

**MEETING NOTICE AND AGENDA**

Name of Organization: Legislative Committee on Workers' Compensation

*(Nevada Revised Statutes 218.5375)*

Date and Time of Meeting: Wednesday, June 24, 1998

8 a.m.

Place of Meeting: Grant Sawyer State Office Building

Room 4412

555 East Washington Avenue

Las Vegas, Nevada

Note: Some members of the committee may be attending the meeting, and other persons may observe the meeting and provide testimony, through a simultaneous video conference conducted at the following location:

Legislative Building

Room 4100

401 South Carson Street

Carson City, Nevada

**AGENDA**

I. Opening Remarks and Introductions

Senator Ann O'Connell, Chair, Legislative Committee on Workers' Compensation

\*II. Approval of Minutes of the Meetings of February 20, 1998, and May 28, 1998

III. Public Comment

\*IV. Work Session—Action Regarding Recommendations of the Subcommittee of the Legislative Committee on Workers' Compensation from May 28, 1998, and Recommendations in the Revised Work Session Document (Attached) on the Following Topics:

A. Three-Way Insurance

B. Regulation of the State Industrial Insurance System Under Three-Way Insurance

C. Wrap-Ups and Owner-Controlled Insurance Programs (OCIPs)

D. Benefits and Administration of the Workers' Compensation System

\*V. Discussion of the Options for the Residual Market Under Three-Way Insurance

Senator Ann O'Connell, Chair, Legislative Committee on Workers' Compensation

## VI. Adjournment

\*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Susan Furlong Reil, at 684-6825, as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Bladell Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; Carson City Courthouse, 198 North Carson Street; Legislative Building, Room 1214, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; Grant Sawyer State Office Building, 555 East Washington Avenue.

### WORK SESSION DOCUMENT

#### **Legislative Committee on Workers' Compensation**

#### *Nevada Revised Statutes (NRS) 218.5375*

**June 24, 1998**

This Work Session Document was prepared by the staff of the Legislative Committee on Workers' Compensation. It contains a summary of major proposals that have been presented to the Committee in public hearings and correspondence through June 18, 1998. A citation concerning the source of each recommendation is noted at the end of the recommendation.

The Committee received public comments regarding the proposals contained in the original Work Session Document at its meeting on May 28, 1998. A subcommittee voted at the meeting to recommend to the full Committee that certain proposals be included for bill draft requests. This Work Session Document is organized by the recommendations of the subcommittee and is designed as a working document to assist the members of the Committee in making decisions during the work session.

The Legislative Committee on Workers' Compensation is required to meet quarterly in accordance with NRS 218.5375. Therefore, the Chair of the Committee plans to have a second series of meetings in the fall of 1998, culminating in another work session.

**The numbers used to identify the proposals in this Work Session Document are consistent with the numbers used in the original Work Session Document of May 28, 1998.**

*Note: The Committee may wish to review the June 4, 1998, memorandum from Alice A. Molasky-Arman, Commissioner of Insurance (Attachment A, beginning on page 17) before taking action on proposals in this Work Session Document. Prepared at the request of the Chair, Commissioner Molasky-Arman's memorandum provides responses to some of the testimony that was provided at the May 28, 1998, meeting.*

### PROPOSALS RECOMMENDED BY THE SUBCOMMITTEE

#### FOR ADOPTION BY THE COMMITTEE

#### **Three-Way Workers' Compensation Insurance**

1. Enact legislation to expand the types of employer groups who can pool and allow private carriers to offer fully insured workers' compensation coverage to employer pools or groups.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; 4/7/98)

*(A pool is a purchasing group that obtains economies of scale not otherwise available to individual members. Group and association programs that pool to purchase workers' compensation insurance provide a means for*

*small businesses to access comprehensive safety and loss control programs. A number of states allow insurers to write workers' compensation insurance for groups and associations of employers.)*

2. Amend NRS 616A.485 to provide that the books, records, and payrolls of an employer insured by a private carrier must be open to inspection by the private carrier providing workers' compensation insurance to that employer.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; support expressed by James Wadhams; 4/7/98)

*(Pursuant to NRS 616A.485, the State Industrial Insurance System [SIIS] has access to the books, records, and payroll of the employers it insures. Also, the Division of Industrial Relations [DIR] has access to the books, records, and payrolls for employers insured by SIIS and private carriers, for self-insured employers, and for associations of self-insured employers. Pursuant to NRS 616A.485, these records may be accessed to determine the accuracy of payroll, the number of persons employed, and any other information necessary for the administration of Chapters 616A through 616D and Chapter 617 of NRS.)*

### **Competitive Rating Schedule**

6. Amend NRS 686B.1779 to clarify that the effective date of the competitive rating schedule is July 1, 2003, not July 1, 1999.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; 4/7/98)

*(Section 686B.1779 identifies the basis on which the Commissioner of Insurance may disapprove the rates filed by an insurer. Effective July 1, 1999 until July 1, 2003, the rates filed by an insurer must comply with the administrative rating schedule provided in NRS 686B.177.)*

### **Application of Certain Provisions of the Insurance Code to SIIS**

*Note: Recommendations 11 and 14 are revised pursuant to the vote of the subcommittee to incorporate the consensus of the Three-Way Task Force as reported by James Wadhams.*

11. Make the following provisions of NRS specifically applicable to SIIS:

1. NRS Chapter 686A of the Insurance Code regarding fair trade practices;

(Assemblyman Lynn C. Hettrick; James Wadhams; 4/7/98)

2. NRS 616B.472 which provides that the Commissioner may suspend the authority of an insurer to provide industrial insurance;

(James Wadhams, 4/7/98)

c. Provisions of Chapter 683A of NRS which require the use of licensed insurance agents to market and sell workers' compensation insurance; and

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; support expressed by James Wadhams; 4/7/98; Three-Way Task Force, 5/22/98)

d. NRS 679B.158 for the portion of the assessment which supports investigations and examinations to investigate fraud and ensure compliance with the fair trade practices act.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; 4/7/98)

*(The assessment paid by an insurer, including SIIS, would be based on the lines of insurance written by the insurer. The assessment is currently used to fund (1) the fraud unit in the office of the Commissioner of Insurance; and (2) investigations and examinations.)*

## **Exemption of SIIS from Certain Provisions of the Insurance Code**

14. Specifically exempt SIIS from the following provisions of NRS:

b. NRS 680A.140 requiring an insurer to deposit cash or securities in order to be authorized to transact insurance in Nevada;

(Assemblyman Lynn C. Hettrick, 4/7/98; Three-Way Task Force, 5/22/98)

*(A deposit for a new certificate of authority is on average \$200,000, according to the Commissioner of Insurance. A formula to determine the deposit for insurers providing workers' compensation coverage has not yet been established. It is expected that an insurer that already has a certificate of authority would be required to have an additional \$100,000 deposit in order to provide workers' compensation insurance.)*

3. NRS 680A.060 stating that an insurer must have a certificate of authority to transact insurance in Nevada;

(Senator Randolph J. Townsend; Assemblyman Lynn C. Hettrick; James Wadhams; 4/7/98; Three-Way Task Force, 5/22/98)

*(Pursuant to NRS 680B.010, insurers must pay the following fees for a certificate of authority to the Commissioner of Insurance: a fee of \$2,450 for filing the initial application for a certificate of authority; a fee of \$283 for issuance of a certificate for one kind of insurance; and a fee of \$578 for issuance of a certificate for two or more kinds of insurance.)*

4. NRS 680A.180(1)(a) and NRS 680B.010(1)(c) requiring an insurer to pay an annual continuation fee;

(Senator Kathy Augustine; Senator Randolph J. Townsend; James Wadhams; 4/7/98; Three-Way Task Force, 5/22/98)

*(Pursuant to NRS 680B.010 related to fees, insurers must pay to the Commissioner of Insurance a fee of \$2,450 for each annual continuation of a certificate of authority.)*

5. NRS 680A.250(1) stating that an insurer must appoint the Commissioner as its attorney to receive service of legal process before the Commissioner may authorize that insurer to transact insurance in Nevada; and

(James Wadhams, 4/7/98)

*(This provision ensures that the residents of Nevada can serve legal papers within Nevada to an insurer.)*

6. NRS 692C.260 and 692C.270 requiring each insurer which is a member of an insurance holding company system to register with the Commissioner.

(Assemblyman Lynn C. Hettrick, 4/7/98; Three-Way Task Force, 5/22/98)

## **Review of SIIS Claims by the Commissioner of Insurance**

*Note: At the May 28, 1998, meeting, Robert Ostrovsky and Douglas Dirks testified that they agreed on a proposal to provide oversight of the account for current claims and the account for extended claims. The subcommittee approved their proposal in concept. The specific proposal submitted by Douglas Dirks is included in the revised Recommendation 16 below.*

16. Amend subsection 2(a) of NRS 616B.083 requiring SIIS to report to the Commissioner of Insurance regarding

its current claims to read as follows:

2. The system shall:

(a) Report to the commissioner [only] its financial statement and results of operations for the account for current claims in accordance with those accounting principles that are prescribed by the commissioner and applied to other insurers providing coverage for workers' compensation and report to the commissioner its financial statement and results of operations for the account for current claims and the account for extended claims in accordance with generally accepted accounting principles in a fiscal year basis.

(Robert Ostrovsky, Douglas Dirks; 5/28/98)

### **Board of Directors**

*Note: The subcommittee approved Recommendation 17 in concept. Recommendation 17 is revised based on testimony presented at the May 28, 1998, meeting and additional clarification provided to staff by Robert Ostrovsky.*

17. Enact legislation to create a board of directors for SIIS, structured as follows:

(Robert Ostrovsky, 4/7/98, written correspondence, 5/11/98; support expressed by Lynn Grandlund, 4/7/98)

1. The SIIS shall be under the direct supervision of a board of directors composed of nine members, each of which shall be a policyholder or an employee of a policyholder of SIIS (the members of the board may not hold legislative or judicial positions in government). The board of directors shall consist of three members appointed by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate, three members appointed by the Speaker of the Assembly in consultation with the Minority Leader of the Assembly, and three members appointed by the Governor.
  - a. Board members shall serve for a term of four years and shall not be permitted to serve for more than two successive terms of appointment, except in the first year of the enactment of this law in which case one member from each class of appointments shall serve for two years and one member shall serve for six years. The original terms of appointment should be staggered with no board member serving less than two years. After the stagger is accomplished, no term should be for less than four years.
2. The term of each regular appointment shall commence on July 1 of the appointment year and expire on June 30 following four years of service.
3. Vacancies on the board amongst members appointed by the Legislature shall be filled by the Legislative Commission. Such appointments shall be for the remaining term of the vacancies, thereby preserving the staggered terms of the board members.
4. Service as a member of the board appointed by the Legislative Commission shall not be considered a term of appointment for the purposes of the limitation of two terms.
5. The board shall meet at least quarterly.
6. The duties of the board shall be those prescribed in NRS 616 and 617. The board may adopt rules and procedures, not inconsistent with the law, as required for the conduct of its business. Any regulations adopted by the General Manager shall be in compliance with Chapter 233B of NRS.
7. Board members shall be compensated by SIIS for meetings at a rate of \$80 per meeting day plus travel and per diem expenses.
  - i. The board shall elect a chairman from amongst its members. The chairman shall serve for a term of one year

and shall not be permitted to serve more than two successive one-year terms. The chairman shall be responsible for the conducting and scheduling of all meetings.

*Note: Assemblyman Hettrick proposed that the Committee consider (1) requiring that each person appoint from the two political parties; and (2) that one of the three from each appointment group have business, financial, or management experience.*

18. If a board is established, amend NRS 616B.062 regarding the appointment and function of the manager of SIIS to read as follows:

- a. The [governor] board shall appoint a manager to be in charge of the operation of the system;
- b. The manager is the chief executive officer of the system and is responsible in consultation with the board for all duties of the system; and
- c. The manager shall serve at the pleasure of the [governor] board.

(Robert Ostrovsky, 4/7/98)

19. If a board is established, amend NRS 616B.065 regarding the selection and classification of assistant managers of SIIS to read as follows:

a. The manager shall select assistant managers whose appointments are effective upon the confirmation by the board of directors. [who] Assistant managers are in the unclassified service of the state and are entitled to receive annual salaries fixed by the [manager] board.

b. The assistant managers shall serve at the pleasure of the manager, subject to the review of the board.

(Robert Ostrovsky, 4/7/98)

### **Wrap-ups and Owner-Controlled Insurance Programs (OCIPs)**

20. Amend NRS 686A.200 and 686A. 220 to allow private carriers to write wrap-up, OCIP, and contractor-controlled insurance program (CCIP) coverage.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; support expressed by James Wadhams; 4/7/98)

a. Require that a contract for a wrap-up, OCIP, or CCIP address the items listed in Recommendation 22.

(Assemblyman Lynn C. Hettrick, 5/28/98)

22. Appoint a voluntary working group to develop specific recommendations to the Committee regarding the regulation of OCIPs. The working group would consider topics including, but not limited to: the extent of coverage under an OCIP, including the "gray" areas of coverage; specific requirements of OCIPs, such as the size of the project that would qualify for an OCIP, safety plans, training, and the length of completed operation coverage (relates to general liability coverage); rating plans and rates for projects; claims handling; on-site health care; use of incentives to promote a safe workplace; reporting relationships of subcontractors and owners related to claims; and whether insurers should be required to offer a subcontractor continuing workers' compensation coverage for a limited period of time (similar to Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA] requirements for health insurance) if all the employees of the subcontractor worked exclusively on the project covered by the OCIP. The working group would report back to the Committee by September 30, 1998, and would include at a minimum representatives of the Associated General Contractors, the insurance industry, insurance agents, labor, and the Commissioner of Insurance.

(Jim Schober, Kaercher Insurance, 4/7/98)

*Note: Recommendation 22 is not intended to be included in a bill draft request.*

### **Automatic Closure of Claims**

*Note: Recommendation 23 is revised based on discussion at the May 28, 1998, meeting and the vote of the subcommittee to require that notice be given on the Employee's Claim for Compensation/Report of Initial Treatment (Form C-4).*

23. Amend NRS 616C.235 to require insurers to notify claimants on the Employee's Claim for Compensation/Report of Initial Treatment (Form C-4) of the circumstances under which a claim is closed automatically.

(Senator Ann O'Connell, 5/4/98)

### **PPD Rating Evaluations**

25. Amend NRS 616C.490(4) regarding rating evaluations for permanent partial disability (PPD) to clarify that PPD ratings must be done using objective medical findings only. Specify that impairments cannot be rated based solely on subjective pain.

(Linda Collins, Nevada Self-Insurers Association; Sam McMullen, The McMullen Strategic Group; 4/7/98)

### **Benefits**

26. Amend NRS 616C.505 to remove the provision which limits payment for the transport of the body of a deceased employee beyond the continental limits of the United States.

(Danny Thompson, AFL-CIO, 2/20/98)

### **Hearing and Appeals Process**

*Note: Recommendation 28 is revised based on testimony presented at the May 28, 1998, meeting and the motion approved by the subcommittee.*

28. Enact legislation to make the following changes to the hearings and appeals process:

a. Clarify that the responsibility of the Senior Appeals Officer over Appeals Officers includes the review and measurement of performance against standards, review of decisions for consistency and precedents, and responsibility for training.

(Sam McMullen, 5/28/98)

b. Hearing Officers and Appeals Officers must write their own decisions and may not solicit or use draft decisions or proposed decisions received from parties to a case.

(J. Michael Nave, supported by Sam McMullen; 5/28/98)

c. Include a provision in Chapter 616C that allows any party aggrieved by a decision of an Appeals Officer pursuant to NRS 616C.360 to appeal to a three-member panel of Appeals Officers within 15 days after the decision is rendered. The panel shall be appointed by the Senior Appeals Officer. The matter shall be set for hearing before the panel within 45 days of the receipt of the notice of appeal. The Appeals Officer who renders the original decision shall not serve on the panel. The panel's review shall be limited to whether there was substantial evidence to support the original Appeals Officer's decision. The panel shall render its decision within 30 days. Any party aggrieved by a decision of the panel may appeal to the district court pursuant to NRS 616C.370.

(Sam McMullen, support expressed by J. Michael Nave; 5/28/98)

### **Workers' Compensation Fraud**

29. Add a new provision to NRS that states:

Every check issued by an insurer for workers' compensation benefits shall include the following restrictive endorsement:

By signing this check for temporary disability, permanent total disability or rehabilitation maintenance benefits, I hereby certify under penalty of perjury that I have been continuously disabled and unable to work in any occupation for the 14 days prior to the date of this check. I understand that any false statement to obtain benefits is a crime, punishable by up to a category D felony pursuant to NRS 616D.300.

Once such a check is issued, endorsed, and/or negotiated, it creates a rebuttable presumption that the named claimant received, endorsed, and/or negotiated the check.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; 4/7/98; support expressed by Kevin Higgins, 5/28/98)

**PROPOSALS RECOMMENDED BY THE SUBCOMMITTEE FOR  
DISAPPROVAL BY THE COMMITTEE**

**Licensing of Claims Adjusters**

9. Amend NRS to require claims adjusters who adjust workers' compensation claims to be licensed for that specific purpose by the Division of Insurance.

(William Matlack, 2/20/98)

**Wrap-Ups and OCIPs**

21. Clarify NRS to allow SIIS exclusively to write wrap-up or OCIP coverage for workers' compensation for public projects. Private carriers would be prohibited from writing wrap-up or OCIP coverage for public projects.

(Charles L. Halsey, J & H Marsh & McLennan, 4/7/98)

**Benefit Penalty**

34. Amend NRS 616D.120 to increase the maximum benefit penalty for certain violations by insurers, organizations for managed care, health care providers, third-party administrators, or employers to \$200,000. The DIR would have discretion to apply a benefit penalty up to \$200,000 to account for the seriousness of the violation and the size of the employer.

(William Matlack, 2/20/98)

**PROPOSALS RECOMMENDED BY THE SUBCOMMITTEE FOR  
FURTHER DISCUSSION BY THE COMMITTEE**

**Three-way Workers' Compensation Insurance**

3. Repeal NRS 616B.012(6) which requires the Administrator of the DIR to collect certain information from insurers.



(Robert Ostrovsky; support expressed by James Wadhams; 4/7/98)

*(The information is used by the Department of Taxation to verify returns for the business tax.)*

### **Qualifications for Associations of Self-Insured Employers**

7. Amend NRS 616B.350(5)(h) regarding the qualifications of a self-insured association to allow a new member to join an association without providing to the Commissioner of Insurance a reviewed financial statement prepared by an independent certified public accountant. The amended provision would apply to self-insured associations that have at least 20 members or a combined net worth of \$5 million, and have an audited financial statement.

(Mary Lau, Executive Director, Retail Association of Nevada, 4/7/98)

*(Current requirements for a new member to join an association would be maintained for associations with fewer than 20 members or a combined net worth of less than \$5 million.)*

8. Repeal NRS 616B.386(3)(a) and 616B.386(3)(b) which require an employer to have a tangible net worth of at least \$500,000 or a reported payroll resulting in workers' compensation premiums of \$15,000 in order to join a self-insured association.

(Mary Lau, Executive Director, Retail Association of Nevada, 4/7/98)

### **Confidentiality of Information**

12. Amend NRS regarding the confidentiality of information of SIIS:

1. Make applicable to SIIS the portions of Title 57 of NRS (the Insurance Code) relating to the confidentiality of information so that SIIS and private carriers would have the same standards of confidentiality under three-way insurance.

(Senator Randolph J. Townsend, 5/20/98; James Wadhams, 4/7/98)

*(For private carriers, pursuant to NRS 679B.190 of the Insurance Code, all documents in the possession of the Division of Insurance are considered public information unless deemed confidential by another code provision or they fall under one of the exceptions in NRS 679B.190. The exceptions include records relating to investigations or examinations that are ongoing or have not been finalized, other documents the Commissioner classifies as confidential because they were obtained from another governmental agency or from sources upon the express condition that they remain confidential, and medical records. Section 616B.014 of NRS currently governs the types of information of SIIS which are considered proprietary and confidential.)*

- b. Repeal NRS 616B.014(1)(c), (3)(b), and (4) which provide that proprietary information of SIIS is confidential;

(Robert Ostrovsky; support expressed by James Wadhams; 4/7/98)

- c. Enact legislation to require that SIIS be required to open its records to the same extent as any other insurer. An exception should be provided to make information available to the Legislature.

(Robert Ostrovsky, 4/7/98)

### **Additional Recommendation Regarding Fair Trade Practices**

13. Specify that NRS Chapter 686A is the exclusive jurisdiction of the Commissioner of Insurance, except to the extent that workers' compensation benefits to claimants are administered by DIR. Clarify that the authority of DIR in the area of claims practices specifically relates to the responsibility of insurers to pay benefits to injured workers.

(James Wadhams, 4/7/98)

### **Exemption of Workers' Compensation Insurers from Certain Provisions of the Insurance Code**

15. Specifically exempt all workers' compensation insurers, including SIIS, from the following provisions of NRS:

1. NRS 679B.430(2) and 679B.450 relating to the fund for the stabilization of insurance costs;

(James Wadhams, 4/7/98)

2. NRS 680A.140 which requires an insurer to deposit cash or securities; and

(James Wadhams, 4/7/98)

3. NRS 679B.310 through 679B.370 which states that the Commissioner may hold a hearing to determine whether an insurer or an employee of an insurer has engaged in unsuitable conduct.

(James Wadhams, 4/7/98)

### **Automatic Closure of Claims**

24. Amend NRS to provide that a claim which is closed automatically pursuant to NRS 616C.235(2) may be reopened if medical benefits of less than \$500 were received by the injured worker as the result of a misdiagnosis.

(Senator Ann O'Connell, 5/14/98)

*Note: Assemblyman Hettrick suggested that the Committee consider requiring that two doctors independently confirm a misdiagnosis before a claim could be reopened under NRS 616C.235(2).*

### **Hearing and Appeals Process**

27. Amend NRS to require that the performance of Appeals Officers be evaluated based on the criteria of timeliness and consistency. The Department of Administration shall compile the number of hearings on the merits each Appeals Officer conducts on a monthly basis throughout the Appeals Officer's term of office. The Department of Administration shall compile on a yearly basis the number of appeals filed with the district court and the Supreme Court from the decisions of each Appeals Officer during the Appeals Officer's term of office. The Department shall also compile the number of decisions for each Appeals Officer that are upheld and reversed at the district court and Supreme Court level during the Appeals Officer's term of office. Cases that are pending at the time the data is compiled shall be noted as such.

(Senator Ann O'Connell, 5/7/98)

*(This proposal would provide information regarding the work load of the Appeals Officers and the correctness of decisions made at the Appeals Officer level of appeal.)*

### **Subsequent Injury Funds**

*Note: The subcommittee voted to bring Recommendations 31, 32, and 33 to the full Committee for discussion and include in the discussion the issue of allowing the purchase of excess insurance and reinsurance to cover the costs of subsequent injury claims. If the recommendations to repeal all or certain of the subsequent injury funds are adopted, a mechanism to disburse any money in the funds would also need to be identified in order for a bill to be drafted.*

31. Repeal the provisions of NRS related to all subsequent injury funds.

(James Wadhams, 4/7/98)

*(Subsequent injury funds are established in statute for SIIS, self-insured employers, associations of self-insured employers, and private carriers. Subsequent injury funds were established to enhance employment opportunities for disabled workers and to protect employers from expensive claims resulting from additional injuries to workers with disabilities.)*

32. Repeal NRS 616B.545 through 616B.560 to dissolve the subsequent injury fund for self-insured employers.

(Linda Collins, Nevada Self-Insurers Association; Sam McMullen, The McMullen Strategic Group; 4/7/98)

33. Repeal NRS 616B.575 which establishes the subsequent injury fund for associations of self-insured employers.

(Jack McClaherty, 2/20/98)

### **ADDITIONAL RECOMMENDATIONS**

35. Audit SIIS.

(Joe Cain, Las Vegas Chamber of Commerce, 5/28/98)

*Note: After discussion of this proposal, Senator O'Connell requested that an independent review of SIIS's financial information be conducted after the 1998 financial statements are published by SIIS. The Legislative Commission will be asked to approve a proposal to have the Legislative Auditor contract with an independent auditing firm to conduct a financial and actuarial review of SIIS's published financial statements including a review of actuarial information.*

36. Enact legislation to require SIIS to report annually to the Legislative Committee on Workers' Compensation on the status of the \$650 million account for extended claims. Require that the report include the financial status of the account, the payments made for claims against the account, investment income, and projections of the adequacy of the account to cover claims incurred prior to July 1, 1995.

(Senator Ann O'Connell, 5/28/98)

37. Clarify in statutes whether or not SIIS is permitted to sell other lines of insurance.

(Robert Ostrovsky, 5/28/98)

*(Mr. Ostrovsky indicated that he is not in favor of SIIS underwriting other lines of insurance as this may create a future financial obligation for the State of Nevada.)*

38. Enact legislation to exempt SIIS from the State Personnel Act effective no later than July 1, 1999.

(Bob Ostrovsky, 5/28/98)

39. Amend NRS to establish the following standards for Appeals Officers:

a. Tighten standards against ex parte communications or relationships (including entertainment, gifts, et cetera, comparable to other similarly-situated decision makers) with attorneys or other representatives who appear in front of Appeals Officers.

b. Require that Appeals Officers must have experience in workers' compensation law.

(Sam McMullen, 5/28/98)

40. Amend NRS 616A.455 to allow the Nevada Attorney for Injured Workers to represent injured workers at the

hearings level.

(Linda Collins, Nevada Self-Insurers Association; Sam McMullen, The McMullen Strategic Group; 4/7/98)

*Note: Additional information regarding this proposal was submitted by Sam McMullen and Nancyann Leeder and is included as Attachments B and C, beginning on pages 28 and 29, respectively.*

41. Amend NRS 686B.1759 to read as follows to specifically exempt associations of self-insured employers from the definition of insurer:

"Insurer" means the state industrial insurance system and all private carriers authorized to provide industrial insurance in this state. The term does not include:

1. An association of self-insured private employers, as defined in NRS 616A.050; or
2. An association of self-insured public employers, as defined in NRS 616A.055.

(Tom Wheeler, Nevada Contractors Network)

42. Enact legislation to allow the Division of Industrial Relations to collect only basic claims information as detailed in Attachment D (beginning on page 37).

(Linda Collins, Nevada Self-Insurers Association, 5/28/98)

*Note: The DIR has scheduled a public workshop for June 30, 1998, to gather information regarding policy and claims data to be submitted by workers' compensation insurers.*

43. Amend NRS 616B.460 by changing the 24-hour notice requirement to 15 days.

(Robert Ostrovsky, June 18, 1998)

*(Current law requires private insurers and SIIS to notify the administrator of DIR if an employer has changed its insurer or has allowed its insurance to lapse, within 24 hours or by the end of the next business day after the insurer has notice of the change or lapse.)*

### **PROPOSALS WITHDRAWN BY THE INITIATORS**

#### **Three-way Workers' Compensation Insurance**

4. Clarify in NRS that a managed care organization that is owned by or affiliated with a licensed workers' compensation insurer is required to be separately licensed by the Commissioner of Insurance to provide managed care services in the state.

(Robert Ostrovsky, 4/7/98)

*(The intent of this proposal is to ensure an appropriate separation between health care providers who treat injured workers and insurers who pay the claims.)*

#### **Competitive Rating Schedule**

5. Amend provisions regarding scheduled rating and competitive rating issues to contain the same rating definitions. NRS 686B.1774, 686B.1779, 686B.176, and 686B.1769.

(Jan Rhodes, Liberty Mutual Group and Alliance of American Insurers; Scott Craigie, R&R Advertising; 4/7/98)

#### **Application of Certain Provisions of the Insurance Code to SIIS**

10. Apply Title 57 of NRS generally to SIIS by amending NRS 679A.100 which defines the term "insurer" to include SIIS, unless a provision explicitly exempts SIIS.

(Robert Ostrovsky, 4/7/98)

### **Workers' Compensation Fraud**

30. Request that the Commissioner of Insurance and the Office of the Attorney General study and report back to this Committee by November 1, 1998, whether the various fraud units in their offices should be consolidated.

(James Wadhams, 4/7/98)

Copies of the attachments are available through the Research Division of the Legislative Counsel Bureau. You may contact Susan Furlong Reil at (702) 684-6825 to obtain copies of the attachments.