

SENATE BILL NO. 289—SENATOR D. HARRIS

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-713)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to workers' compensation; establishing provisions relating to the apportionment of percentages for present and previous disabilities; requiring an insurer to send a written determination regarding an industrial insurance claim by facsimile under certain circumstances; making compensation for an industrial injury or occupational disease subject to an attorney's lien; providing for the tolling of certain periods to request a hearing or appeal under certain circumstances; providing for an award of certain costs to a claimant who prevails in a contested claim; providing for the restoration of certain benefits and rights of a claimant who accepts a lump sum payment for a permanent partial disability; revising provisions governing the appointment of a vocational rehabilitation counselor for an injured employee; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law requires, in a case where an injured employee is determined to  
2 have a permanent partial disability and there is a previous disability, an  
3 apportionment to be made by subtracting the percentage of previous disability as it  
4 existed at the time of the previous disability from the percentage of present  
5 disability as it existed at the time of the present disability. (NRS 616C.490)  
6 **Sections 1 and 7** of this bill revise these provisions to prohibit: (1) an  
7 apportionment of percentages of disabilities where no rating evaluation was  
8 performed for the previous disability unless the insurer proves by a preponderance  
9 of the evidence that certain specific medical evidence supports a specific  
10 percentage of previous disability; and (2) any reduction of the percentage of present  
11 impairment if no medical documentation or health care records of a preexisting



12 impairment exist. **Section 7** also requires an insurer to commence making  
13 installment payments to an injured employee, within a specified period of time and  
14 without requiring the employee to elect a method of payment, for that portion of an  
15 award of compensation for permanent partial disability which is not in dispute.

16 Existing law requires an insurer to mail a written determination regarding a  
17 claim for compensation under industrial insurance. (NRS 616C.065, 617.356)  
18 **Sections 2 and 10** of this bill require the insurer to send its determination by  
19 facsimile, if so requested, to the claimant or the person acting on behalf of the  
20 claimant and retain proof of successful transmission of the facsimile.

21 Existing law provides that, except in matters relating to child support,  
22 compensation payable or paid for an industrial injury or occupational disease is not  
23 assignable and is exempt from attachment, garnishment and execution. (NRS  
24 616C.205) **Section 3** of this bill provides that such compensation may also be  
25 subject to an attorney's lien.

26 Existing law sets forth certain limits on the period of time in which an  
27 aggrieved party may request a hearing before a hearing officer or appeal from a  
28 decision of a hearing officer. (NRS 616C.315, 616C.345) **Sections 4 and 6** of this  
29 bill provide that periods within which a request for a hearing or an appeal may be  
30 filed may be tolled if the insurer fails to mail or, if so requested, send by facsimile a  
31 determination regarding a claim for compensation.

32 Existing law provides that if a contested claim for compensation is decided in  
33 favor of the claimant, he or she is entitled to an award of interest. (NRS 616C.335)  
34 **Section 5** of this bill provides that the claimant is also entitled to an award of  
35 certain costs and sets forth the procedure for requesting costs and adjudicating  
36 disputes for such costs.

37 Existing law provides that a claimant who elects to receive and accepts  
38 payment for a permanent partial disability in a lump sum terminates the claimant's  
39 benefits and waives certain rights regarding his or her claim, including the right to  
40 appeal from the closure of the case and the percentage of his or her disability. (NRS  
41 616C.495) **Section 8** of this bill eliminates these provisions.

42 Existing law authorizes an insurer or injured employee to request a vocational  
43 rehabilitation counselor to prepare a written assessment of the injured employee.  
44 (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to  
45 develop a plan for a program of vocational rehabilitation for each eligible injured  
46 employee. (NRS 616C.555) Existing law further provides that where a written  
47 assessment is requested or a plan for a program of vocational rehabilitation is  
48 required and the insurer or injured employee or personal or legal representative of  
49 the injured employee are unable to agree on the appointment of a vocational  
50 rehabilitation counselor, the insurer shall submit a list of at least three vocational  
51 rehabilitation counselors to the injured employee or personal or legal representative  
52 of the injured employee. (NRS 616C.541) **Section 9** of this bill prohibits an insurer  
53 from including in the list any two counselors who are employed by the same  
54 organization or entity.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 616C of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. If a rating evaluation was completed for a previous*  
4 *disability involving a condition, occupational disease, organ,*  
5 *anatomical structure or other part of the body that is identical to*



1 *the condition, occupational disease, organ, anatomical structure*  
2 *or other part of the body being evaluated for the present disability,*  
3 *the percentage of disability for a subsequent injury must be*  
4 *determined by deducting the percentage of the previous disability*  
5 *from the percentage of the present disability, regardless of the*  
6 *edition of the American Medical Association's Guides to the*  
7 *Evaluation of Permanent Impairment as adopted by the Division*  
8 *pursuant to NRS 616C.110 used to determine the percentage of*  
9 *the previous disability. The compensation awarded for a*  
10 *permanent disability on a subsequent injury must be reduced only*  
11 *by the awarded or agreed upon percentage of disability actually*  
12 *received by the injured employee for the previous injury regardless*  
13 *of the percentage of the previous disability.*

14 2. *If no rating evaluation performed before the date of injury*  
15 *or onset of the occupational disease exists for apportionment of*  
16 *percentage of present and previous disabilities pursuant to*  
17 *subsection 1, the percentage of the present disability must not be*  
18 *reduced unless:*

19 (a) *The insurer proves by a preponderance of the evidence that*  
20 *medical documentation or health care records that existed before*  
21 *the date of the injury or onset of the occupational disease that*  
22 *resulted in the present disability demonstrate evidence that the*  
23 *injured employee had an actual impairment or disability involving*  
24 *the condition, occupational disease, organ, anatomical structure*  
25 *or other part of the body that is the subject of the present*  
26 *disability; and*

27 (b) *The rating physician or chiropractor states to a reasonable*  
28 *degree of medical or chiropractic probability that, based upon the*  
29 *specific information in the preexisting medical documentation or*  
30 *health care records, the injured employee would have had a*  
31 *specific percentage of disability immediately before the date of the*  
32 *injury or the onset of the occupational disease if, in the instant*  
33 *before the injury or the onset of the occupational disease, the*  
34 *injured employee had been evaluated under the edition of the*  
35 *American Medical Association's Guides to the Evaluation of*  
36 *Permanent Impairment that had been adopted by the Division*  
37 *pursuant to NRS 616C.110.*

38 3. *The documentation or records relied upon pursuant to*  
39 *subsection 2 must provide specific references to diagnoses,*  
40 *measurements, imaging studies, laboratory testing or other*  
41 *commonly relied upon medical evidence that supports the finding*  
42 *of a preexisting ratable impairment under the specific provisions*  
43 *of the edition of the American Medical Association's Guides to the*  
44 *Evaluation of Permanent Impairment that had been adopted by*



1 *the Division pursuant to NRS 616C.110 at the time of that rating*  
2 *evaluation.*

3 *4. If no medical documentation or health care records of a*  
4 *preexisting whole person impairment for the identical condition,*  
5 *occupational disease, organ, anatomical structure or other part of*  
6 *the body being evaluated for the present disability exist for the*  
7 *purposes of subsection 1 or 2, the percentage of present*  
8 *impairment must not be reduced by any percentage for the*  
9 *previous impairment.*

10 **Sec. 2.** NRS 616C.065 is hereby amended to read as follows:

11 616C.065 1. Except as otherwise provided in NRS 616C.136,  
12 within 30 days after the insurer has been notified of an industrial  
13 accident, every insurer shall:

14 (a) Accept a claim for compensation, notify the claimant or the  
15 person acting on behalf of the claimant that the claim has been  
16 accepted and commence payment of the claim; or


17 (b) Deny the claim and notify the claimant or the person acting  
18 on behalf of the claimant and the Administrator that the claim has  
19 been denied.

20 2. If an insurer is ordered by the Administrator, a hearing  
21 officer, an appeals officer, a district court, the Court of Appeals or  
22 the Supreme Court of Nevada to make a new determination,  
23 including, without limitation, a new determination regarding the  
24 acceptance or denial of a claim for compensation, the insurer shall  
25 make the new determination within 30 days after the date on which  
26 the insurer has been ordered to do so.

27 3. Payments made by an insurer pursuant to this section are not  
28 an admission of liability for the claim or any portion of the claim.

29 4. Except as otherwise provided in this subsection, if an insurer  
30 unreasonably delays or refuses to pay the claim within 30 days after  
31 the insurer has been notified of an industrial accident, the insurer  
32 shall pay upon order of the Administrator an additional amount  
33 equal to three times the amount specified in the order as refused or  
34 unreasonably delayed. This payment is for the benefit of the  
35 claimant and must be paid to the claimant with the compensation  
36 assessed pursuant to chapters 616A to 617, inclusive, of NRS. The  
37 provisions of this section do not apply to the payment of a bill for  
38 accident benefits that is governed by the provisions of  
39 NRS 616C.136.

40 5. The insurer shall notify the claimant or the person acting on  
41 behalf of the claimant that a claim has been accepted or denied  
42 pursuant to subsection 1 or 2 by:

43 (a) Mailing its written determination to the claimant or the  
44 person acting on behalf of the claimant  and



1 ~~[(b)]~~, if the claim has been denied, in whole or in part,  
2 obtaining a certificate of mailing ~~[(b)]~~; or

3 (b) *If and as requested by the claimant or the person acting on*  
4 *behalf of the claimant, sending its written determination to the*  
5 *claimant or the person acting on behalf of the claimant by*  
6 *facsimile and retaining proof of a successful transmission of the*  
7 *facsimile.*

8 6. The failure of the insurer to ~~[(b)]~~, as applicable:

9 (a) *Obtain* a certificate of mailing as required by paragraph ~~[(b)]~~  
10 (a) of subsection 5 shall be deemed to be a failure of the insurer to  
11 mail the written determination of the denial of a claim as required  
12 by this section ~~[(b)]~~; or

13 (b) *Retain proof of a successful transmission of the facsimile*  
14 *as required by paragraph (b) of subsection 5 shall be deemed to be*  
15 *a failure of the insurer to send by facsimile the written*  
16 *determination regarding a claim as required by this section.*

17 7. The failure of the insurer to indicate the acceptance or denial  
18 of a claim for a part of the body or condition does not constitute a  
19 denial or acceptance thereof.

20 8. Upon request, the insurer shall provide a copy of the  
21 certificate of mailing, if any, *or proof of a successful transmission*  
22 *of the facsimile, as applicable*, to the claimant or the person acting  
23 on behalf of the claimant.

24 9. For the purposes of this section, the insurer shall ~~[(b)]~~  
25 *either:*

26 (a) *Mail* the written determination to:

27 ~~[(a)]~~ (1) The mailing address of the claimant or the person  
28 acting on behalf of the claimant that is provided on the form  
29 prescribed by the Administrator for filing the claim; or

30 ~~[(b)]~~ (2) Another mailing address if the claimant or the person  
31 acting on behalf of the claimant provides to the insurer written  
32 notice of another mailing address ~~[(b)]~~; or

33 (b) *If and as requested by the claimant or the person acting on*  
34 *behalf of the claimant, send the written determination by facsimile*  
35 *to the claimant or the person acting on behalf of the claimant.*

36 10. As used in this section, "certificate of mailing" means a  
37 receipt that provides evidence of the date on which the insurer  
38 presented its written determination to the United States Postal  
39 Service for mailing.

40 **Sec. 3.** NRS 616C.205 is hereby amended to read as follows:

41 616C.205 Except as otherwise provided in this section and  
42 NRS **18.015**, 31A.150 and 31A.330, compensation payable or paid  
43 under chapters 616A to 616D, inclusive, or chapter 617 of NRS,  
44 whether determined or due, or not:



1 1. Is not assignable before the issuance and delivery of the  
2 check or the deposit of any payment for compensation pursuant to  
3 NRS 616C.409;

4 2. Is exempt from attachment, garnishment and execution; and

5 3. Does not pass to any other person by operation of law.

6 ↪ In the case of the death of an injured employee covered by  
7 chapters 616A to 616D, inclusive, or chapter 617 of NRS from  
8 causes independent from the injury for which compensation is  
9 payable, any compensation due the employee which was awarded or  
10 accrued but for which a check was not issued or delivered or for  
11 which payment was not made pursuant to NRS 616C.409 at the date  
12 of death of the employee is payable to the dependents of the  
13 employee as defined in NRS 616C.505.

14 **Sec. 4.** NRS 616C.315 is hereby amended to read as follows:

15 616C.315 1. Any person who is subject to the jurisdiction of  
16 the hearing officers pursuant to chapters 616A to 616D, inclusive, or  
17 chapter 617 of NRS may request a hearing before a hearing officer  
18 of any matter within the hearing officer's authority. The insurer  
19 shall provide, without cost, the forms necessary to request a hearing  
20 to any person who requests them.

21 2. A hearing must not be scheduled until the following  
22 information is provided to the hearing officer:

23 (a) The name of:

24 (1) The claimant;

25 (2) The employer; and

26 (3) The insurer or third-party administrator;

27 (b) The number of the claim; and

28 (c) If applicable, a copy of the letter of determination being  
29 appealed or, if such a copy is unavailable, the date of the  
30 determination and the issues stated in the determination.

31 3. Except as otherwise provided in NRS 616B.772, 616B.775,  
32 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:

33 (a) A written determination of an insurer; or

34 (b) The failure of an insurer to respond within 30 days to a  
35 written request mailed to the insurer by the person who is aggrieved,

36 ↪ may appeal from the determination or failure to respond by filing  
37 a request for a hearing before a hearing officer. Such a request must  
38 include the information required pursuant to subsection 2 and,  
39 except as otherwise provided in subsections 4 and 5, must be filed  
40 within 70 days after the date on which the notice of the insurer's  
41 determination was mailed *or, if requested by the claimant or the*  
42 *person acting on behalf of the claimant, sent by facsimile* by the  
43 insurer or the unanswered written request was mailed to the insurer,  
44 as applicable. The failure of an insurer to respond to a written

45 request for a determination within 30 days after receipt of such a



1 request shall be deemed by the hearing officer to be a denial of the  
2 request.

3 4. The period specified in subsection 3 within which a request  
4 for a hearing must be filed may be ~~extended~~ :

5 (a) *Extended* for an additional 90 days if the person aggrieved  
6 shows by a preponderance of the evidence that the person was  
7 diagnosed with a terminal illness or was informed of the death or  
8 diagnosis of a terminal illness of his or her spouse, parent or child.

9 (b) *Tolled if the insurer fails to mail or, if requested by the*  
10 *claimant or the person acting on behalf of the claimant, send by*  
11 *facsimile a determination.*

12 5. Failure to file a request for a hearing within the period  
13 specified in subsection 3 may be excused if the person aggrieved  
14 shows by a preponderance of the evidence that the person did not  
15 receive the notice of the determination and the forms necessary to  
16 request a hearing. The claimant or employer shall notify the insurer  
17 of a change of address.

18 6. The hearing before the hearing officer must be conducted as  
19 expeditiously and informally as is practicable.

20 7. The parties to a contested claim may, if the claimant is  
21 represented by legal counsel, agree to forego a hearing before a  
22 hearing officer and submit the contested claim directly to an appeals  
23 officer.

24 8. A claimant may, with regard to a contested claim arising  
25 from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or  
26 617.487 as described in subsection 2 of NRS 616C.345, submit the  
27 contested claim directly to an appeals officer pursuant to subsection  
28 2 of NRS 616C.345 without the agreement of any other party.

29 **Sec. 5.** NRS 616C.335 is hereby amended to read as follows:

30 616C.335 1. If a contested claim for compensation is decided  
31 in favor of the claimant, he or she is entitled to ~~an~~ :

32 (a) *An* award of interest at the rate of 9 percent on the amount of  
33 compensation due the claimant from the date the payment on the  
34 claim would be due until the date that payment is made.

35 (b) *An award of costs as are authorized by NRS 18.110 against*  
36 *the opposing party.*

37 2. *If a claimant is awarded costs pursuant to subsection 1, the*  
38 *claimant shall serve on the insurer and the claimant's employer,*  
39 *not later than 15 days after the decision of an appeals officer,*  
40 *district court, the Court of Appeals or the Supreme Court, a*  
41 *memorandum of the costs in the action or proceeding, which*  
42 *memorandum must be verified by the oath of the claimant, or the*  
43 *claimant's attorney or agent, or by the clerk of the claimant's*  
44 *attorney, stating that to the best of his or her knowledge and belief*



1 *the costs are correct, and that the costs have been necessarily*  
2 *incurred in the action or proceeding.*

3 3. *Not later than 15 days after receipt of service of a copy of a*  
4 *memorandum pursuant to subsection 2, the insurer shall issue to*  
5 *the claimant a determination letter regarding the requested costs,*  
6 *specifically stating in detail:*

7 (a) *The costs which are allowed pursuant to NRS 18.110; and*

8 (b) *The costs which are disallowed pursuant to NRS 18.110,*  
9 *along with specific reasons for the disallowance of those costs.*

10 4. *Costs which are allowed by the insurer pursuant to*  
11 *subsection 3 must be paid along with the determination letter to*  
12 *the claimant or, if the claimant is represented, to the claimant's*  
13 *counsel.*

14 5. *Any party aggrieved by the determination may file a*  
15 *request for appeal directly to an appeals officer not later than 30*  
16 *days after receipt of the determination letter.*

17 6. *As used in this section, "costs" has the meaning ascribed*  
18 *to it in NRS 18.005.*

19 **Sec. 6.** NRS 616C.345 is hereby amended to read as follows:

20 616C.345 1. Any party aggrieved by a decision of the  
21 hearing officer relating to a claim for compensation may appeal  
22 from the decision by, except as otherwise provided in subsections 9 ,  
23 ~~and~~ 10 ~~;~~ and 11, filing a notice of appeal with an appeals officer  
24 within 30 days after the date of the decision.

25 2. A claimant aggrieved by a written determination of the  
26 denial of a claim, in whole or in part, by an insurer, or the failure of  
27 an insurer to respond in writing within 30 days to a written request  
28 of the claimant mailed to the insurer, concerning a claim arising  
29 from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or  
30 617.487 may file a notice of a contested claim with an appeals  
31 officer. The notice must include the information required pursuant  
32 to subsection 3 and, except as otherwise provided in subsections 9 ,  
33 ~~and~~ 11 ~~;~~ and 12, must be filed within 70 days after the date on  
34 which the notice of the insurer's determination was mailed *or, if*  
35 *requested by the claimant or the person acting on behalf of the*  
36 *claimant, sent by facsimile* by the insurer or the unanswered written  
37 request was mailed to the insurer, as applicable. The failure of an  
38 insurer to respond in writing to a written request for a determination  
39 within 30 days after receipt of such a request shall be deemed by the  
40 appeals officer to be a denial of the request. The insurer shall  
41 provide, without cost, the forms necessary to file a notice of a  
42 contested claim to any person who requests them.

43 3. A hearing must not be scheduled until the following  
44 information is provided to the appeals officer:

45 (a) The name of:





- 1 (1) The claimant;
- 2 (2) The employer; and
- 3 (3) The insurer or third-party administrator;

4 (b) The number of the claim; and

5 (c) If applicable, a copy of the letter of determination being  
6 appealed or, if such a copy is unavailable, the date of the  
7 determination and the issues stated in the determination.

8 4. If a dispute is required to be submitted to a procedure for  
9 resolving complaints pursuant to NRS 616C.305 and:

10 (a) A final determination was rendered pursuant to that  
11 procedure; or

12 (b) The dispute was not resolved pursuant to that procedure  
13 within 14 days after it was submitted,

14 ➤ any party to the dispute may, except as otherwise provided in  
15 subsections 9, ~~and~~ 10 ~~and~~ *11*, file a notice of appeal within 70  
16 days after the date on which the final determination was mailed to  
17 the employee, or the dependent of the employee, or the unanswered  
18 request for resolution was submitted. Failure to render a written  
19 determination within 30 days after receipt of such a request shall be  
20 deemed by the appeals officer to be a denial of the request.

21 5. Except as otherwise provided in NRS 616C.380, the filing of  
22 a notice of appeal does not automatically stay the enforcement of the  
23 decision of a hearing officer or a determination rendered pursuant to  
24 NRS 616C.305. The appeals officer may order a stay, when  
25 appropriate, upon the application of a party. If such an application is  
26 submitted, the decision is automatically stayed until a determination  
27 is made concerning the application. A determination on the  
28 application must be made within 30 days after the filing of  
29 the application. If a stay is not granted by the officer after reviewing  
30 the application, the decision must be complied with within 10 days  
31 after the date of the refusal to grant a stay.

32 6. Except as otherwise provided in subsections 3 and 7, within  
33 10 days after receiving a notice of appeal pursuant to this section or  
34 NRS 616C.220, 616D.140 or 617.401, or within 10 days after  
35 receiving a notice of a contested claim pursuant to subsection 7 of  
36 NRS 616C.315, the appeals officer shall:

37 (a) Schedule a hearing on the merits of the appeal or contested  
38 claim for a date and time within 90 days after receipt of the notice at  
39 a place in Carson City, Nevada, or Las Vegas, Nevada, or upon  
40 agreement of one or more of the parties to pay all additional costs  
41 directly related to an alternative location, at any other place of  
42 convenience to the parties, at the discretion of the appeals officer;  
43 and



1 (b) Give notice by mail or by personal service to all parties to  
2 the matter and their attorneys or agents at least 30 days before the  
3 date and time scheduled.

4 7. Except as otherwise provided in subsection ~~H2.1~~ 13, a  
5 request to schedule the hearing for a date and time which is:

6 (a) Within 60 days after the receipt of the notice of appeal or  
7 contested claim; or

8 (b) More than 90 days after the receipt of the notice or claim,  
9 ➔ may be submitted to the appeals officer only if all parties to the  
10 appeal or contested claim agree to the request.

11 8. An appeal or contested claim may be continued upon written  
12 stipulation of all parties, or upon good cause shown.

13 9. The period specified in subsection 1, 2 or 4 within which a  
14 notice of appeal or a notice of a contested claim must be filed may  
15 be extended for an additional 90 days if the person aggrieved shows  
16 by a preponderance of the evidence that the person was diagnosed  
17 with a terminal illness or was informed of the death or diagnosis of a  
18 terminal illness of the person's spouse, parent or child.

19 10. *The period specified in subsection 2 within which a notice*  
20 *of appeal or a notice of a contested claim must be filed may be*  
21 *tolled if the insurer fails to mail or, if requested by the claimant or*  
22 *the person acting on behalf of the claimant, send a determination*  
23 *by facsimile.*

24 11. Failure to file a notice of appeal within the period specified  
25 in subsection 1 or 4 may be excused if the party aggrieved shows by  
26 a preponderance of the evidence that he or she did not receive the  
27 notice of the determination and the forms necessary to appeal  
28 the determination. The claimant, employer or insurer shall notify the  
29 hearing officer of a change of address.

30 ~~H1.1~~ 12. Failure to file a notice of a contested claim within the  
31 period specified in subsection 2 may be excused if the claimant  
32 shows by a preponderance of the evidence that he or she did not  
33 receive the notice of the determination and the forms necessary to  
34 file the notice. The claimant or employer shall notify the insurer of a  
35 change of address.

36 ~~H2.1~~ 13. Within 10 days after receiving a notice of a contested  
37 claim pursuant to subsection 2, the appeals officer shall:

38 (a) Schedule a hearing on the merits of the contested claim for a  
39 date and time within 60 days after his or her receipt of the notice at a  
40 place in Carson City, Nevada, or Las Vegas, Nevada, or upon  
41 agreement of one or more of the parties to pay all additional costs  
42 directly related to an alternative location, at any other place of  
43 convenience to the parties, at the discretion of the appeals officer;  
44 and



1 (b) Give notice by mail or by personal service to all parties to  
2 the matter and their attorneys or agents within 10 days after  
3 scheduling the hearing.

4 ↪ The scheduled date must allow sufficient time for full disclosure,  
5 exchange and examination of medical and other relevant  
6 information. A party may not introduce information at the hearing  
7 which was not previously disclosed to the other parties unless all  
8 parties agree to the introduction.

9 **Sec. 7.** NRS 616C.490 is hereby amended to read as follows:

10 616C.490 1. Except as otherwise provided in NRS 616C.175,  
11 every employee, in the employ of an employer within the provisions  
12 of chapters 616A to 616D, inclusive, of NRS, who is injured by an  
13 accident arising out of and in the course of employment is entitled to  
14 receive the compensation provided for permanent partial disability.  
15 As used in this section, “disability” and “impairment of the whole  
16 person” are equivalent terms.

17 2. Except as otherwise provided in subsection 3:

18 (a) Within 30 days after receiving from a physician or  
19 chiropractor a report indicating that the injured employee may have  
20 suffered a permanent disability and is stable and ratable, the insurer  
21 shall schedule an appointment with the rating physician or  
22 chiropractor selected pursuant to this subsection to determine the  
23 extent of the employee’s disability.

24 (b) Unless the insurer and the injured employee otherwise agree  
25 to a rating physician or chiropractor:

26 (1) The insurer shall select the rating physician or  
27 chiropractor from the list of qualified rating physicians and  
28 chiropractors designated by the Administrator, to determine the  
29 percentage of disability in accordance with the American Medical  
30 Association’s Guides to the Evaluation of Permanent Impairment as  
31 adopted and supplemented by the Division pursuant to  
32 NRS 616C.110.

33 (2) Rating physicians and chiropractors must be selected in  
34 rotation from the list of qualified physicians and chiropractors  
35 designated by the Administrator, according to their area of  
36 specialization and the order in which their names appear on the list  
37 unless the next physician or chiropractor is currently an employee of  
38 the insurer making the selection, in which case the insurer must  
39 select the physician or chiropractor who is next on the list and who  
40 is not currently an employee of the insurer.

41 3. Notwithstanding any other provision of law, an injured  
42 employee or the legal representative of an injured employee may, at  
43 any time, without limitation, request that the Administrator select a  
44 rating physician or chiropractor from the list of qualified physicians  
45 and chiropractors designated by the Administrator. The



1 Administrator, upon receipt of the request, shall immediately select  
2 for the injured employee the rating physician or chiropractor who is  
3 next in rotation on the list, according to the area of specialization.

4 4. If an insurer contacts a treating physician or chiropractor to  
5 determine whether an injured employee has suffered a permanent  
6 disability, the insurer shall deliver to the treating physician or  
7 chiropractor that portion or a summary of that portion of the  
8 American Medical Association's Guides to the Evaluation of  
9 Permanent Impairment as adopted by the Division pursuant to NRS  
10 616C.110 that is relevant to the type of injury incurred by the  
11 employee.

12 5. At the request of the insurer, the injured employee shall,  
13 before an evaluation by a rating physician or chiropractor is  
14 performed, notify the insurer of:

15 (a) Any previous evaluations performed to determine the extent  
16 of any of the employee's disabilities; and

17 (b) Any previous injury, disease or condition sustained by the  
18 employee which is relevant to the evaluation performed pursuant to  
19 this section.

20 ➤ The notice must be on a form approved by the Administrator and  
21 provided to the injured employee by the insurer at the time of the  
22 insurer's request.

23 6. Unless the regulations adopted pursuant to NRS 616C.110  
24 provide otherwise, a rating evaluation must include an evaluation of  
25 the loss of motion, sensation and strength of an injured employee if  
26 the injury is of a type that might have caused such a loss. Except in  
27 the case of claims accepted pursuant to NRS 616C.180, no factors  
28 other than the degree of physical impairment of the whole person  
29 may be considered in calculating the entitlement to compensation  
30 for a permanent partial disability.

31 7. The rating physician or chiropractor shall provide the insurer  
32 with his or her evaluation of the injured employee. After receiving  
33 the evaluation, the insurer shall, within 14 days, provide the  
34 employee with a copy of the evaluation and notify the employee:

35 (a) Of the compensation to which the employee is entitled  
36 pursuant to this section; or

37 (b) That the employee is not entitled to benefits for permanent  
38 partial disability.

39 8. Each 1 percent of impairment of the whole person must be  
40 compensated by a monthly payment:

41 (a) Of 0.5 percent of the claimant's average monthly wage for  
42 injuries sustained before July 1, 1981;

43 (b) Of 0.6 percent of the claimant's average monthly wage for  
44 injuries sustained on or after July 1, 1981, and before June 18, 1993;



1 (c) Of 0.54 percent of the claimant's average monthly wage for  
2 injuries sustained on or after June 18, 1993, and before January 1,  
3 2000; and

4 (d) Of 0.6 percent of the claimant's average monthly wage for  
5 injuries sustained on or after January 1, 2000.

6 ↪ Compensation must commence on the date of the injury or the  
7 day following the termination of temporary disability compensation,  
8 if any, whichever is later, and must continue on a monthly basis for  
9 5 years or until the claimant is 70 years of age, whichever is later.

10 9. Compensation benefits may be paid annually to claimants  
11 who will be receiving less than \$100 a month.

12 10. ~~[Except as otherwise provided in subsection 11, if]~~ **If** there  
13 is a previous disability, ~~[as the loss of one eye, one hand, one foot,~~  
14 ~~or any other previous permanent disability,]~~ the percentage of  
15 disability for a subsequent injury must be determined ~~[by computing~~  
16 ~~the percentage of the entire disability and deducting therefrom the~~  
17 ~~percentage of the previous disability as it existed at the time of the~~  
18 ~~subsequent injury.]~~ **pursuant to section 1 of this act.**

19 11. ~~[If a rating evaluation was completed for a previous~~  
20 ~~disability involving a condition, organ or anatomical structure that is~~  
21 ~~identical to the condition, organ or anatomical structure being~~  
22 ~~evaluated for the present disability, the percentage of disability for a~~  
23 ~~subsequent injury must be determined by deducting the percentage~~  
24 ~~of the previous disability from the percentage of the present~~  
25 ~~disability, regardless of the edition of the American Medical~~  
26 ~~Association's Guides to the Evaluation of Permanent Impairment as~~  
27 ~~adopted by the Division pursuant to NRS 616C.110 used to~~  
28 ~~determine the percentage of the previous disability. The~~  
29 ~~compensation awarded for a permanent disability on a subsequent~~  
30 ~~injury must be reduced only by the awarded or agreed upon~~  
31 ~~percentage of disability actually received by the injured employee~~  
32 ~~for the previous injury regardless of the percentage of the previous~~  
33 ~~disability.]~~ **In the event of a dispute over an award of**  
34 **compensation for permanent partial disability, the insurer shall**  
35 **commence making installment payments to the injured employee**  
36 **for that portion of the award that is not in dispute:**

37 (a) **Not later than the date specified in subsection 8; and**

38 (b) **Without requiring the injured employee to make an**  
39 **election whether to receive his or her compensation in installment**  
40 **payments or in a lump sum.**

41 12. The Division may adopt schedules for rating permanent  
42 disabilities resulting from injuries sustained before July 1, 1973, and  
43 reasonable regulations to carry out the provisions of this section.



1 13. The increase in compensation and benefits effected by the  
2 amendment of this section is not retroactive for accidents which  
3 occurred before July 1, 1973.

4 14. This section does not entitle any person to double payments  
5 for the death of an employee and a continuation of payments for a  
6 permanent partial disability, or to a greater sum in the aggregate  
7 than if the injury had been fatal.

8 **Sec. 8.** NRS 616C.495 is hereby amended to read as follows:

9 616C.495 1. Except as otherwise provided in NRS 616C.380,  
10 an award for a permanent partial disability may be paid in a lump  
11 sum under the following conditions:

12 (a) A claimant injured on or after July 1, 1973, and before  
13 July 1, 1981, who incurs a disability that does not exceed 12 percent  
14 may elect to receive his or her compensation in a lump sum. A  
15 claimant injured on or after July 1, 1981, and before July 1, 1995,  
16 who incurs a disability that does not exceed 30 percent may elect to  
17 receive his or her compensation in a lump sum.

18 (b) The spouse, or in the absence of a spouse, any dependent  
19 child of a deceased claimant injured on or after July 1, 1973, who is  
20 not entitled to compensation in accordance with NRS 616C.505, is  
21 entitled to a lump sum equal to the present value of the deceased  
22 claimant's undisbursed award for a permanent partial disability.

23 (c) Any claimant injured on or after July 1, 1981, and before  
24 July 1, 1995, who incurs a disability that exceeds 30 percent may  
25 elect to receive his or her compensation in a lump sum equal to the  
26 present value of an award for a disability of 30 percent. If the  
27 claimant elects to receive compensation pursuant to this paragraph,  
28 the insurer shall pay in installments to the claimant that portion of  
29 the claimant's disability in excess of 30 percent.

30 (d) Any claimant injured on or after July 1, 1995, and before  
31 January 1, 2016, who incurs a disability that:

32 (1) Does not exceed 25 percent may elect to receive his or  
33 her compensation in a lump sum.

34 (2) Exceeds 25 percent may:

35 (I) Elect to receive his or her compensation in a lump sum  
36 equal to the present value of an award for a disability of 25 percent.  
37 If the claimant elects to receive compensation pursuant to this sub-  
38 subparagraph, the insurer shall pay in installments to the claimant  
39 that portion of the claimant's disability in excess of 25 percent.

40 (II) To the extent that the insurer has offered to provide  
41 compensation in a lump sum up to the present value of an award for  
42 disability of 30 percent, elect to receive his or her compensation in a  
43 lump sum up to the present value of an award for a disability of 30  
44 percent. If the claimant elects to receive compensation pursuant to  
45 this sub-subparagraph, the insurer shall pay in installments to the



1 claimant that portion of the claimant's disability in excess of 30  
2 percent.

3 (e) Any claimant injured on or after January 1, 2016, and before  
4 July 1, 2017, who incurs a disability that:

5 (1) Does not exceed 30 percent may elect to receive his or  
6 her compensation in a lump sum.

7 (2) Exceeds 30 percent may elect to receive his or her  
8 compensation in a lump sum equal to the present value of an award  
9 for a disability of 30 percent. If the claimant elects to receive  
10 compensation pursuant to this subparagraph, the insurer shall pay in  
11 installments to the claimant that portion of the claimant's disability  
12 in excess of 30 percent.

13 (f) Any claimant injured on or after July 1, 2017, who incurs a  
14 disability that exceeds 30 percent may elect to receive his or her  
15 compensation in a lump sum equal to the present value of an award  
16 for a disability of up to 30 percent. If the claimant elects to receive  
17 compensation pursuant to this paragraph, the insurer shall pay in  
18 installments to the claimant that portion of the claimant's disability  
19 in excess of 30 percent.

20 (g) If the permanent partial disability rating of a claimant  
21 seeking compensation pursuant to this section would, when  
22 combined with any previous permanent partial disability rating of  
23 the claimant that resulted in an award of benefits to the claimant,  
24 result in the claimant having a total permanent partial disability  
25 rating in excess of 100 percent, the claimant's disability rating upon  
26 which compensation is calculated must be reduced by such  
27 percentage as required to limit the total permanent partial disability  
28 rating of the claimant for all injuries to not more than 100 percent.

29 2. ~~If the claimant elects to receive his or her payment for a~~  
30 ~~permanent partial disability in a lump sum pursuant to subsection 1,~~  
31 ~~all of the claimant's benefits for compensation terminate. The~~  
32 ~~claimant's acceptance of that payment constitutes a final settlement~~  
33 ~~of all factual and legal issues in the case. By so accepting the~~  
34 ~~claimant waives all of his or her rights regarding the claim,~~  
35 ~~including the right to appeal from the closure of the case or the~~  
36 ~~percentage of his or her disability, except:~~

37 ~~— (a) The right of the claimant to:~~

38 ~~— (1) Reopen his or her claim in accordance with the~~  
39 ~~provisions of NRS 616C.390; or~~

40 ~~— (2) Have his or her claim considered by his or her insurer~~  
41 ~~pursuant to NRS 616C.392;~~

42 ~~— (b) Any counseling, training or other rehabilitative services~~  
43 ~~provided by the insurer; and~~

44 ~~— (c) The right of the claimant to receive a benefit penalty in~~  
45 ~~accordance with NRS 616D.120.~~



1 ~~→ The claimant, when he or she demands payment in a lump sum,~~  
2 ~~must be provided with a written notice which prominently displays a~~  
3 ~~statement describing the effects of accepting payment in a lump sum~~  
4 ~~of an entire permanent partial disability award, any portion of such~~  
5 ~~an award or any uncontested portion of such an award, and that the~~  
6 ~~claimant has 20 days after the mailing or personal delivery of the~~  
7 ~~notice within which to retract or reaffirm the demand, before~~  
8 ~~payment may be made and the claimant's election becomes final.~~

9 ~~—3.]~~ Any lump-sum payment which has been paid on a claim  
10 incurred on or after July 1, 1973, must be supplemented if necessary  
11 to conform to the provisions of this section.

12 ~~[4.]~~ 3. Except as otherwise provided in this subsection, the  
13 total lump-sum payment for disablement must not be less than one-  
14 half the product of the average monthly wage multiplied by the  
15 percentage of disability. If the claimant received compensation in  
16 installment payments for his or her permanent partial disability  
17 before electing to receive payment for that disability in a lump sum,  
18 the lump-sum payment must be calculated for the remaining  
19 payment of compensation.

20 ~~[5.]~~ 4. The lump sum payable must be equal to the present  
21 value of the compensation awarded, less any advance payment or  
22 lump sum previously paid. The present value must be calculated  
23 using monthly payments in the amounts prescribed in subsection 8  
24 of NRS 616C.490 and actuarial annuity tables adopted by the  
25 Division. The tables must be reviewed annually by a consulting  
26 actuary and must be adjusted accordingly on July 1 of each year by  
27 the Division using:

28 (a) The most recent unisex "Static Mortality Tables for Defined  
29 Benefit Pension Plans" published by the Internal Revenue Service;  
30 and

31 (b) The average 30-Year Treasury Constant Maturity Rate for  
32 March of the current year as reported by the Board of Governors of  
33 the Federal Reserve System.

34 ~~[6.]~~ 5. If a claimant would receive more money by electing to  
35 receive compensation in a lump sum than the claimant would if he  
36 or she receives installment payments, the claimant may elect to  
37 receive the lump-sum payment.

38 **Sec. 9.** NRS 616C.541 is hereby amended to read as follows:

39 616C.541 Where a written assessment is requested pursuant to  
40 NRS 616C.550 or where a plan for a program of vocational  
41 rehabilitation is required pursuant to NRS 616C.555, a vocational  
42 rehabilitation counselor must be appointed as follows:

43 1. The insurer and the injured employee or personal or legal  
44 representative of the injured employee shall agree on the selection  
45 of a vocational rehabilitation counselor. ~~[.]~~





1 2. If the insurer or injured employee or personal or legal  
2 representative of the injured employee are unable to agree on the  
3 appointment of a vocational rehabilitation counselor, the insurer  
4 shall submit a list of at least three vocational rehabilitation  
5 counselors to the injured employee or personal or legal  
6 representative of the injured employee . ~~{ }~~ *The insurer may not*  
7 *include in the list any two vocational rehabilitation counselors*  
8 *who are employed by the same organization or entity.*

9 3. The injured employee or personal or legal representative of  
10 the injured employee shall select a vocational rehabilitation  
11 counselor from the list provided by the insurer pursuant to  
12 subsection 2 within 7 days after receiving the list provided by the  
13 insurer pursuant to subsection 2 . ~~{ }~~

14 4. The vocational rehabilitation counselor that is selected by  
15 the injured employee or personal or legal representative of the  
16 injured employee pursuant to subsection 1 or 3 must be assigned to  
17 provide all vocational rehabilitation services for the claim pursuant  
18 to this section and NRS 616C.530 to 616C.600, inclusive . ~~{ ; and }~~

19 5. After a vocational rehabilitation counselor is selected and  
20 assigned pursuant to this section, an injured employee or personal or  
21 legal representative of the injured employee may only rescind the  
22 selection of the vocational rehabilitation counselor with the consent  
23 of the insurer.

24 **Sec. 10.** NRS 617.356 is hereby amended to read as follows:

25 617.356 1. An insurer shall accept or deny a claim for  
26 compensation under this chapter and notify the claimant or the  
27 person acting on behalf of the claimant pursuant to NRS 617.344  
28 that the claim has been accepted or denied within 30 working days  
29 after the forms for filing the claim for compensation are received  
30 pursuant to both NRS 617.344 and 617.352.

31 2. The insurer shall notify the claimant or the person acting on  
32 behalf of the claimant that a claim has been accepted or denied  
33 pursuant to subsection 1 by:

34 (a) Mailing its written determination to the claimant or the  
35 person acting on behalf of the claimant ~~{ }~~ and

36 ~~{(b) }~~ , if the claim has been denied, in whole or in part,  
37 obtaining a certificate of mailing ~~{ }~~ ; or

38 *(b) If and as requested by the claimant or the person acting on*  
39 *behalf of the claimant, sending its written determination to the*  
40 *claimant or the person acting on behalf of the claimant by*  
41 *facsimile and retaining proof of a successful transmission of the*  
42 *facsimile.*

43 3. The failure of the insurer to ~~{ obtain }~~ , as applicable:

44 (a) *Obtain* a certificate of mailing as required by paragraph ~~{(b) }~~

45 (a) of subsection 2 shall be deemed to be a failure of the insurer to



1 mail the written determination of the denial of a claim as required  
2 by this section ~~§~~; or

3 *(b) Retain proof of a successful transmission of the facsimile*  
4 *as required by paragraph (b) of subsection 2 shall be deemed to be*  
5 *a failure of the insurer to send by facsimile the written*  
6 *determination regarding a claim as required by this section.*

7 4. Upon request, the insurer shall provide a copy of the  
8 certificate of mailing, if any, *or proof of a successful transmission*  
9 *of the facsimile, as applicable*, to the claimant or the person acting  
10 on behalf of the claimant.

11 5. For the purposes of this section, the insurer shall ~~mail~~  
12 *either:*

13 *(a) Mail* the written determination to:

14 ~~§(a)~~ (1) The mailing address of the claimant or the person  
15 acting on behalf of the claimant that is provided on the form  
16 prescribed by the Administrator for filing the claim; or

17 ~~§(b)~~ (2) Another mailing address if the claimant or the person  
18 acting on behalf of the claimant provides to the insurer written  
19 notice of another mailing address ~~§~~; or

20 *(b) If and as requested by the claimant or the person acting on*  
21 *behalf of the claimant, send the written determination by facsimile*  
22 *to the claimant or person acting on behalf of the claimant.*

23 6. As used in this section, “certificate of mailing” means a  
24 receipt that provides evidence of the date on which the insurer  
25 presented its written determination to the United States Postal  
26 Service for mailing.

27 **Sec. 11.** The amendatory provisions of this act apply  
28 prospectively with regard to any claim pursuant to chapters 616A to  
29 616D, inclusive, or 617 of NRS which is open on the effective date  
30 of this act.

31 **Sec. 12.** This act becomes effective upon passage and  
32 approval.

