclosure of the charge for the franchise fee. They disagreed as to the ultimate purpose of the charge, and whether it was buried in the rate base or exposed to the utility's customers for what it was as a sales tax on the utility, which is passed on to the customer.

Mr. Andrew Barbano, of the Coalition for Affordable Energy, stated it is not really a tax but in lieu of a business license. The point he wanted to make was the shareholders of a public utility can be viewed as owners of a business being allowed to do business in a community; and they should pay for the privilege rather than pass it on to the customers. Senator Hernstadt repeated that, in reality, it was a revenue-raising sales tax, and he did not know how it could be called anything else.

Mr. Gene Matteucci, general counsel, and vice-president of the Nevada Power Company, stated he opposed Senate Bill No. 323 for several reasons. The first was that the public service commission of Nevada had been legislated to regulate the utilities. To give individual communities the option to charge franchise fees, revenue fees, or whatever they may call it is, in his opinion, a violation of the 14th Amendment to the U.S. Constitution, and is the taking of property without due process of law. Senator Raggio asked for his authority for that statement. Mr. Matteucci cited the case of Mountain State Telegraph vs. Colorado State Corporation Commissioner 563 588 (see Exhibit F). He said it is unconstitutional when a utility cannot pass on a legitimate expense of business operation, after being assessed the fees on that business. He said that is when it becomes the taking of property without due process.

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Senator Wilson stated if the public service commission finds a reasonable rate of return on equity, the rate of return is approved by the courts, and that is constitutional and valid. To subtract from that, other than for legitimate business expense, would be taking property without due cause. Mr. Matteucci said if they were not given the opportunity to recover that expense, Senator Wilson's statement was correct.

Senator McCorkle and Mr. Barbano had a short discussion of fair and equitable rates of return for operating a utility but were unable to agree on a consistent definition. Senator Wilson reminded them it was just a word game when it became a circular argument with no resolution.

Senator Hernstadt asked if Mr. Matteucci had done any public surveys for the power company to determine the public's attitude about the franchise tax, and he replied he had not as yet. However, in the City of Las Vegas, removal of the franchise fee had the effect of automatically reducing customers' power bills by 5 percent. He stated most people did not realize the franchise tax is a city or county tax.

Senator Raggio asked Mr. Matteucci to furnish the citations he had mentioned about constitutionality so the legislative counsel could be requested to give an opinion on those issues and the franchise tax. Senator Wilson indicated they were asking for two separate items; one was to make the citations available for the committee and secondly, to ask the legislative counsel bureau for an opinion on constitutionality. Mr. Matteucci replied he would supply the citations.

In reply to Senator Hernstadt's question on Nevada Power Company sales in 1980, Mr. Matteucci replied \$200 million but it was not all in the 5 percent franchise area. As for the amount of profit on the \$200 million sales, Mr. Matteucci said it amounted to approximately \$1.58 per share which totals about \$15 million. Senator Hernstadt commented, if Senate Bill No. 323 passed, the company would make approximately \$10 million and Mr. Matteucci agreed.

Mr. Joe McKibben, senior vice president of Sierra Pacific Power Company, stated he was in opposition of Senate Bill No. 323. He submitted his testimony for the record (see Exhibit G) along with information showing the impact of the city franchise tax on Sierra Pacific in 1980. He remarked there is some confusion about Douglas County franchise tax as it is 2 percent of the net income while the city franchise tax is 2 percent of the gross income.

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Senator Hernstadt asked Mr. McKibben whether Sierra Pacific Power had done any surveys concerning public response to the franchise tax. Mr. McKibben replied they had not done it specifically to the franchise tax. However, they were required by the public service commission some years ago to point out the city franchise tax as a single line item and it is on every bill the customer gets. Mr. McKibben stated, in reply to Senator Hernstadt's question, that he could not answer whether the customers were aware the franchise tax had been passed by the Reno city council and the mayor.

Mr. David Russell, representing Southwest Gas Company asked to speak in answer to Senator Raggio's question about the number of cases which have held on the constitutional question. He encouraged the committee to get the legislative counsel bureau to issue an opinion. Mr. Russell said, in his mind, it was clearly unconstitutional. It is a subtle way of getting the stockholder's equity and he could cite a number of cases that have held the cost of doing business can be passed through. Prohibiting that pass-through does constitute a violation of the due process of law.

Mr. Russell stated Southwest Gas Company is concerned about its own fiscal integrity as well as that of the other utilities in the state. He felt the committee should consider if this legislation is passed it would make it more difficult to obtain shareholders as well as lenders. In reply to Senator Hernstadt's question, 2 percent of gross revenue for Southwest Gas Company would amount to about \$3.9 million as their earnings were \$6.6 million. Senator Hernstadt commented this would be two-thirds of their earnings and Mr. Russell agreed. Mr. Russell commented he felt a new chapter or a new section should be added to Chapter 709 of NRS which deals with counties and unincorporated towns and the 2 percent franchise tax on net profits.

Senator Raggio asked if the franchise tax was uniform throughout the state and if not, how did it vary, and over what period of time are there increases in these franchise taxes. Mr. Russell replied the cost of services depends on how the cost of energy and services goes up; and obviously the gross receipts go up in terms of revenue or of the franchise going up. Senator Raggio asked again if the percentage was uniform and Mr. Hardy replied it was not uniform but neither had it changed much in the last ten years. Mr. McKibben stated it was 2 percent in all the cities. Mr. Russell said the legislature has put a ceiling on the franchise tax.

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Mr. Chuck King, representing Central Telephone Company, stated they were opposed to Senate Bill No. 323 for the same reasons as the other utilities are.

Mr. Hardy, chairman of the public service commission stated he felt this was a nuisance bill. It was unconstitutional; and he did not feel the committee should waste their time hearing any more testimony on it.

With no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 323.

Chairman Wilson requested the committee's permission to introduce a state board of accountancy amendment of NRS Chapter 628 (the Public Accountancy Law of 1960) as a bill draft request.

The committee unanimously approved the introduction.

BDR 58-1404--relates to public utilities; authorizes the public service commission to appear before hearings of the Federal Energy Regulatory Commission.
(SB 424)

Chairman Wilson requested the committee's permission to introduce BDR 58-1404.

The committee unanimously approved the introduction of BDR 58-1404.

BDR 40-856--relates to drugs and poisons; defines words and terms; regulates the administration, dispensing and prescribing of controlled substances and dangerous drugs.
(SB 423)

Chairman Wilson requested the committee's permission to introduce BDR 40-856.

The committee unanimously approved the introduction of BDR 40-856.

SENATE BILL NO. 323

Senator Blakemore moved that Senate Bill No. 323, be indefinitely postponed.

Senator Wilson stated Senator Raggio has asked for a legal opinion on the constitutionality of the bill and he felt this should be obtained before the bill is acted upon. Senator Raggio indicated he was against the bill but felt the legal opinion should be obtained to keep it from surfacing in the future.

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Senator Close disagreed, saying it was unwise to take the bill-drafter's time now to get a decision on a bill which is going to be indefinitely postponed. Senator Raggio stated as long as an opinion is secured before the next session of legislature, he would agree with Senator Close's observation.

The committee discussed the matter a little further and agreed to vote on the bill and get the legal written opinion on its constitutionality at a later time.

The original motion died for lack of a second.

Senator Blakemore moved again to indefinitely postpone Senate Bill No. 323, with a letter of legal opinion as to its constitutionality.

Senator Ashworth seconded the motion.

The motion carried unanimously.

SENATE BILL NO. 285

Senator McCorkle stated he wanted to pass the concept but felt there should be the same protection as a mortgage broker and the same restrictions as the personal property entity.

Senator Hernstadt stated as the bill reads there are some legitimate arguments raised for it; yet the finance companies seem to be surviving without it. Senator Blakemore felt there is no more compelling reason for the bill now than there was two years ago.

Senator Close commented if 45 states presently allow small loan companies to take loans with real property as security, he saw no reason why they should not be allowed to do the same in Nevada. He thought the only logical reason for objections from the other types of lending institutions was they did not want the competition and Senator McCorkle agreed with him on that point.

Senator Blakemore remarked if they could get along without the bill, then they should. He said he is not in favor of third mortgages and the like. Senator Hernstadt felt it was basically a legitimate bill, but he did not favor a lot of amendments to it. Senator Close recommended the inclusion of a floor on the size of the loan. Senator Hernstadt said he had no objection to the \$3,500 presently in effect for the thrift associations.

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Senate Bill No. 285 (Continued)

Senator Close moved to Amend and Do Pass Senate Bill No. 285, with the amendment of \$3,500 floor placed on secured loans.

Senator McCorkle opposed this motion unless the real estate companies were allowed to get into personal property loans. Senator Close commented he would add this, along with the thrift associations to the amendment. He said it could be easily done by taking existing language pertaining to the real estate lending companies and make it applicable to the small loan companies. Conversely the same application should be made with the personal property law as far as the real estate lenders are concerned.

The committee had further discussion about restrictions on the loan industry, floor of \$3,500 for the amendment, and compliance by small loan companies with the standards and requirements applicable to the mortgage brokers. Senator Hernstadt said he would not favor the bill if they went that far. Senator Wilson said he had a problem, saying "no" to the small loan companies if they were not going to require them to meet the same requirements.

Senator Close moved to Amend and Do Pass (See Exhibit H.)
Senate Bill No. 285.

Senator Ashworth seconded the motion.

The motion carried. (Senators Blakemore and Hernstadt voted "No". Senator Raggio abstained from voting.)

Senator Raggio abstained from the deliberation and action taken on Senate Bill No. 285.

SENATE BILL NO. 230.

Senator Wilson asked for discussion or action on Senate Bill No. 230, which requires a one-week waiting period for unemployment compensation benefits; and narrows eligibility requirements.

Senator McCorkle moved to Amend and Do Pass (See Exhibit I.)
Senate Bill No. 230.

Senator Raggio seconded the motion.

The motion carried. (Senators Blakemore and Wilson voted "No.")

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SENATE BILL NO. 231--Governs physical therapists and their assistants.

Senator Raggio stated this bill definitely needed a lot of amendments. The committee unanimously agreed. Senator Wilson requested Will Crockett be brought in for the required amendments.

Senator Blakemore moved to Amend and Do Pass (See Exhibit J.)
Senate Bill No. 231.

Senator Hernstadt seconded the motion.

The motion passed unanimously.

With no further business, the meeting was adjourned at 5:05 p.m.

Respectfully submitted,



Frances A. Kindred, Committee Secretary

APPROVED:



Senator Thomas R. C. Wilson, Chairman

DATE: _____

EXHIBITS - MEETING, MARCH 16, 1981

- Exhibit A - is the Meeting Agenda.
- Exhibit B - is the Attendance Roster.
- Exhibit C - is documents on the Small Loan Industry, Department of Corporations, State of California, submitted by Mr. Midmore.
- Exhibit D - Memorandum on Shared Premises Licensing, Mr. Wadhams.
- Exhibit E - Census figures and statistics (as submitted to the Assembly Ways and Means Committee) by Mr. Shuman.
- Exhibit F - Mountain State Tel & Tel v. State Corp. Comm., 563 P2d 588 (Colorado 1977) re violation of 14th Amendment.
- Exhibit G - Written testimony of Mr. McKibben, opposing Senate Bill No. 323.
- Exhibit H - Senate Bill No. 285--Removes prohibition against taking security interest in real property on installment loans.
- Exhibit I - Senate Bill No. 230--Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits and narrows eligibility requirements.
- Exhibit J - Senate Bill No. 231--Changes various provisions of law governing physical therapists and their assistants.

SENATE AGENDA

COMMITTEE MEETINGS .

Committee on Commerce and Labor, Room 213.
Day Monday, Date March 16, Time 1:30 p.m.

S.B. No. 285--Removes prohibition against taking security interest in real property on installment loans.

S.B. No. 323--Prohibits public utilities from charging certain franchise taxes to customers.

SENATE COMMITTEE ON

Commerce & Labor

EXHIBIT B

DATE: MARCH 16, 1981

PLEASE PRINT	PLEASE PRINT	PLEASE PRINT	PLEASE PRINT
NAME	ORGANIZATION & ADDRESS		TELEPHONE
David Russell	SW Gas. Corp.		286-2366
M. GENE MATTEUCCI	Ver. Power Co.		385-5628
Jim Wohlhaus	Commerce		4250
Lewis W. Shuman	AIN AMERICAN INVESTORS		786-1633
SAM STERN	AFT - 375 VASSAR - Reno, NV		329-6543
FR. Ashkenazy	A IT NTA		883-2333
Joseph O. Saviguy	Commerce - Banking		885-4260
Joe Midmore	Nevada Consumer Finance Assoc.		883-2771
RANDOLPH TOWNSEND	COALITION FOR AFFORDABLE ENERGY		786-1455
Joe M. Gibben	Sierra Pacific Power Co.		789-4289
VINCE LAVERGA	" " " "		789-4326
Virgil ARAMINI	" " " "		783-4522
Andrew Barbano	Coalition for Affordable Energy		786-1955
Mary M. Franzen	Associates Corp. of North America		214/659-4346
Virgil WALKER	Sanjour Ind. Corp.		505/884-7160
Bill Cozart	REALTORS		329-6648
GEORGE TACKETT	NEVADA BELL		789-8896
CHUCK KING	CEN TEL		383-5501
Norman OKADA	Acting Commission of Savings & Loans		885-4250
Harvey Whittemore	ATTORNEY, LUNCH - Sawyer - Collins		323-5050

SMALL LOAN INDUSTRY
STATE OF CALIFORNIA - 1979

Regulated Loans Under \$10,000 (Secured By Personal Property)	20.73%	Average Loan \$1,434
Secured In Part By Real Property	25.48%	Average Loan \$7,301
\$10,000 or more and Commercial Loans of \$5,000 or More	53.79%	Average Loan \$42,535

SOURCE: Department Of Corporations
State of California

3-16-81

1284.001
S.B. - 85
8/16
839

1975
ANNUAL REPORTS
For
CALIFORNIA CONSUMER
FINANCE LAWS

As concerns the consumer loan area, 1975 saw a 14% decrease in the total number of loans made. The trend away from smaller loans continued. Comparing our 1975 data with that compiled for 1974, we found that the number of loans \$200 or less decreased by 31%; loans of \$500 or less decreased 27%; loans of \$700 or less decreased 26%; and loans of \$1,000 or less decreased by 22%. Loans secured by household goods decreased 15%; loans secured by wage assignments decreased 23%; loans secured by motor vehicles increased 7%; and loans secured by a combination of real and personal property increased by 48%.

AVERAGE SIZE OF LOAN

1966	\$875
1967	965
1968	1,116
1969	1,216
1970	1,876
1971	1,622
1972	1,631
1973	2,015
1974	2,347
1975	2,531

The average size loan increased 189% from 1966 to 1975.

NUMBER OF LOANS MADE

1966	1,405,782
1967	1,376,713
1968	1,499,194
1969	1,374,336
1970	1,184,663
1971	1,170,013
1972	1,210,311
1973	1,202,884
1974	1,024,276
1975	883,047

The number of loans made decreased 37% from 1966 to 1975.

SOURCE: State of California
Department of Corporations

STATE OF NEVADA
DEPARTMENT OF COMMERCE

NYE BUILDING, ROOM 321
201 SOUTH FALL STREET
CARSON CITY, NEVADA 89710
(702) 885-4250

DIVISIONS
BANKING
CONSUMER AFFAIRS
CREDIT UNION

EXHIBIT D

ROBERT LIST
GOVERNOR

JAMES L. WADHAMS
DIRECTOR

April 22, 1980

M E M O R A N D U M

TO: All Interested Parties

FROM: James L. Wadhams, Director
Department of Commerce

SUBJECT: Shared Premises Licensing

This office has made the determination that shared premises licensing for mortgage companies and small loan companies will not be permitted in Nevada at this time. This determination has been made based upon the prohibition against small loan companies taking liens on real property as security for loans per NRS 675.350, the broad prohibition against evading the provisions of NRS 675 found at NRS 675.070(4), the liberal basis upon which Nevada courts have been willing to disregard the separate identities of corporate entities when there is a unity of interest and ownership and where adherence to the fiction of separate entity would, under the circumstances, promote injustice (cf. Mosa vs. Wilson-Bates Furniture Company, 94 Nevada 521).

It is the opinion of this office that no system of office operations in premises shared by a mortgage company licensee and a small loan company licensee would be able to overcome the statutory prohibitions against real estate lending by small loan companies when both licensees were subsidiaries of a common parent corporation, in view of the alter ego doctrine to other situations where parties have attempted to assert a separate corporate identity. This determination applies only to the question of shared premises licensing and should not be construed to apply to the broader question of whether parent corporations with subsidiaries licensed as mortgage companies or small loan companies are in violation of legislative intent at NRS 675.350(4).

This office sees no inherent reason for the prohibition against small loan companies making real estate secured loans either directly or through a sister corporation licensed as a mortgage company under NRS 645B. We would suggest that you contact our legislators and suggest enabling legislation that will eliminate the prohibition upon which this determination has been made.

JLW:d1

EXHIBIT E

1980 vs 1970 Census Of Population & Housing

NEVADA

	<u>1970</u> <u>Census</u>	<u>1980</u> <u>Census</u>	
Owner Occupied Housing Units	93,700	153,433	
Renter Occupied Housing Units	66,400	168,901	
Unoccupied Housing Units	<u>12,458</u>	<u>17,219</u>	
Total Housing Units	172,558	339,553	
	An Increase Of 166,995		or 96.77%
 Population	 488,738	 800,312	
	An Increase Of 311,574		or 63.75%

SOURCE: U. S. Department of Commerce
Bureau of the Census

Distribution: Assembly Ways & Means Committee Members

Exhibit F
S. CHAN

88-210-1316

NRS:	License	Licenses			Business Locations			Total Assets (in 000)			Total Loans (in 000)			Total Deposits (in 000)		
		Wa.	Cl.	Rur.	Wa.	Cl.	Rur.	12/78	12/79	12/80 (est)	12/78	12/79	12/80 (est)	12/78	12/79	12/80 (est)
657 to 69	Banks	2	3	2	18	23	13	1,229,556	1,051,270	1,561,100	719,582	636,657	858,500	1,105,706	903,089	1,346,888
673	Savings & Loans	4	3	1	31	41	25	1,602,000	1,783,000	1,978,000	1,299,000	1,424,000	1,590,000	1,175,000	1,357,000	1,499,000
677	Thrift Co.'s	3	1	0	6	8	7	25,547	52,837	78,286	25,128	42,735	64,482	22,390	46,790	70,470
570	Credit Unions	3	11	4	3	11	4	50,211	55,154	95,142	43,884	47,304	39,939	37,954	50,396	91,230
645B	Mortgage Co.'s	51	69	9	52	70	0	N/A	N/A	N/A	*81,277	143,497	126,267	N/A	N/A	N/A
675	Small Loan Co.'s	22	41	5	22	41	5	120,548	158,858	209,700	119,590	137,782	158,400	N/A	N/A	N/A
649	Collection Agy.'s	4	7	7	4	7	7	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
669	Trust Co.'s	2	0	0	2	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
676	Debt Adjustors	1	1	0	1	1	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
670	Industrial Dev.Co.'s	1	0	0	1	0	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
671	Money Order Co.'s & Other Check Issuers	0	5	5	0	5	5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Totals		93	141	33	140	207	66	3,027,862	3,101,119	3,922,228	2,207,184	2,288,478	2,711,321	2,341,050	2,357,275	3,007,588

* Represents loan volumes by year. Not included in total loan figures.

Note: Wa. = Washoe
Cl. = Clark
Rur. = Rural

MORTGAGE COMPANIES LICENSED
UNDER CHAPTER 645B
OF NRS

<u>Year</u>	<u>Number of Licensees</u>	<u>Number of Loans</u>	<u>Amount</u>
1973	5	102	\$ 4,594,279
1974	16	689	14,636,875
1975	30	970	18,805,130
1976	52	1,626	24,397,402
1977	75	2,219	35,821,280
1978	89	3,499	81,276,922
1979	107	5,100	143,496,799
1980	126	5,541	133,392,866
Change	+121 +2,400%	+5,439 +5,332%	+ 128,798,587 + 2,803%

1970 Nevada Population	488,735	
1980 Nevada Population	<u>800,312</u>	
	+ 311,574	= 63.75%

Source: Number of Licensees, Number of Loans, Loan Amounts:
Commissioner of Savings Associations - State of Nevada

Population: U. S. Department of Commerce, Bureau of the
Census

STATE OF NEVADA - LICENSED LENDERS

	<u>1970</u>	<u>1980</u>	<u>% Change</u>
Banks	90	157	+ 74.44%
Savings & Loans	22	81	+268.18
Credit Unions	66	74	+ 12.12
Mortgage Companies	0	126	
Thrift Companies	0	25	
Sub Total	<u>178</u>	<u>463</u>	+160.11%
Small Loan Companies	64	68	+ 6.25%
Total	<u>242</u>	<u>531</u>	

	<u>1970</u>	<u>1980</u>	
Population - Nevada	488,738	800,312	+ 63.75%
Owner Occupied Housing Units	93,700	153,433	
Owner Occupied Housing Units Per Mortgage Lender	526	331	
Number of Small Loan Company Offices Per 100,000 Population	13	8½	

Population: U. S. Department of Commerce
Bureau of the Census

1980 vs 1970 Census Of Population & Housing

NEVADA

	<u>1970 Census</u>	<u>1980 Census</u>
Owner Occupied Housing Units	93,700	153,433
Renter Occupied Housing Units	66,400	168,901
Unoccupied Housing Units	12,458	17,219
Total Housing Units	172,558	339,553

An Increase Of 166,995 or 96.77%

Population

488,738 800,312

An Increase Of 311,574 or 63.75%

SOURCE: U. S. Department of Commerce
Bureau of the Census

There is authority that once a reasonable rate of return has been authorized, a government agency can't take an action which clearly will interfere with realizing that return. To do so is to violate the 14th Amendment due process clause.

Mountain St. Tel & Tel v. State Corp. Comm., 563 P2d 588 (Colo 1977), (failure to approve rates after authorizing a reasonable rate of return), and Northwest Bell Telephone Co., 69 SD 36, 6 NW2d 165, 46 PUR (NS) 293 (1942) (failure to include items in rate base) are authority for that proposition.



TESTIMONY IN OPPOSITION TO S. B. 323
BY H. J. McKIBBEN - SENIOR VICE PRESIDENT
SIERRA PACIFIC POWER COMPANY

EXHIBIT G

The exhibit handed out reflects the Franchise Tax imposed upon the gross receipts for Sierra Pacific Power Company in 1980.

As can be seen, this fee is substantial, amounting to \$2,624,028.11, and is a rapidly growing amount as constantly rising fuel costs press gross revenues upward. In comparison, it should be noted that the net income for Sierra in 1980 was \$22,088,816 and this tax alone represents some 12% of net income.

Sierra presently serves as a collection agency for the various cities. We bill utility consumers for a tax, collect the tax, and pass it along to the appropriate governmental body.

To impose this tax directly on the utility and then make it illegal to have the tax treated as a cost of doing business for rate making purposes would be adding to what is already a very serious problem facing Nevada Energy Utilities--that is, the inability to earn a fair rate of return.

The only source of revenue available to a utility to recover costs of doing business is the energy consumer. In other words, there is no such thing as a "free lunch". Taxes imposed on energy consumption can only be paid for by consumers--there is no other source of revenue for payment!

To pass S.B. 323 would most certainly further impair the financial health of Nevada Energy Utilities and add heavily to the problems that exist today--that is, the inability to raise capital for construction of facilities needed to meet the demands of a "growth state" at reasonable cost. Again, I emphasize that the increased costs of financing are necessarily borne by the consumer.

I strongly urge the defeat of S.B. 323 on behalf of Sierra Pacific Power Company and our customers.

SIERRA PACIFIC POWER COMPANY
FRANCHISE FEE COMPUTATION FOR 1980

<u>CITY</u>	<u>GROSS REVENUES FOR 12 MONTHS ENDED 12/31/80</u>	<u>FRANCHISE FEE 2% OF REVENUES</u>
<u>Reno</u>		
Electric	\$ 58,542,218.96	\$1,170,844.38
Gas	23,719,869.70	474,397.39
Water	7,716,636.06	154,332.72
Total	<u>89,978,724.72</u>	<u>1,799,574.49</u>
<u>Sparks</u>		
Electric	18,715,237.02	374,304.74
Gas	8,560,971.98	171,219.44
Water	2,762,675.76	55,253.52
Total	<u>30,038,884.76</u>	<u>600,777.70</u>
<u>Carson City</u>		
Electric	7,549,840.95	150,996.82
<u>Yerington</u>		
Electric	751,825.94	15,036.52
<u>Battle Mountain</u>		
Electric	578,636.67	11,572.73
<u>Lovelock</u>		
Electric	545,002.84	10,900.06
<u>Mineral County</u>		
Mina - Electric	119,156.39	2,383.13
Hawthorne - Electric	1,128,283.75	22,565.68
Luning - Electric	19,165.31	383.31
Total	<u>1,266,605.45</u>	<u>25,332.12</u>
<u>3/4 of 1%</u>		
<u>Gabbs</u>		
Electric	<u>1,311,689.86</u>	<u>9,837.67</u>
GRAND TOTALS	<u>\$132,021,211.19</u>	<u>\$2,624,028.11</u>

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 285

SENATE BILL NO. 285—COMMITTEE ON
COMMERCE AND LABOR

FEBRUARY 24, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Removes prohibition against taking security interest in
real property on installment loans. (BDR 56-716)FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.AN ACT relating to installment loans; removing the prohibition against taking a
security interest in real property on installment loans; and providing other
matters properly relating thereto.*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 675 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *A licensee may make loans in the amount of \$3,500 or more which are*
4 *secured by real property.*
- 5 SEC. 2. NRS 675.070 is hereby amended to read as follows:
6 675.070 The provisions of NRS 675.060 [shall] apply to any person
7 who seeks to evade its application by any device, subterfuge or pretense
8 whatever, including, but not thereby limiting the generality of the fore-
9 going:
- 10 1. The loan, forbearance, use or sale of credit (as guarantor, surety,
11 endorser, comaker or otherwise), money, goods, *real property* or things
12 in action.
- 13 2. The use of collateral or related sales or purchases of *real property*,
14 goods or services, or agreements to sell or purchase, whether real or
15 pretended.
- 16 3. Receiving or charging compensation for *real property*, goods or
17 services, whether or not sold, delivered or provided.
- 18 4. The real or pretended negotiation, arrangement or procurement of
19 a loan through any use or activity of a third person, whether real or ficti-
20 tious.
- 21 SEC. 3. Section 2 of chapter 48, Statutes of Nevada 1981, is hereby
22 amended to read as follows:

1 Sec. 2. 1. Except as provided in subsection 3, every licensee
2 may make loans of any amount with cash advance not exceeding
3 \$10,000, repayable except as otherwise provided in section 4 of
4 [this act,] chapter 48, Statutes of Nevada 1981, in substantially
5 equal consecutive monthly installments of principal and interest
6 combined, and may charge, contract for, collect and receive a
7 charge for interest at a rate not exceeding the equivalent of the
8 greater of the following:

9 (a) The total of:

10 (1) Thirty-six percent per year on that part of the unpaid bal-
11 ance of the amount of cash advanced which is \$300 or less;

12 (2) Twenty-one percent per year on that part of the unpaid
13 balance of the amount of cash advanced which exceeds \$300 but
14 does not exceed \$1,000; and

15 (3) Fifteen percent per year on that part of the unpaid balance
16 of the amount of cash advanced which exceeds \$1,000; or

17 (b) Eighteen percent per year on the unpaid balance of the
18 amount of cash advanced.

19 2. Except as otherwise provided in this subsection, the charge
20 for interest must be calculated according to the actuarial method,
21 which is the method of allocating payments between principal and
22 interest pursuant to which a payment is applied first to the accumu-
23 lated interest and the balance, if any, is applied to the unpaid princi-
24 pal. A licensee may, at the time the loan is made, precompute the
25 charge for interest at the agreed-upon rate on the scheduled unpaid
26 principal balances according to the terms of the contract and add
27 that interest to the principal of the loan. Where the charge for interest
28 is precomputed the face amount of any note or contract may
29 exceed \$10,000 by the amount of charges authorized by this chap-
30 ter added to principal. If the charge for interest is precomputed,
31 payments on account may be applied to the combined total of princi-
32 pal and precomputed interest until the contract is fully paid. All
33 payments on account, except those applied to default or deferment
34 charges, must be applied to the installments in the order in which
35 they fall due. The effect of prepayment of a precomputed loan is
36 governed by the provisions relating to refund upon prepayment in
37 full.

38 3. On loans secured by [mobile homes or factory-built housing
39 which constitute real estate on] real property as defined by NRS
40 361.035 the charge for interest may not exceed 18 percent on the
41 unpaid balance of the amount of cash advanced.

42 SEC. 4. NRS 675.300 is hereby amended to read as follows:

43 675.300 1. A licensee may request that a borrower insure tangible
44 property when offered as security for a loan under this chapter against
45 any substantial risk of loss, damage or destruction for an amount not to
46 exceed the actual value of the *personal* property, or the value of the loan
47 in the case of real property, and for a term and upon conditions which are
48 reasonable and appropriate considering the nature of the property and
49 the maturity and other circumstances of the loan.

50 2. A licensee may require that a borrower provide title insurance on

1 real property offered as security for a loan under this chapter. The title
2 insurance must be placed through a title insurance company authorized
3 to do business in this state.

4 3. A licensee may provide, obtain or take as security for a loan insur-
5 ance on the life and on the health or disability, or both, of one or more
6 parties obligated on the loan if the insurance complies with the applicable
7 provisions of chapter 690A of NRS.

8 4. In accepting any insurance provided by this section as security for
9 a loan, the licensee may include the premiums or identifiable charge as
10 part of the principal or may deduct the premiums or identifiable charge
11 therefor from the proceeds of the loan, which premium or identifiable
12 charge must not exceed those filed with and approved by the commis-
13 sioner of insurance, and remit those premiums to the insurance company
14 writing the insurance, and any gain or advantage to the licensee, any
15 employee, officer, director, agent, affiliate or associate from the insurance
16 or its sale may not be considered as additional or further charge in con-
17 nection with any loan made under this chapter. Not more than one
18 policy of life insurance and one policy providing accident and health
19 coverage may be written by a licensee in connection with any loan
20 transaction under this chapter, and a licensee shall not require the bor-
21 rower to be insured as a condition of any loan. If the unpaid balance
22 of the loan is prepaid in full by cash or other thing of value, refinanc-
23 ing, renewal, a new loan or otherwise, the charge for any credit life
24 insurance and any credit accident and health insurance must be refunded
25 or credited in accordance with the method established in this chapter for
26 refunding or computing credit charges. Whenever insurance is written in
27 connection with a loan transaction pursuant to this section, the licensee
28 shall deliver or cause to be delivered to the borrower the certificate,
29 instrument or other memorandum showing the cost of the insurance to
30 the borrower, within 30 days from the date of the loan. The insurance
31 must be written by a company authorized to conduct business in this
32 state, and the licensee shall not require the purchase of the insurance
33 from any agent or broker designated by the licensee.

34 5. Every insurance policy or certificate written in connection with a
35 loan transaction, pursuant to subsection 2 must provide for cancellation
36 of the coverage and a refund of the premium or identifiable charge
37 unearned, upon the discharge of the loan obligation for which the insur-
38 ance is security, without prejudice to any claim. The refund must be
39 under a formula filed by the insurer with the insurance division of the
40 department of commerce.

41 SEC. 5. NRS 675.320 is hereby amended to read as follows:

42 675.320 1. [No] A licensee shall [,] *not*, directly or indirectly,
43 charge, contract for or receive any interest, discount or consideration
44 greater than provided by law for nonlicensees upon all or any part of any
45 loan in the amount of or the value of more than \$10,000, or in any case
46 in which the licensee permits any person, or husband and wife, jointly or
47 severally, to become obligated, directly or contingently, or both, to the
48 licensee at any time for the sum of more than \$10,000 for principal.

49 2. The provisions of subsection 1 [shall] *do* not apply:

50 (a) When a licensee purchases in one transaction a substantial amount

1 of loans or accounts receivable in an office of another licensee or other
2 lender not affiliated with the purchaser, and [such] the licensee has an
3 existing loan to one or more of the borrowers whose accounts are pur-
4 chased, and [such] the purchaser shall be entitled to liquidate and collect
5 the balances due on [such] those accounts, according to their terms;
6 [nor]

7 (b) To the acquisition by purchase of bona fide obligations of the bor-
8 rower incurred for goods or services [.]; or

9 (c) To loans secured by real property.

10 SEC. 6. NRS 675.330 is hereby amended to read as follows:

11 675.330 The payment of \$10,000 or less in money, credit, goods or
12 things in action, or the payment of any amount in real property, as con-
13 sideration for any sale, assignment or order for the payment of wages,
14 salary, commissions or other compensation for services earned or to be
15 earned, shall for the purposes of regulation under this chapter be deemed
16 a loan of money secured by such sale, assignment or order. The amount
17 by which such compensation so sold, assigned or ordered paid exceeds
18 the amount of such consideration actually paid shall for the purposes of
19 regulation under this chapter be deemed interest or charges on such loan
20 from the date of such payment to the date such compensation is payable.
21 Such a transaction [shall be] is subject to the provisions of this chapter.

22 SEC. 7. NRS 675.350 is hereby amended to read as follows:

23 675.350 No licensee may:

24 1. Take any confession of judgment or any power of attorney running
25 to himself or to any third person to confess judgment or to appear for the
26 borrower in a judicial proceeding.

27 2. Take any note or promise to pay which does not disclose the date
28 and amount of the loan obligation, a schedule or description of the pay-
29 ments to be made thereon, and the rate or aggregate amount of agreed
30 charges.

31 3. Take any instrument in which blanks are left to be filled in after
32 the loan is made.

33 [4. Take a lien upon real property as security for any loan made
34 under this chapter except on a loan secured by a mobile home or factory-
35 built housing which constitutes real estate or real property and except
36 such lien as is created by law through the rendition or recording of a
37 judgment.]

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 230

 SENATE BILL NO. 230—COMMITTEE ON
 COMMERCE AND LABOR

FEBRUARY 13, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits and narrows eligibility requirements. (BDR 53-646)

FISCAL NOTE: Effect on Local Government: No.
 Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to unemployment compensation; requiring a 1-week waiting period before an unemployed person is eligible to receive benefits, except after a major disruption of his employer's business; narrowing eligibility requirements; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 612.375 is hereby amended to read as follows:
 2 612.375 An unemployed person is eligible to receive benefits with
 3 respect to any week only if the executive director finds that [:] *he has*
 4 *met all of the following requirements:*
 5 1. He has registered for work at, and thereafter has continued to
 6 report at, an office of the employment security department in such man-
 7 ner as the executive director may prescribe, except that the executive
 8 director may by regulation waive or alter either or both of the require-
 9 ments of this subsection for persons attached to regular jobs and as to
 10 such other types of cases or situations with respect to which he finds that
 11 compliance with [such] *those* requirements would be oppressive or
 12 inconsistent with the purposes of this chapter.
 13 2. He has made a claim for benefits in accordance with the provi-
 14 sions of NRS 612.450 and 612.455.
 15 3. He is able to work, and is available for work. [; but no claimant
 16 shall be considered ineligible with respect to any week of unemployment
 17 for failure to comply with the provisions of this subsection if such failure
 18 is due to an illness or disability which occurs during an uninterrupted
 19 period of unemployment with respect to which benefits are claimed and no
 20 work has been offered the claimant which would have been suitable prior

1 to the beginning of such illness and disability.] No otherwise eligible per-
2 son [shall] may be denied benefits for any week in which he is engaged
3 in training approved by the executive director by reason of any provi-
4 sions of this chapter relating to availability for work or failure to apply
5 for, or a refusal to accept, suitable work.

6 4. [Except as provided in subsection 5, he] He has within his base
7 period been paid wages from employers equal to or exceeding one and
8 one-half times his total wages for employment by employers during the
9 quarter of his base period in which such total wages were highest; but if
10 a person fails to qualify for a weekly benefit amount of one twenty-fifth
11 of his high-quarter wages but can qualify for a weekly benefit amount of
12 \$1 less than one twenty-fifth of his high-quarter wages, his weekly bene-
13 fit amount shall be \$1 less than one twenty-fifth of his high-quarter wages;
14 but no person may receive benefits in a benefit year unless, subsequent to
15 the beginning of the next-preceding benefit year during which he received
16 benefits, he performed service, whether or not in "employment" as defined
17 in this chapter and earned remuneration for such service in an amount
18 equal to not less than three times his basic weekly benefit amount as
19 determined for such next-preceding benefit year.

20 5. [Any wages which are paid for employment immediately preced-
21 ing retirement shall not be included as wages in determining the total
22 wages paid during a claimant's base period.] He has been unemployed
23 and otherwise eligible for benefits for a waiting period of 1 week during
24 his current benefit year. For the purposes of determining the waiting
25 period, a week of unemployment is a week in which he earns less than
26 the amount of his weekly benefit. If the claim is filed on a Monday, Tues-
27 day or Wednesday, the waiting period shall be deemed to have begun on
28 the preceding Sunday, but if the claim is filed on Thursday or Friday,
29 the waiting period begins on the following Sunday. The 1-week waiting
30 period for eligibility is not required in the case of a person who has
31 become unemployed because of a major disruption of his employer's busi-
32 ness, except a strike or lock-out, which results in the layoff of a majority
33 of the employees of that business.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 231

 SENATE BILL NO. 231—COMMITTEE ON
 COMMERCE AND LABOR

FEBRUARY 13, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Changes various provisions of law governing physical therapists and their assistants. (BDR 54-297)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

 EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to physical therapists; expanding the powers of the state board of physical therapy examiners; providing rules for its proceedings and for subpoenas; providing for the issuance of temporary permits and registration without examination in certain circumstances; adding grounds for disciplinary action by the board; increasing fees; providing penalties; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 640 of NRS is hereby amended by adding
 2 thereto the provisions set forth as sections 2 to 9, inclusive, of this act.
 3 SEC. 2. "Physical therapist's assistant" means a person who assists in
 4 the practice of physical therapy under the supervision of a registered
 5 physical therapist and who is licensed under the provisions of this chapter.
 6 SEC. 2.5. "Practice of physical therapy":
 7 1. Includes:
 8 (a) The performing and interpreting of tests and measurements of
 9 neuromuscular, musculoskeletal, cardiovascular and respiratory functions
 10 as an aid to treatment;
 11 (b) The planning of initial and subsequent treatment programs on the
 12 basis of the results of tests; and
 13 (c) The administering of treatment through the use of therapeutic exer-
 14 cise and massage, joint mobilization (without chiropractic adjustment),
 15 mechanical devices, and therapeutic agents which employ the properties
 16 of air, water, electricity, sound and radiant energy.
 17 2. Does not include:
 18 (a) The diagnosis of physical disabilities;
 19 (b) The use of roentgenic rays or radium;
 20 (c) The use of electricity for cauterization or surgery; or

1 (d) *The occupation of a masseur who massages only the superficial soft*
2 *tissues of the body.*

3 SEC. 3. 1. *A complaint against any person who has been registered*
4 *or issued a license or temporary permit pursuant to this chapter may be*
5 *initiated by the board or may be filed with the board by any member or*
6 *agent of the board or any aggrieved person.*

7 2. *The complaint must allege one or more of the grounds enumerated*
8 *in NRS 640.160 and must contain a statement of facts showing that a*
9 *provision of this chapter or the board's regulations has been violated.*
10 *The complaint must be sufficiently detailed to enable the respondent to*
11 *understand the allegations.*

12 3. *The complaint must be in writing and be signed and verified by*
13 *the person filing it. The original complaint and two copies must be filed*
14 *with the board.*

15 4. *The board shall review each complaint. If a complaint shows a*
16 *substantial violation of a provision of this chapter or the board's regula-*
17 *tions, the board shall proceed with a hearing on the complaint.*

18 SEC. 4. 1. *As soon as practicable after the board determines that a*
19 *complaint merits a hearing, the board shall set a date for the hearing. The*
20 *hearing must not be set sooner than 30 days after the date on which the*
21 *respondent received notice of the complaint.*

22 2. *The board's secretary shall:*

23 (a) *Notify the respondent that a complaint against him has been filed;*

24 (b) *Inform him of the date, time and place set for the hearing; and*

25 (c) *Include a copy of the complaint with the notice.*

26 3. *The notice and complaint may be served on the respondent by*
27 *delivery to him personally or by mailing to him at his last known address*
28 *by registered or certified mail.*

29 4. *If the respondent so requests, the hearing must be held within the*
30 *county where he resides.*

31 SEC. 5. 1. *The board or any member thereof may issue subpoenas for*
32 *the attendance of witnesses and the production of books and papers.*

33 2. *The district court, in and for the county in which any hearing is*
34 *held, may compel the attendance of witnesses, the giving of testimony*
35 *and the production of books and papers as required by any subpoena*
36 *issued by the board.*

37 3. *If any witness refuses to attend or testify or produce any books or*
38 *papers required by a subpoena, the board may file a petition ex parte with*
39 *the district court, setting forth that:*

40 (a) *Due notice has been given of the time and place for the attendance*
41 *of the witness or the production of the books or papers;*

42 (b) *The witness has been subpoenaed in the manner prescribed by this*
43 *chapter;*

44 (c) *The witness has failed or refused to attend or produce the books or*
45 *papers required by the subpoena before the board in the cause or proceed-*
46 *ing named in the subpoena, or has refused to answer questions pro-*
47 *pounded to him in the course of the hearing; and*

48 (d) *The board therefore requests an order of the court compelling the*
49 *witness to attend and testify or produce the books or papers before the*
50 *board.*

1 4. The court, upon such a petition, shall enter an order directing the
2 witness to appear before the court at a time and place fixed by the court
3 in the order, and then and there to show cause why he has not attended
4 or testified or produced the books or papers before the board. The time
5 may not be more than 10 days after the date of the order. A certified
6 copy of the order must be served upon the witness.

7 5. If the court determines that the subpoena was regularly issued by
8 the board, the court shall thereupon enter an order that the witness
9 appear before the board at the time and place fixed in the order, and
10 testify or produce the required books or papers. Failure to obey the
11 order is a contempt of the court which issued it.

12 SEC. 6. Each witness who appears by order of the board is entitled
13 to receive for his attendance the same fees and mileage allowed by law
14 to a witness in a civil case. The amount must be paid by the party who
15 requested the subpoena. When any witness, who has not been required to
16 attend at the request of any party, is subpoenaed by the board, his fees
17 and mileage must be paid from the funds of the board.

18 SEC. 7. 1. The board may, in any hearing before it, cause the depo-
19 sitions of witnesses to be taken in the manner prescribed for depositions
20 in civil actions in this state.

21 2. The district court in and for the county in which any hearing is
22 held by the board shall, upon the application of the board, issue com-
23 missions to other states for the taking of evidence therein for use in any
24 proceeding before the board.

25 SEC. 8. The board shall render a decision on any complaint within
26 60 days after the final hearing thereon.

27 SEC. 9. It is unlawful for any person to practice physical therapy in
28 this state unless he holds a certificate of registration, a license or a tem-
29 porary permit issued pursuant to this chapter or is licensed in this state
30 to practice physical therapy otherwise than by virtue of this chapter.

31 SEC. 10. NRS 640.011 is hereby amended to read as follows:
32 640.011 As used in this chapter, unless the context otherwise
33 requires, the terms defined in NRS 640.013 to 640.022, inclusive, and
34 sections 2 and 2.5 of this act, have the meanings ascribed to them in
35 [such] those sections.

36 SEC. 11. NRS 640.022 is hereby amended to read as follows:

37 640.022 "Physical therapy" means the [treatment of any bodily or
38 mental condition of any person by the use of the physical, chemical and
39 other properties of heat, light, water, electricity, massage and active and
40 passive exercise. The use of Roentgen rays and radium for diagnostic
41 and therapeutic purposes, and the use of electricity for surgical purposes,
42 including cauterization, are not authorized under the term "physical
43 therapy" as used in this chapter.] specialty in the field of health which is
44 concerned with prevention of disability and physical rehabilitation of
45 persons having congenital or acquired disabilities.

46 SEC. 12. NRS 640.030 is hereby amended to read as follows:

47 640.030 1. The state board of physical therapy examiners, consist-
48 ing of five members appointed by the governor, is hereby created.

49 2. The governor shall appoint:

- 1 (a) Four members who are registered physical therapists in the State
2 of Nevada.
- 3 (b) One member who is a representative of the general public.
- 4 3. The member who is a representative of the general public shall
5 not participate in preparing, conducting or grading any examination
6 required by the board.
- 7 4. No member of the board may serve more than two consecutive
8 terms.
- 9 5. *The governor may remove any member of the board for incom-*
10 *petency, neglect of duty, gross immorality or malfeasance in office.*
- 11 6. *A majority of the members of the board constitutes a quorum.*
12 *Three votes are required to pass any action by the board.*
- 13 7. *No member of the board may be held liable in a civil action for*
14 *any act which he has performed in good faith in the execution of his*
15 *duties under this chapter.*
- 16 SEC. 13. NRS 640.045 is hereby amended to read as follows:
17 640.045 Each member of the board [shall] *is entitled to receive:*
- 18 1. A salary of not more than \$40 per day, as fixed by the board,
19 while engaged in the business of the board.
- 20 2. Actual expenses for subsistence and lodging, not to exceed [\$25
21 per day,] *the amount provided by law for state officers and employees,*
22 *and actual expenses for transportation, while traveling on business of the*
23 *board.*
- 24 SEC. 14. NRS 640.050 is hereby amended to read as follows:
25 640.050 1. The board shall examine and register qualified physical
26 therapists and license qualified physical [therapy] *therapists' assistants.*
- 27 2. The board [is authorized to] *may adopt reasonable [rules] reg-*
28 *ulations to carry this chapter into effect. [and may amend and revoke*
29 *such rules at its discretion.]*
- 30 3. The board shall keep a record of its proceedings [under this chap-
31 ter] and a register of all persons registered or licensed under the provi-
32 sions of [the] *this chapter. The register [shall] must show:*
- 33 (a) The name of every living registrant or licensee.
- 34 (b) His last-known place of business and last-known place of resi-
35 dence.
- 36 (c) The date and number of his registration and certificate [or
37 license] as a [registered] physical therapist or [a licensed physical
38 therapy] *of his license as a physical therapist's assistant.*
- 39 4. During [May] *September* of every year in which renewal of reg-
40 istration or license is required, the board shall compile a list of registered
41 physical therapists [and licensed physical therapy assistants] authorized
42 to practice physical therapy [or] *and physical therapists' assistants*
43 *licensed to assist in the practice of physical therapy in this state. Any*
44 *interested person in the state [shall be entitled to] may obtain a copy of*
45 *the list upon application to the board and the payment of such amount*
46 *as may be fixed by the board, which amount [shall] must not exceed the*
47 *cost of the list so furnished.*
- 48 5. The board may:
- 49 (a) Maintain offices in as many localities in the state as it finds neces-
50 sary to carry out the provisions of this chapter.

1 (b) Employ attorneys, investigators and other professional consultants
2 and clerical personnel necessary to the discharge of its duties.

3 6. Any member or agent of the board may enter an office, clinic or
4 hospital where physical therapy is practiced and inspect its staff for licen-
5 sure.

6 7. The board may require such an office, clinic or hospital to submit
7 reports concerning its practice of physical therapy.

8 SEC. 15. NRS 640.060 is hereby amended to read as follows:

9 640.060 For the purpose of NRS 640.080, the board shall not
10 approve any school or educational curriculum unless graduation from
11 the school or completion of the curriculum [shall entitle] entitles the
12 applicant, insofar as educational requirements are concerned, to become
13 a member in the American Physical Therapy Association. [or the Ameri-
14 can Registry of Physical Therapists.] Each such school shall, in addition,
15 comply with all of the provisions of this chapter and the [rules] regula-
16 tions of the board adopted pursuant to this chapter.

17 SEC. 16. NRS 640.080 is hereby amended to read as follows:

18 640.080 To be eligible for registration by the board as a physical
19 therapist, an applicant must:

20 1. Be of good moral character.

21 2. Have been graduated [by an approved high school.

22 3. Have been graduated either:

23 (a) By a school of physical therapy approved by the board; or

24 (b) By a school of physical education approved by the board, and, in
25 addition, have completed to the satisfaction of the board an approved
26 course in physical therapy; or

27 (c) By a school of nursing approved by the board, and, in addition,
28 have completed to the satisfaction of the board an approved course in
29 physical therapy.

30 4. (a)] from a school in which he completed a curriculum of physi-
31 cal therapy approved by the board; and

32 3. Pass to the satisfaction of the board an examination conducted by
33 it to determine his [fitness] qualifications for practice as a physical thera-
34 pist [; or

35 (b) Be] , unless he is entitled to registration without examination as
36 provided in NRS 640.120 or 640.140.

37 SEC. 17. NRS 640.090 is hereby amended to read as follows:

38 640.090 Unless he is entitled to registration under NRS 640.120 [,
39 640.130] or 640.140, a person who desires to be registered as a physical
40 therapist [shall:] must:

41 1. Apply to the board, in writing, on a [blank] form furnished by
42 the board; [before commencing the practice of physical therapy.]

43 2. [Embody] Include in the application evidence, under oath, satis-
44 factory to the board, [of his possessing] that he possesses the qualifica-
45 tions [preliminary to examination] required by NRS 640.080 [.] other
46 than having passed the examination; and

47 3. Pay to the board at the time of filing his application a fee [of
48 \$50.] set by a regulation of the board in an amount of not more than
49 \$100.

50 4. Submit his fingerprints to the board with his application.

1 SEC. 18. NRS 640.100 is hereby amended to read as follows:
2 640.100 1. The board shall examine applicants for registration as
3 physical therapists at least twice a year at such places as it may deter-
4 mine.

5 2. The examination [shall] *must* embrace such subjects as the
6 board deems necessary to determine the applicant's [fitness and shall]
7 *qualifications, and the examination must include a written [examina-*
8 *tion.] portion.*

9 3. *The board may charge a fee for examining or reexamining an*
10 *applicant, based on the board's cost.*

11 4. *Before any applicant may take the examination a third time, he*
12 *must meet with the board to discuss his possible need for further train-*
13 *ing or education and must complete any further training or education*
14 *determined by the board to be prerequisite.*

15 SEC. 19. NRS 640.110 is hereby amended to read as follows:

16 640.110 1. The board shall register as a physical therapist each
17 applicant who proves to the satisfaction of the board his [fitness] *quali-*
18 *fications for registration.*

19 2. The board shall issue to each person registered as a physical
20 therapist a certificate of registration, which [shall be] *is* prima facie
21 evidence of [the] *his* right [of the person to whom it is issued] to
22 represent himself as a registered physical therapist and to practice phys-
23 ical therapy in the State of Nevada subject to the conditions and limita-
24 tions of this chapter.

25 3. *Each physical therapist shall display his current certificate of*
26 *registration in a location which is accessible to the public.*

27 SEC. 20. NRS 640.120 is hereby amended to read as follows:

28 640.120 1. The board may issue, without examination, a permit to
29 practice physical therapy for a period not to exceed 6 months to any
30 person who meets the qualifications set forth in NRS 640.080, except
31 subsection [4] 3 thereof, upon certification that he has been assigned
32 to the State of Nevada on a temporary basis to assist in a medical
33 emergency.

34 2. The board may also permit, without examination, temporary reg-
35 istration not to exceed [6] 8 months to any person meeting the quali-
36 fications set forth in NRS 640.080, except subsection [4] 3 thereof, upon
37 payment of a temporary registration fee [of \$10,] *not to exceed \$25,*
38 *which must be paid before commencing the practice of physical therapy.*
39 *A temporary registration may not be renewed.*

40 3. *A student of physical therapy is not required to be registered or*
41 *licensed during his clinical training if his work is done under the direct*
42 *supervision of a registered physical therapist.*

43 4. *A graduate student of a school approved by the board may be*
44 *granted a temporary permit to practice physical therapy under the direc-*
45 *tion of a registered physical therapist during his internship or residency. A*
46 *temporary permit must not be made effective for more than 1 year. An*
47 *applicant for a temporary permit must:*

48 (a) *Submit proof that he has graduated from a school in which he*
49 *completed a curriculum in physical therapy approved by the board; and*

1 (b) Pay a fee set by regulation of the board in an amount of not more
2 than \$25.

3 SEC. 21. NRS 640.150 is hereby amended to read as follows:

4 640.150 1. Every registered physical therapist shall, during [Janu-
5 ary 1957, and during January] July of every year, [thereafter,] apply to
6 the board for an extension of his registration and pay a fee of not more
7 than [\$25.] \$50. Registration that is not so extended [, in the first
8 instance before April 1, 1957, and thereafter before April 1 every year,
9 shall automatically lapse.] before September 1 of the year automatically
10 lapses.

11 2. The board may [, in its discretion,] revive and extend a lapsed
12 registration on the payment of all past unpaid extension fees not to
13 exceed [\$50.] \$100.

14 3. The board may require registered physical therapists to complete
15 a program of continuing education consisting of not more than 20 hours
16 as a requirement for the extension of registrations. The board may pre-
17 scribe the curriculum and approve the courses of study or training for
18 that program.

19 SEC. 22. NRS 640.160 is hereby amended to read as follows:

20 640.160 1. The board, after due notice and hearing, [may refuse]
21 and upon any ground enumerated in subsection 2, may take one or more
22 of the following actions:

23 (a) Refuse to register [any applicant, and may refuse] or issue a
24 license or temporary permit to any applicant.

25 (b) Refuse to renew the registration, license or temporary permit of
26 any [registered] person. [, and may suspend]

27 (c) Suspend or revoke the registration, license or temporary permit of
28 any [registered] person. [:

29 1. Who is]

30 (d) Place any person who has been registered or issued a license or
31 temporary permit on probation.

32 (e) Impose an administrative fine which does not exceed \$500 on any
33 person who has been registered or issued a license or temporary permit.

34 (f) Assess the costs of investigation upon any person who is registered
35 or has been issued a license or temporary permit.

36 2. The board may take action pursuant to subsection 1 if an appli-
37 cant or person who has been registered or issued a license or temporary
38 permit:

39 (a) Is habitually drunk or [who] is addicted to the use of a controlled
40 substance as defined in chapter 453 of NRS.

41 [2. Who has] (b) Has been convicted of violating any state or fed-
42 eral law relating to controlled substances as defined in chapter 453 of
43 NRS.

44 [3. Who is,] (c) Is, in the judgment of the board, guilty of immoral
45 or unprofessional conduct.

46 [4. Who has] (d) Has been convicted of any crime involving moral
47 turpitude.

48 [5. Who is] (e) Is guilty, in the judgment of the board, of gross
49 negligence in his practice as a physical therapist.

1 **[6. Who has]** (f) *Has* obtained or attempted to obtain registration
2 by fraud or material misrepresentation.

3 **[7. Who has]** (g) *Has* been declared insane by a court of com-
4 petent jurisdiction and has not thereafter been lawfully declared sane.

5 **[8. Who has treated or undertaken to treat ailments of human**
6 **beings otherwise than by physical therapy and as authorized in this**
7 **chapter, or who has undertaken to practice independently of the pre-**
8 **scription, direction or supervision of a person licensed to practice medi-**
9 **cine and surgery without limitation, unless such person is licensed in**
10 **the State of Nevada to practice such treatment otherwise than by virtue**
11 **of this chapter.]**

12 (h) *Has entered into any contract or arrangement which provides for*
13 *the payment of an unearned fee to any person following his referral of a*
14 *patient.*

15 (i) *Has employed as a physical threapist any unlicensed physical thera-*
16 *apist or physical therapist whose license has been suspended.*

17 (j) *Has had his license to practice physical therapy suspended or*
18 *revoked by another jurisdiction.*

19 (k) *Is determined to be professionally incompetent by the board.*

20 (l) *Has violated any provision of this chapter or the board's regula-*
21 *tions.*

22 SEC. 23. NRS 640.190 is hereby amended to read as follows:

23 640.190 1. **[A person registered under this chapter as a physical**
24 **therapist shall not treat human ailments by physical therapy or otherwise**
25 **except under the prescription and direction of a physician, unless such**
26 **person is licensed in the State of Nevada to practice such treatment other-**
27 **wise than by virtue of this chapter.]** *Physical therapists may treat only*
28 *patients who are referred to them by a physician, chiropractor, dentist,*
29 *podiatrist or psychologist in the regular course of his practice, except*
30 *that a physical therapist may perform an initial examination of a person*
31 *before such a referral.*

32 2. Nothing in this chapter authorizes a physical therapist, whether
33 registered or not, to practice medicine, osteopathic medicine, chiropractic
34 or any other form or method of healing.

35 3. Any person violating the provisions of this section is guilty of a
36 misdemeanor.

37 SEC. 24. NRS 640.230 is hereby amended to read as follows:

38 640.230 To be eligible for licensing by the board as a **[licensed]**
39 **physical [therapy] therapist's assistant, an applicant [shall:] must:**

40 1. Be at least 18 years old.

41 2. Be of good moral character.

42 3. Have been graduated by an approved high school.

43 4. Have completed **[a board-approved educational curriculum for**
44 **a licensed physical therapy assistant.]** *and educational curriculum*
45 *approved by the board for a physical therapist's assistant.*

46 5. Pass an examination conducted by the board or be entitled to
47 licensing without examination as provided in NRS 640.270.

48 SEC. 25. NRS 640.240 is hereby amended to read as follows:

49 640.240 1. For the purposes of NRS 640.230, the board shall not
50 approve any educational curriculum for a **[licensed] physical [therapy]**

1 *therapist's* assistant unless the curriculum includes elementary or inter-
2 mediate courses in clinical, anatomical, biological and physical sciences
3 and is [at] :

4 (a) At least a 2-year program requiring a minimum of 60 academic
5 semester credits at a college accredited by a recognized accrediting
6 agency [.] ; or

7 (b) A curriculum which is provided by the Armed Forces of the
8 United States and has been approved by the American Physical Therapy
9 Association.

10 2. The board may refuse to approve any educational curriculum for
11 [a licensed physical therapy assistant that fails to] *physical therapists'*
12 *assistants if the curriculum does not* include such courses in theory and
13 procedures as determined by the board to be necessary for [a licensed
14 physical therapy assistant.] *these assistants.*

15 SEC. 26. NRS 640.250 is hereby amended to read as follows:

16 640.250 Unless he is entitled to a license under NRS 640.270, a
17 person who desires to be licensed as a [licensed physical therapy assist-
18 ant shall:] *physical therapist's assistant must:*

19 1. Apply to the board, in writing, on a [blank] form furnished by
20 the board; [before commencing to act as a licensed physical therapy
21 assistant.]

22 2. [Embody] *Include* in the application evidence, under oath, sat-
23 isfactory to the board, [of his possessing] *that he possesses* the qualifica-
24 tions [preliminary to examination] required by NRS 640.230 [.] *other*
25 *than having passed the examination; and*

26 3. Pay to the board at the time of filing his application a fee [to be
27 determined by the board, but not to exceed \$50.] *set by a regulation of*
28 *the board in an amount of not more than \$100.*

29 4. Submit his fingerprints to the board with his application.

30 SEC. 27. NRS 640.260 is hereby amended to read as follows:

31 640.260 1. The board shall license as a [licensed] physical [ther-
32 apy] *therapist's* assistant each applicant who proves to the satisfaction of
33 the board his [fitness] *qualifications* for a license.

34 2. The board shall issue to each *such* person [licensed as a licensed
35 physical therapy assistant] a license, which [shall be] *is* prima facie
36 evidence of [the rights of the person to whom it is issued] *his right* to
37 represent himself as a [licensed physical therapy] *physical therapist's*
38 assistant and to practice as [a licensed physical therapy] *that* assistant.

39 3. *Each physical therapist's assistant shall display his current license*
40 *in a location which is accessible to the public.*

41 SEC. 28. NRS 640.270 is hereby amended to read as follows:

42 640.270 The board may [, in its discretion,] license as a [licensed
43 physical therapy] *physical therapist's* assistant, without examination, on
44 the payment of the required fee, an applicant [for licensing] who is [a]
45 licensed [physical therapy assistant licensed] *as a physical therapist's*
46 *assistant* under the laws of another state or territory [which laws] *whose*
47 *requirements* at the date of his licensure were substantially equal to the
48 requirements in force in this state.

49 SEC. 29. NRS 640.280 is hereby amended to read as follows:

50 640.280 1. Every [licensed physical therapy assistant shall, during

1 January 1972 and during January of every year thereafter, apply] *phys-*
2 *ical therapist's assistant must apply during July of each year to the*
3 board for an extension of his license and pay a fee of not more than
4 [[\$25.] \$50. A license that is not so extended [in the first instance
5 before April 1, 1972, and thereafter before April 1 every year, shall
6 automatically lapse.] *before September 1 of the year automatically*
7 *lapses.*

8 2. The board may [, in its discretion,] revive and extend a lapsed
9 license on the payment of all past unpaid extension fees not to exceed
10 [[\$50.] \$100.

11 SEC. 30. NRS 640.290 is hereby amended to read as follows:

12 640.290 [Any] *A person licensed [under NRS 640.220 to 640.-*
13 *300, inclusive, as a licensed physical therapy] as a physical therapist's*
14 *assistant [shall] may assist in the practice of physical therapy only*
15 *under the [direct] supervision of a registered physical therapist, [in the*
16 *State of Nevada] subject to the conditions and limitations of NRS [640.-*
17 *220] 640.230 to 640.300, inclusive.*

18 SEC. 31. NRS 640.300 is hereby amended to read as follows:

19 640.300 [A] *Any person [who] :*

20 1. *Who is not licensed under NRS [640.220] 640.230 to 640.300,*
21 *inclusive, as a [licensed] physical [therapy] therapist's assistant [, or*
22 *whose] ;*

23 2. *Whose license has been suspended or revoked [, or whose] ; or*

24 3. *Whose license has lapsed and has not been revived,*
25 *and who uses in connection with his name the words or letters*
26 *["L.P.T.A.," "Licensed Physical Therapy Assistant,"] "A.P.T." or*
27 *"Physical Therapist's Assistant," or any other letters, words or insignia*
28 *indicating or implying that he is a [licensed] physical [therapy]*
29 *therapist's assistant, or who in any other way, orally, or in writing, or in*
30 *print, by sign, directly, or by implication, represents himself as a*
31 *[licensed physical therapy] physical therapist's assistant, is guilty of a*
32 *misdemeanor.*

33 SEC. 32. NRS 640.010, 640.015, 640.130 and 640.220 are hereby
34 repealed.

35 SEC. 33. The provisions of subsection 2 of section 16 of this act are
36 not intended to apply to a person who was registered initially by the board
37 before July 1, 1981, and complied with the educational requirements in
38 effect at the time of that registration.