

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

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
April 20, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R.C. Wilson, at 2:00 p.m., Monday, April 20, 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 Clifford McCorkle  
Senator William Raggio

STAFF MEMBER PRESENT:

Betty Steele, Committee Secretary

ASSEMBLY BILL NO. 49 -- "Makes certain changes to law on industrial insurance."

Mr. Harvey Whittemore, attorney at law, Reno, testified in support of A.B. No. 49. Mr. Whittemore said that this bill defines what surplus funds are for NIC purposes. The bill establishes a mechanism by which the surplus funds can be returned to the employers with the best safety record on a statewide basis. The measure provides that the NIC may establish a contingency reserve of 25 percent of the premiums collected during the preceding fiscal year. This reserve is a "cushion" for unexpected events. And, unless the NIC establishes in a hearing before the commissioner of insurance that a greater amount than 25 percent is needed to protect the solvency of the fund, the NIC would be compelled to return the surplus monies to the eligible contributing employers. This return of the surplus is described in Section 2 of A.B. No. 49. Mr. Whittemore

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discussed with the committee how this legislation had been initiated. In May of 1980, the Nevada Resort Association (which Mr. Whittemore represents) went to court with the NIC over the commission's refusal to return a \$15 million surplus in premium funds to the employers. The NIC had desired to retain these funds in order to pay out pension benefits if these benefits were increased by the 1981 legislation session. However, the court required that the Commissioner of Insurance review the matter and if the distribution to employers would not adversely affect the insurance fund, the surplus should be returned. Further, in Section 4 of A.B. No. 49, self-insured employers would be able to participate in the return of the surplus if they were contributing to the system at the time. Under NIC's current Regulation No. 37, any employer who has gone self-insured is not allowed to participate in the rebates. Mr. Whittemore said that an employer is qualified to receive a rebate if the company has contributed to the NIC fund by providing employees with industrial insurance during 12 months or more of a period, (a period is the three years preceding the dividend year).

Chairman Wilson stated it appears that A.B. No. 49 is an opportunity for legislative review of the intent of the issues which have caused this controversy between employers and the NIC.

Senator Blakemore commented, that in his opinion, the self-insured employers are not entitled to receive a dividend from the fund surplus.

Mr. Whittemore explained that Section 6 of A.B. No. 49 codifies the number of groupings allowed for employers who qualify for the dividend. Initially, the NIC utilized approximately eight different groupings for employers which allowed for some differentiation as to size of the company and safety record. However, the last surplus distribution was based on a two division system which was not equitable to all employers. Mr. Whittemore said that this change in the formula was made by the NIC during a meeting wherein this specific subject was not noticed on the agenda, and therefore, no employers were able to respond.

Each section of the bill was discussed at length by the members with comments being given by Mr. Whittemore re-

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garding the background experience of the employers with the NIC. Mr. Whittemore did suggest on page 5, lines 8-18, that an amendment be requested which would allow the state industrial attorney to use his own discretion in deciding whether to pursue an appeal or not. In addition, Mr. Whittemore suggested that Section 5 be amended, page 2, line 35, by indicating that the contributing employers' experience for any one claim shall be limited pursuant to existing regulations and retain the language on the \$3,000, plus 50 percent of the expected losses.

Mr. Chuck King, representing Central Telephone Company and Nevada Self-Insurers, said that for the past five years Central Telephone has paid \$1.2 million in premiums to the NIC. The accident costs in reserves amounted to \$550,000, leaving a balance of \$650,000. The company received two rebates in the total amount of \$220,000, leaving a balance of \$430,000. Administrative costs were approximately \$55,000, leaving \$375,000 in the fund over and above all reservings. Therefore, Central Telephone and other self-insured employers, in similar situations, feel they are entitled to a rebate distribution.

Mr. Joe Nusbaum, chairman of the NIC, submitted his written comments to the committee for the record. (See Exhibit C.)

Senator McCorkle asked if the highest rates are paid by the employers with the greatest risks. Mr. Allan Kaufman, consulting actuary to the NIC, responded in calculating the large losses and the effect on the dividend process, the losses are limited to the percentage of premium or to those maximum amounts. It is those limited losses that are compared to premiums to see how "profitable" an individual employer looks. It is the comparison of limited losses to premiums that provides the basis for distributing the dividends within each size group. Mr. Kaufman defined the actual losses as being payments, plus reserves for all of the cases. The limited losses are those numbers where if a claim goes over \$90,000 and it comes from the most recent year, only \$90,000 is counted. A \$300,000 claim would only count against the employer as being worth \$90,000. Mr. Kaufman said that the NIC by distributing dividends is not attempting to balance out particular employer overpayments or underpayments. The NIC is trying to identify employers who have good or bad safety records.

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Senator McCorkle asked Mr. Nusbaum to respond to an earlier statement by Mr. Whittemore regarding NIC's failure to adequately notice a subject on a commission meeting agenda. Mr. Nusbaum said that all of the formalities of public notice had been met. Mr. Nusbaum said that the regulation adopted at the hearing had stated that not more than ten groups should be utilized in the distribution of the dividend. The NIC chose to use two groups because of a previous review of the effect of using the larger groups system. Mr. Nusbaum stated that by law, the NIC is in continuous session and cannot operate on the basis of giving three days notice for every decision that is made daily.

Mr. Nusbaum said that the commission will be holding a public hearing on the present premium surplus the coming Friday, April 24, 1981. The hearing will allow the NIC to decide on the contingency provision, the amount of the surplus, and if there is a surplus, whether that should be distributed back as a dividend or as a reduction in premium rates, or a combination of both. However, if A.B. No. 49 is passed prior to the hearing on Friday, then the NIC would set a provision for contingencies at 25 percent and distribute the rest as a dividend. If the provision is set at 25 percent, the amount of the surplus would be \$32 million.

Mr. James Lorigan, management commissioner for the NIC, submitted his written testimony on A.B. No. 49 for the record. (See Exhibit D.)

Mr. Roland Oaks, representing the Associated General Contractors, said the AGC does not support A.B. No. 49, and added for the record that Mr. Whittemore does not represent the contractors.

Mr. John Flanigan, vice chairman of the Advisory Board of the NIC, submitted a written statement for the record on A.B. No. 49. (See Exhibit E.) Mr. Flanigan said that the advisory board did not take any action on A.B. No. 49, but has taken positions on various issues addressed by the bill as are outlined in his handout.

Mr. Nusbaum said that the NIC is objecting to the portion of A.B. No. 49 which requires a review procedure that occurs after June 30 when the NIC is supposed to be making rates and handling related matters. The procedure described

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in A.B. No. 49 would yield jurisdiction to the state insurance commissioner and may cause extensive time delays. This proposed appeal process could allow reserves to remain open and unresolved for months or even years after June 30.

Mr. Claude "Blackie" Evans, secretary-treasurer of the state AFL-CIO, spoke in opposition to A.B. No. 49 and concurred with previous speakers that the bill should be "killed."

Mr. James D. Salo, appeals officer with the state department of administration, said that the department does not have a position on the policy of A.B. No. 49. However, Section 8 of the bill provides for further appeal to hearing officers, and Mr. Salo felt that these officers already have a heavy workload in appeals cases.

Mr. Harvey Whittemore, attorney-at-law, representing the Nevada Resort Association, discussed with various members of the committee how increases for pension benefits could be paid. Mr. Whittemore did not feel that the increases should be funded from the premium surplus. Senator Close commented that there appeared to be two choices; either benefit increases will be taken out of reserves or increased premiums. Mr. Whittemore said that the pensions have in the past been increased from state general fund appropriations. Chairman Wilson questioned if this past policy was still viable considering the earnings being accrued on invested reserves.

Mr. Bill Gibbons of the Gibbons Company (representing various employers) stated that his company and those he represented support A.B. No. 49.

Mr. Jack Kenney, representing the Southern Nevada Homebuilders Association, stated that his organization also supports A.B. No. 49.

Mr. Allan Kaufman, consulting actuary for the NIC, remarked that the primary difference between the policy outlined in A.B. No. 49, in regard to claim reserving, and the usual practice in other states is which entity maintains the final decision. In other states, the final decision is made by the insurance company. Assembly Bill No. 49 would remove this decision-making process from the

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is that it exempts those agents in these areas from qualifying examinations. Ms. Redmond said that any insurance salesman, regardless of the type of insurance being sold, should have some minimum knowledge of the industry.

Ms. Georgia Massey, health actuary for the division, remarked that the sole purpose of a limited license is to assure, for purposes of regulation, that those persons are restricted to the specific field that the license encompasses.

SENATE BILL NO. 523 -- "Expands class of graduates of foreign medical schools who may obtain a limited license to practice medicine." (Exhibit G.)

Mr. Tom Scully, representing the Nevada state board of medical examiners, spoke in support of S.B. No. 523. Mr. Scully said that this bill affects three categories of possible medical residents. Primarily, S.B. No. 523 would allow American students who have studied medicine overseas to return to the United States and with a limited license practice under supervision.

Senator Closed moved to Amend and Do Pass Senate Bill No. 523. (The amendment was to retain lines 11 and 12 of the section on NRS 630.265.)

Senator Hernstadt seconded the motion.

The motion carried.

SENATE BILL NO. 534 -- (Exhibit H.)

Senator Don Ashworth moved to Amend and Do Pass Senate Bill No. 534 by including limited licenses for credit property as well.

Senator Raggio seconded the motion.

The motion carried.

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NIC and require an appeals process instead. Mr. Kaufman also stated that the national council procedures are for corrections of errors, not for differences of judgements. The dividend payout is not an attempt to return money to the individual policy holders who may believe they have been "overcharged." The excess funds which are available by the NIC to return as dividends are accrued from numerous sources, i.e., premiums, investment income, etc.

SENATE BILL NO. 521 -- "Provides for regulation of home protection insurance."

Ms. Patsy Redmond, acting director of the state insurance division, introduced Mr. Wayne Wilson the deputy attorney general assigned to the division. Ms. Redmond requested that Mr. Wilson explain the division's proposed amendments to S.B. No. 521. (See Exhibit F.) However, Ms. Redmond first explained that S.B. No. 521 is based on guidelines and principles for the regulation of the business of service contracts developed by the National Association of Insurance Commissioners. It is necessary in our opinion to draw a clear distinction between what constitutes warranty and what constitutes insurance. Ms. Redmond said that the division prepared the amendments, which will be explained by Mr. Wilson, because the printed bill differed in intent from the division's original request to the bill drafters.

Mr. Wilson explained that in the past there has been a proliferation of service contracts within which there is no clear distinction as to whether the items involved are covered by a warranty or by specific insurance. The bill would point out the difference between a first party warrantor and a third party warrantor, i.e., the manufacturer or the seller.

SENATE BILL NO. 533 -- Chairman Wilson said the discussion on this bill would be postponed until May 24, 1981.

SENATE BILL NO. 534 -- "Includes additional lines of insurance which may be sold under agent's limited license."

Ms. Redmond said that the state insurance division does support having limited licenses for those individuals who sell credit life and property insurance. Ms. Redmond said in its present form, S.B. No. 534 only includes life insurance and fixed annuities. The division would like to submit an amendment which would include credit property as well. She said one of the concerns about the bill

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SENATE BILL NO. 521 -- (Exhibit I.)

Senator Raggio moved to Amend and Do Pass  
Senate Bill No. 521. (See Exhibit F for  
the amendments.)

Senator Hernstadt seconded the motion.

The motion carried.

ASSEMBLY BILL NO. 49 -- (Exhibit J.)

Senator Blakemore moved to Indefinitely  
Postpone Assembly Bill No. 49.

Senator Hernstadt seconded the motion.

The motion carried. (Senators Close and Raggio  
voted "No.")

BILL DRAFT REQUEST NO. 57-1362 -- "Revises requirements  
for countersignatures on policies of insurance. (S.B. 624)

BDR No. 57-1362 received unanimous committee  
introduction.

BILL DRAFT REQUEST NO. 57-1323 -- "An act relating to  
insurance; adjusting the tax on premiums; providing for  
the transfer of certain foreign insurers into this state  
and their qualification as domestic insurer; and providing  
other matters properly relating thereto."

BDR No. 57-1323 received unanimous committee  
introduction.

BILL DRAFT REQUEST NO. 57-1364 -- "An act relating to the  
licensing of insurance agents, brokers and solicitors;  
limiting a certain exemption from the examination to  
applicants who have held residents' licenses; and  
providing other matters properly relating thereto." (S.B. 625)

BDR No. 57-1364 received unanimous committee  
introduction.



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BILL DRAFT REQUEST NO. 57-1367 -- "An act relating to insurance; making uniform the minimum age of eligibility for licensing as an insurance agent, broker or solicitor; and providing other matters properly relating thereto." (S.B. 626)

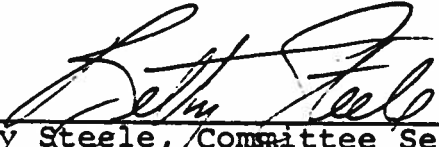
BDR No. 57-1367 received unanimous committee introduction.

BILL DRAFT REQUEST NO. 57-1366 -- "An act relating to life and health insurance; removing a requirement that the commissioner of insurance give certain notices to other principals when a life or health agent adds a principal; and providing other matters properly relating thereto." (S.B. 627)

BDR No. 57-1366 received unanimous committee introduction.

There being no further business, the meeting adjourned at 6:25 p.m.

Respectfully submitted,

  
Betty Steele, Committee Secretary

APPROVED:

  
Senator Thomas R. C. Wilson, Chairman

DATE: \_\_\_\_\_

REVISED

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Commerce and Labor, Room 213.  
Day Monday, Date April 20, 1981, Time 1:30 p.m.

A. B. No. 49--Makes certain changes to law on industrial insurance.

S. B. No. 521--Provides for regulation of home protection insurance.

S. B. No. 533--Requires use of simplified language in insurance contracts.

S. B. No. 534--Includes additional lines of insurance which may be sold under agent's limited license.

S. B. No. 523--Expands class of graduates of foreign medical schools who may obtain a limited license to practice medicine.

SENATE COMMITTEE ON

Commerce & Labor

DATE: Mon. 4/20/81

EXHIBIT B

PLEASE PRINT

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NAME

ORGANIZATION & ADDRESS

TELEPHONE

T. SCULLY NEV STATE OD MED EXAM 329-2559

John Board Nw. Mt. Trans Ass'n 331-6880

Harvey Whittman Nevada Desert Ass'n 323-5050

ROBERT D. DAVIS ASSOC GEN CONTR 329-6116

J. Fleckman NIC Advisory Comm 853-3350

P. Slewin AM. INS. ASSN 415-362-2170

GARY PAULEY State Farm Ins Co 309-662-2729

RANDY CAPPER Professors & Agr. Agri's 226-2950

CHUCK KING CEN TEL 383 5501

GEORGE TACKETT NEV. BELL 789-8496

William Desler Willingham, Nelson, Gordon, & Boyd Pa 714/640-4900

Neil A. Bethel " " " " 714-640-4900

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JACK KENNEY SONEV HOME BUILDERS 1-452-7714

L. Blakeman State Insurance - Insurance Div. 895-4270

John Pedron Insurance Commission 895-4270

Wynne Wilson Insurance Division " "

Angie Massey Insurance Division 895-4270

COMMENTS ON AB 49

EXHIBIT C

JOE E. NUSBAUM, CHAIRMAN

NEVADA INDUSTRIAL COMMISSION

These comments on AB 49 represent the unanimous view of the three members of the Nevada Industrial Commission.

We agree in whole or part with two sections of the bill. Section 9 permits the Commission to accept patients at the Rehabilitation Center in Las Vegas who are not workers' compensation claimants. This section is generally in agreement with the position taken by the Nevada Industrial Commission and the Advisory Board of Review for NIC. However, the provisions of AB 115, which is now in the Senate, more completely and adequately cover the ways in which the Commission may accept persons with traumatic injuries who are not workers' compensation claimants.

Section 10 removes the "ability to pay" restriction on the use of the services of the State Industrial Attorney. The Commission favors this change. We believe that all claimants should have equal access to the legal services of the State Industrial Attorney.

The balance of the bill deals with dividends from the surplus in the State Insurance Fund and individual claim reserves. These subjects, which are covered in Sections 2 through 8, appear to be major reasons for the bill.

When the amendment to the original AB 49, which is now the bill, was offered in the Assembly Committee, it was described by a proponent as a "good government" bill that would hurt no one. We totally disagree. We find no redeeming features in Sections 2 through 8. Admittedly, it would be a windfall for those major employers who have become self insured. But it may have disastrous affects on the solvency of the Fund and the operation of the state's insurance business and consequently will damage all of those employers who remain with NIC coverage and their employees.

In summary, we believe:

- It may unravel the entire fabric of the rate making and experience modification system. The immediate impact, if the case reserve appeal system becomes effective before July 1, will be to prevent any experience modifications for next year and place in jeopardy all retrospective rating plans.
- It is contrary to the recommendations of the Advisory Board of Review for NIC which the Commission is implementing.
- It sets timetables for task accomplishments by nonexistent, unbudgeted staff.
- It guarantees dividends to expolicyholders who may not make any contribution to the surplus being distributed.

- It establishes a dividend formula which can result in awarding dividends to employer groups in inverse proportion to their success in controlling accidents and disability.
- It locks into the statute numeric values which should be subject to review and adjustment annually.
- It requires the distribution of dividends before losses are known.

We will more fully discuss each of these points. I will discuss the provisions on surplus and dividends. Commissioner Lorigan will discuss the provisions on individual case reserves.

Based on testimony heard from employers regarding the dividend declared in 1979, the Advisory Board of Review for NIC recommended that a public hearing be provided before any future dividend in order to give employers an adequate opportunity to comment on and propose changes in the methods of computing and distributing dividends.

As a result of this recommendation, the Nevada Industrial Commission drafted a proposed regulation covering experience dividends and held a public hearing on the proposal as required by the Administrative Procedures Act. Mr. Whittemore and others representing employers appeared at the hearing and suggested a number of changes in the proposed regulation. The regulation subsequently adopted incorporated some of the proposals of Mr. Whittemore and the employers he represented.

AB 49 now proposes that the detailed provisions of Regulation 37, but with significant changes to benefit certain employers, be placed in the statutes.

A regulation duly adopted under the APA has the force of law and remains effective until changed through the same process. While policy should be determined by the Legislature and set forth in the statutes, the Nevada Industrial Commission believes that detailed procedures such as those involved in the computation of an experience dividend are more appropriate for regulations. A regulation can be changed more easily as conditions change.

For example: AB 49 would freeze in the law administrative expense at 10% whereas, in fact, administrative expense changes from year to year. AB 49 would freeze in the law the loss limits, whereas these limits should be subject to periodic review depending upon experience, inflationary rates and other factors that affect the insurance business. AB 49 would freeze in the law that policyholders would be grouped in nine groups according to premiums paid, whereas the number of groups should be determined each time a dividend is paid in order to most effectively carry out the purpose of rewarding employers according to their loss experience. In setting up the \$15 million 1980 dividend we found that if we used a large number of groups (8 to 10), the group with the worst loss experience would have received double the percentage of net premiums returned as dividends as the group with the best loss experience--the exact oppose of the intent of an experience dividend.

By reducing the number of premium groups, we were able to modify, but not eliminate, this adverse result.

Further, AB 49 deviates in several significant ways from Regulation 37 with the apparent intent of guaranteeing advantages to certain employers. Regulation 37, for example, permits an employer who chooses to be self-insured to participate in a dividend declared in the year in which that choice is made. This means that all of those employers who have gone to self-insurance since July 1, 1980, will participate in any dividend declared in the current fiscal year. However, AB 49 includes those who leave the State Insurance Fund in dividends for three years after they leave the Fund. This could result in an unwarranted windfall for such employers and a detriment to all employers who remain in the State Insurance Fund. For example, assume that for Fiscal Year 1983, the premium rates turn out to be higher than necessary to cover that year's claims cost, thus producing an underwriting gain. If, based on that gain, NIC declared a dividend, it would have to include in its distribution all of those employers who had left the Fund at the end of Fiscal Year 1981 or during Fiscal Year 1982 though they had not participated at all in the Fund during the year when the underwriting gain occurred.

The obvious purpose of the three-year provision is to increase the number of times that certain large employers who have gone self insured may participate in dividends. However, about 3,000 employers each year terminate coverage. Thus, extending eligibility from one to three years



will include approximately 6,000 more eligible employers with a corresponding reduction in the dividends for those who remain as policyholders and for whom the financial incentive to control losses is most effective.

Under a regulation, if a situation arose that indicated that certain categories of employers who had departed from the Fund at an earlier date should participate in a dividend distribution, the regulation could be changed to accommodate those circumstances.

The bill requires a dividend to be distributed in July of the second fiscal year following the fiscal year for which the dividend is calculated. Presently, dividends are distributed in October. For example, the surplus as of June 30, 1979, was declared as a dividend in November 1979 and distributed in October 1980 using the June 30, 1980 loss experience for the experience years. We could not distribute in July without eliminating one year of maturing of claims. The practical effect would be that we could not comply with the three-year experience requirement and the July distribution date.

The bill would limit the level of the provision for contingencies to 25% of premiums paid unless the Insurance Commissioner approved a higher level. The average surplus to premium percentage for all insurance companies in 1979 was approximately 50%. For workers' compensation insurance, most percentages range from 25% to 100%. Further, most companies do not discount reserves so that they have a cushion of even greater value than the stated provision for contingencies.

NIC's consulting insurance actuary will testify more specifically on these actuarial considerations later.

In testimony on the proposed amendments to AB 49, Mr. Whittemore said that the Commission would have "unbridled discretion" to set the level of the provision for contingencies at 25% or less. Considering the practices in the insurance industry, a level of 25% or less is hardly unbridled discretion. It is more like an inadequate minimum. If the Commission, as the trustee of the State Insurance Fund, should determine that a higher level is required, it must go to a third party, the Commissioner of Insurance, and by "clear and convincing evidence" convince him that a greater amount is needed to protect the solvency of the Fund. This essentially places the Insurance Commissioner, not the Nevada Industrial Commission, in the role of trustee of the State Insurance Fund.

The sections of this bill dealing with the provision for contingencies and with surplus seem to assume that there is only one party in interest in these matters and that that one party is the employer. The Commission, on the other hand, proceeds on the premise that there are two parties in interest; these are the policyholders who paid premiums into the Fund and the workers for whom the Fund was created to guarantee their benefits. One of the prime reasons that a Fund was created initially and that a provision for contingencies is recognized in the insurance industry is to assure that there will be sufficient monies available to meet the obligations to workers who have given up their right to sue

employers for on-the-job injuries. Statutory provisions that unduly favor one of the parties in interest are, in the opinion of the Commission, in conflict with the original trade-off of rights and obligations which created workers' compensation.

The present situation is an example of the complexities that enter into questions of contingencies and surplus in the real world. Over the last few years, NIC has not had large underwriting gains, that is, premiums in excess of the cost of current claims but it has had large surpluses, totalling \$49 million, due to present and future investment income which resulted from inflation. This same inflation has substantially eroded the value of benefits to certain workers injured in previous years. Is it fair to say that the employer is the only legitimate beneficiary of the investment income on the very reserves that were created to protect these injured workers? The Commission believes that both the employer and the injured employee must be considered under the present circumstances. Such consideration is inconsistent with a set of detailed procedures and limitation in the law that largely removes Commission discretion and removes legislative options.

AB 433 will no doubt be in the Senate soon. This bill would upgrade pensions for totally disabled workers, their survivors and dependents. In addition to lesser benefits and lower wages at the time of their injury, inflation has taken as much as 50% of the real value of their awards. Many families are attempting to live on \$200, \$300 or \$400 per month. AB 433 funds improvements, in part, from the current surplus

created by the most recent discounting of reserves. If AB 49 passes with the emergency clause, the legislative option of using a portion of surplus for this purpose may be eliminated. The principal alternatives are the use of general tax revenues, which we know is not a realistic option, or raising premium rates which the Commission believes would be an unfair imposition on those current employers who remain as State Insurance Fund policyholders.

The Advisory Board of Review recommended to NIC that "...any inconsistency found with respect to the use of the statutory term 'rebates' and the Commission's policy of distributing 'experience dividends' be addressed in proposed legislation or other appropriate manner." NIC concurred in the Advisory Board's recommendation and arranged the introduction of AB 406 that provides statutory authority for experience dividends which take into account the safety efforts of employers. The bill also makes clear the distinction between experience dividends and rebates.

The advisory Board also recommended legislation to remove NIC's regulatory function so that it can operate as an insurance company under a board of directors and a general manager. The Commission believes the detailed restrictions on discretion in AB 49 are inconsistent with the direction recommended by the Advisory Board.

NIC has concurred in and carried out the three recommendations of the Advisory Board that relate to the surplus and experience dividend.

We believe that Regulation 37 and AB 406 adequately and fairly cover the subject of surplus and dividends and will provide a basis for the proposed State Industrial Insurance System to make insurance business judgments.

We believe AB 49 is self serving for one group of employers and is not in the interest of those employers who remain as policyholders of the State Insurance Fund and who need a financially healthy fund and a reliable rate making system. We also believe AB 49, with the emergency clause, is intended to remove any legislative involvement in determining the appropriate use of the current surplus.

COMMENTS ON  
"RESERVES" PORTION OF AB-49  
JAMES S. LORIGAN  
COMMISSIONER  
NEVADA INDUSTRIAL COMMISSION

## RESERVES

AB-49, in the area of reserves, is at its rapacious best. It seeks to undermine the very foundation of the operation of an insurance company. By imposing a review procedure of case reserves, it quite effectively guts the basis for experience recognition and accordingly the ability of the NIC to promulgate rates and to create premium modification plans which reward the employer who exercises safety and accident controls and penalizes the less prudent insured. It may leave only the alternative of withdrawing from all experience plans and resorting to manual rating which has the effect of a drastic increase in premium and removal of any monetary incentive to be safety conscious.

In order to have a manageable rate system, there must be a cutoff point at which claim losses are stabilized. Such a cutoff point cannot be established under the terms of AB-49.

At the close of February 1981, there were 9,572 open claims which NIC claim evaluators are in the process of reviewing for the purpose of estimating outstanding liabilities.

The process of establishing an outstanding liability for each open claim will be completed on June 30, 1981. If AB-49 passes, the NIC has no idea how it can equitably compute modification plans of any nature.

The soonest that NIC could give notice to active employers regarding the outstanding claim liabilities charged to their accounts is July 30. AB-49, however, also gives ex-employers an interest in any declared dividends. The reprogramming effort to provide notice to ex-employers would jeopardize NIC's ability to handle other heavy year-end data processing work load.

Since addresses of ex-employers are not maintained, the providing of adequate notice to those employers could be a drawn out process. Failure to give adequate notice could produce claims and litigation for dividend entitlement of an undeterminable magnitude

Under the terms of AB-49, it would be possible that employers could request explanations of reserves on thousands of claims. The time requirements for NIC staff to respond to those requests would be likely to equal or exceed the time required to establish the reserves in the first place. Three full months are required to establish liabilities on 5,000 claims. There is the additional time required to draft a letter to explain the derivation of the reserve. Since AB-49 does not allow NIC staff to present any evidence before a hearing officer which is not covered in its response to the employer, the drafting of each letter must be a painstaking and thorough explanation citing each consideration on the weight given to it and its effect on each of the categories of expense which are to be enumerated in accordance with AB-49. This task would double the time to 6 months.

AB-49 allows NIC 20 days.

Increasing of staff would not reduce the response time for two reasons: (1) The individual who set the reserve must review the file and the notes relating to it since each evaluation is based on individual judgement. The evaluator does not write a detailed explanation to support each evaluation at



the time the case is reserved. (2) There is a minimum on-the-job training period of 6 months before a new employee is allowed to estimate a liability. Even at that point, the estimate is reviewed by a supervisor before it is finalized.

The staff of evaluators is selected on the basis of their abilities to read and to reason. They are not practiced witnesses. Their decisions require the weighing of a multitude of objective and subjective factors concerning a case and then making a value judgement as to a reasonable anticipation of the final disposition of the case. There are no formulas to cover this process. We know of no one who has automated it. Each case is unique and each evaluator follows his or her own thought processes in arriving at a conclusion.

If the evaluators find that the way to avoid unpleasant confrontations questioning their judgements is to hold estimates of liability to low levels, many may be expected to select that course. Both objectivity and consistency will be removed from the evaluation process. The integrity of the system will be destroyed.

An evaluator's decision to shave reserves is difficult to detect and near impossible to prove.

The employers and employer groups who are most militant will be known and cases involving those groups will receive different evaluations than those of more distant, less vocal and less powerful employers.

The bias in the evaluations, coupled with a reluctance to estimate an ultimate loss which may not be realized for years, will distort

the loss experience in such a manner that rates will no longer reflect the relative risk represented by each class of employment.

Since we have no means of estimating the number of reserves which will be challenged, there is no means of estimating the number of hearings which might be requested after NIC has responded to the request for explanation.

The present hearings officer staff handled 1,534 hearings during fiscal 1980. The hearings required by AB-49 concerning reserves will be as time consuming as the average hearing on claim matters.

If 10 percent of the case reserves required resolution by the hearings division, a doubled hearings officer staff would require 4 months to conduct the hearings. AB-49 allows 30 days.

If the losses in one class are revised, the rates for all classes should be revised, to establish the proper rate for the class in which the change has occurred.

No insurance company nor rating organization could operate under such statutory provisions.

There is no question that NIC overestimates the cost of some reserves and it is easy, after the fact, as a claim has further developed, to pick out those examples of overestimating. What is seldom mentioned is that NIC also underestimates reserves. Two recent claims highlight the policyholder benefit from underestimating. In 1979 NIC has a \$23,000 reserve on one of these claims and no reserve on the other one which had been

In 1980 the condition of these two claimants seriously deteriorated and NIC subsequently spent or was obligated to spend \$149,000 on one and \$264,000 on the other.

The National Council on Compensation Insurance opposes adjustments of judgmental determinations on reserves because of the great amount of time and expense that is incurred in such reviews. NIC believes that a much more fruitful effort would be a periodic review by independent actuaries of the overall reserving procedures. While we have strict procedures for our own internal estimating, we also have an annual review by a consulting actuary and welcome any other overall review of our practices by professionals in the field.

Finally, in an appearance before the Advisory Board of Review, Robert Park, Vice President and General Counsel for the Arizona State Fund pointed out that none of the 40 member states of the National Council on Compensation Insurance permit reviews of case reserves and that such review would create an "impossible" situation.

/lk

4/5/81  
John H. Morgan

5 Summary: 3e

APPEARANCE BY ADVISORY BOARD VICE-CHAIRMAN

ON THE ADVISORY BOARD REPORT

AS RELATED TO AB 49

EXHIBIT E

For some 18 months, the Advisory Board of Review for NIC reviewed the operations of NIC and its controlling statutes. We normally met ~~two days per month but in the months preceding the issuance of our report to the Legislature we met more often.~~

The Advisory Board heard extensive testimony on the subjects covered by AB 49, and made a number of recommendations in these areas. AB 49 was not reviewed by the Advisory Board but <sup>the difference</sup> ~~an overlap~~ between the Advisory Board's recommendations and the provisions in AB 49 will be apparent from a description of what the Advisory Board did consider and act upon.

The principle recommendation of the Advisory Board is the reorganization of NIC to remove its regulatory functions and to establish its workers' compensation insurance function along the lines of an insurance company. The intent is to give the general manager and the part-time board of directors ~~the~~ authority and responsibility for making those insurance business judgments that are required of an insurance company while maintaining a degree of executive and legislative oversight consistent with the state industrial insurance system being a public corporation.

and at the same time

The dividend policies, /reserving policies, /and policies governing contingencies of private insurance companies normally are not subject to regulation, except as they are reflected in rate making. These are insurance business judgments which affect the solvency and financial capacity of a company.

The Advisory Board did comment and make recommendations regarding dividends. Let me <sup>quote</sup> from the Advisory Board report.

~~"The Advisory Board also heard a good deal of testimony regarding disputes about the \$20 million 1979 distribution and the \$15 million 1980 distribution. Since these disputes ultimately resulted in legal actions, the Advisory Board took no position on them.~~

~~"The Advisory Board does support the concept of experience dividends; that is, the distribution of funds, in surplus of the needs for current claims management, reserves and contingencies, to policyholders on the basis of their safety records so that policyholders with good records of controlling losses are rewarded and all policyholders are given an incentive to improve their safety programs.~~

"The Advisory Board unanimously recommends that NIC conduct a public hearing prior to any future distribution of dividends.

(The Commission has incorporated this provision in its Regulation 37 on Experience Dividends.)

"A majority of the Advisory Board recommends to NIC that any inconsistency found with respect to the use of the statutory term "rebates" and the Commission's policy of distributing "experience dividends" be addressed in proposed legislation or other appropriate manner."

*This has been taken care of in AB 406.  
addressed*

On the basis of the above recommendations, NIC has adopted Regulation 37 which, among other things, requires a public hearing prior to establishing the level of the provision for contingencies, the amount of surplus, and the declaration of any experience dividend. I understand that a public hearing is scheduled for next Friday regarding the current surplus. The actions of the NIC appear to fully comply with the recommendation of the Advisory Board.

The NIC has drafted legislation introduced as AB 406 which defines the term "rebate of premium" and authorizes the declaration and distribution of experience dividends. This bill appears to comply with the Advisory Board's recommendation regarding inconsistencies with respect to the use of the statutory term "rebates" and the Commission's policy of distributing "experience dividends."

The provisions of AB 49 on dividends overlap, in part, the recommendations of the Advisory Board, but go well beyond those recommendations with detailed provisions on the method of calculating dividends and establishing the Insurance Commissioner as the final authority on the amount of the provision for contingencies and, consequently, the amount of surplus.

The Advisory Board became very heavily involved in questions regarding reserving. Because of conflicting information and opinions between NIC and representatives of certain employers, the Advisory Board selected its own insurance actuary from a national firm to give independent advice to the Board. The Board expended \$31,000 in order to get independent professional advice.

Regarding overall reserving, the Advisory Board stated in its report:

"The Advisory Board's consulting actuary reviewed NIC's reserving practices and found that he would not recommend any change in NIC's procedures for determining reserves. He also independently calculated the reserves established by NIC and its consulting actuary for July 1, 1979 and found that his estimates for reserves were within 4.8% of those of NIC (NIC was higher) but that a 4.8% difference between actuaries was 'within the ballpark' of reasonable estimating.

"The Advisory Board finds no basis for recommending changes in NIC's overall reserving practices. Although excessive over reserving should not be tolerated, it should be said that reserving is not an exact science and the presence of a 4.8% upward deviation is a more desirable condition than the adversities that could be brought about by a similar degree of under reserving."

Regarding individual case reserves, the Advisory Board stated:

"Though the Advisory Board understands NIC's practical problem in reviewing case reserves with policyholders, including the additional cost of such reviews, we believe some means must be found to allow policyholder participation. Though the net effect of such involvement may not be as great as anticipated by individual policyholders, it is necessary to maintain confidence in the reserving system.

*And we recommended that the Board*

~~"The Advisory Board unanimously recommends to NIC that it work with its consulting actuary and the Advisory Board's consulting actuary to find optional ways of permitting a degree of employer involvement in the review of case reserves and that NIC meet with a representative group of employers to review any proposals that come from the work with the actuaries."~~

NIC has proceeded with the Advisory Board's recommendation on individual case reserves. NIC's consulting actuary and the Advisory Board's consulting actuary were contacted and a proposal was arrived at using NIC's new Marketing staff as the contact point for employers to get information and express their concerns about individual reserves. / Standards and procedures for reviews were proposed. / A meeting was held with representatives of employer groups, and NIC is installing the review procedure on a trial basis this year. If the review procedure is helpful to employers and does not unduly interfere with the tight schedule for rate making, the procedure will be incorporated as a permanent part of reserving.



NIC's response on review of individual case reserves appears to fully comply with the Advisory Board's recommendation.

In summary, the Advisory Board reviewed those major areas covered by AB 49 and made recommendations in those areas. The Nevada Industrial Commission has taken actions to carry out the Advisory Board's recommendations. It has drafted and arranged introduction of SB 548 to create the State Industrial Insurance System, a public corporation solely providing workers' compensation insurance and related rehabilitation and loss control functions, and AB 406 to provide statutory authority for experience dividends and to resolve inconsistencies between dividends and rebates. NIC has adopted Regulation 37 that guarantees a public hearing prior to any dividend distribution. NIC has initiated, on a trial basis, a procedure for reviewing individual case reserves with employers.

In all of them <sup>NIC</sup> it has  
complied fully with the Advisory Board's  
recommendations. AB 49 seems to go  
well beyond what the Advisory Board  
felt was necessary in the above-~~reports~~  
matters.

SENATE BILL NO. 521 - COMMITTEE ON

COMMERCE AND LABOR

EXHIBIT F

\* \* \* \* \*

Referred to Committee on Commerce and Labor

SUMMARY -- Provides for Regulation of Home Protection Insurance (BDR 57 - 1370)

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

EXPLANATION--Matter in italics is new; matter in brackets [] is to be omitted.

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

Sec. 1. NRS 681A.020 is hereby amended to read as follows:  
681A.020 1. "Casualty insurance" includes:

(a) Vehicle insurance. Insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal, together with insurance against accidental injury to [individuals,] natural persons, irrespective of legal liability of the insured, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property, including liability resulting from negligence in rendering expert, fiduciary or professional services; and provisions of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured when issued as an incidental coverage with or supplemental to liability insurance.

(c) Workmen's compensation and employer's liability. Insurance of the obligations accepted by, imposed upon or assumed by employers under law for death, disablement or injury of employees.

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing, including supplemental coverage for medical, hospital, surgical and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery or theft by another, and also, insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances or any other valuable papers and documents resulting from any cause.

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause.

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation and fittings.

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery and apparatus of any kind, whether or not insured.

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire-extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps and other fire-extinguishing equipment or apparatus.

(i) Credit and mortgage guaranty. Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured, and insurance of real property mortgage lenders against loss by reason of nonpayment of the mortgage indebtedness.

(j) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire, and to make inspection of and issue certificates of inspection upon elevators.

(k) Congenital defects. Insurance against congenital defects in human beings.

(l) Livestock. Insurance against loss or damage to livestock, and services of a veterinary for such animals.

(m) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event or exhibition against loss from interruption, postponement or cancellation thereof due to death, accidental injury or sickness of performers, participants, directors or other principals.

(n) Miscellaneous. Insurance against any other kind of loss, damage or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the commissioner as being contrary to law or public policy. *Miscellaneous casualty insurance also includes contracts whereby a person, other than a manufacturer, builder, seller or lessor of the property which is the subject of the contract, accepts prepayment to perform, for a specified period of time, repair or replacement service or indemnification of any such service, upon the structural, mechanical or operational failure of real or personal property or any component thereof.*

2. Provision of medical, hospital, surgical and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler and machinery), and (j) (elevator) of subsection 1 shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and [shall not be] is not subject to provisions of this code applicable to life and health insurances.

Sec. 2. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 11, inclusive, of this act.

Sec. 3. As used in sections 3 to 11, inclusive, of this act, unless the context otherwise requires:

1. "Home" means a structure used primarily for residential purposes and includes a single-family dwelling, a unit in a multiple-family structure and a mobile home.

2. "Home protection insurance" means an insurance contract under which a person, other than a builder, seller or lessor of the home which is the subject of the contract, undertakes for a specified period of time, for a predetermined fee, to repair or replace components, systems or appliances of a home upon their structural, mechanical or operation failure, or to make indemnification for such repair or replacement. "Home protection insurance" must not include protection against consequential damage from the failure of home components, systems or appliances.

3. "Home protection insurer" means an insurer issuing home protection insurance contracts, and specifically excludes insurers authorized for casualty insurance.

Sec. 4. 1. Except as provided in subsection 2, a home protection insurer who provides insurance for home protection shall deposit, in accordance with chapter 682B of NRS, securities having a market value of not less than \$20,000, unless he furnishes evidence satisfactory to the commissioner of maintaining, in its state of domicile, a deposit of not less than that amount, which complies with the domicile state's requirements, and which is held for the protection of all holders of insurance contracts.

2. In lieu of the deposit of securities, a home protection insurer may post with the commissioner a surety bond of not less than \$20,000 executed by an insurer who has a valid certificate of authority issued by the commissioner.

3. A home protection insurer shall maintain:

(a) Unimpaired paid-in capital stock or unimpaired basic surplus or a combination thereof in an amount not less than 10 percent of the amount charged as premiums for insurance currently in force, but in no event shall the amount required under this section be less than \$20,000, not more than is required by NRS 680A.120 for a casualty insurance certificate of authority.

(b) A reserve for unearned premiums, unpaid losses, and expenses incurred in connection with loss adjustments in an amount not less than 40 percent of the amount charged as premiums for insurance currently in force.

Sec. 5. A home protection insurer may make investments in tangible personal property for use in fulfilling its obligations to repair or replace home components, systems or appliances under its home protection insurance contracts in an amount not to exceed 25 percent of its assets, as determined pursuant to NRS 681B.010, unless the commissioner, whenever he deems it appropriate, waives this limitation by regulation.

Sec. 6. The annual statement required of a home protection insurer by NRS 680A.270, which must be in the form prescribed by the Commissioner, may cover a 12-month period other than a calendar year. If it does, it must be filed within 90 days after the end of the period. The report period must be stated in the home protection insurer's initial application and may not be changed without the consent of the commissioner.

Sec. 7. A home protection insurer shall not:

1. Engage in any business other than the furnishing of insurance for home protection.

2. Assume reinsurance from any other insurer.

Sec. 8. 1. A contract of insurance for home protection must specify:

(a) The structures, components, systems and appliances covered by the provisions of the contract.

(b) Any exclusions from and limitations on coverage.

(c) The period during which the contract will be in effect, and the renewal terms, if any.

(d) The services to be performed by the home protection insurer and the terms and conditions of his performance.

(e) The service fee or deductible charge, if any, to be charged for his services.

(f) All limitations regarding the performance of services, including any restrictions as to the time during or geographical area within which service may be requested or will be performed.

(g) That services will be performed upon a telephoned request to the home protection insurer, without any requirement that claim forms, or applications be filed before the performance of service.

(h) That services will be initiated by or under the direction of the home protection insurer within 48 hours after proper request is made for services.

(i) Other conditions and provisions pertaining to the coverage as required by the insurance laws of this state or regulations adopted by the commissioner.

2. Home protection insurance may not be canceled during the term for which it is issued, except:

(a) For nonpayment of the fee for the contract.

(b) For fraud or misrepresentation of facts material to the issuance or renewal of the contract.

(c) Insurance which provides coverage before the home is sold if the sale is not made. The cancellation must be made in accordance with the contract provisions.

3. Home protection insurance is not renewable unless its terms provide otherwise.

Sec. 9. The commissioner may adopt reasonable regulations regarding the content of home protection insurance contracts to protect the interests of persons affected by the contract's provisions. The regulations may not extend to specifying the structures, components, systems or appliances which must be covered by home protection insurance, except to the extent necessary to:

1. Obtain fairness in the exclusions from the coverage provided; or

2. Avoid illusory coverage caused by the nature or extent of the coverage exclusions.

Sec. 10. A persons who sells home protection insurance on behalf of a home protection or casualty insurer is exempted from the provisions of chapter 683A which require hime to be licensed as an agent, broker or solicitor if:

1. His sales activity is conducted pursuant to a written contract with the insurer which regulates his activity.

2. He holds a valid agent's, broker's, or broker-salesman's license issued pursuant to chapter 645 of NRS.

Sec. 11. 1. Except as provided in subsection 2 and sections 3 to 10, inclusive, of this act, home protection insurance is subject to all applicable provisions of this code.

2. The provisions of chapters 687A and 692C do not apply to home protection insurance.

Sec. 12. Chapter 645 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The commission may take action pursuant to NRS 645.630 against any person selling home protection insurance, as defined in section 3 of this act, under the authority of a license issued pursuant to this chapter who:

1. Makes a misrepresentation in the sale of home protection insurance.

2. Misrepresents the provisions of the contract for home protection insurance.

3. Misappropriates any fees or premiums collected for the home protection insurance.

EXHIBIT G

SENATE BILL NO. 523

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

S. B. 523

SENATE BILL NO. 523—COMMITTEE ON  
COMMERCE AND LABOR

APRIL 9, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Expands class of graduates of foreign medical schools who may obtain a limited license to practice medicine. (BDR 54-1490)

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 physicians; expanding the class of graduates of foreign medical schools who may obtain a limited license to practice medicine; changing certain registration 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 630.265 is hereby amended to read as follows:  
2 630.265 1. The board may issue to a qualified applicant a limited  
3 license to practice medicine as a resident physician in a postgraduate pro-  
4 gram of clinical training if:  
5 (a) The applicant is a graduate of an accredited medical school in the  
6 United States or Canada or is a graduate of a foreign medical school  
7 recognized by the Educational Commission for Foreign Medical Grad-  
8 uates and [has] :  
9 (1) *Has* received the standard certificate of the Educational Com-  
10 mission for Foreign Medical Graduates; [and] or  
11 (2) *Is a citizen of the United States and has completed 1 year of*  
12 *supervised clinical training approved by the board; and*  
13 (b) The board approves the program of clinical training, and if the  
14 medical school or other institution sponsoring the program provides the  
15 board with written confirmation that the applicant has been appointed  
16 to a position in the program.  
17 2. The board may issue such a limited license for not more than 1  
18 year but may renew the license.  
19 3. An applicant for such a license must pay an application fee of  
20 \$25 to the board, and for any renewal of the license he must pay a fee  
21 of \$10.



1 4. The holder of such a limited license may practice medicine only in  
2 connection with his duties as a resident physician and shall not engage  
3 in the private practice of medicine.

4 5. A limited license granted under the authority of this section may  
5 be revoked by the board at any time for reasons deemed sufficient by the  
6 board.

7 6. The board may adopt regulations to carry out the purpose of this  
8 section.

9 SEC. 2. NRS 630.290 is hereby amended to read as follows:

10 630.290 1. Each applicant for a license to practice medicine [shall]  
11 must pay a fee of \$200.

12 2. Each applicant who fails an examination and who is permitted to  
13 be reexamined [shall] must pay a fee not to exceed \$200 for each  
14 reexamination.

15 3. If an applicant does not appear for examination, for any reason  
16 deemed sufficient by the board, the board may, upon request and in its  
17 discretion, refund a portion of the application fee not to exceed \$100.  
18 There [shall] must be no refund of the application fee if an applicant  
19 appears for examination.

20 4. Each applicant for a permit, issued under the provisions of NRS  
21 630.280 or 630.285, [shall] must pay a fee not to exceed \$50, as  
22 determined by the board, and [shall] must pay a fee of \$10 for each  
23 renewal of the permit.

24 5. Each holder of a license to practice medicine [shall] must pay to  
25 the secretary-treasurer of the board on or before [May] January 1 of  
26 each year an annual registration fee to be set by the board and in no  
27 case to exceed the sum of \$100 per year.

28 6. Any holder failing to pay the annual registration fee after it  
29 becomes due [shall] must be given a period of 60 days in which to pay  
30 the fee, and, failing to do so, [shall automatically forfeit] automatically  
31 forfeits his right to practice medicine, and his license to practice medicine  
32 in Nevada [shall automatically be] is automatically suspended. The  
33 holder may, within 2 years from the date his license is suspended, on  
34 payment of twice the amount of the then-current annual registration fee to  
35 the secretary-treasurer, and after he is found to be in good standing, be  
36 reinstated in his right to practice.

37 7. The annual registration fee [shall] must be collected for the year  
38 in which a physician is licensed.

39 8. Notices [shall] must be sent to delinquents that their licenses  
40 are automatically suspended for nonpayment of the annual registration  
41 fee, and a copy of the notice [shall] must be sent to the [federal nar-  
42 cotic enforcement office and and to the recorder of the county in which  
43 the physician practices. The recording fee shall be a proper charge  
44 against the funds of the board.] *Drug Enforcement Administration of  
45 the United States Department of Justice or its successor agency.*

46 SEC. 3. NRS 633.481 is hereby amended to read as follows:

47 633.481 1. Except as provided in subsection 2, if a licensee fails to  
48 comply with the requirements of NRS 633.471 within 30 days after the  
49 renewal date, the board shall give 30 days' notice of failure to renew  
50 and of revocation of license by certified mail to the licensee at his last

1 address registered with the board. If the license is not renewed before  
2 the expiration of the 30 days' notice, the license is automatically revoked  
3 without any further notice or a hearing and the board shall file a  
4 copy of the notice with the Drug Enforcement Administration of the  
5 United States Department of Justice or its successor agency. [and with  
6 the recorder of the county in which the delinquent licensee practices.]

7 2. A licensee who fails to meet the continuing education require-  
8 ments for license renewal may apply to the board for a waiver of the  
9 requirements. The board may grant a waiver for that year only if it  
10 finds that the failure is due to the licensee's disability, military service  
11 or absence from the United States, or to circumstances beyond the con-  
12 trol of the licensee which are deemed by the board to excuse the failure

13 3. A person whose license is revoked under this section may apply  
14 to the board for restoration of his license upon:

15 (a) Payment of all past due renewal fees and the late payment fee  
16 specified in this chapter;

17 (b) Producing verified evidence satisfactory to the board of comple-  
18 tion of the total number of hours of continuing education required for  
19 the year preceding the renewal date and for each year succeeding the  
20 date of revocation; and

21 (c) Stating under oath in writing that he has not withheld informa-  
22 tion from the board which if disclosed would furnish grounds for disci-  
23 plinary action under this chapter.

24 SEC. 4. This act shall become effective upon passage and approval

EXHIBIT H

SENATE BILL NO. 534

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

**S. B. 534**

SENATE BILL NO. 534—SENATOR BLAKEMORE

APRIL 13, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Includes additional lines of insurance which may be sold under agent's limited license. (BDR 57-1580)

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 insurance; including additional lines which may be sold under an agent's limited license; 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 683A.260 is hereby amended to read as follows:  
2 683A.260 1. The commissioner may issue a limited agent's license  
3 to [applicants, qualified therefor] *an applicant qualified* under this chapter  
4 [and representing] :  
5 (a) *Who represents* public carriers [ , who] *and* in the course of [such  
6 representation solicit or sell] *his representation solicits or sells* insurance  
7 incidentally to the transportation of persons or to the storage or transportation  
8 of property [ , and limited to insurance so transacted. No person  
9 so licensed shall hold concurrently another license under this chapter.  
10 2. The fee for a limited license is specified in NRS 680B.010 (fee  
11 schedule). ] ; or  
12 (b) *Whose insurance activities are limited to the solicitation and*  
13 *sale of:*  
14 (1) *Credit life, credit health, credit property and casualty insurance;*  
15 *or*  
16 (2) *Fixed annuities.*  
17 2. *The commissioner may adopt regulations which require the applicant*  
18 *to pass an appropriate examination before the issuance of a license*  
19 *under this section.*  
20 3. *A person to whom a license is issued pursuant to this section may*  
21 *not concurrently hold any other license authorized by this chapter.*

EXHIBIT I

SENATE BILL NO. 521

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 521

SENATE BILL NO. 521—COMMITTEE ON  
COMMERCE AND LABOR

APRIL 9, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Provides for regulation of home protection  
insurance. (BDR 57-1370)

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 insurance; providing for the regulation of insurance for home protection; 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 681A.020 is hereby amended to read as follows:  
2 681A.020 1. "Casualty insurance" includes:  
3 (a) Vehicle insurance. Insurance against loss of or damage to any  
4 land vehicle or aircraft or any draft or riding animal or to property while  
5 contained therein or thereon or being loaded or unloaded therein or  
6 therefrom, from any hazard or cause, and against any loss, liability or  
7 expense resulting from or incidental to ownership, maintenance or use  
8 of any such vehicle, aircraft or animal, together with insurance against  
9 accidental injury to [individuals,] *natural persons*, irrespective of legal  
10 liability of the insured, including the named insured, while in, entering,  
11 alighting from, adjusting, repairing, cranking, or caused by being struck  
12 by a vehicle, aircraft or draft or riding animal, if such insurance is issued  
13 as an incidental part of insurance on the vehicle, aircraft or draft or  
14 riding animal.  
15 (b) Liability insurance. Insurance against legal liability for the death,  
16 injury or disability of any human being, or for damage to property,  
17 including liability resulting from negligence in rendering expert, fiduciary  
18 or professional services; and provisions of medical, hospital, surgical,  
19 disability benefits to injured persons and funeral and death benefits to  
20 dependents, beneficiaries or personal representatives of persons killed,  
21 irrespective of legal liability of the insured, when issued as an incidental  
22 coverage with or supplemental to liability insurance.

1 (c) Workmen's compensation and employer's liability. Insurance of  
2 the obligations accepted by, imposed upon or assumed by employers  
3 under law for death, disablement or injury of employees.

4 (d) Burglary and theft. Insurance against loss or damage by burglary,  
5 theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief,  
6 confiscation, or wrongful conversion, disposal or concealment, or from  
7 any attempt at any of the foregoing, including supplemental coverage  
8 for medical, hospital, surgical and funeral expense incurred by the  
9 named insured or any other person as a result of bodily injury during  
10 the commission of a burglary, robbery or theft by another, and also,  
11 insurance against loss of or damage to moneys, coins, bullion, securities,  
12 notes, drafts, acceptances or any other valuable papers and documents,  
13 resulting from any cause.

14 (e) Personal property floater. Insurance upon personal effects against  
15 loss or damage from any cause.

16 (f) Glass. Insurance against loss or damage to glass, including its  
17 lettering, ornamentation and fittings.

18 (g) Boiler and machinery. Insurance against any liability and loss  
19 or damage to property or interest resulting from accidents to or explo-  
20 sions of boilers, pipes, pressure containers, machinery or apparatus,  
21 and to make inspection of and issue certificates of inspection upon  
22 boilers, machinery and apparatus of any kind, whether or not insured.

23 (h) Leakage and fire extinguishing equipment. Insurance against  
24 loss or damage to any property or interest caused by the breakage or  
25 leakage of sprinklers, hoses, pumps and other fire-extinguishing equip-  
26 ment or apparatus, water pipes or containers, or by water entering  
27 through leaks or openings in buildings, and insurance against loss or  
28 damage to such sprinklers, hoses, pumps and other fire-extinguishing  
29 equipment or apparatus.

30 (i) Credit and mortgage guaranty. Insurance against loss or damage  
31 resulting from failure of debtors to pay their obligations to the insured,  
32 and insurance of real property mortgage lenders against loss by reason  
33 of nonpayment of the mortgage indebtedness.

34 (j) Elevator. Insurance against loss of or damage to any property of  
35 the insured, resulting from the ownership, maintenance or use of eleva-  
36 tors, except loss or damage by fire, and to make inspection of and  
37 issue certificates of inspection upon, elevators.

38 (k) Congenital defects. Insurance against congenital defects in  
39 human beings.

40 (l) Livestock. Insurance against loss or damage to livestock, and  
41 services of a veterinary for such animals.

42 (m) Entertainments. Insurance indemnifying the producer of any  
43 motion picture, television, radio, theatrical, sport, spectacle, entertain-  
44 ment, or similar production, event or exhibition against loss from inter-  
45 ruption, postponement or cancellation thereof due to death, accidental  
46 injury or sickness of performers, participants, directors or other prin-  
47 cipals.

48 (n) Miscellaneous. Insurance against any other kind of loss, damage  
49 or liability properly a subject of insurance and not within any other kind

1 of insurance as defined in this chapter, if such insurance is not dis-  
2 approved by the commissioner as being contrary to law or public pol-  
3 icy [.] , including insurance for home protection issued pursuant to  
4 sections 3 to 11, inclusive, of this act.

5 2. Provision of medical, hospital, surgical and funeral benefits, and  
6 of coverage against accidental death or injury, as incidental to and part  
7 of other insurance as stated under paragraphs (a) (vehicle), (b) (lia-  
8 bility), (d) (burglary), (g) (boiler and machinery), and (j) (elevator)  
9 of subsection 1 shall for all purposes be deemed to be the same kind of  
10 insurance to which it is so incidental, and [shall not be] is not subject  
11 to provisions of this code applicable to life and health insurances.

12 SEC. 2. Chapter 690B of NRS is hereby amended by adding thereto  
13 the provisions set forth as sections 3 to 11, inclusive, of this act.

14 SEC. 3. As used in sections 3 to 11, inclusive, of this act, unless  
15 the context otherwise requires:

16 1. "Home" means a structure used primarily for residential pur-  
17 poses and includes a single-family dwelling, a unit in a multiple-family  
18 structure and a mobile home.

19 2. Insurance for home protection means a contract of insurance,  
20 which affords coverage over a specified term for a predetermined fee,  
21 under which a person, other than the manufacturer, builder, seller or  
22 lessor of the home, agrees to repair, replace or indemnify from the cost  
23 of repair or replacement based upon the failure of any structure, com-  
24 ponent, system or appliance of the home. The term does not include a  
25 contract which insures against any consequential losses caused by the  
26 defects or failures.

27 SEC. 4. 1. Except as provided in subsection 2, an insurer who issues  
28 policies of insurance for home protection, other than casualty insurance,  
29 shall deposit, in accordance with chapter 682B of NRS, securities having  
30 a market value of not less than \$20,000, unless he furnishes evidence  
31 satisfactory to the commissioner of maintaining a deposit of not less than  
32 that amount which complies with the requirements of his state of domi-  
33 cile and is held for the protection of all holders of insurance contracts.

34 2. In lieu of the deposit of securities, the insurer may post with the  
35 commissioner a surety bond of not less than \$20,000 executed by an  
36 insurer who has a valid certificate of authority issued by the commis-  
37 sioner.

38 3. The insurer shall maintain:

39 (a) Unimpaired paid-in capital stock or unimpaired basic surplus, or a  
40 combination thereof, in an amount not less than 10 percent of the  
41 amount charged as premiums for insurance currently in effect, but not  
42 less than \$20,000, nor more than is required by NRS 680A.120 for a  
43 certificate of authority.

44 (b) A reserve for unearned premiums, unpaid losses and expenses  
45 incurred in connection with loss adjustments in an amount not less than  
46 40 percent of the amount charged as premiums for insurance currently in  
47 force.

48 SEC. 5. An insurer who issues policies of insurance for home protec-  
49 tion, other than casualty insurance, may make investments in tangible  
50 personal property for use in fulfilling its obligations to repair or replace

1 components, systems or appliances of the home under its contracts of  
2 insurance for home protection, in an amount not to exceed 25 percent of  
3 its assets, as determined pursuant to NRS 681B.010, unless the commis-  
4 sioner, whenever he deems it appropriate, waives this limitation by  
5 regulation.

6 SEC. 6. An insurer who issues policies of insurance for home protec-  
7 tion, other than casualty insurance, shall file the annual statement  
8 required by NRS 680A.270 in the form prescribed by the commissioner.  
9 The statement may cover a 12-month period other than a calendar year.  
10 If it does, it must be filed within 90 days after the end of the period. The  
11 period covered by the statement may not be changed without the consent  
12 of the commissioner.

13 SEC. 7. An insurer who issues policies of insurance for home protec-  
14 tion, other than casualty insurance, shall not:

15 1. Engage in any business other than the furnishing of insurance  
16 for home protection.

17 2. Assume reinsurance from any other insurer.

18 SEC. 8. 1. A contract of insurance for home protection must specify:  
19 (a) The structures, components, systems and appliances covered by  
20 the provisions of the contract.

21 (b) Any exclusions from and limitations on coverage.

22 (c) The period during which the contract will be in effect, and the  
23 renewal terms, if any.

24 (d) The services to be performed by the insurer and the terms and  
25 conditions of his performance.

26 (e) The service fee or deductible charge, if any, to be charged for  
27 his services.

28 (f) All limitations regarding the performance of services, including any  
29 restrictions as to the time during or geographical area within which serv-  
30 ices may be requested or will be performed.

31 (g) That services will be performed upon a telephoned request to the  
32 insurer without any requirement that claim forms or applications be  
33 filed before the performance of service.

34 (h) That services will be initiated by or under the direction of the  
35 insurer within 48 hours after proper request is made for services.

36 (i) Other conditions and provisions pertaining to the coverage as  
37 required by the insurance laws of this state or regulations adopted by  
38 the commissioner.

39 2. Insurance for home protection may not be canceled during the  
40 term for which it is issued, except:

41 (a) For nonpayment of the fee for the contract.

42 (b) For fraud or misrepresentation of facts material to the issuance  
43 or renewal of the contract.

44 (c) Insurance which provides coverage before the home is sold if the  
45 sale is not made. The cancellation must be made in accordance with  
46 the contract provisions.

47 3. Insurance for home protection is not renewable unless its terms  
48 provide otherwise.

49 SEC. 9. The commissioner may adopt reasonable regulations regard-  
50 ing the content of contracts of insurance for home protection to protect

1 *the interests of persons affected by the provisions of those contracts. The*  
2 *regulations may not extend to specifying the structures, components, sys-*  
3 *tems or appliances which must be covered by insurance for home protec-*  
4 *tion, except to the extent necessary to:*

- 5 1. *Obtain fairness in the exclusions from the coverage provided; or*
- 6 2. *Avoid illusory coverage caused by the nature or extent of the*  
7 *coverage exclusions.*

8 **SEC. 10.** *A person who sells insurance for home protection on behalf*  
9 *of an insurer who issues policies of casualty insurance or insurance for*  
10 *home protection is exempted from the provisions of chapter 683A which*  
11 *require him to be licensed as an agent, broker or solicitor if:*

- 12 1. *His sales activity is conducted pursuant to a written contract*  
13 *with the insurer which regulates his activity.*
- 14 2. *He holds a valid broker's, broker-salesman's or salesman's license*  
15 *issued pursuant to chapter 645 of NRS.*

16 **SEC. 11.** 1. *Except as provided in subsection 2 and sections 3 to 10,*  
17 *inclusive, of this act, insurance for home protection is subject to all appli-*  
18 *cable provisions of this code.*

19 2. *The provisions of chapters 687A and 692C do not apply to insur-*  
20 *ance for home protection.*

21 **SEC. 12.** Chapter 645 of NRS is hereby amended by adding thereto a  
22 new section which shall read as follows:

23 *The commission may take action pursuant to NRS 645.630 against*  
24 *any person selling insurance for home protection, as defined in section 3*  
25 *of this act, under the authority of a license issued pursuant to this chapter*  
26 *who:*

27 1. *Makes a misrepresentation in the sale of insurance for home pro-*  
28 *tection.*

29 2. *Misrepresents the provisions of the contract of insurance for home*  
30 *protection.*

31 3. *Misappropriates any fees or premiums collected for the insurance*  
32 *for home protection.*



EXHIBIT J

ASSEMBLY BILL NO. 49

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 49

ASSEMBLY BILL NO. 49—COMMITTEE ON  
LABOR AND MANAGEMENT

JANUARY 27, 1981

Referred to Committee on Labor and Management

SUMMARY—Makes certain changes to law on industrial  
insurance. (BDR 53-501)

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

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

AN ACT relating to industrial insurance; providing for distribution of dividends based on experience; changing provisions relating to rehabilitative services; removing a prerequisite for a claimant to obtain representation by the state industrial attorney; 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 616 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this act.  
3 SEC. 2. *As used in sections 2 to 8, inclusive, of this act, unless the*  
4 *context otherwise requires:*  
5 1. *“Administrative expense” means an amount equal to 10 percent*  
6 *of the earned premium.*  
7 2. *“Contributing employer” means an employer who pays or has paid*  
8 *premiums for industrial insurance to the commission.*  
9 3. *“Earned premium” means the amount of premium determined by*  
10 *multiplying the contributing employer’s reported payroll during the*  
11 *period of experience by the appropriate average rates payable for specific*  
12 *job classifications as modified by factors reflecting his experience and*  
13 *effective at the time the payroll was earned, less the amount of premium*  
14 *refunded under the terms of a retrospective rating plan effective during*  
15 *the period of experience.*  
16 4. *“Period of experience” means the 3-year period considered by the*  
17 *commission in calculating the experience dividend to which a contributing*  
18 *employer is entitled. The period begins on July 1 of the third year preced-*  
19 *ing the fiscal year for which the dividend is being calculated and ends*  
20 *June 30 of the year immediately preceding that fiscal year.*  
21 5. *“Incurred losses” means the sum of the disbursements which have*  
22 *been made on each claim through June 30 of the dividend year and the*

1 reserve balance charged against each claim on June 30 of the dividend  
2 year.

3 SEC. 3. 1. Upon completion of the annual audit of the state insur-  
4 ance fund and receipt of the report of its actuary, the commission shall  
5 determine the amount of money to retain as protection for the solvency  
6 of the fund against the adverse effects of any catastrophe, change in judi-  
7 cial decisions, deficiency in the actual reserve or any other contingency  
8 whose effect cannot be predicted with accuracy. This amount must not  
9 exceed 25 percent of the amount collected as premiums during the pre-  
10 ceding fiscal year unless the commission establishes by clear and convinc-  
11 ing evidence in a hearing before the commissioner of insurance that a  
12 greater amount is needed to protect the solvency of the fund.

13 2. The commission shall notify each of the contributing employers of  
14 its intention to seek an amount greater than 25 percent. Any contributing  
15 employer may participate as an interested party during the hearing. At  
16 the hearing the commissioner of insurance shall consider the objections  
17 made by the parties appearing, and resolve all matters in dispute after the  
18 hearing in a manner which does not unjustly affect the objecting party or  
19 the state insurance fund. The commission shall retain the amount of  
20 money ordered by the commissioner of insurance.

21 3. Upon determining the amount of money to be retained as a  
22 reserve for those future contingencies, the commission shall return any  
23 surplus of money, as shown by its financial statement, in the state insur-  
24 ance fund to eligible contributing employers as dividends based on  
25 experience.

26 SEC. 4. A contributing employer who has provided his employees  
27 with industrial insurance during 12 months or more of the period of  
28 experience under a policy issued by the commission and who pays or has  
29 paid a premium of at least \$2 for each month of coverage is eligible to  
30 participate in the distribution of a dividend.

31 SEC. 5. 1. A contributing employer is entitled to receive a dividend  
32 if the commission's calculation of his earned premium less the sum of  
33 administrative expense and incurred losses, as determined pursuant to  
34 subsection 2, on the policy produces a positive result.

35 2. Except as provided in subsection 3, the maximum incurred loss  
36 attributable to a contributing employer's experience for any one claim is  
37 limited to \$3,000 plus 50 percent of the expected losses for the period  
38 of experience not to exceed:

39 (a) Ninety thousand dollars per claim for claims incurred during the  
40 first year of the period of experience.

41 (b) Sixty-five thousand dollars per claim for claims incurred during  
42 the second year of that period.

43 (c) Forty thousand dollars per claim for claims incurred during the  
44 third year of that period.

45 3. The maximum incurred loss attributable to a contributing employ-  
46 er's experience for a claim based on silicosis is \$2,500.

47 SEC. 6. 1. For the purposes of distributing the dividend based on  
48 experience, the commission shall place each eligible contributing  
49 employer in one of nine groups based on the amount of earned premium

1 contributed by him during the period of experience. Each group of contrib-  
2 uting employers must consist of those who have contributed at least  
3 10 percent, but not more than 12 percent, of the total premium. The  
4 commission shall list all eligible contributing employers from the contrib-  
5 utor of the smallest amount in ascending order to the contributor of  
6 the largest amount. The first group of contributing employers must consist  
7 of those eligible employers who have contributed the least. The  
8 second group of contributing employers must consist of the eligible  
9 employers who have contributed the next higher range of amounts. Each  
10 subsequent group must be determined in accordance with this procedure  
11 until the final group is determined, which must consist of the employers  
12 who have contributed the largest amounts.

13 2. The commission shall:

14 (a) Distribute the dividend to each group of contributing employers in  
15 the same ratio as the premium contributed by the group bears to the total  
16 premium contributed by all eligible employers.

17 (b) Calculate a dividend factor for each group of contributing employ-  
18 ers by dividing the amount of the dividend assigned to the group by an  
19 amount equal to the group's total premium less the sum of the administra-  
20 tive expenses and the incurred losses attributable to the group.

21 (c) Calculate the dividend due to each contributing employer by multi-  
22 plying the dividend factor by an amount equal to the earned premium on  
23 the policy less the sum of the administrative expense for the policy and  
24 the incurred losses attributable to the contributing employer.

25 SEC. 7. 1. The total dividend based on experience which is distrib-  
26 uted must be in an amount within 1 percent of the total declared divi-  
27 dend. The minimum dividend which may be paid to a contributing  
28 employer is \$1. A dividend of \$10 or more must be paid by check if  
29 the contributing employer's advance deposit is adequate.

30 2. If the balance of a contributing employer's advance deposit is  
31 deficient on June 30 preceding the distribution of the dividend, the divi-  
32 dend must be deposited for a credit to the advance deposit to the extent  
33 necessary to cover the deficiency.

34 3. A dividend of less than \$10 must be added to the contributing  
35 employer's advance deposit.

36 4. The commission shall pay the dividend in July of the second fiscal  
37 year following the fiscal year for which the dividend is calculated.

38 SEC. 8. 1. Whenever the commission allows a claim, it shall:

39 (a) Establish an actual reserve of money for that claim equal to the  
40 present value of all predicted future payments for the claim; and

41 (b) Provide the affected employer an opportunity to review and discuss  
42 with the representative of the commission all the information used to  
43 establish the amount of the actual reserve.

44 2. An employer may protest the amount of the actual reserve for any  
45 claim by filing with the commission a notice of protest within 30 days  
46 after notification of the amount established as a reserve, if the employer  
47 alleges that the reserve established by the commission exceeds the amount  
48 of the reserve required by subsection 1 by \$2,500 or more.

1 3. *Within 20 days after receipt of the protest the staff of the commis-*  
2 *sion shall explain in writing to the protesting employer how the amount of*  
3 *the reserve was established for each protested claim.*

4 4. *Each explanation must include separate line entries for the*  
5 *amounts allocated for:*

6 (a) *Temporary partial disability;*

7 (b) *Temporary total disability;*

8 (c) *Permanent partial disability;*

9 (d) *Permanent total disability;*

10 (e) *Physicians;*

11 (f) *Hospitals;*

12 (g) *Rehabilitation; and*

13 (h) *Any other costs in excess of \$500.*

14 5. *If the employer is not satisfied with the explanation provided by*  
15 *the staff, the employer may within 10 days after receiving the staff's*  
16 *explanation request a hearing before a hearing officer. The hearing must*  
17 *be held within 30 days after receiving the employer's request. The evi-*  
18 *dence presented to the hearing officer by the staff of the commission must*  
19 *be limited to the evidence it presented to the employer. The hearing offi-*  
20 *cer shall notify the employer of his decision within 30 days after the*  
21 *hearing. The decision of the hearing officer is a final administrative*  
22 *decision.*

23 SEC. 9. NRS 616.223 is hereby amended to read as follows:

24 616.223 1. Subject to the provisions of this section, the commission  
25 shall each year enter into a cooperative agreement with the rehabilitation  
26 division of the department of human resources, and may annually enter  
27 into agreements with other agencies to benefit disabled employees  
28 entitled to compensation and benefits pursuant to the provisions of this  
29 chapter by best using the resources of each agency to provide [reha-  
30 bilitation] *rehabilitative services and to enable those employees and*  
31 *other disabled persons to enter or return to gainful employment.*

32 2. Among other things, the cooperative agreements must provide:

33 (a) That each agency [will] establish procedures which [require  
34 that agency to] *will provide any services offered by it for disabled per-*  
35 *sons [,] at any of its facilities [, at the request of] to the other*  
36 *agency [,] upon request if:*

37 (1) *The services are in the best interests of the disabled person;*  
38 *and*

39 (2) *The agency to which the person is referred is providing full*  
40 *service to the disabled persons for whom it is responsible and has space*  
41 *and facilities left over to provide the services to the person referred.*

42 (b) *That each agency will provide services to persons referred at*  
43 *rates which are reasonable in relation to the cost of the services.*

44 (c) *Standards and procedures for referrals.*

45 (d) *Reporting procedures which require that the agency providing*  
46 *services at the request of another agency make reports of the progress*  
47 *of the disabled person to the referring agency at least monthly.*

48 3. *The commission shall, whenever possible, make its facility for*  
49 *rehabilitation available to members of the public and shall establish fees*  
50 *for public use.*

1     4. The commission, and the rehabilitation division of the department  
2 of human resources through the director of that department, shall report  
3 annually to the governor. The report must contain information on the  
4 effectiveness of services furnished under the agreement. The governor  
5 may require that any succeeding annual agreement be modified to pro-  
6 vide more effective services to disabled employees.

7     SEC. 10. NRS 616.2535 is hereby amended to read as follows:

8     616.2535 1. Any claimant may request the appointment of the state  
9 industrial attorney to represent him. The request [shall be made] *must*  
10 *be* in writing. [and accompanied by the claimant's affidavit stating that he  
11 is financially unable to employ private counsel.]

12     2. The appeals officer shall consider [the application] *each such*  
13 *request* within a reasonable time and shall make such further inquiry as  
14 he deems necessary. If the appeals officer finds that [the claimant is  
15 financially unable to employ private counsel and that] the claimant  
16 would be better served by legal representation in his case, the appeals  
17 officer [may] *shall* appoint the state industrial attorney to represent him.

18     SEC. 11. This act shall become effective upon passage and approval.