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

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
May 18, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at the hour of 2:04 p.m., Monday, May 18, 1981, in Room 213 of the Legislative Building, Carson City, Nevada.

COMMITTEE MEMBERS PRESENT:

Senator Thomas R. C. Wilson, Chairman  
Senator Richard E. Blakemore, Vice Chairman  
Senator Donald W. Ashworth  
Senator Melvin D. Close, Jr.  
Senator William H. Hernstadt  
Senator Clifford E. McCorkle  
Senator William J. Raggio

GUEST LEGISLATOR:

Assemblyman Robert E. Robinson

STAFF MEMBER PRESENT:

Betty Steele, Committee Secretary

ASSEMBLY BILL NO. 474--Removes prohibition against investments in agricultural or ranch property by insurers. (See Exhibit A--first reprint)

Chairman Wilson opened the hearing and asked if there were proponents present to speak to the issues concerning the subject bill.

Milos Terzich, Esq., representing the Prudential Insurance Company of America, appeared before the committee to address a question which arose in a previous hearing concerning the prohibition of certain investments by insurance companies, and the committee's concern with specific language on page 2, lines 9-12 which reads:  
"\* \* \* (f) Real property, or any interest therein, acquired or held

ASSEMBLY BILL NO. 474 (continued)

by purchase, lease or otherwise, other than real property to be used primarily for [agricultural, ranch,] mining, development of oil or mineral resources, recreational, amusement, hotel, motel or club purposes, acquired as an investment. . .". Mr. Terzich explained that insurers may make passive investments in these areas but are prohibited from claiming them as assets. He said the amendment now under consideration by the committee would permit insurers to acquire, purchase and develop these types of properties for investment purposes.

Senator Hernstadt stated his concern that insurance companies have policies whereby they are to exclude investments in clubs, hotels, motels, and so on, from insurance portfolios. He said the language was ambiguous and in need of clarification. Additionally, he felt the legislature would want to have insurance portfolios on such investments in order to enhance growth in the State of Nevada.

Mr. James Wadhams, director, department of commerce, responded affirmatively. He suggested that the committee view that section in context with the entire investment code in which there are two sections relating to real property: (1) is obtaining deeds of trust (making investments in existing projects), and (2) is acquisition for the purpose of development. He said A.B. 474 addresses section (2) above, and suggested as a policy matter that insurance companies should not, generally, be in the development business. The preceding section would allow them to take deeds of trust on casinos and other such enterprises, he said.

Senator Hernstadt commented that insurance companies are now permitted to make such investments on a loan basis, citing the recent loan from a well-known insurance firm to Caesar's Palace in Las Vegas. He felt that was desirable in a "capital-short" state and he couldn't understand why there would be a prohibition against such investments.

Senator Blakemore asked the purpose of the bill; more specifically, what prompted the policy whereby insurance companies were denied the ability to make these kinds of investments?

Mr. Wadhams noted that there is a higher degree of risk at the inception of a development concept than there is in lending money to an ongoing operation. The policy question is based upon the security of the asset portfolio of the insurer. The insurers are supposed to be professional "risk takers", but they are also supposed to have a fairly secure asset base so that they can pay the claims when the other person's risk fails.

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ASSEMBLY BILL NO. 474 (continued)

Continuing, Mr. Wadhams stated that A.B. 474 addresses Nevada Revised Statute (NRS) 682A.240, which is the section of the law relating to real property acquired for the purposes of development. The preceding section of the law, NRS 682A.230, entitled "Real Property; Mortgages; Deeds of Trust", allows an investment on a deed of trust basis to include property. NRS 682A.240 allows purchase of raw land for development which is a "riskier" venture, he said.

In response to Senator Blakemore's further query on the subject, Mr. Wadhams clarified the issue by referring the committee to page 2, line 17, which says in part: "\* \* \* An insurer shall not have at any one time invested in real property under this paragraph more than 15 percent of its assets", therefore, the speculative investment (development type property) is still limited to 15 percent of an insurance firm's portfolio.

Chairman Wilson and Mr. Wadhams discussed the ramifications of the bill at length. Mr. Wadhams urged the committee to take a slow approach to any major revisions to the investment code unless proponents could adequately justify revisions the law.

Chairman Wilson called for additional testimony on the bill; there being none, the hearing was closed on A.B. 474.

ASSEMBLY BILL NO. 474

Senator Hernstadt moved to refer A.B. 474 out of committee with a "Do Pass" recommendation.

Senator Blakemore seconded the motion

The motion carried.

SENATE BILL NO 653--Increases fee for license issued by private investigators licensing board. (see Exhibit B--original bill)

The committee discussed raising the license fee from \$125 to \$175. It was the consensus of the committee that line 3 should be amended to read: "\* \* \* the applicant pays to the board a license fee of [\$125] not more than \$175.

Senator Hernstadt moved to refer S.B. 653 out of committee with an "Amend, and Do Pass" recommendation.

Senator Blakemore seconded the motion.

SENATE BILL NO. 653 (continued)

The motion carried unanimously.

ASSEMBLY BILL NO. 433--Increases compensation under industrial insurance for certain claimants and reduces certain compensation by amount of federal benefits under social security. (see Exhibit C.--first reprint)

The committee reviewed amendments to A.B. 433 (see Exhibit D) and was particularly interested in knowing the response to the following questions: (1) Would there be an increase in premiums if the bill is enacted; and (2) would there be any linkage in the surplus of funds? Chairman Wilson requested Mr. Joe Nusbaum, chairman, Nevada industrial commission (NIC) to address the subject.

Prior to Mr. Nusbaum's testimony, however, Senator Hernstadt asked if the amendment provided to the committee requires the total amount of \$13.5 million to be funded by a premium increase as the language in the aforementioned amendment does not stipulate to a set amount. He felt the language to be too broad to be servicable.

Mr. Nusbaum responded that sections 2, 3 and 4 cover all pension improvements other than those that were supplemented previously. A rate increase of 9 or 9.5 percent is needed to cover the \$11.5 million. He said the major impact, and the reason it was offered, is that the rate increase would only apply to current policyholders and the surplus funds would be distributed in dividends which would also apply to policyholders no longer in the fund.

Senator McCorkle asked what the probability was of having the social security money funded by the government. Mr. Nusbaum stated that if A.B. 433 is enacted and if the federal law remains in effect, reserves would be reduced by approximately \$3 million via social security funds. He stated that there has been many attempts to repeal that provision in Congress but nothing has developed thus far and the funds will be available.

In response to Chairman Wilson's query, Mr. Nusbaum recommended that the \$11.5 million (A.B. 433) be funded from three sources via the following: (1) from the silicosis and disabled persons fund in the amount of \$1,780,000; (2) \$3 million from social security funding; and (3) \$8.5 million to be taken from the surplus fund. Mr. Nusbaum suggested that A.B. 407 be funded by a rate increase.

Specific ramifications of A.B. 433 were discussed at length by committee members together with Mr. Nusbaum and Mr. Claude "Blackie" Evans, secretary/treasure of the AFL-CIO.

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ASSEMBLY BILL NO. 433 (continued)

Senator Ashworth moved to "Amend, and Do Pass"  
A.B. 433.

Senator Hernstadt seconded the motion.

The motion carried. Senators McCorkle and Raggio voted "Nay". Senator Raggio noted for the record that he was in favor of increasing the benefits as set forth in the bill; however, he was opposed to the method of funding.

ASSEMBLY BILL NO. 614--Repeals provision for special licensing  
of physicians who are specialists.  
(see Exhibit E)

Chairman Wilson opened the hearing on A.B. 614 and deferred the floor to Assemblyman Robert E. Robinson, chairman, assembly committee on commerce.

Assemblyman Robinson testified that the assembly committee on commerce did not object to the amendments as set forth whereby lines 19 through 22, which reads: "3. [If the applicant is a specialty board recognized by the American Medical Association, the requirements of (c) and (d) of subsection 1 may be waived by the board.]" were deleted from law. The amendment was initially requested and supported by the Nevada board of medical examiners. The board now require all prospective doctors desiring licensure in the State of Nevada to be given the Federated License Examination (FLEX), he said. The amendment pertains to foreign graduates of foreign medical schools who have become diplomates under a specialty board and who "may" be waived from taking the FLEX test as now permitted by the board; however, it is the board's desire to delete the "permissibility" of the waiver from law and require all doctors, foreign or not, to take the FLEX test prior to licensure in the State of Nevada.

Chairman Wilson asked Mr. Richard Pugh, director, Nevada state medical board if he was familiar with the bill and qualified to testify on its merits. Mr. Pugh replied that he wasn't, but that he had been told that the Nevada board was totally in favor of it.

Assemblyman Robinson suggested the committee talk with Ms. Joan Rogers, executive secretary of the board of medical examiners, as he felt she could clarify the amendments for the committee.

Assemblyman Robinson continued by stating that the American Medical Association (AMA) has recognized, in the past, some of the board examinations from foreign medical associations on a reciprocal basis thus creating the diplomate status, but they no longer wish to

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ASSEMBLY BILL NO. 614 (continued)

permit that policy. He said if it is deleted from the law entirely there wouldn't be loopholes for suit by a foreign doctor to sue because the "permissibility" clause no longer exists. He said he felt the problem really surfaced when they were confronted with Iranian doctors who sought licensure in the United States, and because of that clause, they were permitted to be in the diplomate status. The American doctors were unhappy with the policy and that was what initially prompted its change.

ASSEMBLY BILL NO 467--Increases penalty for first degree arson involving certain structures.  
(see Exhibit F)

Ms. Brooke Nielsen, deputy attorney general of the criminal division, appeared before the committee to speak in support of A.B. 467. She stated that A.B. 467 does two things: (1) increases the penalty for arson; and (2) adds new law for obtaining information by state agencies which investigate crimes of arson. Additionally, she reported that the attorney general has been for some time very concerned about the effect of arson in the State of Nevada in terms of dollars, loss of property and so forth.

Senator Raggio commented that it was his belief the committee was in favor of the bill; however, it should conform to the provisions as set forth in S.B. 542. Chairman Wilson requested Ms. Nielsen meet with Senator Raggio in order to confer on the bills in question to insure all necessary provisions are met. Ms. Nielsen concurred in Chairman Wilson's request.

ASSEMBLY BILL NO. 407--Provides certain increases in compensation under industrial insurance for permanent partial disability (see Exhibit G--first reprint)

Chairman Wilson opened the hearing on A.B. 407 by deferring the floor to Mr. Joe Nusbaum, chairman, Nevada industrial commission (NIC).

Mr. Nusbaum testified that he was in favor of the bill by indicating that it is a fairly straight-forwarded issue. He said it raises the factor in the formula for the permanent partial disability from 50 to 66 2/3 percent which would be funded by a rate increase, and would cost \$6.5 million.

The committee members discussed the pros and cons of the bill at length.

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ASSEMBLY BILL NO. 407 (continued)

Mr. Nusbaum pointed out to the committee that even if they do not agree with the increase of benefits, that there were two other positive issues to the bill. One is the change the lump sum award. He explained that now, if a person is disabled up to 12% he will get the full amount in a lump sum award; however, if a person is more than 12% disabled one-fourth of the amount is granted in a lump sum, therefore it is the commission's desire to revise the law to be consistent. The second positive item pertains to the provision that the commission and the commissioner of insurance may adopt joint regulations concerning the manner in which a comprehensive evaluation of possible rehabilitation will be conducted and defining the factors to be considered in the evaluation required to substantiate the need for a lump sum settlement.

ASSEMBLY BILL NO. 407

Senator Hernstadt moved to "Amend, and Do Pass" A.B. 407 noting that lines 19 through 22 will be returned to the original language (delete italicized wording).

Senator McCorkle seconded the motion.

The motion carried. Senator Blakemore voted "Nay", and Senator Raggio was absent when the vote was taken on this item.

ASSEMBLY BILL NO. 32 (see Exhibit H)

Senator Blakemore moved to "Do Pass" A.B. 32.

Senator Raggio seconded the motion

The motion carried. Senator Close voted "Nay". Senator Hernstadt abstained from voting because he was not present when the testimony was heard on this item.

ASSEMBLY BILL NO. 233--Prohibits employee's use of polygraph on applicant for employment or employees.  
(see Exhibit I)

Chairman Wilson opened the hearing by indicating A.B. 233 was introduced as a prohibition against the use of the polygraph as a condition of employment or continued employment. The bill was amended to provide for polygraph examiners' licensure. The committee was provided with a copy of an article entitled "The Truth About Lie Detectors, says David Lykken, Is That They Can't Detect A Lie" (see Exhibit J).

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ASSEMBLY BILL NO. 32 (continued)

Senator Raggio expressed that he had introduced a similar polygraph examiners' licensure bill last session, and portions of the contents of A.B. 233 were extracted from that bill. He said that at the present time there are no regulations or controls of polygraph examiners, and he believes it is necessary to have such controls at this time.

Mr. Claude "Blackie" Evans, secretary/treasurer of the AFL-CIO testified that organized labor does not support A.B. 233 in its present form indicating that they object to the authority given polygraph examiners. Mr. Evans says that polygraph examinations are not credible for employment purposes.

Senator Raggio countered in disagreement with Mr. Evans. He said that in the past, as a prosecutor, he found the polygraph to be an excellent investigative tool; that the machine is 100% accurate. He explained that it measures blood pressure, skin resistance and breathing. The difficulty arises in the people who conduct the examinations and interpret the readings. He said the reason he introduced the bill last session was to make certain that polygraph examiners must be licensed and qualified to give such examinations.

Senator Hernstadt said he was partially in agreement with Senator Raggio; However, he preferred to vote on the original bill rather than the reprint currently being considered.

ASSEMBLY BILL NO. 233

Senator Raggio moved to "Do Pass" A.B. 233, limiting the licensing to police and investigative state agencies.

Senator Ashworth seconded the motion.

The motion carried. Senators Blakemore, Hernstadt and Wilson voted "Nay".

ASSEMBLY BILL NO. 312--Amends provisions of laws relating to claims under industrial and occupational safety and health. (see Exhibit K)

Chairman Wilson opened the hearing on A.B. 312 and deferred the floor to Mr. Joe Nusbaum, chairman, Nevada industrial commission (NIC).

Mr. Nusbaum explained that A.B. 312 pertains to claims administration as recommended by the advisory board and legislative auditors. He said it is a "house cleaning" bill basically and does not contain substantive changes to the law.



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ASSEMBLY BILL NO. 312 (continued)

Senator Blakemore moved to "Amend and Do Pass" A. B. 312  
to conform to A.B. 137.

Senator McCorkle seconded the motion.

The motion carried.

There being no further business, the meeting was adjourned.

Transcribed by:

*Janice L. Thomas*

Janice L. Thomas  
Research Secretary

Date: April 16, 1982

SENATE COMMITTEE ON COMMERCE AND LABOR  
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Exhibit Index

- EXHIBIT A - Assembly Bill No. 474, first reprint.
- EXHIBIT B - Assembly Bill No. 653, original.
- EXHIBIT C - Assembly Bill No. 433, first reprint.
- EXHIBIT D - Amendments to A.B. 433.
- EXHIBIT E - Assembly Bill No. 614.
- EXHIBIT F - Assembly Bill No. 467.
- EXHIBIT G - Assembly Bill No. 407, first reprint.
- EXHIBIT H - Assembly Bill No. 32.
- EXHIBIT I - Assembly Bill No. 233.
- EXHIBIT J - Magazine article, "The Truth About Lie  
Detectors, says David Lykken, Is That  
They Can't Detect A Lie"
- EXHIBIT K - Assembly Bill No. 312.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 474

ASSEMBLY BILL NO. 474—COMMITTEE ON COMMERCE

APRIL 9, 1981

Referred to Committee on Commerce

**SUMMARY**—Removes prohibition against investments in agricultural or ranch property by insurers. (BDR 57-1507)

**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; removing the prohibition against investments in agricultural or ranch property by insurers; 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 682A.240 is hereby amended to read as follows:  
2 682A.240 1. A domestic insurer may invest in real property only  
3 if used for the purposes or acquired in any manner, and within limits, set  
4 forth below:  
5 (a) The building in which it has its principal office, the land upon  
6 which the building stands, and such other real property as may be requisite  
7 for the insurer's convenient accommodation in the transaction of its  
8 business. The amount so invested, and apportioned as to space actually  
9 so occupied or used, [shall] *must* not aggregate more than 15 percent  
10 of the insurer's assets; but the commissioner may authorize an insurer to  
11 increase the investment in such amount as he may determine if, upon  
12 proper showing made upon a hearing held by him, he finds that the 15-  
13 percent limitation is insufficient to provide reasonable and convenient  
14 accommodation for the insurer's business.  
15 (b) Real property acquired in satisfaction or part payment of loans,  
16 mortgages, liens, judgments, decrees or debts previously owing to the  
17 insurer in the due course of its business.  
18 (c) Real property acquired in part payment of the consideration on the  
19 sale of other real property owned by it, if such transaction has effected a  
20 net reduction in the insurer's investments in real property.  
21 (d) Real property acquired by gift or devise, or through merger, con-  
22 solidation or bulk reinsurance of another insurer under this code.

(REPRINTED WITH ADOPTED AMENDMENTS)  
FIRST REPRINT

S. B. 653

SENATE BILL NO. 653—COMMITTEE ON FINANCE

MAY 7, 1981

Referred to Committee on Commerce and Labor

SUMMARY—Increases fee for license issued by private investigator's  
licensing board. (BDR 54-2033)

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 the private investigator's licensing board; increasing the fee  
for a license issued by the board; 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 648.120 is hereby amended to read as follows:
- 2 648.120 1. A license under this chapter may not be issued until
- 3 the applicant pays to the board a license fee of **[\$125.]** *not more than*
- 4 *\$175.*
- 5 2. The license fee must be paid annually and is due on July 1. The
- 6 board may provide that the fee be reduced ratably for portions of the
- 7 license period.
- 8 SEC. 2. This act shall become effective upon passage and approval.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 433

ASSEMBLY BILL NO. 433—ASSEMBLYMAN BANNER

APRIL 3, 1981

Referred to Committee on Labor and Management

SUMMARY—Increases compensation under industrial insurance for certain claimants and reduces certain compensation by amount of federal benefits under social security. (BDR 53-1198)

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; increasing compensation for certain claimants; reducing the amount of certain compensation by the amount of federal benefits received by a claimant under the social security system; 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 5, inclusive, of this act.  
3 SEC. 2. 1. Any claimant or dependent of a claimant who is receiv-  
4 ing compensation pursuant to this chapter for a permanent total disabil-  
5 ity but is not entitled:  
6 (a) To an increase in that compensation pursuant to NRS 616.626; or  
7 (b) To any disability income benefits from the federal social security  
8 system,  
9 is entitled to an increase in that compensation by the same percentage as  
10 the increase in the state average monthly wage from the date of the  
11 claimant's disabling accident or disease or from July 1, 1973, whichever  
12 is later, to July 1, 1980.  
13 2. The increase provided by this section must not be paid for any  
14 period before July 1, 1981.  
15 SEC. 3. 1. Any claimant who is not entitled to an increase pursuant  
16 to section 2 of this act and who receives less in disability benefits from the  
17 federal social security system and pursuant to this chapter, combined,  
18 than an amount equal to 80 percent of average current earnings estab-  
19 lished pursuant to section 424a of the Social Security Act, 42 U.S.C.  
20 424a, is entitled to an increase in his compensation for a permanent total  
21 disability of:  
22 (a) The increase provided pursuant to section 2 of this act; or

1 (b) The difference between the amount of benefits he is receiving and  
2 80 percent of the average current earnings,  
3 whichever is less.

4 2. The increase provided by this section must not be paid for any  
5 period before July 1, 1981.

6 SEC. 4. 1. Any widow, widower, surviving child or surviving depend-  
7 ent parent who is receiving death benefits pursuant to this chapter but is  
8 not entitled to an increase in those death benefits pursuant to NRS  
9 616.628,

10 is entitled to an increase in those death benefits by the same percentage as  
11 the increase in the state average monthly wage from the date of the fatal  
12 accident or death caused by occupational disease or from July 1, 1973,  
13 whichever is later, to July 1, 1980.

14 2. The increase provided by this section must not be paid for any  
15 period before July 1, 1981.

16 SEC. 5. 1. If an employee who is entitled to compensation under this  
17 chapter for temporary total disability, permanent partial disability or per-  
18 manent total disability becomes entitled to federal disability insurance  
19 benefits under section 423 of the Social Security Act (42 U.S.C. § 423),  
20 the employee's compensation under this chapter must be reduced by the  
21 amount of the federal benefits being received by him pursuant to section  
22 423 of the Social Security Act.

23 2. This section must not be applied to reduce the employee's compen-  
24 sation under this chapter to any greater extent than his federal  
25 benefits would have otherwise been reduced by the Social Security Admin-  
26 istration under section 424a of the Social Security Act (42 U.S.C. §  
27 424a); after any reduction pursuant to this section, the combination of his  
28 state compensation and federal benefits must be at least as much as the  
29 greater of:

30 (a) The benefits payable pursuant to this chapter (without the reduc-  
31 tion); or

32 (b) The benefits payable under the Social Security Act (without any  
33 reduction).

34 3. After a reduced amount of compensation for an employee has  
35 been established pursuant to this section, no further reduction in his  
36 compensation may be made because he receives an increase in his bene-  
37 fits under the Social Security Act as the result of an adjustment based on  
38 an increase in the cost of living.

39 4. No compensation may be reduced pursuant to this section until  
40 the Social Security Administration has determined the amount of benefits  
41 payable to the employee under section 423 of the Social Security Act  
42 and he has begun to receive those benefits.

43 5. If an employee:

44 (a) Fails to report the amount of benefits which he is receiving under  
45 section 423 of the Social Security Act, within 30 days after he is  
46 requested in writing by the commission or a self-insured employer to  
47 make that report; or

48 (b) Fails to provide the commission or the self-insured employer with  
49 a written authorization for the Social Security Administration to release  
50 information on the employee's average current earnings and the amount

1 of benefits to which he is entitled, within 30 days after he is requested to  
2 provide that authorization,  
3 the commission or self-insured employer may reduce by 50 percent the  
4 compensation which the employee would otherwise receive pursuant to  
5 this chapter. Any compensation which is withheld pursuant to this sub-  
6 section must be paid to the employee when he has furnished the report  
7 or authorization as requested.

8 6. If the provisions of section 424a of the Social Security Act are  
9 amended:

10 (a) To allow an employee to receive more compensation under this  
11 chapter without any reduction in benefits payable under section 423 of  
12 the Social Security Act; or

13 (b) To lower the maximum sum of compensation payable under this  
14 chapter and benefits payable under section 423 of the Social Security  
15 Act,

16 the reduction imposed by this section must be increased or decreased  
17 correspondingly.

18 7. No reduction in compensation may be made under this section  
19 for any period of entitlement which:

20 (a) Occurs before January 1, 1982;

21 (b) Occurs before the employee has been given a written notice by  
22 mail of the intended reduction; or

23 (c) Includes any week after the week in which the employee becomes  
24 62 years of age.

25 SEC. 6. NRS 616.027 is hereby amended to read as follows:

26 616.027 ["Average"] 1. Except as provided in subsection 2, "aver-  
27 age monthly wage" means the lesser of:

28 [1.] (a) The monthly wage actually received or deemed to have been  
29 received by the employee on the date of the accident or injury to the  
30 employee excluding remuneration from [:

31 (a) Employment not] employment:

32 (1) Not subject to the Nevada Industrial Insurance Act or the  
33 Nevada Occupational Diseases Act;

34 [(b) Employment specified] (2) Specified in NRS 616.255 or 617.-  
35 180; and

36 [(c) Employment for] (3) For which coverage is elective, but has  
37 not been elected; or

38 [2.] (b) One hundred fifty percent of the state average weekly wage  
39 as most recently computed by the employment security department during  
40 the fiscal year preceding the date of the injury or accident, multiplied by  
41 4.33.

42 2. For the purpose of increasing compensation for permanent total  
43 disability pursuant to section 2 of this act or increasing death benefits  
44 pursuant to section 4 of this act, "average monthly wage" has the mean-  
45 ing shown in the following schedule:

	Effective Date	Average Monthly Wage for Prior Fiscal Year
3	July 1, 1973.....	\$688.60
4	July 1, 1974.....	727.48
5	July 1, 1975.....	761.47
6	July 1, 1976.....	807.33
7	July 1, 1977.....	858.29
8	July 1, 1978.....	918.05
9	July 1, 1979.....	992.31
10	July 1, 1980.....	1,061.24

11 SEC. 7. NRS 616.625 is hereby amended to read as follows:

12 616.625 [The] Except as provided in sections 2, 3 and 4 of this act  
13 the amount of compensation and benefits and the person or person  
14 entitled thereto [shall] must be determined as of the date of the accident  
15 or injury to the employee, and their rights thereto [shall] become fixed  
16 as of [such] that date.

17 SEC. 8. NRS 616.626 is hereby amended to read as follows:

18 616.626 1. Any claimant or [his dependents, residing] dependent  
19 of a claimant who resides in this state [, who receive] and receive  
20 compensation for a permanent total disability [on account of] caused by  
21 an industrial injury or a disablement [due to] from an occupational  
22 disease [occurring] which occurred before April 9, 1971, is entitled to  
23 [35] 65 percent increase in that compensation, without regard to any  
24 wage limitation imposed by this chapter on the amount of that compensa-  
25 tion.

26 2. The increase must be paid from the silicosis and disabled pension  
27 fund.

28 SEC. 9. NRS 616.628 is hereby amended to read as follows:

29 616.628 1. Any widow, widower, surviving child or surviving  
30 dependent parent [, residing] who resides in this state [,] and who  
31 receives death benefits on account of an industrial injury or a disablement  
32 [due to] from an occupational disease [occurring] which occurred  
33 before July 1, 1973, is entitled to a [35] 65 percent increase in the  
34 benefits without regard to any wage limitation imposed by this chap-  
35 on the amount of those benefits.

36 2. The increase must be paid from the silicosis and disabled pension  
37 fund.



AMENDMENTS TO ASSEMBLY BILL NO. 433

Add a new section numbered 10 to read as follows:

The increases provided by sections 2, 3 and 4 of this act shall be funded by an increase in premium rates for the fiscal year beginning July 1, 1981 and ending June 30, 1982 in an amount the commission determines is necessary to pay the obligations created by sections 2, 3 and 4 of this act.

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ASSEMBLY BILL NO. 614—COMMITTEE ON COMMERCE

MAY 5, 1981

Referred to Committee on Commerce

SUMMARY—Repeals provision for special licensing of physicians who are specialists. (BDR 54-2002)

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

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

AN ACT relating to physicians; repealing provision for special licensing of specialists; 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 630.195 is hereby amended to read as follows:

2 630.195 1. The applicant for a license to practice medicine who is  
3 a graduate of a foreign medical school shall submit to the board through  
4 its secretary:

5 (a) Proof that he is a citizen of the United States, or that he is law-  
6 fully entitled to remain and work in the United States.

7 (b) Proof that he has received the degree of Doctor of Medicine or  
8 its equivalent, as determined by the board, from a foreign medical school  
9 recognized by the Educational Commission for Foreign Medical Grad-  
10 uates.

11 (c) Proof that he has completed 3 years of postgraduate training satis-  
12 factory to the board.

13 (d) Proof that he has passed, with a grade acceptable to the board,  
14 an examination designated by the board.

15 2. In addition to the proofs required by subsection 1, the board may  
16 take such further evidence and require such further proof of the pro-  
17 fessional and moral qualifications of the applicant as in its discretion  
18 may be deemed proper.

19 3. [If the applicant is a diplomate of an approved specialty board  
20 recognized by the American Medical Association, the requirements of  
21 paragraphs (c) and (d) of subsection 1 may be waived by the board.

22 4.] Before issuance of a license to practice medicine, the applicant  
23 who presents the proof required by subsection 1 [shall] *must* appear  
24 personally before the board and satisfactorily pass a written or oral  
25 examination, or both, as to his qualifications to practice medicine.

20

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 467

ASSEMBLY BILL NO. 467—ASSEMBLYMEN HORN, VERGIELS,  
BRADY, MALONE, HAYES, SCHOFIELD, ROBINSON, BAN-  
NER, WESTALL, MAY AND PRICE

APRIL 8, 1981

Referred to Committee on Judiciary

SUMMARY—Increases penalty for first degree arson involving  
certain structures. (BDR 16-1477)

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 crimes and punishments; increasing penalties for arson; providing for exchange of information on suspicious fires among law enforcement agencies and insurers; 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 205.010 is hereby amended to read as follows:  
2 205.010 Any person who willfully and maliciously sets fire to or  
3 burns or causes to be burned, or who aids, counsels or procures the burn-  
4 ing of any dwelling house, *mobile home* or other structure, whether occu-  
5 pied or vacant, or any [mobile home or other] personal property which  
6 is occupied by one or more persons, whether the property of himself or of  
7 another, is guilty of arson in the first degree and shall be [sentenced to]  
8 *punished by imprisonment in the state prison* for not less than 1 year nor  
9 more than [15] 20 years, and may be further punished by a fine of not  
10 more than [~~\$15,000.~~] \$20,000.

11 SEC. 2. NRS 205.015 is hereby amended to read as follows:  
12 205.015 Any person who willfully and maliciously sets fire to or  
13 burns or causes to be burned, or who aids, counsels or procures the  
14 burning of any abandoned building or structure, whether the property of  
15 himself or of another, is guilty of arson in the second degree and shall be  
16 [sentenced to] *punished by imprisonment in the state prison* for not less  
17 than 1 nor more than [10] 15 years, and may be further punished by a  
18 fine of not more than [~~\$10,000.~~] \$15,000.

19 SEC. 3. NRS 205.020 is hereby amended to read as follows:  
20 205.020 Any person who willfully and maliciously sets fire to or  
21 burns or causes to be burned, or who aids, counsels or procures the burn-  
22 ing of:

1 1. Any unoccupied personal property of another which has the value  
2 of \$25 or more; or

3 2. Any timber, forest, shrubbery, crops, grass, vegetation or other  
4 flammable material not his own,

5 is guilty of arson in the third degree and shall be [sentenced to] *punished*  
6 *by imprisonment in the state prison for not less than 1 year nor more*  
7 *than [6] 10 years, and may be further punished by a fine of not more*  
8 *than [ \$5,000. ] \$10,000.*

9 SEC. 4. Chapter 686A of NRS is hereby amended by adding thereto  
10 the provisions set forth as sections 5 to 8, inclusive, of this act.

11 SEC. 5. *As used in sections 5 to 8, inclusive, of this act, unless the*  
12 *context otherwise requires, "agency" means the:*

13 1. *State fire marshal when he is authorized or required to investigate*  
14 *fires in the jurisdiction in which the fire took place;*

15 2. *Director of the department of law enforcement assistance;*

16 3. *District attorney of the county in which the fire took place;*

17 4. *Chief of the fire department in whose jurisdiction the fire took*  
18 *place;*

19 5. *Commissioner of insurance; and*

20 6. *Federal Bureau of Investigation, the United States Attorney for*  
21 *the District of Nevada and any other federal agency when the fire is*  
22 *within the jurisdiction of the agency to investigate.*

23 SEC. 6. 1. *An agency may require an insurer to provide any informa-*  
24 *tion which the agency deems important relating to a fire which the agency*  
25 *has the jurisdiction to investigate.*

26 2. *An agency shall make a written request to the insurer for the infor-*  
27 *mation.*

28 3. *Information which an agency may deem important may include,*  
29 *without limitation:*

30 (a) *Pertinent information about the policy which covered the property*  
31 *which was damaged or destroyed, including applications;*

32 (b) *Records of payments of premiums, if the records are available to*  
33 *the insurer;*

34 (c) *Information relating to previous claims made by the insured; and*

35 (d) *Information relating to the investigation of the loss, including state-*  
36 *ments of any person, material submitted as proof of loss and other evi-*  
37 *dence.*

38 SEC. 7. *If an insurer has reason to believe that a fire which has caused*  
39 *a loss in which it has an interest may have been attributable to a cause*  
40 *other than accident or natural occurrence, it shall notify an agency in*  
41 *writing of its reasons for believing the cause of the fire to be other than*  
42 *accidental or natural, and provide the agency with any information which*  
43 *it has obtained in the course of its investigation.*

44 SEC. 8. 1. *An insurer which provides information to an agency pur-*  
45 *suant to section 6 of this act:*

46 (a) *Is entitled to receive any relevant information relating to the loss*  
47 *which the agency has in its possession; and*

48 (b) *Shall hold the information which it has received in confidence, and*  
49 *not release it except to another agency, except when the information is*  
50 *to be used in a criminal prosecution or a civil action.*

1     2. An agency which receives information from another agency or an  
2 insurer shall:

3     (a) Hold the information which it has received in confidence, and not  
4 release it except to another agency or to an insurer pursuant to paragraph  
5 (a) of subsection 1;

6     (b) Provide an insurer which requests information relating to a fire  
7 which has resulted in a loss with that information within 30 days after  
8 receiving the request;

9     (c) Provide evidence and the testimony of its personnel, if necessary,  
10 in any litigation in which an insurer is named as a party if it has pro-  
11 vided information to the insurer or received information from the  
12 insured.

13     3. An agency or insurer, and any officer, agent or employee of an  
14 agency or insurer, which provides information pursuant to sections 6 or  
15 7 of this act or this section is immune from any liability in a civil action  
16 for damages resulting from the release of the information.

⊙

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 407

ASSEMBLY BILL NO. 407—COMMITTEE ON  
LABOR AND MANAGEMENT

MARCH 31, 1981

Referred to Committee on Labor and Management

SUMMARY—Provides certain increases in compensation under industrial insurance for permanent partial disability. (BDR 53-1915)

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 increases in compensation for permanent partial disability for injuries sustained on or after July 1, 1981; 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 616.605 is hereby amended to read as follows:  
2 616.605 1. Every employee, in the employ of an employer within  
3 the provisions of this chapter, who is injured by an accident arising out  
4 of and in the course of employment is entitled to receive the compensa-  
5 tion provided in this section for permanent partial disability. As used in  
6 this section "disability" and "impairment of the whole man" are equiva-  
7 lent terms.  
8 2. The percentage of disability must be determined by a physician  
9 designated by the commission [ , or board of physicians, ] or by the  
10 commissioner of insurance, in accordance with the [current] American  
11 Medical Association publication, "Guides to the Evaluation of Perma-  
12 nent Impairment [ . ] " as it exists on the date most recently specified  
13 by joint regulation of the commission and the commissioner. The com-  
14 mission and the commissioner may by joint regulation adopt a supple-  
15 ment to the "Guides to the Evaluation of Permanent Impairment."  
16 3. No factors other than the degree of physical impairment of the  
17 whole man may be considered in calculating the entitlement to permanent  
18 partial disability compensation.  
19 4. Each 1 percent of impairment of the whole man must be com-  
20 pensated by monthly payment of [0.5] two-thirds of 1 percent of the  
21 claimant's average monthly wage [ . ] for injuries sustained on or after  
22 July 1, 1981, and one-half of 1 percent for injuries sustained before that

1 *date. Compensation must commence on the date of the injury or the day*  
2 *following termination of temporary disability compensation, if any,*  
3 *whichever is later, and must continue on a monthly basis for 5 years or*  
4 *until the 65th birthday of the claimant, whichever is later.*

5 **[(a)]** 5. Compensation benefits may be paid annually to claimants  
6 **[with less than a 25 percent permanent partial disability.]** *who will be*  
7 *receiving less than \$100 per month.*

8 **[(b)]** 6. A permanent partial disability award may be paid in a  
9 lump sum under the following conditions:

10 **[(1) (a)]** A claimant injured on or after July 1, 1973, *and before*  
11 *July 1, 1981, who incurs a disability that does not exceed 12 percent may*  
12 *elect to receive his compensation in a lump sum. A claimant injured on*  
13 *or after July 1, 1981, who incurs a disability may elect to receive a pay-*  
14 *ment in a lump sum of:*

15 *(1) Twenty-five percent of the present value of the compensation for*  
16 *his permanent partial disability; or*

17 *(2) The present value of the compensation for his permanent partial*  
18 *disability, but not more than \$10,000.*

19 **[(2) (b)]** A claimant injured on or after July 1, 1973, **[who**  
20 **incurs a disability that exceeds 12 percent may:**

21 **(I) Upon]** *may, upon demonstration of a need which is substan-*  
22 *tiated by a comprehensive evaluation of possible rehabilitation, be*  
23 *authorized by the commission or a self-insured employer to receive his*  
24 *compensation in a lump sum. [; or*

25 **(II) Elect to receive up to 25 percent of his compensation in a**  
26 **lump sum without demonstration of need.**

27 **(3) (c)]** The spouse, or in the absence of a spouse, any dependent  
28 child of a deceased claimant injured on or after July 1, 1973, who is not  
29 entitled to compensation in accordance with NRS 616.615 is entitled  
30 to a lump sum equal to the present value of the deceased claimant's  
31 undisbursed permanent partial disability award.

32 **[(c)]** 7. The commission *and the commissioner of insurance* shall  
33 *adopt joint regulations concerning the manner in which a comprehensive*  
34 *evaluation of possible rehabilitation will be conducted and defining the*  
35 *factors to be considered in the evaluation required to substantiate the*  
36 *need for a lump sum settlement.*

37 **[(d)]** 8. Any lump sum payment which has been paid on a claim  
38 incurred on or after July 1, 1973, must be supplemented if necessary  
39 to conform to the provisions of this section.

40 **[(e)]** 9. The total lump sum payment for disablement must not be  
41 less than one-half the product of the average monthly wage multiplied  
42 by the percentage of disability.

43 **[5.]** 10. The lump sum payable must be equal to the present value  
44 of the compensation awarded, less any advance payment or lump sum  
45 previously paid. The present value is calculated using monthly payments  
46 in the amounts prescribed in subsection 4 and actuarial annuity tables  
47 adopted by the commission. The tables must be reviewed annually by a  
48 consulting actuary.

49 **[6.]** 11. An employee *who is receiving:*

1 (a) Permanent total disability compensation is not entitled to perma-  
2 nent partial disability compensation during the period when he is receiv-  
3 ing permanent total disability compensation.

4 (b) Temporary total disability compensation is not entitled to perma-  
5 nent partial disability compensation during the period of temporary total  
6 disability.

7 (c) Temporary partial disability compensation is not entitled to  
8 permanent partial disability compensation during the period of tempo-  
9 rary partial disability.

10 [7.] 12. Where there is a previous disability, as the loss of one  
11 eye, one hand, one foot, or any other previous permanent disability, the  
12 percentage of disability for a subsequent injury must be determined by  
13 computing the percentage of the entire disability and deducting there-  
14 from the percentage of the previous disability as it existed at the time  
15 of the subsequent injury.

16 [8.] 13. The commission may adopt a schedule for rating perma-  
17 nent disabilities and reasonable and proper regulations to carry out the  
18 provisions of this section.

19 [9.] 14. The increase in compensation and benefits effected by the  
20 amendment of this section is not retroactive for accidents which were  
21 incurred before July 1, 1973.

22 [10.] 15. This section does not entitle any person to double pay-  
23 ments on account of death of a workman and a continuation of payments  
24 for a permanent partial disability, or to a greater sum in the aggregate  
25 than if the injury had been fatal.





CHAPTER .....

AN ACT relating to occupational diseases; making certain employees of the department of motor vehicles eligible for compensation for heart or lung disease; and providing other matters properly relating thereto.

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

SECTION 1. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent total disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in a full-time salaried occupation of firefighting for the benefit or safety of the public;

(b) Acting as a volunteer fireman entitled to the benefits of chapter 616 of NRS pursuant to the provisions of NRS 616.070; or

(c) Employed in a full-time salaried occupation as a sheriff, deputy sheriff, city policeman, officer of the Nevada highway patrol, *field agent or inspector of the motor carrier division, vehicle emission control officer or field dealer inspector of the registration division*, member of the University of Nevada System police department or a uniformed employee of the Nevada state prison whose position requires regular and frequent contact with the **convict population** *offenders imprisoned* and subjects the employee to recall in emergency situations.

2. **It shall be presumed that a** A disease of the lungs **has** *is presumed to have* arisen out of and in the course of the employment of any fireman or law enforcement officer described in this section if, during the 12 months **prior to** *before* the date of the filing of a claim for compensation, **such** *that* fireman or law enforcement officer underwent a medical examination which was evidenced by an X-ray picture of the lungs and a written report of the medical examiner and **such** *the* medical examination failed to reveal any evidence of such disease.

SEC. 2. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent total disability or death, **shall be considered** *are* occupational diseases and compensable as such under the provisions of this chapter if caused by extreme over-exertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and in the course of the employment of a person who, for 5 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, sheriff, deputy sheriff, city policeman, officer of the Nevada highway patrol, *field agent or inspector of the motor carrier division, vehicle emission control officer or field dealer inspector of the registration division*, member of the University of Nevada System police department or a uniformed employee of the Nevada state prison

whose position requires regular and frequent contact with the [convict population] *offenders imprisoned* and subjects the employee to recall in emergency situations.

2. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent total disability or death, [shall be considered] *are* occupational diseases and compensable as such under the provisions of this chapter if caused by extreme over-exertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer fireman by a person entitled to the benefits of chapter 616 of NRS pursuant to the provisions of NRS 616.070 and who, for 5 years or more, has served continuously as a volunteer fireman and who has not reached the age of 55 years before the onset of such disease.

3. Each employee covered for diseases of the heart pursuant to the provisions of this section shall submit to an initial physical examination, including an examination of the heart, upon commencement of coverage or commencement of employment, whichever is later. Thereafter, the employee shall submit to such examinations on a regular, annual basis during his employment.

4. All physical examinations required pursuant to subsection 3 [shall] *must* be paid for by the employer.

5. Failure to correct predisposing physical conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to the annual examination [shall exclude] *excludes* the employee from the benefits of this section if [such] *the* correction is within the ability of [such] *the* employee.

CHAPTER.....

AN ACT relating to polygraphic examiners; regulating the administration of polygraphic examinations; providing for licensing and disciplinary actions; providing penalties; and providing other matters properly relating thereto.

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

SECTION 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

SEC. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.

SEC. 3. "Board" means the private investigators licensing board.

SEC. 4. "Examinee" means a person who is examined by a polygraphic examiner.

SEC. 5. "Intern" means a person who is involved in the study of polygraphic examinations and their administration.

SEC. 6. "Polygraph" means an instrument or electronic or mechanical device which records or measures physiological effects of psychological stimuli for the purpose of permitting the examiner to form an opinion concerning the veracity of statements made by an examinee.

SEC. 7. "Polygraphic examination" means the procedure by which an examiner renders an expert opinion as to the veracity of statements made by an examinee.

SEC. 8. "Polygraphic examiner" or "examiner" means a person who by virtue of his education, training, and experience, is capable of conducting a valid and reliable polygraphic examination.

SEC. 9. 1. Every applicant for a license under this chapter shall:

(a) File an application with the board in the manner prescribed by the board; and

(b) Pay in advance to the board the application fee specified by this chapter.

2. The board may hold hearings and conduct investigations into any matter related to the application and may take such further evidence and require such other documents or proof of qualifications as it deems proper.

SEC. 10. 1. An applicant for an intern's license must:

(a) Be a citizen of the United States or legally entitled to remain and work within the United States;

(b) Not have been convicted of an offense which, if committed in this state, is a felony, or a crime involving moral turpitude;

(c) Have received a baccalaureate degree from an accredited college or university or have a high school diploma or its equivalent and at least 5 years of experience in investigating or polygraphic examination satisfactory to the board; and

(d) Have satisfactorily completed a basic course of polygraphic instruction as required by the board.

2. An applicant for a polygraphic examiner's license must possess all of the qualifications required in subsection 1, and:

(a) Have been actively involved in the conduct of polygraphic examinations for at least 3 years immediately preceding his application.

(b) Have successfully completed at least 250 polygraphic examinations, including at least 50 specific examinations, as opposed to screening examinations.

(c) Have successfully completed at least 50 polygraphic examinations, including at least 10 specific examinations, as opposed to screening examinations, during the year immediately preceding his application.

(d) Meet such additional reasonable requirements as the board may require, including an oral interview and a written examination.

SEC. 11. 1. A license is not required under this chapter of a person who conducts polygraphic examinations solely in the performance of official duties for a federal, state, county or municipal law enforcement or investigative agency.

2. Persons who are exempt pursuant to subsection 1 shall comply with all other provisions of this chapter.

3. Persons who are exempt and who meet the requirements of this chapter for a polygraphic examiner's license may apply to the board for certification of their qualifications for a license in the same manner as prescribed for licensing.

SEC. 12. The board may issue a polygraphic examiner's license to an applicant who is licensed as a polygraphic examiner in any state or territory of the United States or in the District of Columbia, if:

1. The licensing requirements of that jurisdiction at the time the license was issued are deemed by the board to be equivalent to the licensing requirements in force in this state.

2. The jurisdiction extends like privileges to polygraphic examiners licensed in this state.

3. A person who is not a resident of this state shall appoint the board, in writing, as his agent to accept service of all legal process in any proceeding against him arising out of his engaging in the business of a polygraphic examiner in this state.

SEC. 13. 1. Each intern's license issued by the board is valid for 3 years after it is issued.

2. Each polygraphic examiner's license or certification of qualification for a polygraphic examiner's license issued by the board is valid for 2 years after it is issued, and may be renewed by the board, unless it has been suspended or revoked, upon:

(a) Application for renewal on forms provided by the board.

(b) Payment of the required renewal fee.

(c) The board's receiving evidence that the licensee or holder of the certificate continues to meet requirements for licensing under this chapter.

SEC. 14. 1. The board may charge and collect only the following fees:

(a) Application fee.....	\$50
(b) Polygraphic examiner's license fee.....	125
(c) Intern's license fee.....	125
(d) License renewal fee.....	125

2. The cost of the investigation, not to exceed \$500, must be borne by the applicant.

3. No fee paid to the board may be refunded.

4. Certification of qualification for a polygraphic examiner's license will be furnished without a fee to employees of federal, state, county and municipal law enforcement and investigative agencies.

SEC. 15. 1. Each instrument used to conduct a polygraphic examination must be of a type approved by the board. The board shall approve polygraph instruments which:

(a) Are of commercial manufacture;

(b) Visually, permanently and simultaneously record on a moving graph, physiological effects, including, as a minimum, cardiovascular activity, respiratory activity and changes in skin resistance, as well as any other activity which the board deems relevant to the purposes of a polygraphic examination; and

(c) Meet minimum standards of accuracy and reliability adopted by the board.

2. Nothing in this chapter restricts the development of instruments or electronic or mechanical devices to record physiological events for the purpose of forming an opinion concerning the veracity of an examinee's statements.

3. The board may grant conditional approval to instruments for use in research.

SEC. 16. Except in the case of an investigation of its own affairs conducted by a police or investigative agency of the state, at the beginning of any polygraphic examination, the examiner shall advise the examinee that he has the right to refuse to answer any question if his answer would tend to incriminate him or degrade him.

SEC. 17. A polygraphic examination must not be conducted:

1. Unless the examinee is advised of the purpose of the examination;

2. Unless the examinee consents to it in writing;

3. For the purpose of interfering with or preventing lawful activities of organized labor; and

4. If the examinee is less than 18 years of age, unless the written consent of a parent or legal guardian has been obtained after the parent or guardian has been informed of the nature of the examination and the matters to be covered.

SEC. 18. During a polygraphic examination, the examiner shall not make inquiries into the examinee's religion or his political affiliations or affiliations with labor organizations, or an examinee's sexual activities, unless his religion or those affiliations or activities are germane to the issue under investigation and the inquiries are made at the request of the examinee.

SEC. 19. In conducting a polygraphic examination, an examiner shall use only standard and widely accepted techniques based on comparison and measurements of peaks of tension. All questions used during the

examination must be reviewed with the examinee before being used. Minor modification of technique may be used when necessary or appropriate for the issue under investigation.

**SEC. 20.** 1. An examiner shall not render a written or oral opinion based upon his analysis of polygraphic charts without administering two or more charts with the same questions on at least two of the charts.

2. An examiner shall not render an opinion based upon analysis of polygraphic charts without affording the examinee an opportunity to explain any physiological effects recorded on those charts which indicate deception on the part of the examinee.

3. The opinion of an examiner with regard to a polygraph examination may refer only to truth or deception on the part of the examinee. An examiner may not give an opinion as to the guilt or innocence of an examinee. An examiner may indicate an examinee's knowledge of elements of an act as shown by analysis of polygraphic charts obtained during the conduct of examinations which measure peaks of tension.

**SEC. 21.** 1. Each examiner shall maintain a chronological log of all polygraphic examinations which he administers. The log must include the date of each examination, the name of the examinee, and an identifying case or file number.

2. All polygraphic charts must be identified with the name of the examinee, the date of the examination, an identifying case or file number and the signature or initials of the examiner.

3. The records of a polygraphic examination, including the written consent of the examinee, the questions asked, notes and charts obtained during the examination, must be maintained in a manner which protects their confidentiality.

4. Except when ordered to do so by a court of competent jurisdiction, or as otherwise provided by law, a person or governmental entity which possesses the results of a polygraphic examination or information obtained during a polygraphic examination required to permit the examinee to obtain or retain employment shall not release the results of that examination or that information obtained without the written consent of the examinee.

**SEC. 22.** An examiner may make charts and other records of an examination available to another polygraphic examiner or group of polygraphic examiners, including the board and its representatives, for the purpose of consultation or review under conditions which ensure the confidentiality of the examination and its results.

**SEC. 23.** The board may refuse to issue or renew a license or certificate or may suspend or revoke a license or certificate if the examiner:

1. Has demonstrated incompetence or a physical or emotional disability which prevents him from properly carrying out the responsibilities of a polygraphic examiner.

2. Has willfully made a false report of the results of a polygraphic examination.

3. Has accepted a fee contingent upon the outcome of a polygraphic examination.

4. Has willfully violated any provision of this chapter.

5. Has willfully aided or abetted any violation of this chapter or of any regulation adopted by the board.

6. Has failed to provide within a reasonable time any information pertaining to a polygraphic examination requested by the board in connection with a disciplinary action under this chapter.

SEC. 24. 1. Before the board suspends, revokes or refuses to renew a license or certificate, it shall give the holder reasonable notice of a hearing at which he may present evidence in his behalf. A decision of the board rendered after the hearing is a final decision in a contested case.

2. Upon receiving written notification of a suspension, revocation or refusal to renew a license or certificate, the holder shall immediately surrender his license or certificate to the board.

3. The board may restore a suspended or revoked license or certificate under conditions which it deems appropriate.

SEC. 25. Unless he is exempted pursuant to section 11 of this act, a person shall not:

1. Refer to himself as a polygraphic examiner;

2. Engage in the business of conducting polygraphic examinations; or

3. Offer or advertise his services as a polygraphic examiner, unless he holds a valid license issued by the board under this chapter.

SEC. 26. 1. The board may bring and maintain an action for an injunction against any person who:

(a) Engages in the business of conducting polygraphic examinations or offers or advertises his services as a polygraphic examiner without a license valid under this chapter; or

(b) Uses an instrument in a polygraphic examination which does not meet minimum standards of accuracy, reliability and acceptability adopted by the board.

2. An injunction requested by the board:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not relieve the person enjoined from criminal prosecution for offenses which it enjoins.

SEC. 27. In a decision which affects the well-being, employment or liability of any person, another person or governmental body or agency in this state shall not consider or accept into evidence an opinion resulting from a polygraphic examination which does not meet the minimum standards established by this chapter.

SEC. 28. The board shall adopt reasonable regulations to enable it to carry out its duties under the provisions of this chapter.

SEC. 29. The board shall keep a record of its proceedings relating to licensing and disciplinary actions. The record is open to public inspection at all reasonable times.

SEC. 30. 1. A person who violates any of the provisions of this chapter is guilty:

(a) For the first offense, of a misdemeanor.

(b) For a second or subsequent offense, of a gross misdemeanor.

2. The board may permanently revoke the license of a person who violates the provisions of this chapter more than once.

SEC. 31. NRS 648.020 is hereby amended to read as follows:

648.020 1. The private investigator's licensing board, consisting of the attorney general or his deputy and four members appointed by the governor, is hereby created.

2. The governor shall appoint:
  - (a) One member who is a private investigator.
  - (b) One member who is a private patrolman.
  - (c) One member who is a process server or a polygraph [operator.] examiner.
  - (d) One member who is a representative of the general public.
3. The chairman of the board is the attorney general or a deputy attorney general designated by the attorney general to act in [such] that capacity.
4. Members of the board are entitled to receive per diem expenses and travel allowances as provided by law.
5. The member who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the board.

SEC. 32. NRS 648.060 is hereby amended to read as follows:

648.060 No person, unless he is licensed under this chapter, [shall:] may:

1. Engage in the business of private investigator, private patrolman, process server, [polygraph operator,] reposessor or canine security handler and trainer; or
2. Advertise his business as such, irrespective of the name or title actually used.

SEC. 33. NRS 648.110 is hereby amended to read as follows:

648.110 1. Before the board grants any license, the applicant [shall] must meet the following requirements:

- (a) Be at least 21 years of age.
- (b) Be a citizen of the United States or lawfully entitled to remain and work in the United States.
- (c) Be of good moral character and temperate habits.
- (d) Be a resident of the State of Nevada for at least 6 months.
- (e) Have no felony conviction nor any conviction of a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.
- (f) If an applicant for a private investigator's license, have at least 5 years' experience as an investigator, or the equivalent thereof, as determined by the board.
- (g) If an applicant for a reposessor's license, have at least 5 years' experience as a reposessor, or the equivalent thereof, as determined by the board.
- (h) If an applicant for a private patrolman's license, have at least 5 years' experience as a private patrolman, or the equivalent thereof, as determined by the board.
- (i) If an applicant for a process server's license, have at least 2 years' experience as a process server, or the equivalent thereof, as determined by the board.
- (j) [If an applicant for a polygraph operator's license, have at least 3 years' experience as a polygraph operator, or the equivalent thereof, as determined by the board.
- (k)] If an applicant for a canine security handler's and trainer's license, demonstrate to the satisfaction of the board his ability to handle and train security and guard animals.



[(1)] (k) Other requirements as determined by the board.

2. The board when satisfied from recommendations and investigation that the applicant is of good character, competency and integrity, shall issue and deliver a license to the applicant entitling him to conduct the business for which he is licensed, for the license period which [shall end] ends on July 1 next following.

SEC. 34. NRS 648.130 is hereby amended to read as follows:

648.130 1. No license [shall] may be issued under this chapter until the applicant files with the board a surety bond executed by the applicant, with two or more sureties or by a surety company authorized to do business in this state, conditioned for the faithful and honest conduct of the business for which the applicant is licensed. The amount of the required bond for:

(a) Private investigators and repossessioners is \$10,000.

(b) Private patrolmen, process servers, [polygraph operators] and canine security handlers and trainers is \$2,000.

2. The bond as to form, execution and sufficiency of the sureties [shall] must be approved by the chairman of the board.

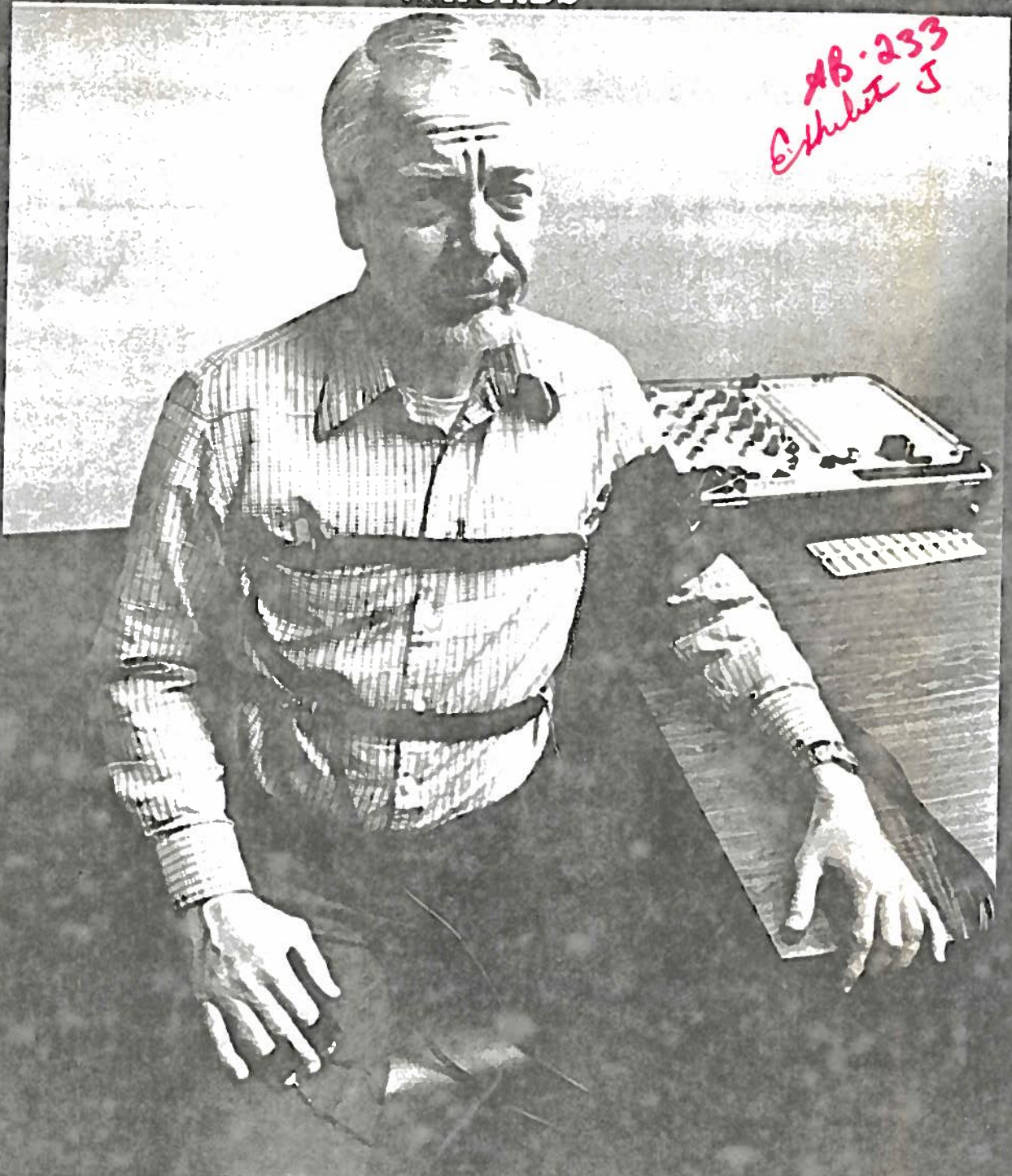
3. Every licensee shall maintain on file and in [full force and] effect the surety bond required by this section. Upon failure to do so, [the license of such licensee shall be forthwith] his license must be suspended until such a bond is placed on file.

4. The bond required by this section [shall] must be taken in the name of the people of the State of Nevada, and every person injured by the willful, malicious or wrongful act of the principal may bring an action on the bond in his own name to recover damage suffered by reason of such willful, malicious or wrongful act.

SEC. 35. NRS 648.011 is hereby repealed.

# THE TRUTH ABOUT LIE DETECTORS, SAYS DAVID LYKKEN, IS THAT THEY CAN'T DETECT A LIE

IN HIS  
OWN WORDS



Lykken, strapped to a polygrapher's "lie box" in Minneapolis, says its "mystique" leads to abuses.

Every year at least one million Americans undergo a lie detector test, and the number is steadily rising. Polygraph results are cited increasingly, and not just in the courts. Officials from government agen-

cies as well as banks, department stores and fast-food chains are using lie detectors to screen job applicants or uncover theft by employees. The only catch, says David T. Lykken, 52, author of the recently

published book *A Tremor in the Blood*, is that polygraph tests don't work. The innocent will fail them 50 percent of the time. Thousands of people, he says, are being refused employment, fired from their jobs

and, in some cases, sent to prison—without having committed any crime. A psychiatry and psychology professor at the University of Minnesota who has studied lie detectors for over two decades, Lykken talked with PEOPLE's Linda Witt in his Minneapolis office about the evils of the polygraph.

**Why are you against lie detector tests?**

Because there is no such thing as a lie detector. A machine—or test—known as a polygraph picks up your emotional reactions to questions, measuring breathing, sweating responses and blood pressure. The examiner uses this information and other subjective evaluations for a diagnosis of what he thinks is truthful or deceptive.

**Is this physical evidence conclusive?**

The most any examiner can infer is whether or not one question is more disturbing than another—but not why. About 90 percent of the damaging reports made to employers are based not on physiological reactions but on the examiner's assumptions, or on incriminating confessions made during an interview. This subjectivity is part of the reason why the detectors are accepted as evidence in criminal cases in only about 20 states, and then only when both sides agree in advance.

**How does the machine work?**

Two soft rubber belts are strapped around you—one around the stomach, the other around the chest. Wires are fastened to the ends of two of your fingers. And a blood pressure cuff is wrapped around your arm.

**Is there a specific physiological "symptom" of lying?**

Absolutely not.

**Can the experience of the test itself induce stress signals on the charts?**

Yes. It's easy to make people frightened and angry. But the machine cannot tell if one person is angry, another frightened, or whether one or both are being deceptive. Statistics show tests are heavily biased against the innocent. If you've ever had the experience of denying a false accusation and still feeling guilty, you can understand. Wouldn't your palms sweat if you were suspected of murder? Ironically, the true criminal may be so accustomed to the psychodynamics of lying

and denial that he can fool the examiner more easily.

**How reliable are the tests?**

Half of innocent people fail them. You'd do as well flipping a coin. In particular, people with strong consciences and religious beliefs can be easily made to feel guilt and anxiety.

**Who is officially qualified to give lie detector tests?**

In most states, anyone who passes the typical six-week polygraph course. Yet these inexperienced, untutored people are asked to make difficult judgments that may be literally matters of life or death. Polygraph expertise is touted as science, yet only about 10 of the thousands of practicing examiners are Ph.D.s in psychology, and few could meet the requirements for any of my basic courses.

**Can a person refuse to take a polygraph?**

Yes. Legally neither an employer nor the police can force you to take a lie detector test. The problem is that many people may then associate refusal to take the test with actual guilt.

**Why do employers use polygraphs?**

To solve thefts, mainly. They are also used in evaluating job applicants.

**Would a "lie box" have helped the Washington Post deal with its reporter who won her Pulitzer for a made-up story and had been hired on a phony résumé?**

Giving her a lie detector test might have led her to confess her misdeeds

CONTINUED



STANLEY TILLY TRIGOR

Hollywood melodramas, says Lykken, have strengthened the public's faith in lie detectors. In 1948's *Call Northside 777*, a real polygraph examiner, Leonarde Keeler, gave the test to actor Richard Conte to prove his innocence. In his University of Minnesota lab (right), Lykken and assistant Kevin Harlow hook up grad student Debbie Miller's fingers to electrodes.



earlier, but if it didn't produce a confession, the test results would be ambiguous at best.

**Have innocent employees been fired after failing polygraphs?**

Yes, and in increasing numbers. In one case, a Detroit woman was awarded \$100,000 from the Kresge stores. But there are tragedies—I will testify soon for the widow and young son of a highly decorated ex-Marine who killed himself after innocently failing a test.

**Has anyone been wrongly convicted after failing a polygraph?**

It's too common. Peter Reilly, then an 18-year-old from Canaan, Conn., was convicted of murdering his mother largely because he failed a lie detector test. Peter was persuaded that the polygraph showed he had killed her, even though he had no memory of it. Peter had strong physiological reactions to questions like "Peter, did you hurt your mother?" and "Can you remember stomping on her legs?" His eventual confession was meaningless. His conviction was later overturned because vital evidence had been withheld from the defense.

**Is design of the questions a problem?**

The Floyd Fay case in Ohio can be used as an example of how dumb they can be. Fay failed a lie detector test and was convicted of murder. But he had volunteered to take the test because he knew he was innocent. Typically, he was asked relevant questions like "Did you do it?" along with control questions like "Is today Tuesday?" Because Fay responded more strongly to the "Did you do it?" questions than to "controls," he failed. He served two years in prison before the real killers were found.

**Can you outwit the lie detector machine?**

Yes. While in prison Fay read an article of mine that said you could make the polygraph needles jump during the control questions by biting your tongue or rubbing your foot against a nail hidden in your shoes. Fay claims he taught the techniques to 27 prisoners who were in trouble over rules. All

had told Fay they were guilty, yet 23 beat the test. Anything that produces tension during a question—even tightening your fanny muscles—will make the needles dance.

**Are there other polygraph abuses?**

Yes. In many parts of the country rape complainants undergo polygraph tests before they can file charges. I find this particularly distressing. How could such a victim, even while telling the truth, not react violently to the relevant questions?

**Why do we believe in polygraphs?**

I don't know exactly. The lie detector is almost exclusively an American artifact. Many Europeans have never heard of it. Americans are hooked on the mystique of science and technology—an aura exploited by advocates of the devices. There is nothing scientific about them. We began romanticizing the "lie box" in the '20s and '30s as we became aware of the horrors of the third degree and police brutality. The lie detector seemed clean in comparison to hitting someone with a rubber hose. And as a matter of fact, if that is the alternative, I prefer the polygraph.

**Does it have any valid uses?**

The Los Angeles police are able to get a 30 to 40 percent confession rate by using the polygraph. If lie detectors help close the books on some of the cases in cities with big crime problems like L.A., I'm all for them. I've seen cops grab a gullible guy fleeing the scene of a crime and wrap a cord from the squad car radio around his wrist and tell him it's a lie detector. I put myself in the cop's shoes. So he's got this guy by ruse—of course, the confession must be verified by other means, but at least he's got him.

**Isn't this contradictory—they're good if they can scare the guilty, but evil when they scare the innocent?**

I'm sensitive to civil liberties, but a person can make a fetish out of civil liberties and forget the police have a serious, difficult job to do—as long as they don't violate rights.

**Should lie detectors be banned?**

I'd like to think one could impeach the lie detector simply by unmasking its mystery. The lie detector has no more place in the courts or in business than a psychic or tarot cards. □



A daily moment of truth at home for Lytken is feeding the family's four cats. His oldest son, Jesse, 26, helps.

Photographs by James DeProo

(REPRINTED WITH ADOPTED AMENDMENTS)

SECOND REPRINT

A. B. 312

ASSEMBLY BILL NO. 312—ASSEMBLYMAN BANNER

MARCH 11, 1981

Referred to Committee on Labor and Management

SUMMARY—Amends provisions of laws relating to claims under industrial insurance and occupational safety and health. (BDR 53-406)

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 labor and industrial relations; providing for various amendments to provisions of the law relating to claims under industrial insurance and occupational safety and health; 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 a new section which shall read as follows:  
3 *The commission shall provide by regulation for a method of deter-*  
4 *mining average monthly wage.*  
5 SEC. 2. NRS 616.110 is hereby amended to read as follows:  
6 616.110 1. "Injury" and "personal injury" means a sudden and  
7 tangible happening of a traumatic nature, producing an immediate or  
8 prompt result, [ and resulting from external force, ] including injuries  
9 to artificial members. Any injury sustained by an employee while engag-  
10 ing in an athletic or social event sponsored by the employer shall be  
11 deemed not to have arisen out of or in the course of employment unless  
12 the employee received remuneration for participation in such event.  
13 2. For the purposes of this chapter, coronary thrombosis, coronary  
14 occlusion, or any other ailment or disorder of the heart, and any death  
15 or disability ensuing therefrom, shall not be deemed to be an injury by  
16 accident sustained arising out of and in the course of the employment.  
17 SEC. 3. NRS 616.190 is hereby amended to read as follows:  
18 616.190 1. The chairman of the commission [annually shall] shall  
19 annually request the Nevada State Medical Association, or its legal  
20 successor if it ceases to exist, to select and establish two lists, each com-  
21 posed of three designated and three alternate licensed physicians, who  
22 are in good professional standing and who have displayed an active

1 interest in the advancement of their profession, any three of which  
2 physicians from each list, when appointed by the governor [shall be and]  
3 constitute two separate medical boards with concurrent jurisdiction  
4 throughout the state for the purposes mentioned in this chapter.

5 2. The state is hereby divided into two [medical board] districts [.]  
6 for the appointment of medical boards, as follows:

7 (a) Carson City and the counties of Churchill, Douglas, Elko, Eureka,  
8 Humboldt, Lander, Lyon, Mineral, Pershing, Storey and Washoe [shall]  
9 constitute the first [medical board] district.

10 (b) The counties of Clark, Esmeralda, Lincoln, Nye and White Pine  
11 [shall] constitute the second [medical board] district.

12 3. One of the lists referred to in subsection 1 [shall] *must* be com-  
13 posed of licensed physicians practicing in the first [medical board] dis-  
14 trict and the other list [shall] *must* be composed of physicians practicing  
15 in the second [medical board] district.

16 4. The jurisdiction of the medical boards [shall be] *is* concurrent  
17 and [shall be] limited solely to the consideration and determination of  
18 medical questions and the extent of disability of injured employees  
19 referred by the commission. It shall not consider or determine legal  
20 questions such as whether or not the injury arose out of and in the  
21 course of employment. The findings of the medical boards or a majority  
22 of the members of each board [shall be] *are* final and binding on the  
23 commission.

24 5. Each member of the medical boards [shall receive as full com-  
25 pensation for his services a sum not to exceed \$50] *is entitled to receive*  
26 *his usual medical fee* for each referred case, which [sum shall represent]  
27 *represents* compensation for the initial review of medical records, the  
28 meeting and the preparation of the report.

29 6. Each member of the medical boards [shall be] *is* entitled to  
30 reasonable and necessary traveling expenses incurred while actually  
31 engaged in the performance of his duties.

32 SEC. 4. NRS 616.342 is hereby amended to read as follows:

33 616.342 1. The commission may appoint physicians who have  
34 demonstrated special competence and interest in industrial health to  
35 treat injured employees under this chapter. Physicians so appointed  
36 shall be known as a panel of physicians, and every employer shall  
37 maintain a list of those panel physicians who are reasonably accessible  
38 to his employees.

39 2. An injured employee may choose his treating physician from the  
40 panel of physicians. If the injured employee is not satisfied with the  
41 first physician he so chooses, he may make an alternative choice of  
42 physician from the panel if the choice is made within [45] 90 days after  
43 his injury [, any] . *Any* further change is subject to the approval of the  
44 commission or the self-insured employer.

45 3. Except when emergency medical care is required and except as  
46 provided in NRS 616.502, the commission or any self-insured employer  
47 is not responsible for any charges for medical treatment or other accident  
48 benefits furnished or ordered by any physician or other person selected  
49 by the employee in disregard of the provisions of this section or for any

1 compensation for any aggravation of the employee's injury attributable  
2 to improper treatments by such physician or other person.

3 4. The commission may, from time to time, order necessary changes  
4 in a panel of physicians, and may suspend or remove any physician from  
5 a panel of physicians.

6 SEC. 5. NRS 616.355 is hereby amended to read as follows:

7 616.355 Any physician, having attended an employee within the  
8 provisions of this chapter or chapter 617 of NRS in a professional capacity,  
9 may be required to testify before an appeals officer. [Or the commission  
10 when it so directs.] *A physician who testifies is entitled to receive  
11 the same fees as witnesses in civil cases and, if the appeals officer so  
12 orders at his own discretion, a fee equal to that authorized for a consultation  
13 by the appropriate schedule of fees for physicians. These fees  
14 must be paid by the commission or the self-insured employer. Information  
15 gained by the attending physician [or surgeon,] while in attendance  
16 on the injured employee [.] is not a privileged communication if  
17 required by an appeals officer [or the commission] for a proper understanding  
18 of the case and a determination of the rights involved.*

19 SEC. 6. NRS 616.377 is hereby amended to read as follows:

20 616.377 1. If an employee who has been hired and who is regularly  
21 employed in this state suffers an accident or injury arising out of and in  
22 the course of his employment, and his employer has failed to provide  
23 mandatory industrial insurance coverage, the employee may elect to  
24 receive compensation under the provisions of this chapter by:

25 (a) Filing a written notice of his election with the commission; and

26 (b) Making an irrevocable assignment to the commission of his right  
27 of action against the uninsured employer.

28 2. Any employer who has failed to provide mandatory coverage  
29 required under the provisions of this chapter [shall] *does* not escape  
30 liability in any action brought by the employee or the commission by  
31 asserting any of the defenses enumerated in subsection 3 of NRS 616.-  
32 375 and the presumption of negligence set forth in that subsection is  
33 applicable.

34 3. *A self-insured employer must bear a proportionate amount of a  
35 claim made pursuant to this chapter, and is entitled to a proportionate  
36 amount of the assignment made pursuant to this section.*

37 SEC. 7. NRS 616.535 is hereby amended to read as follows:

38 616.535 1. Any employee *who is* entitled to receive compensation  
39 under this chapter is required, if requested by the commission, *by a self-*  
40 *insured employer or by an employer covered pursuant to NRS 616.255*  
41 *or 616.256, or ordered by a hearing officer [.] or an appeals officer, to*  
42 *submit himself for medical examination at a time and from time to time*  
43 *at a place reasonably convenient for the employee, and as may be*  
44 *provided by the regulations of the commission.*

45 2. The request or order for the examination must fix a time and  
46 place therefor, due regard being had to the *nature of the medical examination,*  
47 *the convenience of the employee, his physical condition and ability*  
48 *to attend at the time and place fixed.*

49 3. The employee is entitled to have a physician, provided and paid  
50 for by him, present at any such examination.

1 4. If the employee refuses to submit to any such examination or  
2 obstructs it, his right to compensation is suspended until the examination  
3 has taken place, and no compensation is payable during or for account  
4 of ~~such~~ *that* period.

5 5. Any physician who makes or is present at any such examination  
6 may be required to testify as to the result thereof.

7 SEC. 8. NRS 616.5422 is hereby amended to read as follows:

8 616.5422 1. Any party aggrieved by a decision of the hearing officer  
9 may appeal the decision by filing a notice of appeal with an appeals  
10 officer within ~~60~~ *30* days after the date of the decision.

11 2. The appeals officer shall, within ~~5~~ *10* days after receiving a  
12 notice of appeal, schedule a hearing for a date and time within 60 days  
13 after his receipt of the notice and give notice by mail or by personal  
14 service to all parties to the appeal and their attorneys at least 30 days  
15 before the date and time scheduled.

16 3. An appeal may be continued upon written stipulation of all  
17 parties, or upon good cause shown, but not for more than 45 days after  
18 the date of the stipulation. Notice of continuance must be given by mail  
19 or by personal service to all interested parties.

20 SEC. 9. NRS 616.545 is hereby amended to read as follows:

21 616.545 1. If change of circumstances warrants an increase or  
22 rearrangement of compensation ~~[,] during the life of an injured work-~~  
23 ~~man, application [shall] may be made therefor. The application [shall]~~  
24 ~~must be accompanied by the certificate of a physician [,] showing a~~  
25 ~~change of circumstances which would warrant an increase or rearrange-~~  
26 ~~ment of compensation. No increase or rearrangement [shall be operative~~  
27 ~~for any period prior to application therefor; but the] is effective before~~  
28 ~~the application is made unless good cause is shown. The commission~~  
29 ~~[may], self-insured employer or employer covered under the provisions~~  
30 ~~of NRS 616.255 or 616.256 shall, upon good cause shown, allow the cost~~  
31 ~~of emergency treatment, the necessity for which has been certified [to]~~  
32 ~~by a physician. [and upon receipt of such other evidence as may be~~  
33 ~~required by the commission.]~~

34 2. ~~[No application shall be valid or claim thereunder enforceable~~  
35 ~~unless filed within 1 year after the day upon which the injury occurred~~  
36 ~~or the right thereto accrued.] After a claim has been closed, the com-~~  
37 ~~mission, a self-insured employer or an employer covered under the~~  
38 ~~provisions of NRS 616.255 or 616.256, upon receiving an application~~  
39 ~~and for good cause shown, may authorize reopening of the claim for~~  
40 ~~medical investigation only. The application must be accompanied by a~~  
41 ~~written request for treatment from the claimant's physician, certifying that~~  
42 ~~the treatment is indicated by a change in circumstances and is related to~~  
43 ~~the industrial injury sustained by the claimant.~~

44 SEC. 10. NRS 616.565 is hereby amended to read as follows:

45 616.565 1. No compensation under this chapter may be allowed for  
46 an injury:

47 (a) Caused by the employee's willful intention to injure himself.

48 (b) Caused by the employee's willful intention to injure another.

49 (c) ~~[Sustained by the employee while intoxicated.] Proximately~~  
50 ~~caused by the employee's intoxication. If the employee was intoxicated~~



1 *at the time of his injury, intoxication must be presumed to be a proximate*  
2 *cause unless rebutted by evidence to the contrary.*

3 2. No compensation is payable for the death, disability or treatment  
4 of an employee if his death [be] is caused by, or insofar as his dis-  
5 ability may be aggravated, caused or continued by, an unreasonable  
6 refusal or neglect to submit to or to follow any competent and reason-  
7 able surgical treatment or medical aid.

8 3. If any employee persists in insanitary or injurious practices which  
9 tend to either imperil or retard his recovery, or refuses to submit to such  
10 medical or surgical treatment as is reasonably essential to promote his  
11 recovery, [the] his compensation [of any such injured employee] may  
12 be reduced or suspended.

13 SEC. 11. NRS 617.455 is hereby amended to read as follows:

14 617.455 1. [Notwithstanding any other provision of this chapter,  
15 diseases] *Diseases* of the lungs, resulting in either temporary or perman-  
16 ent total disability or death, are occupational diseases and compensable  
17 as such under the provisions of this chapter if caused by exposure to  
18 heat, smoke, fumes, tear gas or any other noxious gases, arising out of  
19 and in the course of the employment of a person who, for 2 years or  
20 more, has been:

21 (a) Employed in a full-time salaried occupation of firefighting for the  
22 benefit or safety of the public;

23 (b) Acting as a volunteer fireman entitled to the benefits of chapter  
24 616 of NRS pursuant to the provisions of NRS 616.070; or

25 (c) Employed in a full-time salaried occupation as a sheriff, deputy  
26 sheriff, city policeman, officer of the Nevada highway patrol, member  
27 of the University of Nevada System police department or a uniformed  
28 employee of the Nevada state prison whose position requires regular and  
29 frequent contact with the convict population and subjects the employee  
30 to recall in emergency situations.

31 2. *Each employee who is to be covered for diseases of the lungs*  
32 *must submit to a physical examination of his lungs at the beginning of*  
33 *his employment and annually thereafter. The examinations must be paid*  
34 *for by the employer.*

35 3. It [shall] *must* be presumed that a disease of the lungs has arisen  
36 out of and in the course of the employment of any fireman or law  
37 enforcement officer described in this section if [, during the 12 months  
38 prior to the date of the filing of a claim for compensation, such fireman  
39 or law enforcement officer underwent a medical examination which was  
40 evidenced by] *the last physical examination required by subsection 2*  
41 *included an X-ray picture of the lungs and a written report of the medical*  
42 *examiner and [such] the medical examination failed to reveal any evi-*  
43 *dence of [such] lung disease.*

44 SEC. 12. NRS 617.457 is hereby amended to read as follows:

45 617.457 1. [Notwithstanding any other provision of this chapter,  
46 diseases] *Diseases* of the heart, resulting in either temporary or perman-  
47 ent total disability or death, [shall] *must* be considered occupational  
48 diseases and compensable as such under the provisions of this chapter  
49 if caused by extreme overexertion in times of stress or danger and a

1 casual relationship can be shown by competent evidence that the dis-  
2 ability or death arose out of and in the course of the employment of a  
3 person who, for 5 years or more, has been employed in a full-time con-  
4 tinuous, uninterrupted and salaried occupation as a firefighter, sheriff,  
5 deputy sheriff, city policeman, officer of the Nevada highway patrol,  
6 member of the University of Nevada System police department or a  
7 uniformed employee of the Nevada state prison whose position requires  
8 regular and frequent contact with the convict population and subjects the  
9 employee to recall in emergency situations.

10 2. [Notwithstanding any other provision of this chapter, diseases]  
11 *Diseases* of the heart, resulting in either temporary or permanent total  
12 disability or death, [shall] *must* be considered occupational diseases and  
13 compensable as such under the provisions of this chapter if caused by  
14 extreme overexertion in times of stress or danger and a causal relation-  
15 ship can be shown by competent evidence that the disability or death  
16 arose out of and was caused by the performance of duties as a volunteer  
17 fireman by a person entitled to the benefits of chapter 616 of NRS  
18 pursuant to the provisions of NRS 616.070 and who, for 5 years or  
19 more, has served continuously as a volunteer fireman and who has not  
20 reached the age of 55 years before the onset of [such] a disease.

21 3. Each employee *who is to be covered for diseases of the heart pur-*  
22 *suant to the provisions of this section shall submit to [an initial] a physi-*  
23 *cal examination, including an examination of the heart, upon employment*  
24 *and again upon commencement of [coverage or commencement of*  
25 *employment, whichever is later. Thereafter, the employee shall submit to*  
26 *such examinations] coverage and thereafter on a regular, annual basis*  
27 *during his employment.*

28 4. All physical examinations required pursuant to subsection 3  
29 [shall] *must* be paid for by the employer.

30 5. Failure to correct predisposing physical conditions which lead  
31 to heart disease when so ordered in writing by the examining physician  
32 subsequent to the annual examination [shall exclude] *excludes* the  
33 employee from the benefits of this section if [such] *the* correction is  
34 within the ability of [such] *the* employee.