The meeting was called to order at 1:00 p.m. in Room 213. Senator Thomas R. C. Wilson was in the chair.

PRESENT: Senator Thomas R.C. Wilson, Chairman

Senator Don Ashworth
Senator Clifford E. McCorkle
Senator Melvin D. Close
Senator C. Clifton Young
Senator William H. Hernstadt

ABSENT: Senator Richard E. Blakemore

OTHERS PRESENT: See guest list attached, page 1A

SB 451 Authorizes banks and savings and loan associations to make loans secured by interest in cooperative housing corporations.

Jeffrey Zucker, respresenting Barkley Square Associates, gave the Committee copies of his prepared testimony (Exhibit A). He also gave out copies of letters in support of the bill (Exhibit C).

Senator Hernstadt noted that Mr. Zucker's proposed amendments provide for assignment of a proprietary lease, but do not provide for the board of directors to approve the new owner. Mr. Zucker replied that a deed of trust on a co-op unit, would be subject to the articles of incorporation and by-laws of that corporation, just as a deed of trust on a condominium is subject to the regulations of that condominium. He said most lenders require, if they are going to finance the corporation, that the association must either buy out the bank in the event of a default, or let them sell to anyone.

Senator Hernstadt said including the approval of the board in the law would make it more difficult to get financing, but he felt that this was the purpose of cooperation -- to be exclusive.

Senator Ashworth commented that if Proposition 6 passes, this bill would be a vehicle people can use to avoid property taxes. He also pointed out that the bill deals with personal as opposed to real property. He said that if the owner of that unit lived in another state, there is no probate proceeding required in the state of Nevada. He asked Mr. Zucker if using stock as collateral for loans would be a problem.

Mr. Zucker said that the cooperative unit owners are subject to all the laws a normal home owner would be. In terms of lender's security it is a home and should be treated as such.

Replying to Senator Young's question, Mr. Zucker said the leases are long-term; and the bill does state that the interest will be deemed real property.

(SB 451 continued)

In answer to Senator Close, Mr. Zucker stated that cooperative housing could be owned by a partnership rather than a corporation, but he had never heard of one. Senator Ashworth commented that if a cooperative was owned by a partnership, it would lose benefits like the protection from probate, and reduced taxes.

Lester Goddard, Commissioner of Savings and Loan Associations, testified in support of SB 451. Mr. Goddard said one problem with cooperatives now is that they cannot get anyone to lend and finance them.

Senator Ashworth asked why there is currently a prohibition against banks or savings and loan associations financing these cooperative corporations. Mr. Goddard replied that a bank can make a blanket loan on the whole property, but they can't make a separate loan on "air space"; there isn't anything tangible, all a person has is a right to occupy a certain space.

Senator Ashworth commented that what the loan is being made on then is stock and the lease.

The Committee recessed at 1:25 p.m.; reconvened at 1:30 p.m.

Chairman Wilson announced that hearings on AB 84, SB 3, and SB 382, would not be formal in nature, but informative to the Committee and other interested persons.

AB 84 — Permits self-insurance of workman's compensation risks, modifies administrative procedures.

SB 3 — Provides for transition of workman's compensation from NIC to private insurance carriers and self-insured employers.

SB 382 — Provides procedure for certain hearings before NIC and requires budget of appeals officer and Nevada industrial attorney.

Don Heath, Commissioner, State Insurance Division, introduced Richard McGavock, Chief Deputy, Oregon Insurance Division Council, and R. Michael Lamb, Certified Actuary, both of whom have broad backgrounds in workman's compensation.

Mr. McGavock stated that Oregon has, for the last decade, used a 3-way compensation insurance system.

Chairman Wilson explained that Nevada has a state-operated and controlled fund and is considering 2 different systems: 2-way, self-insured and stated insured; and 3-way, self-insured, third party insured, and state insured. He asked Mr. McGavock for information on the relative risks and opportunities; what conditions would be essential to 3-way insurance and why.

(AB 84, SB 3, SB 382 continued)

Mr. McGavock stated that the "Oregon Bill" provides self-insurance and has found that employers who provide self-insurance are superior in claims management, rehabilitation and more responsive to loss prevention engineering. They have the advantage of having the facilities to provide these three essential services. He explained that it would be possible for the present state agency to retain its present rates; but that Assembly Bill 559 does not accomplish that and would, in fact, raise the rates for the purpose of producing surplus from which dividends could be paid. Mr. McGavock continued that dividends, per se, are a very effective tool when properly regulated for reducing economic pain, loss, suffering; they produce incentive for management to adhere to the recommendations of loss prevention engineers.

Chairman Wilson asked the policy reasons for and against requiring the state-operated fund to increase its expense levels to those comparable with the third party carriers. Senator Ashworth commented that Oregon rates went up because the state was locked into paying the charges of the licensing rating bureau.

Mr. McGavok disagreed, saying the licensing rating bureau is not responsible for Oregon's being the highest rated state. He explained it is a benefit delivery system. The director of Oregon's worker's compensation department has pegged 6 percent as an initial increase as rated under the 3-way system in Oregon. Mr. McGavok continued that it was predicted that the system would deteriorate with the apathy that would be felt under a state fund; this apathy has been beneficial to Oregon employers, claimants and consumers.

Mr. McGavok explained to Senator Ashworth that the secretary of the rating bureau indicated they could service Nevada with the existing classification system of NIC or, alternatively, go to those classifications that exist in Nevada, as they have compiled 700 classifications. He stated the thing to bear in mind is the nature of the system; power and jurisdiction, a definite rating law, such as utilities have where the commissioner or regulatory authority will set the rate with the opportunity for due process proceedings to the insurers.

Mr. McGavok stated that, with regard to the minimum rate loss proposed, this is more in the nature of prior approval as to power and jurisdiction; but it is really a pricing mechanism which is artificially setting up the rate because it did not provide for premium discount. Mr. McGavok added that the two systems could function together compatibly.

In reply to Senator Young's question, Mr. McGavok stated that the proposed legislation does not address itself to the eligibility for self-insurance, either under a 2-way or a 3-way system. He said there are an estimated 102 employers in Nevada who would have an estimated annual premium of about $100,000. An actuarial approach would peg the eligibility level in relation to the expected

(AB 84, SB 3, SB 382 continued)

loss rate, and which would turn to the experience rating form lows as an alternative for setting a line.

Mr. Lamb of the Oregon Insurance Division explained that there is a requirement in Oregon for self-insured employers to maintain deposits to handle their claim liabilities; this is determined by monitors from the workers compensation department to estimate the outstanding claim liabilities of a self-insured employer.

Mr. Lamb continued that there are different kinds of companies in the market; some of which provide services more related to particular industries; others are more general. He said that presently, in Oregon, expenses and losses are viewed together because the charge of a premium is not divided into expenses and losses; but is put into the company to handle all of the liabilities and expenses. Some companies have high expenses and low losses and some the reverse; the state fund has lower expenses and a higher loss ratio than private companies as a whole.

Mr. McGavok clarified that the key wouldn't be whether there were 400 employees, but the nature of the firm's experience. If a firm had a hazardous occupation and had gone with the state fund or the private sector, a large premium would have generated and the experience would have been creditable and reliable then self-insurance would be good; assuming that the company had the wherewithal to provide the services of safety and claim adjusters and the net worth was solid enough to put up sufficient cash flow for security deposits.

Senator Ashworth referred to MGM in Reno, with 1,000 employees and no experience rating and asked which would be the best way of insuring. Mr. McGavok answered that, inasmuch as there are other casinos with experience, it would be best to find out the way the other casinos go. He stated if there were a private carrier specializing in casinos, that would be a good arrangement; pricing is the key, not the rate and other factors such as type of rating programs available. Mr. McGavok said the base rate is the place to start, then different types of rating plans are stacked -- the best program would be the one to opt for.

Senator Ashworth asked, if private insurance companies were brought in, along with self-insurers, would the NIC cost increase. If not, third parties should be allowed in for the advantage of competition. Mr. McGavok answered that the 3-way system has brought benefits to Oregon through competition. He stated the key would be whether the state authorities were given the power to regulate the pricing costs. If the commissioner were to set the rates and the industry, including the state fund, could petition for deviation up or down, a price would be set for each carrier depending upon their ability from the standpoint of solvency (a rate inadequacy), excessive rating and unfair discrimination. Mr. McGavok stated that Oregon has experienced a fairer apportionment because of a more sophisticated and equitable experience rating program, a fairer classification system.

(AB 84, SB 3, SB 382 cont.)

Mr. McGavok continued that, as the costs have gone up (because of increased benefits, liberal hearing referees, court of appeals) the defects in the system are magnified. There has been a 700 percent rate increase, in ten years, in the cost of compensation. He explained if there is a class system that is not equitable, the disapportionment becomes a real problem from the point that the governor and administrative agencies are burdened and the legislature as well. Mr. McGavok stated that Oregon needed the services of the nation-wide rating organization; which it controls and examines.

Chairman Wilson asked what elements of legislation should be incorporated that would provide for a two-way system. Mr. McGavok answered that under a two-way system, it is difficult to design a vehicle for legislation. He explained that an eligibility level would have to be establisehd; "self-insured" would have to be defined. He continued that the small employer could qualify but might not be able to handle it.

Mr. McGavok stated there would have to be a guaranty fund that would be two in one: one for the self-insurers and one for the insureds; so that if the self-insured employer fails, it should not affect the others who have fulfilled their obligations. Loss prevention engineering services would have to be controlled; net worth would have to be established. Mr. McGavok explained that a security deposit in the form of surety bond to assure the ability of the self-insured to pay claims would be required, but the use of an insurance company surety bond would be discouraged; cash or stock and bonds could be used.

NIC would have to have the authority to write "excess worker's compensation" which would be an umbrella that every self-insured employer would have. Management would decide the amount of self-insurance it wants, and the amount of assumption risks. Mr. McGavok said it would work like auto insurance but instead of $100 deductible, it could be $3,000 or $10,000, depending on net worth; somewhere there would be a cash value hazard that must be protected.

Chairman Wilson asked if that is necessary where you have an adequate eligibility level for self-insuring. Mr. McGavok said yes; because if, for instance, there was an explosion in a casino, and 40 young employees were killed, that would prove to be an unbearable liability.

Senator Ashworth asked where you would pick that up. Mr. McGavok answered that it was available through excess lines, Lloyds of London, for instance.

Chairman Wilson enumerated five criteria points necessary to a 2-way plan: 1) eligibility level, 2) guaranty fund, 3) regulation of loss prevention engineering services, 4) security deposit to insure payment, and 5) a state fund to write excess coverage.

Mr. Lamb added that another point could be some kind of hearing or appeal for the employees of a self-insured employer.

(AB 84, SB 3, SB 382 cont.)

Chairman Wilson asked if the hearing officer should be a separate agency apart from the NIC, or be included in it. Mr. McGavok said a separate agency could cause payment problems.

Senator Ashworth asked what Oregon does with the self-insurer, the private insurer, and the state in regard to the cost of the hearing agency. Mr. Lamb said it was financed by the worker's compensation. They put an assessment on all employers.

Chairman Wilson asked what they would recommend for a 3-way system. Mr. McGavok said that solvency is a key item. He would require a "beefing up" of the insurance code where there would be "special worker compensation security deposits". A certificate of authority would be granted. Workers comp is nothing more than a sub-line of casualty insurance. Mr. McGavok said that an insurer should have a special license and be able to meet certain eligibility requirements and continue to comply with those requirements. He said that in Oregon there are 20 carriers along with the state insurance that together carry 90 percent of the business. He recommended that there be a service officer in the state of Nevada.

Chairman Wilson asked what they would recommend with respect to premium levels of the state fund. Mr. McGavok said that water seeks its own level; there are three kinds of power over rate-making. There is the existing file and use in the insurance coded today; there is the power of approval that Oregon has; or there could be a definite rating law, which is the best of all of these.

Senator Ashworth asked how private industry can compete in an area, without being able to give better service. Mr. McGavok said that through efficency, they can do better than the state. Senator Ashworth commented that, under that principle, the state fund would drop because all of the good risks are going somewhere else. Mr. McGavok disagreed with that premise, saying that all of the loss experience is put together.

Senator Hernstadt asked if it is a legitimate action to take the losses as they're given every year. Mr. Lamb answered that the presence of private companies in the business, encourages better handling of insurance claims; and in the end reduces prices instead of increasing them. Mr. McGavok added that if you have a rating program allowing for deviation upwards or downwards, or preferably the definite rating law, there would be no problem for the employers.

Senator Close remarked that in other words the level of premiums should be allowed to float, depending upon the deliverer. Mr. McGavok said that when it comes to the stability of the ratemaking system, it's imperative to have a central statistical gathering body.

Senator Close pointed out that the National Rating System wants to stay with their 75 categories, but with an insurance carrier coming in, they want to go to 300 different categories.

(AB 84, SB 3, SB 382 cont.)

Mr. McGavok said there is a rate base for every classification. Assuming the rate base could not be worked out, it would be possible to carry on with NIC's classification. Mr. Lamb remarked to be safe rate deviation must be allowed for.

Senator Close asked if, in Oregon, the private insurance companies use the state's rehabilitation facilities. Mr. McGavok answered they have an option to so do if they choose.

Mr. Lamb commented that another item to include in the legislation of a three-way program would be a certificate of necessity, restricting the number of licensures distributed to the carriers. He also suggested that each carrier be required to comply with a national rating system; they should also provide for the aggregate pure premium cost. The only way to get it is to have everyone report to one source.

Senator Ashworth brought up the point that belonging to a national rating service would cost a great deal of money. Mr. Lamb said one other important reason for belonging is so an employer can switch jobs and have his experience follow him so he is getting the same kind of rates no matter where he goes.

Ed Woodward, representing Worker;s Compensation Advisories, (from San Francisco) on the federal level, testified. He said the National Commission for Worker's Compensation has outlined 19 points that are considered essential for worker's compensation. A study done in January, 1979, showed that Nevada is currently complying with 14 of the 19 recommendations; the most expensive ones to implement are already adopted by Nevada. He suggested there be a section in the legislation providing for 50 percent death benefits to non-resident aliens.

Mr. Woodward said the National Commission could not find any substantial difference between the 2-way and 3-way systems. In order for Nevada to have a good system, whether it's 2-way or 3-way, there should a good monitoring system of those people who provide benefits.

Chairman Wilson asked Mr. Woodward if he knew of any reason that a 2-way system would be detrimental to Nevada. Mr. Woodward said not that he knew of. Then Chairman Wilson asked Mr. Woodward what recommendation he had for a 2-way system. Mr. Woodward answered that he had nothing to add to what was recommended by the gentlemen from Oregon.

Chairman Wilson asked if Mr. Woodward had any recommendations for a 3-way system; and would it hurt Nevada's finances. Mr. Woodward said that there would be increased costs in administration; but he didn't know to what extent it would hurt the state insurance program.

Jim Carey testified that he would like to discuss with the Commitee his recommendation on AB 84 and AB 559. With respect to AB 84, legislation should be passed to allow NIC to develop regulations

(AB 84, SB 3, SB 382 cont.)

permitting qualified employers to self-insure. Regulation of the self insurance by the insurance division would not be necessary.

Chairman Wilson asked why regulation of the self-insurers would be redundant and unnecessary. He said that if the insurance division doesn't regulate the self-insurers, then legislation would have to provide qualifications for them. Mr. Carey said he felt NIC should be responsible for the self-insurers; NIC should provide the qualifications for the self-insurers.

Chairman Wilson said there could be some conflict with that, because NIC has to give permission for an employer to leave the jurisdiction of NIC and become self-insured. He felt that NIC should not have the responsibility of regulating them afterwards.

Mr. Carey replied one reason he felt NIC would be better than the insurance commissioner is because benefits for worker's compensation are rapidly increasing, and NIC would be more sensitive to that than the insurance commissioner.

Chairman Wilson said that in order to avoid any possible conflict, it would be preferable to give that authority to regulate self-insurers to the insurance commissioner.

Mr. Carey stated, with regard to AB 559, that Nevada should not permit the entrance of private insurers for the purpose of providing worker's compensation. He said it would lead to a substantial increase in administrative costs for all employers.

Chairman Wilson asked Mr. Carey if he though it was justifiable to impose minimum rates on the state fund to allow for a third party carrier to do business. Mr. Carey said no; in a study done previously carriers said they would only enter into a 3-way system if there was a minimum rate in effect.

Senator Young asked if the reason for that would be that they were afraid the NIC would out-compete them. Mr. Carey said the only reason he knew was that it has always been done that way.

Frank Damon, representing Mission Insurance Group of Los Angeles testified. He said he could not speak for his entire district and other private insurance companies that might be interested in the 3-way system, but his company was in favor of a minimum rate law. He said his company is the largest carrier in Arizona, in the top ten in Oregon. As long as they can compete on a level which gives them some kind of rate adequacy, they would be interested in doing business in Nevada.

Chairman Wilson asked Mr. Damon if, as a matter of public policy, he could justify imposing a minimum rate on a state insurance company. Mr. Damon replied it is justifiable on the basis that one of the reasons for a minimum rate law is to insure solvency of the carriers who write worker's compensation insurance. The competitive factor

(AB 84, SB 3, SB 382 cont.)

emerges in the delivery of benefits, the management of claims, the services rendered and the divident.

John Reiser, Chairman, NIC, presented a handout which included a proposed resolution from the Stanford Research Institute, a letter from Thomas F. Conneely, Regional Manager and Counsel, and a comparison of Arizona, Oregon and Nevada with regard to expense associated with litigating a worker's compensation and rates. He said the basic assumption in the latter analysis, is that NIC with the rehabilitation and loss prevention program is equivalent to the impact private carriers have. (See Exhibit D)

Senator Young asked Mr. Reiser if he favored the 2-way system. Mr. Reiser agreed that he does. Senator Young asked if NIC rates would go up under the 2-way system. Mr. Reiser replied it would depend on the nature of the system. He said the Committee has two basic decisions to make. He does not favor the present language of AB 84, but he does favor the 2-way system and enabling legislation to permit the state to have the option to add self-insurance.

Senator Young asked if the 3-way system would be more expensive. Mr. Reiser said it would under the minimum rate; he felt it was important for the Committee to know the industry's position on the 2-way system.

Senator Ashworth inquired if the State of Nevada implements the 3-way system, with a central agency to regulate the hearings of each division (self-insured, private carriers, and NIC) would the rates of NIC increase? John Reiser replied yes, because there will be some additional bureaucracy. Senator Ashworth remarked that, as far as the hearing is concerned, private industry was willing to pay the extra cost to have an independent agency.

Chairman Wilson asked if, taking into consideration the private industries will pay the extra costs to provide worker's compensation, will the 3-way system be detrimental to the state fund. Mr. Reiser said he couldn't answer that because he knew of no state that didn't have a minimum rate. What the state was basically creating was a 4-way system with the fourth provision being an appeals process. He said they are also vesting in the appeals process the administrative task of setting policy.

Chairman Wilson disagreed saying that the hearing system consists of a hearing officer and his staff; and an appeals officer and his necessary staff. He said that doesn't set management policy of the fund.

Jim Wadhams, Director, Department of Commerce, testified next. Senator Young asked him if the private insurance companies would be willing to come in if there was no minimum rate. Mr. Wadhams replied he didn't have any first hand information, but that it was mentioned to him that the private companies weren't happy with the possibility of not having minimum rates. There are some who would attempt to compete without a minimum rate; a variety of

(AB 84, SB 3, SB 382 cont.)

insurance companies competed on price as well as service in a rating system similar to what the Committee has in mind (which Mr. Wadhams had experience with).

Chairman Wilson asked Mr. Reiser if the absence of a minimum rate would satisfy most of his reservations about the 3-way system, or are there other problems that should be anticipated. Mr. Reiser said he thought the Committee had done a good job in listing the requirements of a 3-way system: he felt a subsequent injury fund, a guarantee fund, an uninsured employer's fund also need to be included in a 3-way system.

Chairman Wilson asked Mr. Reiser to make a list, starting from scratch, of the bottom-line requirements for a a 2-way system (which may be in AB 84) as well as a list of the bottom-line requirements to provide for 3-way insurance. Chairman Wilson said the lists should be made, assuming the Committee will not legislate minimum requirements.

Mr. Carey remarked the Committee should take into consideration the transition; if people leave NIC and become self-insured, then don't like it and want to come back to NIC, would they take them back.

In answer to Chairman Wilson's question, Mr. Reiser answered that there is a good chance of "anti-selection", where people who switch might want to come back to NIC. There should be a five-year adjustment up and down to avoid that type of experience.

Mr. Carey said in AB 84, the bill, after a given period of time, would give self-insurers who leave NIC a dividend if their compensation experience has been good. He feels those companies who have less than average experience should be fined.

Mr. Reiser commented that the more options that are made available without doing harm to the system, the better it is for everyone concerned. Chairman Wilson remarked that statement is an endorsement of the 3-way system, under the proper conditions; Mr. Reiser agreed.

Senator Ashworth asked if the separate agency the state is paying money to, is the same agency that collects the data and sets the rate for the various industries. Mr. Carey said he thought the reference was to the National Council on Compensation Insurance or some other national rating bureau. Senator Ashworth said those types of things increase the cost; it is going to have to be spread across the board.

Mr. Carey stated the insurance industry, NIC, and the legislature must work together for the next two years to make sure all of these things are adequately considered; because there are things that can blow the entire system if they legislate too quickly and don't take all things into consideration.

(AB 84, SB 3, SB 382 cont.)

John Duff Taylor, representing MGM Hotel Casino, Las Vegas was next to testify. Mr. Taylor gave the committee a letter written to Senator Wilson (Exhibit E). He said when AB 84 was before the Assembly Committee, the insurance commissioner, a subcommittee as well as a group of employers spent a great deal of time reviewing the bill and trying to produce one that was workable. Mr. Taylor said NIC did not have any representative at those meetings. Attached to his letter was a new amendment the commissioner of insurance suggested, with respect to the first 18 sections (Exhibit F) and amendments to SB 382 with respect to the change of the hearing system (Exhibit G).

Senator Ashworth asked Mr. Taylor if he was in favor of the 2-way system. Mr. Taylor answered he is in favor of the 2-way system under AB 84, with his proposed amendments, because that is what there is to work with at this time. He also is in favor of the 3-way system if it is competitive.

Norman Anthonisen, Personnel Services Manager, SUMMA Corporation, testified next. He said he testified at a previous hearing as to the costs of NIC; he doesn't agree with the Stanford Research Institute's report. SUMMA Corporation had contributed money to NIC in the past and he felt it had gone towards non-fruitful purposes. Mr. Anthonisen said it was unfair, if Summa Corporation was allowed to be come self-insuring, that NIC would be setting the rules they would operate under. He recommended that the Committee consider AB 84 as a separate entity, without including the 3-way system. Mr. Anthonisen said SUMMA Corporation is in favor of a 3-way system; but with the limited amount of time left, he felt it would be very difficult to write an appropriate 3-way system.

Richard Lance, representing the Gibbons Company, testified on AB 84. He said the bill was discussed with the insurance commissioner and they agreed one concept should be kept in mind, that is, the employee's protection. Mr. Gibbons said they worked with experts in the area of self-insurance from California. The commission testified that the bonding structure in AB 84 is insufficient; yet the commission has had 8 self-insurers in the past, and has not required any of them to meet these requirements. Yet, they now claim they are insufficient. Mr. Lance urged the Committee to consider the bill, as it is presently written, for passage.

Michael McGroarty, appeals office, Las Vegas, testified and presented information (Exhibit H). From what he'd been able to understand of the hearings on proposed legislation for workman's compensation, the Committee either wanted to streamline the system or make it independent. Mr. McGroarty said there are some problems with AB 84 in that is does not consider the hearings process; Section 13, subsection 2, stated the employer will appoint a person to hear the case, and then the employee has a right to appeal.

(AB 84, SB 3, SB 382 cont.)

Wilson
Chairman said an independent appeals system should be independent of both (the employer and NIC); there would not be a hearings officer appointed, and it would work the same whether it was a self-insured employer or NIC.

Mr. McGroarty said, in other words, when an appeal is filed, they may request from the office a referee who will set up a date within 30 days to hear the case. The commission has the same option to do the same thing. The reason he left the commission with one in-house hearing is because they should have the right to control their policy. What they have is a three level pyramid; there is the hearings officer, the commission and finally the appeals officer.

Chairman Wilson asked Mr. McGroarty if he thought the commission should be hearing cases at all. Mr. McGroarty said yes. Chairman Wilson observed that if the commission is a policy board, as well as the executive, as well as a hearings panel, he didn't think it was a good idea.

Mr. McGroarty said that appeals officers are expensive; if there is one level between the hearing and appeals officer, it would cut down on the unnecessary cases.

Chairman Wilson said that what bothered him was that three commissioners were in charge of setting policy for an insurance fund having custody of millions and they're also responsible for its administration. If they were also responsible as an appeals board, it would be a waste of their valuable time.

Senator Young said that he gathered, from the testimony of the gentlemen from Oregon, that the appeals system there is separate, and that perhaps it got out of hand. He asked Mr. McGroarty if he felt that was a danger with a separate system.

Mr. McGroarty said that what he thought happened in Oregon was one case was interpreted a certain way and overnight tripled the amount of benefits going out. He wanted to address section 21 of AB 84 which deals with the appeals officer specifically; in his proposed amendments, that section has been deleted. He suggested the Committee compare his proposal with the bill.

Patty Becker, state industrial attorney, testified next. Ms. Becker said the only thing to worry about is that the state insurance fund cannot be charged for every job; a proportionate share should be charged to everyone. She added that in any hearing agency that is dealt with, there should be only one "trial de novo".

Mr. Reiser commented that those types of problems are found throughout AB 84. He thought that some of the subsidies for the self-insured company, given by the state fund, are unconstitutional.

Robert Haley,representing NIC, testified next. He gave the Committee information concerning the CenTel program. He said that a "break even" for NIC under its 90 to 10 rule, would be a 90

(AB 84, SB 3, SB 382 cont.)

percent loss ratio. Mr. Haley stated that in 1972, the loss ration was 164 percent. In 1973, the losses far exceeded the premium; in 1974, the loss ratio was 188 percent; in 1975, it was 102 percent. In 1976, there was a considerable drop in losses at CenTel, and the ratio was down to 34 percent. In 1977, the loss ratio was 16 percent; over the six year period the loss ratio is 82 percent.

Mr. Haley asked the Committee to look at section 23 of AB 84. He said that safety performance is recognized in the rating system, in which it's possible, based on experience to achieve a 70 percent discount on rates. He said the employer would have to be a very large employer to get a 70 percent discount and would have to have exceptional experience, but it is possible. He said in addition to the experience rating plan, they have a retrospective rating plan, in which it's possible to reduce the standard premium by another 80.4 percent. The two plans operate together.

Senator Close asked Mr. Haley where the "88 percent" came from which is mentioned in section 23. Mr. Haley replied that you can't get 88 percent out of that section. He said that what he meant is there is another device by which credit can be achieved, based on performance; rather than on a set of standards.

Senator Close asked which section Mr. Haley was referring to with regard to the 88 percent. Mr. Haley said this comes from the retrospective rating plan which is taken under NRS 616. He remarked that section 23 of AB 84 is unmanageable; there are 24,000 employers who could qualify.

Duff Taylor said he agreed with Mr. Haley that section 23 was not correct and should be deleted.

Mr. Haley said he had a proposed amendment that would provide for the insurance commissioner to assign an actuary to view the process of setting rates in a fiscal year. In essence, what that would do is have NIC file the rates, notify the employers and, if the employers have appeals, they can appeal to the insurance commissioner.

Senator Young asked Mr. Haley if the employers have any objections to the proposed amendments. Mr. Haley said he didn't think so. In section 36, as it reads now, the state insurance fund will be financing the self-insurance cost and the subsequent injury. There is no provision in the bill for a subsequent injury fund, funded by the two parties. Because NIC is a monopoly, they don't have to have a subsequent injury fund.

Senator Young asked for an explanation of "subsequent injury". Mr. Haley said if a person is injured and sustains a permanent disability, and he is subsequently injured; if the second injury results in a greater disability, he is given the cost of the second injury. NIC now handles it as a monopoly.

(AB 84, SB 3, SB 382 cont.)

Senator Close asked Mr. Haley's recommendations. Mr. Haley said there should be a subsequent injury fund established either under the insurance commission or the commission office with both the state fund and the self-insurers contributing.

Senator Close asked what the industry had to say about that. Mr. Haley didn't answer. He said another alternative was to let only the state insurance fund recognize subsequent injury and to let the self-insured handle their own.

Senator Close asked which one was recommended. Duff Taylor said that self insurance could assume the full responsibility for injury and not recognize the subsequent injury.

Mr. Haley said he would agree with that because then NIC wouldn't have to change their procedures. He asked the Committee to delete section 36.

Jim Wadhams, Director of Commerce, testified next. He discussed the hearings process; putting aside worker's compensation and looking at regular insurance claime, the normal procedure for a company would be that after they have received notice of a claim, they adjust for the claim and then provide information to the insurer as to the amount of benefit they intend to provide. If the insurer is not happy, he has immediate recourse in the district court. The theory being there is a special body that handles appeals.

Mr. Wadhams said he thought it should be the same for worker's compensation claims. The current system has five levels; SB 382 has four levels after it gets out of the company. Mr. Wadhams commented that if the Committee is thinking about speeding up the process, they should keep in mind that there is currently an appeals officer process; and it might be worthy of their consideration in the event they do allow private insurers as well as self-insurers, to allow someone who is displeased with the carrier to go immediately to that independent body and from there to the district court, which gives three levels.

At this time a letter was presented from Frank King, Legal Counsel for NIC to be entered into the record (Exhibit I).

Chairman Wilson closed public hearing on AB 84, SB 3, and SB 382.

SB 313 Repeals Nevada State Motor Vehicle Insurance Act and provides for optional basic reparation benefits.

David Guinan testified for SB 313, saying that SB 313 would repeal chapter 698 of NRS, the "no-fault" insurance law. In its place it would substitute a requirement that insurance companies offer, on an optional basis similar to the requirement to offer uninsured motorist coverage, first party no-fault type benefits to motorists in connection with their liability insurance coverage. The type of benefits that are contemplated by SB 313 are similar to the

(SB 313 cont.)

present no-fault benefits. They include medical benefits, wage loss benefits, replacements service loss benefits, funeral benefits and survivor's benefits. They have been limited from what is presently available.

Mr. Guinan said the principal difference between SB 313 and the current law is that the current system abolishes tort liability for all motor vehicle accidents, with certain exceptions. It also abolishes all ability to collect out-of-pocket costs for expenses that could have been recovered if a motorist has no-fault benefits. He said a recent Supreme Court decision has interpreted Nevada's no-fault law as saying that a motorist driving an uninsured vehicle he owns, has a $10,000 deductible for any out-of-pocket costs he incurs as the result of an accident, even if he is not at fault. It is this situation that causes the break-down of the system.

Mr. Guinan said the theory behind the present system only works as long as 100 percent of the motorists on the roads are insured. When there are uninsured motorists (either because they can't afford coverage or they're irresponsible) the system breaks down. While the law says one must carry no-fault insurance, it a terrible price to pay for failure to do so by being denied the first $10,000 worth of out-of-pocket costs when not at fault in an accident.

Mr. Guinan remarked there have been many proposals made to solve the problem; one of them being mandatory insurance. He submits that AB 313 goes a long way towards solving the problem, because it retains the good aspects of no-fault (immediate first party benefits for those who can afford to purchase it) and eliminates the bad aspects because it does away with the abolition of tort liability and brings the people that don't have insurance back into the system, allowing them to be compensated if they are not at fault.

Senator Young said the penalty under that Supreme Court case is that the first $10,000 would be lost even though the person was otherwise entitled to it. Mr. Guinan agreed and cited a case of a pedestrian, who would not be entitled because she owned an uninsured vehicle, even though she wasn't using it at the time.

With respect to the mechanics of SB 313, Mr. Guinan said there were some things that could be done to improve it. First, in section 2, is a typographical error. Subsection 1 of section 2 says "except as otherwise provided in sub section 1" and it should read "except as otherwise provided in sub section 2". Second, one of the things the legislature and insurance industry are looking for it somehow putting a cap on the expenses incurred in the present insurance system. Mr. Guinan thinks the possibility could be covered if the overall cap on benefits was set at $10,000. It should come under section 3, in the initial paragraph. He suggested inserting "not to exceed $10,000" between "benefits" and "to be paid".

(SB 313 cont.)

Senator Young asked if $10,000 was in the existing law. Mr. Guinan answered that it was. Senator Young asked if it should go up because of inflation. Mr. Guinan said he had a suggestion to take care of that; to set the basic benefits so that as many people as possible can afford them. He said he thought the bill could continue and offer additional added benefits on an optional basis in accordance with regulations issued by the insurance division. He said the $10,000 should be left as is so more people could afford the basic package. The third suggestion is something that had been included in the Oregon plan, but does not appear in SB 313; that is the matter of segregation. One of the underlying concepts of no-fault is to eliminate the small nuisance suits which add significantly to costs of administration. Segregation, in this modified Oregon plan, would allow insurance companies to recover from their insureds the benefits the company has paid if the insureds undertake a third party action to recover general damages rising out of their lawsuit. Mr. Guinan continued a more detailed explanation of this type of action and benefit.

Chairman Wilson asked if Mr. Guinan wanted to recommend something for the bill with respect to segregation. Mr. Guinan replied that insurance companies be authorized to have segregation against special damages recovered by the injured party; but that the amount of segregation recovery by the insurance company be reduced pro rata according to what attorney's fees and costs the injured party had to pay to recover it.

Mr. Wadhams said he thought the concept made sense; but he thought they were talking about some form of a lien instead of segregation. What Mr. Guinan is describing in not the indemnitor being subrogated to the right of the injured party; he's talking about leading into proceeds similar to NRS 616.595.

Chairman Wilson commented he thought they were talking about both. Mr. Wadhams said he didn't think so. Mr. Wadhams said the use of the word subrogate when they're really talking about more of a lien against proceeds, they're going to have to litigate that. Mr. Guinan admitted that Mr. Wadhams might be correct in his assumption.

Senator McCorkle asked if this type of thing would reduce premiums? Mr. Wadhams replied that he thought going to an optional system would reduce premiums.

There was general discussion to throwing out the whole concept of "no-fault", or looking at the alternatives more closely, by the Committee and Messrs. Wadhams and Guinan. Mr. Wadhams stated that taking out no-fault entirely, returning to the tort system, would probably mean that most family insurance policies will drop in price; people who drive trucks rates will go up, but people who drive motorcycles insurance should go down.

Chairman Wilson asked about automobiles. Mr. Wadhams said the automobile owner should be in a ten percent better position.

(SB 313 cont.)

Senator Close asked if the motorist buys the additional benefit package to get the same benefits now available, wouldn't the premium go back up. Mr. Wadhams agreed that it might go a little higher. Senator Close then observed that going to a tort system from a no-fault system is going to cost as much or more as at present and Mr. Wadhams agreed that it would.

Daryl E. Cappurro, representing Nevada Motor Transport Association and Nevada Franchised Auto Dealers' Association, spoke to Senator Close's concern. He said that SB 313 eliminates some claims (medical insurance, health insurance) in liability situations. He said the auto insurance companies should get out of the medical health field. There are many people already paying double anyway.

Senator Close asked what happens to his premiums under this (SB 313) plan. Mr. Wadhams answered that in effect he is requiring the insurance to offer the same level of benefits as under no-fault, with an optional plan, which he can reject. If the tort system is reinstated in its entirety, the liability premium will increase somewhat. But in this case, the increase is optional depending upon the choice the motorist makes; and the insurance would be more affordable in the basic package. Eliminating a mandatory benefit package would reduce the premium, making the insurance more affordable, and perhaps reducing the uninsured motorist population.

Senator Close observed that if he were judgement proof, he would buy insurance only to protect himself against injury, and no one else. But he wasn't sure that reducing the premium was going to pick up a lot of the uninsured people, they aren't going to buy insurance anyway.

Chairman Wilson remarked there had been previous testimony on the percentage of uninsured motorists, and that the premium level was the basic cause. He asked Mr. Wadhams his opinion on this. Mr. Wadhams replied that there would be some who would buy; but there are those who wouldn't buy insurance if it were a nickel. They don't want it.

Bob Guinn, representing the Nevada Motor Transport Association, stated that regardless of what they do, there are a lot of people who cannot afford insurance. Mandatory insurance, where you have to have insurance before a vehicle can be registered will work a real hardship on young people, who have had 3 traffic citations, and have to pay $100 a month for insurance already. These people won't be able to buy insurance, they won't be able to get to work.

Chairman Wilson asked if that bill had passed. Mr. Guinn answered that it was passed out of the Assembly.

Mr. Guinan said that mandatory insurance would be a lot more acceptable to him if they were just talking about mandatory liability insurance, about protecting other people.

(SB 313 cont.)

Senator Close commented that was what it should be, that is the proper aspect of mandatory insurance.

Mr. Guinan stated that the bills in process right now are for mandatory everything, mandatory liability, mandatory no-fault; and it's treating a symptom not the cause.

Senator Close remarked that to make it only mandatory liability would be changing parts of the law.

Mr. Wadhams said that in states of comparable size to Nevada, the premiums are lower under tort insurance.

Chairman Wilson asked if there were any other questions. He said the question to answer, in his mind, was whether to throw no-fault out completely.

Mr. Guinn commented that until the threshold was up above $700, where now at today's costs everything is liable to tort, they're out of luck.

Senator Close asked what would happen if the threshold were set at $1,500, would that affect the premium at all. Mr. Wadhams replied that it would not affect the premium.

Mr. Guinn added that if they're going to go on the threshold, they either have to go to an open end deal, or at least $5,000, to make it price right.

There was no further discussion on SB 313, Chairman Wilson closed public hearing on the bill.

Senator Ashworth moved to"Amend and Do Pass" SB 451.

Seconded by Senator McCorkle.

Motion carried.

Senators Blakemore and Hernstadt absent.

Chairman Wilson, regard to the other bills, said they would be discussed at the next meeting (Monday, April 23, 1979).

No further business, so meeting adjourned at 5 p.m.

RESPECTFULLY SUBMITTED

Betty L Kalicki

Betty L Kalicki, Secretary

APPROVED:

Thomas R. C. Wilson, Chairman

SENATE Commerce and Labor COMMITTEE

GUEST LIST

DATE: Friday, April 20, 1979

NAME	AGENCY OR ORGANIZATION
Skip King	NIC
DARYL E. CAPURRO	NEVADA MOTOR TRANSPORT ASSOCIATION NEVADA FRANCHISED AUTO DEALERS ASSOCIATION
JOHN MADOLE	NEVADA ASSN OF MECHANICAL CONTRACTORS
R Stanley	NIC
Robert F Guinn	Nevada Motor Transport Assn. Nevada Franchised Auto Dealers Assn.
J D Taylor	MGM
Patty Becker	State Industrial attorney
Don Sleath	Nevada Insurance Division
Knaus	Insurance Division
Michael Lamb	OREGON Insurance Division
Richard McGAVOCK	Oregon Insurance Division
Lester O. Goddard	Comm'r - Savings & Loan Div.
CHUCK KING	CENTRAL TELEPHONE CO.
Mark Solomon	Hilton Hotel Corp Las Vegas
MIKE THOM	DMFAC INC.
Jim Wadhams	Commerce Dept
N.C. ANTHONISEN	SUMMA CORP
Edmund Allen	Assoc Gen Contractors
Scott Baker	NIC
Frank Daines	Mission Insurance Group
[illegible]	Appeals - Industrial
[illegible]	Appeals Officer
JIM LORIGAN	NIC
WALLIE WARREN	SIERRA PAC POWER

Exhibit A

SB 451

NEVADA STATE SENATE COMMITTEE ON COMMERCE AND LABOR

Testimony of Jeffrey P. Zucker

April 20, 1979

This bill would permit banks and savings and loan associations to finance individual cooperative housing units. As a result of conversations with Mr. Wadhams and Mr. Goddard we are submitting amendments which would clarify the means of enforcing such loans and also facilitate other lenders making them.

Co-op housing is a form of home ownership in which a co-op housing corporation owns an entire project, including residential space, land and other improvements. The unit purchaser acquires his interest by purchasing stock in the corporation and the stock in turn entitles him to a lease for his dwelling unit. As a stockholder, the purchaser has a vote in the control and management of the housing corporation. When he wishes to sell his unit, he sells his stock to a new purchaser who is entitled to a lease for that unit.

Under present law, since technically the co-op owner only holds stock and a right to a lease, he would

generally be ineligible for residential real estate financing. Therefore, even though the co-op owner has substantially the same rights in property as other home owners, the lack of financing because of the technical nature of his interest inhibits the development of co-op home ownership.

States such as New York, California, and Illinois have recognized the viability of cooperative housing projects and the need to provide flexible financing. These states have passed legislation which allow banks and savings and loans to finance individual interests in cooperative housing projects. Moreover, FHA guarantees have recently been made available for the financing of individual co-op units.

This proposed legislation follows this trend by allowing Nevada banks and savings and loan associations to make loans to finance ownership or refinance an existing ownership in a cooperative housing project. As security for the loan, the financial institution receives a security interest in the owner's stock in the corporation and an assignment of the owner's lease. Upon default, the financial institution acquires the borrower's interest and, just as in traditional real property foreclosures, may sell that interest to satisfy the note. The amendments to this bill

which are proposed today eliminate any confusion as to the means of securing and enforcing the lender's interest. Thus security interests in co-op housing will be treated, as they should be, as liens on residential real property.

EXHIBIT A

PROPOSED AMENDMENTS TO SB 451

1. On line 8, page 1, insert "or lien on" after the word "of".

2. On line 11, page 3, insert "or lien on" after the word "of".

3. Add a new section to read as follows:

Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The shares accompanying a lease of a dwelling unit of a cooperative housing corporation shall be appurtenant thereto. Any security interest in or lien on such lease, whether created or effected by deed of trust, mortgage, writ, notice or otherwise, shall encumber said shares whether the instrument or document creating an interest or lien in such lease expressly encumbers such shares.

2. Notwithstanding any other provision of law to the contrary, no security interest in or lien on the shares appurtenant to a lease of a dwelling unit of a cooperative housing corporation, created or effected by deed of trust, mortgage, writ, notice or otherwise, shall be effective unless the instrument purporting to create or effect such an interest, by its terms, encumbers said lease.

4. Add a new section to read as follows:

NRS 107.025 is hereby amended to read as follows:

A deed of trust may encumber an estate for years, including but not limited to a lease of a dwelling unit of a cooperative housing corporation, if the instrument creating the estate specifically authorizes the encumbrance, and foreclosure may be had by the exercise of power of sale in accordance with the provisions of this chapter.

5. Add a new section to read as follows:

NRS 107.080 is hereby amended to read as follows:

1. Where any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation, for which such transfer is security.

2. The power of sale shall not be exercised, however, until:

(a) In the case of any trust agreement coming into force on or after July 1, 1949, and before July 1, 1957, the grantor has for a period of 15 days, computed as prescribed in subsection 3, failed to make good his deficiency in performance or payment, and, in the case

of any trust agreement coming into force on or after July 1, 1957, the grantor has for a period of 35 days, computed as prescribed in subsection 3, failed to make good his deficiency in performance or payment; and

(b) The beneficiary, the successor in interest of the beneficiary or the trustee shall first execute and cause to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of such breach and of his election to sell or cause to be sold such property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of such notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 shall commence on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by certified mail with postage prepaid to the grantor or to his successor in interest at the address of such grantor or his successor in interest if such address is know, otherwise to the address

of the trust property. Such notice of default and election to sell shall describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due and payable if such acceleration is permitted by the obligation secured by the deed of trust, but such acceleration shall not occur if the deficiency in performance or payment is made good and any and all costs, fees and expenses incident to the preparation or recordation of such notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of such 3-month period following the recording of such notice of breach and election to sell, and prior to the making of such sale, give notice of the time and place thereof in the manner and for a time not less than that required by law for the sale or sales of real property upon execution. The sale itself may be made at the office of the trustee, if the notice so provided, whether the property so conveyed in trust is located within the same county as the office of the trustee or not.

5. Every sale made under the provisions of this

section and other sections of this chapter vests in the purchaser the title of the grantor without equity or right of redemption. The exercise of a power of sale in a deed of trust encumbering a lease of a dwelling unit of a cooperative housing corporation shall, in addition, vest in the purchaser title to the shares of stock appurtenant to said lease.

Exhibit B

Weyerhaeuser Mortgage Company

William J. Huff
Senior Vice President

10639 Santa Monica Boulevard
Los Angeles, California 90025
(213) 475-7301

April 18, 1979

Nevada State Senate
Committee on Commerce and Labor
State Capitol
Carson City, Nevada

Re: SB 451 - Cooperative Housing

We have carefully reviewed the proposed legislation which would enable the financing of ownership interests in cooperative housing corporations. We urge that this legislation be approved with the proposed amendments attached.

Our company has been active in the origination of home loans and rental housing project loans since 1955. We have provided financing for a cooperative housing project in the City of Las Vegas under the FHA mortgage insurance program. There are other cooperative housing projects in the State of Nevada that undoubtedly would benefit from this legislation. It is our opinion that a considerable amount of housing development will be done in many cities in the next few years under the provisions of the mortgage insurance programs of the National Housing Act. The cooperative housing financing programs under Section 213 and other sections of the housing act enable the loan term to be as long as 40 years and the down payments as low as two percent. Cooperative housing represents an opportunity to enable substantial reduction in monthly housing expense for low and moderate income families. One of the major drawbacks in the cooperative form of ownership has been the inability to refinance or to finance the sale of existing individual interests. The proposed legislation will enable cooperative owners to sell and refinance their properties on the same basis as other single families' ownership interests are marketed.

In our opinion, the proposed legislation will accommodate mortgage insurance and mortgage guaranty programs which further facilitate sales of cooperative housing interests. Our company, as well as all other institutions active in real estate financing in the state of Nevada will make such loans available to prospective purchasers. We feel your enactment of this proposed legislation will be a major benefit to low and moderate income families in the State of Nevada and will provide them with an added opportunity to enjoy the benefits of home ownership.

Yours very truly,

WEYERHAEUSER MORTGAGE COMPANY

William J. Huff
Senior Vice President

WJH/aa
Enc.

AMENDMENTS:

Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The shares accompanying a proprietary lease in a cooperative housing corporation shall be deemed to be appurtenant thereto and, in accordance therewith, any security interest in/or lien on such proprietary lease, whether created or effected by deed of trust, mortgage, writ, notice or otherwise, shall be deemed to encumber said shares whether or not the instrument or document creating such an interest or lien expressly encumbers such shares.

2. Nothwithstanding any other provision of law to the contrary, no security interest in/or lien on the shares appurtenant to a proprietary lease in a cooperative housing corporation, created or effected by deed of trust, mortgage, writ, notice or otherwise, shall be effective unless the instrument purporting to create or effect such an interest, by its terms, encumbers said proprietary lease.

NRS 107.025 is hereby amended to read as follows:

A deed of trust may encumber an estate for years, including but not limited to a proprietary lease in a cooperative housing corporation, if the instrument creating the estate specifically authorizes the encumbrance, and foreclosure may be had by the exer-

cise of power of sale in accordance with the provisions of this chapter.

NRS 107.080 is hereby amended to read as follows:

1. Where any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation, for which such transfer is security.

2. The power of sale shall not be exercised, however, until:

(a) In the case of any trust agreement coming into force on or after July 1, 1949, and before July 1, 1957, the grantor has for a period of 15 days, computed as prescribed in subsection 3, failed to make good his deficiency in performance or payment, and, in the case of any trust agreement coming into force on or after July 1, 1957, the grantor has for a period of 15 days, computed as prescribed in subsection 3, failed to make good his deficiency in performance or payment, and, in the case of any trust agreement coming into force on or after July 1, 1957, the grantor has for a period of 35 days, computed as prescribed in subsection 3, failed to make good his deficiency in performance or payment; and

(b) The beneficiary, the successor in interest or the beneficiary or the trustee shall first execute and cause to be recorded in the office of the recorder of the county wherein

the trust property, or some part thereof, is situated a notice of such breach and of his election to sell or cause to be sold such property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of such notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 shall commence on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by certified mail with postage prepaid to the grantor or to his successor in interest at the address of such grantor or his successor in interest if such address is known, otherwise to the address of the trust property. Such notice of default and election to sell shall describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due and payable if such acceleration is permitted by the obligation secured by the deed of trust, but such acceleration shall not occur if the deficiency in performance or payment is made good and any and all costs, fees and expenses incident to the preparation or recordation of such notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of such 3-month period following the recording of such notice of breach and election to sell, and prior to the making of such sale, give notice of the time and place thereof in the manner and for a time not less than that required by law for the sale or sales of real property upon execution. The sale itself may be made at the office of the Trustee, if the notice so provided, whether the property so conveyed in trust is located within the same county as the office of the trustee or not.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor without equity or right of redemption. The exercise of a power of sale in a deed of trust encumbering a proprietary lease in a cooperative housing corporation shall, in addition, vest in the purchaser title to the shares of stock appurtenant to said proprietary lease.

Exhibit C

SOUTHERN NEVADA MORTGAGE BANKERS ASSOCIATION

LAS VEGAS, NEVADA

April 19, 1979

Nevada State Senate
Committee on Commerce and Labor
State Capitol
Carson City, Nevada 89710

Re: SB 451 - Cooperative Housing

Gentlemen:

The Nevada Mortgage Bankers Association and the Southern Nevada Mortgage Bankers Association put their full support behind the amendments as proposed to Chapter 107 of the Nevada Revised Statutes in the above bill.

As undoubtedly will be pointed out in testimony, obtaining financing for cooperative housing units without this legislation is difficult to impossible. The enactment of this legislation is vital not only to the people who wish to purchase the property, but also to the lending industry who desires to finance them.

Very truly yours,

Don Brodeen
Chairman of the Legislative Committee

Exhibit D

RESOLUTION

WHEREAS, the Nevada Industrial Commission Labor-Management Advisory Board recommended a professional evaluation of the Nevada Industrial Commission's performance in delivering workers' compensation coverage be prepared. SRI International prepared a professional evaluation and the Nevada Industrial Commission Labor-Management Advisory Board recommends acceptance of the CONSULTANTS' report dated March, 1979.

WHEREAS, the Commission and the Nevada Industrial Commission Labor-Management Advisory Board believe implementation of SRI International recommendations will be a value to the employees and employers of Nevada.

NOW, THEREFORE, be it resolved that the Nevada Industrial Commission Labor-Management Advisory Board and the Commission recommend to Governor Robert List that the recommendations included in this SRI International report be implemented as soon as possible.

COMMISSION

John R. Reiser
Chairman

James J. Lorigan
Commissioner

Hal G. Curtis
Commissioner

LABOR-MANAGEMENT ADVISORY BOARD

Claude Evans

Rowland Oakes

Tom Jones

Wallie Warren

George Osley

E.D. Blackburn

Harold Knudson

Max Blackham

Mike Pisanello

William Campbell

EXHIBIT D

COPY

February 17, 1977

Mr. W. S. Moseley
Corroon & Black/Moseley & Ames
P. O. Box 7607
Reno, Nevada 89502

Dear Bud:

I am pleased I had the opportunity to meet with you, Joe Midmore, Don Muller, and Russ McDonald on February 1 and participate in the discussion on the course to be taken by the Nevada independent agents on the question of a competitive workers' compensation bill. I am sorry it has taken so long to get this letter done but my travels and other projects have made an earlier response impossible. In this letter, I will set out the position of the American Mutual Insurance Alliance on what I understand to be the proposal that the independent agents have decided to actively promote.

Until my meeting with you on February 1, the Alliance had not favored the introduction of legislation that would create a competitive system in Nevada. As you know, this was not because we are opposed to the concept of such a system. We felt, however, that without a thorough study of the market potential such a system would not be used by private writers. We, therefore, supported the original proposal that there be conducted a thorough study of the potential market including an actuarial assessment of current rates and classifications. It was our understanding that the resolution calling for that study would also provide for the drafting of a competitive bill to be introduced at the next session of the Legislature.

At the meeting on February 1, you explained that Joe Midmore and others had concluded that passage of a three-way bill was possible and that passage of a resolution calling for a study might not succeed. If it is your judgment to go ahead with the introduction of a competitive bill, we would support the bill in committee hearings on the following conditions:

1. That it is understood that the primary responsibility for the lobbying effort will be undertaken and co-ordinated by the Independent Insurance Agents' Association lobbyists and that those lobbyists will contact all other interested groups and assess the support and opposition well in advance of any public hearings. I have in mind especially various employer lobbyists, both associations and individual employers such as Kennecott Copper and other large industrial and business interests in Nevada. I envision our role as appearing at public hearings solely to voice support of the concept. We will have to reserve the right, however, to caution legislators that no one insurance company or group of insurance

companies is in a position to make a commitment on the extent of use that would be made by the companies of a competitive system.

2. That the bill introduced is acceptable to us. I have furnished to Russ McDonald a copy of the Council of State Government's model act, and a bill along these lines would be acceptable.

3. That the date on which the competitive system becomes available to Nevada employers be far enough in advance to permit the necessary studies of the current rate structure, classification system and potential market to be conducted.

4. That such studies, in fact, be conducted and that the appropriate administrative agencies be created to begin to work on the administration of the system.

5. That the Insurance Commissioner be given the authority to approve rates and be given the authority to require the production of whatever data is necessary to enable him to evaluate a rate filing.

6. That the bill create a truly competitive system, i.e., the state operated insuring entity have no competitive advantage over private carriers.

7. That the legislation call for the use of the classifications currently in use on a national basis in a majority of states. While the National Council on Compensation Insurance should not be mentioned by name, it is the classifications promulgated by that entity to which I refer. We cannot emphasize too much the immense amount of work that has to be done in order to revise the Nevada system in order to bring it into compliance with that classification system. That must be done before any actuarial study of the adequacy of rate levels can be done. The actuarial study must be done as soon as possible so that insurance companies that have an interest in exploring a new market can evaluate the chances of successful underwriting.

If you have any questions, please let me know.

Very truly yours,

Thomas F. Connealy

Thomas F. Connealy
Regional Manager & Counsel

TFC:ms
Copies to: Mr. Russell McDonald
Mr. Joseph Midmore
Mr. Donald H. Muller
Mr. John Palmer
Commissioner Dick L. Fettman

ARIZONA

EXHIBIT III

EXHIBIT B

Allowances for Expenses, Taxes, Profit and Contingencies

Underlying the proposed rates are allowances of 25.9% of standard premium for company expenses, 2.5% of standard premium for profit and contingencies, 5.35% of standard premium for taxes, coupled with 12.5% of expected losses for loss adjustm expenses, plus an expense constant on premiums under $500.

The items comprising the expense allowance are as follows:

	Item	
(1)	Acquisition and Field Supervision	17.50
(2)	General Expenses	8.40
(3)	Total for Company Expenses (1)+(2)	25.90
(4)	Taxes, Licenses and Fees other than Federal Income Tax	
	(a) Special Fund Tax	1.65
	(b) Premium Tax	3.00
	(c) Miscellaneous Tax	0.70
(5)	Profit and Contingencies	2.50
(6)	Total for Company Expenses, Taxes and Profit and Contingencies (3)+(4)+(5)	33.75
(7)	Permissible Loss and Loss Adjustment Ratio	66.25
	Loss Adjustment Expense:	
(8)	Related to Premium	7.36
(9)	Related to Losses	12.50
(10)	Total Expense Allowance Related to Premium (6)+(8)	41.11
(11)	Expense Constant	
	Risks Under $200 Premium	$15.00
	Risks Between $200 and $500 Premium	$10.00

It should be borne in mind that the allowances shown above apply only to th first $1,000 of premium. For risks with premium over $1,000 which in this state represent about 34% of the total number of risks and about 96% of the total premium, manual rules provide for a reduction of rates through application of premium discounts (or their equivalents included in the Retrospective Rating Plan Values). Premium discounts result from the reduction of expense requirements for Acquisition and General Administration with increasing premium size. The premium discounts are as follows:

Division of Standard Premium	Stock Co. Discount	Non-Stock Co. Discount	Assigned Risks*
First $ 1,000	-	-	-
Next 4,000	9.4%	3.0%	9.4%
Next 95,000	14.7	6.0	14.7
Over 100,000	16.3	8.5	16.3

To be used by all carriers for policies issued under an assigned risk plan.

A tabulation of the state experience by risk size for the latest available olicy period shows that for stock carriers the proposed discounts would produce a et discount of 12.37%. This figure undoubtedly is on the conservative side because n actual practice the discounts, which increase by risk size, are based on the total isk premium, including premium developed by operations in all states.

The tables below indicate for the stock carriers, the proposed expense, axes and profit and contingencies allowances on two bases. Column (1) lists the et allowances after reduction for the proposed premium discounts, such allowances eing expressed as a precentage of standard premium. Column (2) expresses these llowances as a percentage of the net premium resulting from premium discounts.

Item	(1) Net Allowance (% of Standard Premium)	(2) Net Allowance (% of Net Prem.) (Col.(1) ÷ .8763)
cquisition and Field Supervision	9.38%	10.71%
eneral Expenses	5.12	5.84
Total for Company Expenses	14.50%	16.55%
axes, Licenses and Fees other than Federal Income Taxes	4.69	5.35
rofit and Contingencies	2.19	2.50
oss Adjustment Expense - Related Premium	7.36	8.40
osses	58.89	67.20
Total	87.63%	100.00%
remium Discounts	12.37	xxx
Total	100.00%	100.00%

California Workers' Compensation Institute

BULLETIN

201 Sansome Street, San Francisco, California 94104, (415) 981-2107

EXHIBIT D

January 3, 1979 No. 79-1

The average out-of-pocket expense associated with litigating a workers' compensation specific injury claim climbed to $2025 per case in 1978, up 20.5 per cent from costs reported two years ago.

Results of the latest CWCI legal cost study show litigation expenses now represent 33.2 per cent of the average payment in disputed cases, up from 28 per cent in 1976, despite a slight increase in the amount of the average recovery (currently $6102, regardless of outcome, versus $5990 two years ago). Of the aggregate legal expense, more than half is paid to attorneys, both applicant and defense; one-third to physicians for forensic reports or testimony; and the remainder for other incidental costs of the adversary process. The break-down:

	Applicant	Defense	Total
Attorney fees	$ 612	$ 426	$1,038
Medical-legal	349	340	689
Other	69	220	290
Total	$1,030	$ 995	$2,025

The figures are derived from data collected on 2642 claims resolved by decisions of the Workers' Compensation Appeals Board during the six-week period ending June 30, 1978. Twenty-four per cent of the sample resulted in a Findings & Award, 67 per cent were resolved by Compromise & Release agreements, and the balance resulted either in a dismissal or Take Nothing order. Not surprisingly, back injuries accounted for 42 per cent of the litigated claims in the study.

Legal expense of C&R settlements were significantly higher than F&A's in specific injury claims -- $2252 compared to $1771, a 27 per cent differential. But that finding was reversed in cumulative injury litigation, where legal costs averaged $1892 for C&R's and $2660 for F&A's.

The cost of litigating cumulative injury claims, a third of all cases in the sample, likewise increased during the past two years but at a slower pace: $1782 average per case, 10 per cent above the $1617 average recorded in 1976. Both figures take into account the expenses of only one defendant, however, so the real cost is substantially greater.

The study concludes total expense of litigation in the California workers' compensation system approached a quarter of a billion dollars during 1978, up from an estimated $200 million two years earlier.

AT/grp

CWC

EXHIBIT D

	Nevada 7/1/78	California 1/1/79	Ratio of Calif. to Nevada Rate	Arizona 9/1/78	Ratio of Ariz. to Nevada Rate	Oregon 7/1/77	Ratio of Oregon to Nevada Rate
Attorney's Offices	$ .36	$ .42	117%	$ .42	117%	$ .45	125%
Auditors, Accountants	.36	.33	92%	.42	117%	.60	167%
Automobiles or Auto Truck Dealers, except salesmen	2.76	4.17	153%	5.78	208%	6.02	218%
Automobiles and Auto Truck Salesmen	2.76	1.45	53%	1.80	65%	2.01	73%
Auto or Auto Truck Dismantling	15.42	11.26	78%	17.48	113%	A	
Auto Repair Shops	4.73	5.72	121%	6.69	141%	6.02	127%
Auto Service Stations	4.73	5.72	121%	6.69	141%	7.89	167%
Bakeries	3.81	4.93	129%	7.51	197%	6.20	163%
Banks, except clerical employees	.48	.56	117%	.71 to 6.67	147-1389%	1.13 to 9.10	235 to 1896%
Banks, clerical employees	.36	.56	158%	.42	117%	.45	125%
Barber Shops	.48	.92	192%	.92	192%	1.52	317%
Beer or Ale Dealers	3.99	8.77	220%	7.01	176%	6.48	162%
Blacksmithing	4.29	12.47	290%	12.49	291%	10.11	236%
Bottling Beverages	3.81	6.73-7.87	177-206%	5.52-11.79	144-309%	7.45	196%
Bridge Building, Metal	15.42	17.93	116%	42.96	279%	29.99	194%
Building Material, Lumberyards	3.28	6.28	191%	9.14	279%		
Building Material Dealers, New	3.28	6.28	191%	5.86	179%	9.09	277%
Building Material Dealers, Second Hand	3.28	9.67	295%	18.39	561%	14.41	439%
Building Raising or Moving	15.42	18.75	122%	40.04	260%	52.99	344%
Building Operation by Contractors or Owners	3.99	7.70	193%	6.67	167%	9.10	228%
Bus Operations	4.77	7.00	147%	8.06	169%	8.44	177%
Limousine Operations	4.77	7.00	147%	8.06	169%	8.44	177%
Bus or Limousine, Garage Employees	4.77	7.00	147%	6.68	140%		
Butchering, including Handling of Livestock	8.18	9.59	117%	14.96	183%	19.26	235%
Cabinet Works, Furniture Manufacturing	5.96	8.57	144%	10.50	176%	9.38	157%
Carpentry, shop only	5.96	8.57	144%	7.23	121%	9.38	120%
Carpentry, Construction or Remodeling of Dwellings	7.80	8.43	108%	10.57-11.09	136-142%	16.02	205%
Carpentry, N.O.C.	7.80	10.47	134%	18.90	242%	24.97	320%

A = variable rate assigned by Rating Bureau upon

EXHIBIT B

1293

	Nevada 7/1/78	California 1/1/79	Ratio of Calif. to Nevada Rate	Arizona 9/1/78	Ratio of Ariz. to Nevada Rate	Oregon 7/1/77	Ratio of Oregon to Nevada Rate
Chemical Mfg.	$ 3.33	$ 4.84-8.16	145-245%	$ 4.13 to 21.13	124-635%	$ A	
Clubs - Country, Golf, Tennis	2.78	4.79	172%	3.53	126%	4.46	160%
Concrete Products Mfg.	6.39	12.64	198%	21.58	338%	17.44	273%
Concrete Construction	range - 6.39 to 15.42	4.12 to 17.02	64% to 110%	8.51 to 16.20	133% to 105%	8.53 to 13.02	133% to 84%
Convalescent Homes or Hospitals	8.63	9.14	106%	7.53	87%	11.89	138%
Dental Laboratories	.48	1.08	225%	1.39	290%	1.76	367%
Electric Light or Power Companies	2.58	3.67	142%	7.09	275%	3.77	146%
Power Line Construction	15.42	15.19	99%	28.17	183%	18.21	118%
Electrical Wiring in Buildings	4.01	4.28	107%	7.22	180%	5.59	139%
Engineers - Consulting	1.09	.88	81%	1.98	182%	2.70	248%
Dairy Farms	8.18	8.92	109%	8.87	108%	14.50	177%
Cattle Feed Yards	8.18	15.76	193%	16.28	199%	22.77	278%
Field Crops	6.82	10.76	157%	7.50	110%	14.50	213%
Sheep and Hog Farms	3.51	6.72	194%	14.27	407%	14.50	413%
Truck Farms	3.51	4.90	139%	3.74	107%	5.77	164%
Feed Mfg.	7.39	8.48	115%	10.77	146%	12.61	171%
Fence Construction/Metal or Wood	7.80	10.97	140%	11.68	150%	13.12	168%
Fuel and Material Dealers	3.28	6.28	191%	9.14	279%	9.09	277%
Garbage or Refuse Collection	9.44	14.80	157%	14.39	152%	15.89	168%
Gasoline or Oil Dealers, Wholesale	3.28	6.15	188%	14.36	438%	7.57	231%
Glaziers - Shop	3.96	6.83	172%	8.31	210%	10.40	263%
- Outside	3.96	8.20	207%	10.56	266%	7.27	184%
Grading Land	5.90	6.14	104%	8.15	138%	14.97	254%
Hospitals, All Employees	2.66	2.91	109%	3.06-6.18	115 to 232%	7.33	276%
Including Clerical	.36	2.91	808%	3.06	850%	2.32	644%
Hotels, All Employees	5.05	5.67	112%	3.67	73%	6.50	129%
Including Clerical	.36	.42	116%	.42	117%	.45	125%
Iron or Steel Erection, N.O.C.	15.42	16.23	105%	21.07	137%	28.23	183%
Iron or Steel Erection, Structural Construction of Buildings Over 2 Stories	15.42	17.93	116%	42.96	279%	29.99	194%
Iron Works, Shop, Fabricating	4.29	12.81	298%	13.83	322%	23.65	409%
Laundries	5.33	5.25	98%	7.49	141%	8.89	167%

EXHIBIT D

1294

	Nevada 7/1/78	California 1/1/79	Ratio of Calif. to Nevada Rate	Arizona 9/1/78	Ratio of Ariz. to Nevada Rate	Oregon 7/1/77	Ratio of Oregon to Nevada Rate
Machinery Dealers	$ 4.73	$ 5.47	116%	$ 7.58	160%	$ 7.27	154%
Machine Shops, N.O.C.	5.78	5.39	93%	7.01	121%	8.40	145%
Mining, Surface	6.06	10.34	171%	5.88	97%	8.29	137%
Mining, Underground	12.16	17.49	144%	21.12	174%	31.08	256%
Surface Employees		14.02		--			
Ore Milling	5.02	8.36	167%	5.41	108%	10.23	204%
Motels	5.05	5.67	112%	3.67	73%	6.50	129%
Motorcycle Dealers	4.73	4.44	94%	6.82	144%	6.02	127%
Clerical Office Employees	.36	.42	117%	.42	117%	.45	125%
Firemen	2.48	11.99	483%	8.89	358%	6.21	250%
Municipal or County Employees, White Collar	2.11 to 2.41	2.46	117% to 102%	1.40	66% to 58%	.45 to 1.13	21% to 47%
Municipal or County Employees, Blue Collar	2.11 to 2.41	10.25	486% to 425%				
Policemen, Sheriffs, Constables	2.11 to 2.41	14.09	668% to 585%	5.38	255% to 223%	7.20	341% to 299%
Public Schools or Colleges	.99	1.88	190%	.48 to 5.61	48% to 567%	.65 to 8.61	66% to 870%
Nursing Homes, All Employees	8.63	9.14	105%	7.53	87%	11.89	138%
Including Clerical	.36					.45	125%
Optical Goods Mfg., N.O.C.	1.37	1.90	139%	1.24	91%	2.28	166%
Painting	7.62	7.98	105%	7.25	95%	11.27	148%
Planing and Molding Mills	5.96	5.78	97%	9.88	166%	13.60	228%
Plaster Mills	4.32	6.56	152%	8.37	194%	9.94	230%
Plastering or Stucco Work	7.80	9.27	119%	11.71-18.83	150 to 241%	11.32	149%
Plumbing, N.O.C. - Shop and Outside	3.92	5.17	132%	7.35	188%	7.67	196%
Quarries	4.22	10.34	245%	12.05	286%	15.43	366%
Radio, Television and Commercial Broadcasting, All Employees	.48	.87	181%	.92	192%	1.14	238%
Including Clerical	.36					1.14	317%
Real Estate Agencies	.48	.76	158%	.71	148%	1.13	235%
Restaurants	4.12	3.85	93%	4.04	98%	5.69	138%
Taverns	3.74	3.85	103%	4.04	108%	5.69	152%
Roofing	7.80	16.42	211%	24.58	315%	30.06	385%
Tire Dealers	4.73	5.72	121%	6.69	141%	7.89	167%
Tire Recapping	4.73	9.02	191%	7.17	152%	7.89	167%

EXHIBIT B

	Nevada 7/1/78	California 1/1/79	Ratio of Calif. to Nevada Rate	Arizona 9/1/78	Ratio of Ariz. to Nevada Rate	Oregon 7/1/77	Ratio of Oregon to Nevada Rate
Iron and Scrap Dealers	$15.42	$20.19	131%	$19.93	129%	$24.00	156%
Sand or Gravel Digging	4.22	6.39	151%	14.10	334%	12.42	294%
Sewer Construction	5.90	12.77	216%	11.96	203%	25.41	431%
Stores - Auto Accessories	1.52	2.64	174%	3.45	227%	3.20	211%
Stores, Department	1.52	2.30	151%	1.81	119%	A	
Stores, Furniture	2.65	3.63	137%	3.80	143%	3.62	137%
Stores, Grocery	3.99	2.50	63%	4.72 to 6.66	118% to 167%	6.02	151%
Stores, Meat, Fish, Poultry	4.25	4.96	117%	11.04	260%	6.27	148%
Street and Road Construction, Grading	5.90	9.30	158%	6.48	110%	17.53	297%
Paving	5.90	8.35	142%	9.39	159%	15.70	266%
Taxicab Operation, All Employees	7.24	16.00	221%	6.68 to 8.06	92% to 111%	8.44	117%
Clerical	.36				1967%	.45	125%
Trucking	5.30	10.54	199%	11.16-32.62	211% to 615%	14.68	277%
Wall Board Application	7.80	5.29	68%	15.97	205%	10.37	136%
Warehouses, General Merchandise	3.77	7.99	212%	7.23	192%	7.76	206%
Welding or Cutting, N.O.C. - Shop or Outside	5.78	8.47	147%	17.27	299%	13.58	235%
Wrecking or Demolition of Building	15.42			65.10	422%	47.51	308%

Exhibit E

MGM GRAND HOTEL

April 13, 1979

The Honorable Thomas Wilson
The State Senate
Capitol Mill Complex
401 South Carson Street
Carson City, Nevada 89710

Dear Senator Wilson:

Thank you for your interest in AB 84, Nevada Worker's Compensation system, and other alternative methods of industrial insurance coverage. Unfortunately, time did not permit us to closely analyze each section of AB 84 during the hearing on Wednesday, April 11, 1979. Although AB 84 is a good bill, there are some important word changes and other considerations that should be covered before it is referred out of committee. Please see Attachment 1.

As I am sure you are aware, the first 18 sections (as submitted in the Insurance Commissioner's amendment) are the product of the combined efforts of employer spokesmen, the Commissioner of Insurance and certain members of the Assembly's Labor and Management Committee. In light of that, it is somewhat unique in that the parties were able to resolve a substantial number of potential problem areas before it ever became law. MGM endorses the first eighteen sections as amended with the verbal understanding between MGM and the Commissioner of Insurance that some method of refunding on a pro rata basis, surpluses generated under Section 11 be resolved by regulation after passage of the bill.

As mentioned by Claude Evans, spokesman for AFL-CIO, the sections addressing the adjudicatory process must be revised. This was a problem we foresaw before AB 84 even came to your committee and as you will recall, this is why we were pushing SB 382 as amended to substantially improve the entire hearing process. Again, this bill (SB 382) is unique in that employer representatives and the State Industrial Attorney negotiated a vastly superior hearing system with the endorsement of labor (Claude Evans).

Finally, I would like to reiterate the absolute necessity of separating the administrative and regulatory control of self insureds from the Nevada Industrial Commission. As I mentioned in the hearing if the NIC for whatever reason decides to retain the premium income and future liability reserves of any employer,

MGM GRAND HOTEL

it can deny the application for self insurance; set excessively high deposit requirements; cancel certifications for judgmental "repeated or intentional" infractions, etc. The inherent conflict of interest is too great to overcome.

Once again I would like to thank you for your interest and continuing support of AB 84.

Sincerely yours,

John D. Taylor
Asst. Personnel Director

JDT/dml

ccs: Jim Banner, Chairman, Labor Management Committee, Assembly
Don Heath, Commissioner of Insurance
Patty Becker, State Industrial Attorney

Attachments: (1) Amendments to AB 84
(2) SB 382

AMENDMENTS TO AB 84

PAGE 1 LINE 1
SECTIONS 1-17

A. Replaced by the amendment (eighteen sections) submitted by the Commissioner of Insurance.

B. Section 13 of both the original bill (AB 84) and the amendment should be replaced by SB 382 as amended. i.e., delete Section 13.

PAGE 5 LINE 38
SECTIONS 18-22

A. Replaced by SB 382 as amended.

PAGE 6 LINE 43
SECTION 23

This Section should be considered before the Commerce and Labor Committee. Although it has an emotional appeal for those who have safety programs, the real payoff for effective safety programs is in the reduction of the Modification Factor. MGM believes that total dollars taken in by the NIC and expenses paid by NIC will remain the same. The safety program reduction will probably result in a minor internal redistribution of premiums paid but ultimately manual rates will increase for all employers in the long run. Our conclusion is that this section will result in increased administrative expenses for the NIC to determine whether employers meet minimum standards and will result in additional hearings for those aggrieved employers who feel they should qualify but do not.

Recommend deletion of Section 23.

PAGE 8 LINE 5

Delete all after "services"

Justification: This should be applicable to both the commission and self-insured employers.

PAGE 8 LINE 14
SECTION 27 PARAGRAPH 3

Self-insured employers should pay their pro rata share of the operation of the State Industrial Attorney's office. It is not clear if this obligation is covered under the previous Section 12.

PAGE 9 LINE 10

Should read:

physician from the panel, subject to the approval of the commission or the self-insured employer.

PAGE 15 LINE 48
SECTION 42

Replaced by SB 382 as amended

PAGE 19 LINE 46

Should read:

S. The commissioner of insurance may review any lump sum payment made by a.

Justification: Consistent administrative and regulatory control.

PAGE 22 LINE 33

Should read:

required of other employers by NRS 617.310 but is relieved from other liability to the extent as are other employers

Justification: Consistent with Section 3 paragraph 2.

PAGE 22 LINE 37

Should read:

insured employer is subject to the regulations of the commissioner of insurance with...

PAGE 23 LINE 12

Insert after "commission":

or self-insured employer.

PAGE 24 LINE 4

Insert after "commission":

or self-insured employer.

PAGE 25 LINES 34 and 35

Delete Paragraph 2 of Section 20

Justification: Self-insured employers fall completely under the jurisdiction of the Commissioner of Insurance.

SECTION 1. Chapter 616 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

SEC. 2. "Self-insured employer" means any employer who possesses a certification from the commissioner of insurance that he has the financial capability to assume the responsibility for the payment of compensation under this chapter or chapter 617 of NRS.

SEC. 3. 1. An employer who is certified as a self-insured employer directly assumes the responsibility for providing compensation due his employees and their beneficiaries under chapter 616 of NRS.

2. A self-insured employer is not required to pay the premiums required of other employers but is relieved from other liability for personal injury to the extent as are other employers.

3. The claims of employees and their beneficiaries resulting from injuries while in the employment of self-insured employers must be handled in the manner provided by this chapter, and the self-insured employer is subject to the regulations of the commissioner of insurance with respect thereto.

4. The security deposited pursuant to section 4 of this act does not relieve that employer from responsibility for the administration of claims and payment of compensation under this chapter.

SEC. 4. 1. An employer may qualify as a self-insured employer by establishing to the satisfaction of the commissioner of insurance that the employer has sufficient financial resources to make certain the prompt payment of all compensation under this chapter or chapter 617 of NRS.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the commissioner of insurance money, corporate or governmental securities or a surety bond written by any company admitted to transact surety business in this state, or any combination of money, securities or a bond. The first deposit must be in an amount reasonably sufficient to insure payment of compensation but not less than 120 percent of the employer's expected annual cost of claims, but in no event less than $100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective loss and expense experience of the employer within this state, to catastrophe hazards and contingencies and to trends within the state. In arriving at the amount of the deposit required, the commissioner of insurance may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probably continuity of operation. The deposit must be held by the commissioner of insurance to secure the payment of compensation for injuries and occupational diseases to employees. The deposit may be increased or decreased by the commissioner of insurance in accordance with (his regulations for) the statutes and regulations governing

loss reserves in casualty insurance.

3. The commissioner of insurance may allow or require the self-insured employer to submit evidence of excess insurance or reinsurance, written by an insurer authorized to do business in this state, to provide protection against a catastrophic loss. The commissioner shall consider any excess insurance or reinsurance coverage as a basis for a reduction in the deposit required of an employer.

SEC. 5. 1. If a self-insured employer becomes insolvent, institutes any voluntary proceeding under the Bankruptcy Act or is named in any involuntary proceeding thereunder, makes a general or special assignment for the benefit of creditors, or fails to pay compensation under this chapter or chapter 617 of NRS after an order of an appeals officer or a court of competent jurisdiction becomes final, the commissioner of insurance may, after giving at least 10 days' notice to the employer and any insurer or guarantor, use money or interest on securities, sell securities or institute legal proceedings on surety bonds deposited or filed with the commissioner to the extent necessary to make such payments. Until the commissioner of insurance takes action pursuant to to this subsection, the employer is entitled to all interest and dividends on bonds or securities on deposit and to exercise all voting rights, stock options and other similar incidents of ownership thereof.

2. A company providing a surety bond under section 4 of this act may terminate liability on its surety bond by giving the commissioner of insurance and the employer 30 days' written notice. Such termination does not limit liability which was incurred under the surety bond prior to the termination. If the employer fails to requalify as a self-insured employer on or before the termination date, the employer's certification is withdrawn when the termination becomes effective.

SEC. 6. 1. Upon determining that an employer is qualified as a self-insured employer, the commissioner of insurance shall issue a certificate to that effect to the employer and the commission.

2. Certificates issued under this section remain in effect until withdrawn by the commissioner of insurance or canceled by the employer. Coverage for employers qualifying under section 3 of this act becomes effective on (the date of certification or) the date specified in the certificate.

SEC. 7. 1. The commissioner of insurance may withdraw the certification of a self-insured employer if:

(a) The deposit required pursuant to section 4 of this act is not sufficient and the employer fails to increase the deposit within 45 days after he has been ordered to do so by the commissioner of insurance;

(b) The employer intentionally or repeatedly induces claimants for compensation to fail to report accidental injuries or occupational diseases, persuades claimants to accept less than the compensation due or makes it necessary for claimants to resort to proceedings against the employer to secure compensation which has been found to be due;

(c) The employer intentionally fails to comply with regulations of the commissioner of insurance regarding reports or other requirements necessary to carry out the purposes of this chapter; or

(d) The employer becomes insolvent, institutes any voluntary proceedings under the Bankruptcy Act or is named in any involuntary proceeding thereunder, makes a general or special assignment for the benefit of creditors, or fails to pay compensation after a final order of an appeals officer of a court of competent jurisdiction.

2. Any employer whose certification as a self-insured employer is withdrawn must, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616.305.

SEC 8. 1. Prior to any action being taken pursuant to subsection 2 hereof, the commissioner of insurance shall arrange an informal meeting with any self-insured employer to discuss and seek correction of any conduct which would be grounds for withdrawal of the self-insured employer's certificate of self-insurance.

(1) 2. Prior to the withdrawal of the certification of any self-insured employer, the commissioner of insurance shall give written notice to that employer by certified mail that his certification will be withdrawn 10 days after receipt of the notice unless, within that time, the employer (corrects the conduct set forth in the notice as the reason for the withdrawal or) submits a written request for a hearing to the commissioner of insurance.

(2) 3. If the employer requests a hearing:

(a) The commissioner of insurance shall set a date for a hearing within 20 days after receiving the appeal request, and shall give the employer at least 10 business days' notice of the time and place of the hearing.

(b) A record of the hearing must be kept but it need not be transcribed unless requested by the employer with the cost of transcription to be charged to the employer.

(c) Within 5 business days after the hearing, the commissioner of insurance shall either affirm or disaffirm the withdrawal and give the employer written notice thereof by certified mail. If withdrawal of certification is affirmed, the withdrawal becomes effective 10 business days after the employer receives notice of the affirmance unless within that period of time the employer (corrects the conduct which was ground for the withdrawal or) petitions for judicial review of the affirmance.

(3) 4. If the withdrawal of certification is affirmed following judicial review, the withdrawal becomes effective 5 days after entry of the final decree of affirmance (unless within that period the employer corrects the conduct which was ground for withdrawal).

SEC. 9. 1. If for any reason the status of an employer as a self-insured employer is terminated, the security deposited under section 4 of this act must remain on deposit for a period of at least 36 months in such amount as necessary to secure the outstanding and contingent liability arising from accidental injuries or occupational diseases secured by such security, or to assure the payment of claims for aggravation and payment of claims under NRS 616.545 based on such accidental injuries or occupational diseases.

2. At the expiration of the 36-month period, or such other period as the commissioner of insurance deems proper, the commissioner of insurance may accept in lieu of any security so deposited a policy of paid-up insurance in a form approved by the commissioner of insurance.

SEC. 10. All self-insured employers must report to the commissioner of insurance, annually or at intervals which the commissioner requires, all accidental injuries, occupational diseases, dispositions of claims, reserves and payments made under provisions of this chapter, chapter 617 of NRS or regulations adopted by the commissioner of insurance pursuant thereto.

SEC. 11. 1. There is hereby created in the state treasury the workmen's compensation self-insured employers administrative fund as a special revenue fund. The commissioner of insurance shall promptly deposit all moneys collected under this section into the fund and such moneys shall be used for the purpose of defraying all costs and expenses of administering workmen's compensation self-insurance programs.

(1) 2. The commissioner of insurance shall establish by regulation the application fee for prospective self-insured employers. The fee must reimburse the commissioner for expenses incurred in acting upon the application.

(2) 3. The commissioner of insurance shall adopt regulations establishing the amount and providing for the payment of annual assessments which must be paid by self-insured employer to pay the costs of the commissioner in regulating those employers. The assessment must include amounts sufficient to repay the commissioner for the costs of:

(a) Obtaining and analyzing data, statistics and information relating to self-insured employers;

(b) Establishing estimated annual claim costs and required deposits;

(c) Hearings and other court or legal proceedings;

(d) Salaries, travel, per diem allowances, office space and supplies; and

(e) Other expenses which the commissioner of insurance incurs in administering self-insurance programs.

(3) 4. The commissioner may not assess a self-insured employer more than(2 percent of the premium which the employer paid to the commission for his last year of coverage) two and one-half percent of the employer's expected annual claims costs during the first and second years of his self-insurance program.

SEC. 12. Each self-insured employer shall compensate the commission for all services which the commission provides to those employers at the same rate which the commission charges on January 1, 1979, to employers who operate plans which meet the conditions of NRS 616.255 and 616.256, if the rate is established by a regulation of the commission. The cost of any service for which a rate is not established by regulation must be negotiated by the employer and the commission before the commission charges the employer for the service.

SEC. 13. 1. If an employee of a self-insured employer is dissatisfied with a decision of his employer, he may file an appeal with the employer for reconsideration of the claim.

2. An employer who receives a request for an appeal shall appoint a person to hear the appeal. The person appointed shall hear the appeal in an informal hearing, and provide copies of his written decision to the commissioner of insurance, the employer and employee within 10 business days after the hearing. If the decision is adverse to the employee, the decision must contain a notice of the employee's right to an appeal before an appeals officer.

3. An employee who is aggrieved by a decision rendered on appeal pursuant to this section may appeal to an appeals officer in the same manner as other appeals are taken to the appeals officer. A claim which is appealed to an appeals officer must be treated in the same manner as any other appeal, and the employee has the same rights of appeal from the decision of the appeals officer as in any other case pursuant to this chapter.

SEC. 14. An employer is entitled to the same share of refunds, dividends and contingency surpluses, whenever paid, which are paid by the commission for a period or on account of accumulations during a period during which the employer was insured by the commission, whether the employer remains insured by the commission or is self-insured at the time of payment.

SEC. 15. 1. Each self-insured employer shall furnish audited financial statements, certified by an auditor licensed to do business in this state, to the commissioner of insurance annually.

2. The commissioner of insurance may examine the records and employees of each self-insured employer as often as he deems advisable to determine the adequacy of the

deposit which the employer has made with the commissioner, the sufficiency of reserves and the reporting, handling and processing of injuries or claims. The commissioner shall examine the records for that purpose at least once every 3 years. The self-insured employer shall reimburse the commissioner for the cost of the examination.

SEC. 16. The commission shall cooperate with the commissioner of insurance in the performance of his duties pursuant to this chapter, and shall provide the commissioner with any information, statistics or data in its records which pertain to any employer who is making application to become self-insured, or who is self-insured, without cost to the commissioner.

SEC. 17. Any self-insured employer who is aggrieved by a decision of the commissioner of insurance may appeal in the manner set forth in NRS 679B.370, except that any such appeal shall be filed within the time set forth in section 8 of this act.

SEC. 18. All provisions of this act relating to self-insurance become effective on January 1, 1980.

S.B. 382

SECTION 1. Chapter 619 of NRS is hereby created by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

SECTION 2. The Workers' Compensation Hearing Division is hereby created.

SECTION 3. It is the purpose of this chapter to provide an independent and speedy hearing procedure to workers injured on the job.

SECTION 4. As used in this chapter, unless the context otherwise requires, the words and terms have the meaning ascribed to them as follows:

(a) "Division" means the Workers' Compensation Hearing Division.

(b) "Director" means the director of the workers' compensation hearing division.

(c) "Self-insured employer" means anyone qualified under NRS 616._____.

(d) "Private carrier" means any insurance company licensed to sell workers' compensation insurance in the State of Nevada.

SECTION 5. 1. The governor shall appoint a director for the worker's compensation hearing division who shall be in the unclassified service of the state. The director shall hold office for a term of 4 years from the date of his appointment and until his successor has been appointed.

2. The director is entitled to receive an annual salary in an amount determined pursuant to the provisions of NRS 284.182.

SECTION 6. 1. The director may employ:

(a) Hearing officers who shall be in the classified service of the state.

(b) Clerical and other necessary staff who shall be in the classified service of the state.

2. The director and his employees, and the appeals officers, are entitled to receive the travel expenses and subsistence allowances provided by law for state officers and employees.

SECTION 7. The director shall:

(a) Be in charge of all settings of hearings to be held within the division.

(b) Prepare the yearly budget for the division which shall include the appeals officers'.

(c) Bill the state insurance fund, self-insured employers, and private carriers for their proportionate share of costs for the division.

(d) Hire all personnel of the division except for the appeals officers.

(e) Supervise and regulate all matters relating to provisions of this chapter.

SECTION 8. The workers' compensation hearing division is not under the juridiction of the Nevada industrial commission.

SECTION 9. 1. All salaries and other expenses of administering NRS 619, within the legislative appropriation for this purpose, shall be paid by the state insurance fund, self-

insured employers, and private carriers.

2. Payment shall be assessed by the amount of usage by each of the aforementioned sources.

3. The funding of NRS 619 shall be administered through the state budget division. Payment from the state insurance fund, self-insured employers and private carriers shall be made to the state budget division.

SECTION 10. 1. The governor shall appoint two appeals officers to conduct hearings in contested claims for compensation under chapter 616 and chapter 617 of NRS. Each appeals officer shall hold office for a term of 4 years from the date of his appointment and until his successor is appointed and has qualified. Each appeals officer is entitled to receive an annual salary in an amount provided by law for employees in the unclassified service of the state.

2. Each appeals officer shall be an attorney who has been licensed to practice law before all the courts of this state for a period of at least 2 years. An appeals officer shall not engage in the private practice of law.

3. The appeals officers shall be under the jurisdiction of the division and the director. All monetary expenditures of the appeals officers shall be approved by the director pursuant to the legislative determinations set forth in the division's budget.

4. If an appeals officer determines that he has a personal

interest or a conflict of interest, directly or indirectly, in any case which is before him, he shall disqualify himself from hearing such case. The director shall request the governor to appoint a special appeals officer who is vested with the same powers as the regular appeals officer would possess. The special appeals officer shall be paid at an hourly rate determined by the director.

5. The decision of an appeals officer is the final administrative determination of a claim under chapter 616 or chapter 617 of NRS, and the whole record consists of all evidence taken at the hearing before the appeals officer and any findings of fact and conclusions of law based thereon.

SECTION 11. The hearing officers shall be hired for their expertise in the workers' compensation field or equivalent experience.

SECTION 12. Any determination made by the state insurance fund, self-insured employers, or private carriers affecting an injured worker's rights must be made in writing and sent to the injured worker along with an explanation of his rights. The explanation of an injured worker's rights shall be provided by the division.

SECTION 13. 1. Any person subject to the jurisdiction of chapters 616 or 617 of the Nevada Revised Statutes may request a hearing before the division by filing a notice of request for hearing.

2. The division shall provide "notice of request for hearing" forms to the state insurance fund, self-insured

employers, private carriers, and any party requesting said form.

SECTION 14. 1. Within five days after the receipt of the notice of request for hearing the division must cause the matter to be set before a hearing officer and the hearing must be held within 30 days.

2. Written notice of any hearing must be served upon or mailed to all interested parties at least 15 days before the matter is to be heard.

3. The hearing held by the hearing officer must be informal and a record need not be made. The rules of evidence do not apply but whoever holds the hearing may exclude or limit testimony which is immaterial or irrelevant to the proceedings.

4. Upon conclusion of the hearing the hearing officer must make a written finding of facts and render a decision within 15 days. A copy of said findings of facts and decision and a right to appeal form must be served upon or mailed to all interested parties. Upon proper service this decision is binding on all parties.

SECTION 15. 1. Any aggrieved party may appeal a decision of a hearing officer by filing a notice of appeal with the division within 60 days after the decision is filed.

2. Within five days after notice of appeal is filed the matter must be set for a hearing de novo before the appeals officer and the hearing must be held within 45 days. A matter may be continued upon written stipulation of all

parties but must be reset for a hearing to be held within 45 days after the stipulation. Immediately upon setting the hearing notice shall be sent to all interested parties.

SECTION 16. 1. The hearing before the appeals officer must be recorded.

2. Any relevant matter raised at the hearing before the appeals officer must be heard on its merits and new evidence may be introduced on any subject before the appeals officer.

3. Upon request of any party or the appeals officer the record must be transcribed and a transcript filed within 30 days after the hearing.

4. The appeals officer shall have 7 days after the hearing in which to order a transcript.

5. The appeals officer shall render a decision within 30 days after the transcript has been filed. If no transcript was ordered within the 7-day period following the hearing the appeals officer has 30 days from the date of hearing to render a decision.

6. The appeals officer may affirm, modify or reverse any decision made by the hearing officer and issue any necessary and proper order to effectuate his decision. The decision of the appeals officer becomes binding when filed with all parties.

7. An order of the appeals officer is enforceable upon application to the district court.

SECTION 17. At any time 10 or more days prior to a scheduled hearing before an appeals officer a party shall mail or deliver to the opposing party any affidavit which he proposes

to introduce into evidence and notice to the effect that unless the opposing party, within 7 days after the mailing or delivery of such affidavit, mails or delivers to the proponent a request to cross-examine the affiant, his right to cross-examine the affiant is waived and the affidavit, if introduced into evidence, will have the same effect as if the affiant had given sworn testimony before the appeals officer.

SECTION 18. An appeals officer and the hearing officers, in conducting hearings may:

(a) Issue subpenas requiring the attendance of any witness or the production of books, accounts, papers, records and documents.

(b) Administer oaths.

(c) Certify to official acts.

(d) Call and examine under oath any witness or party to a claim.

(e) Maintain order.

(f) Rule upon all questions arising during the course of a hearing or proceeding.

(g) Permit discovery by deposition or interrogatories.

(h) Initiate and hold conferences for the settlement or simplification of issues.

(i) Dispose of procedural requests or similar matters.

(j) Generally regulate and guide the course of a pending hearing or proceeding.

SECTION 19. 1. Each officer who serves a subpena shall receive the same fees as a sheriff.

2. Each witness who appears in obedience to a subpena before an appeals officer or hearing officers is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record.

3. Claims for witnesses' fees shall be audited and paid from the state treasury in the same manner as other expenses are audited and paid upon the presentation of proper vouchers approved by the director.

4. A witness subpenaed at the instance of a party other than an appeals officer or the hearing officer is not entitled to compensation from the state treasury unless an appeals officer or the hearing officer certifies that his testimony was material to the matter investigated.

SECTION 20. If an appeal is taken to the district court from a final decision of an appeals officer and such appeal is found by the district court to be frivolous or brought without reasonable grounds, the district court may order costs and a reasonable attorney's fee to be paid by the party taking such appeal.

SECTION 21. 1. No judicial proceedings may be instituted for compensation for an injury or death under chapter 616 or 617 unless:

(a) A claim for compensation is filed as provided in NRS 616.500 or 617.330; and

(b) A final decision of an appeals officer has been rendered on such claim.

2. Judicial proceedings instituted for compensation for an injury, occupational disease, or death, under this chapter

are limited to judicial review of the decision of an appeals officer.

SECTION 22. NRS 616.218, 616.220(6)(a)(b), 616.226, 616.230, 616.235, 616.240, 616.245, 616.542, 616.5421, 616.543, 616.544, 617.165 and 617.405 are hereby repealed.

SECTION 23. This act shall become effective on July 1, 1979.

books of accounts and records, and of funds and securities of the commission. The commission is authorized to employ and fix the compensation of a competent accountant for the purpose of making the audit or audits. The expenses thereof shall be paid out of the state insurance fund.
[94:168:1947; 1943 NCL § 2680.94]

616.205 Commission to prosecute and defend actions; extraordinary writs; verifications; undertakings.
1. The commission is authorized and empowered to prosecute, defend and maintain actions in the name of the commission for the enforcement of the provisions of this chapter and shall have the right to all extraordinary writs provided by the constitution of the State of Nevada, the statutes of this state and the Nevada Rules of Civil Procedure in connection therewith for the enforcement thereof.
2. Verification of any pleading, affidavit or other paper required may be made by any commissioner or by the secretary.
3. In any action or proceeding or in the prosecution of any appeal by the commission, no bond or undertaking shall ever be required to be furnished by the commission.
[82:168:1947; 1943 NCL § 2680.82]—(NRS A 1969, 1101)

616.210 Sessions and business hours. The commission shall be in continuous session and open for the transaction of business during all the business hours of every day except Saturdays, Sundays and legal holidays. All sessions shall be open to the public, and shall stand and be adjourned without further notice thereof on its records. All proceedings of the commission shall be shown on its records which shall be a public record and shall contain a record of each case considered and the award made with respect thereto. All voting shall be had by the calling of each commissioner's name by the secretary, and each vote shall be considered as cast.
[40:168:1947; A 1949, 659; 1943 NCL § 2680.40]

616.215 Printing. Except in cases of emergency, all necessary printing, including forms, blanks, envelopes, letterheads, circulars, pamphlets, bulletins and reports required to be printed by the commission shall be done by the state printing and records division of the department of general services.
[Part 42:168:1947; 1943 NCL § 2680.42]—(NRS A 1969, 1529; 1973, 1477)

616.218 Procedures for determination of contested cases. The commission may by regulation provide for specific procedures for the determination of contested cases not inconsistent with this chapter.
(Added to NRS by 1973, 1596; A 1975, 761; 1977, 1389)

616.220 Powers and duties of commission. The commission shall:
1. Prescribe by regulation the time within which adjudications and awards shall be made.

2. Prepare, provide and regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Furnish blank forms upon request.

4. Provide by regulation the method of making investigations, physical examinations, and inspections.

5. Prescribe by regulation the methods by which the staff of the commission may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith. Every such approval, rejection and determination is subject to review by the commission.

6. Provide for adequate notice to each claimant of his right:

(a) To review by the commission of any determination or rejection by the staff.

(b) To judicial review of any final decision.

[Part 44:168:1947; 1943 NCL § 2680.44]—(NRS A 1969, 1101; 1973, 599, 1597; 1977, 83)

616.222 Power of commission to provide and require acceptance of rehabilitation services.

1. To aid in getting injured workmen back to work or to assist in lessening or removing any resulting handicap, the commission may take such measures and make such expenditures from the state insurance fund as it may deem necessary or expedient to accomplish such purpose, regardless of the date on which such workman first became entitled to compensation.

2. Any workman eligible for compensation other than accident benefits will not be paid those benefits if he refuses counseling, training or other rehabilitation services offered to him by the commission.

(Added to NRS by 1973, 362)

616.223 Cooperative agreements between commission and rehabilitation division, department of human resources for benefit of disabled employees; vocational rehabilitation fund.

1. Subject to the provisions of this section, the commission is authorized to enter into cooperative agreements with the rehabilitation division of the department of human resources for the benefit of disabled employees entitled to compensation and benefits pursuant to the provisions of this chapter.

2. Among other things such cooperative agreements may provide that:

(a) With the consent of the disabled employee, the compensation and money benefits due him under the provisions of this chapter shall be paid to the rehabilitation division of the department of human resources for deposit by such division in the vocational rehabilitation fund hereby created in the state treasury to be expended by such division for the benefit of such disabled employee.

(b) Within the limits of the money so made available to the rehabilitation division of the department of human resources such division shall:

(1) Provide allowances for living expenses while the disabled employee is undergoing examination or treatment or awaiting or receiving restorative or vocational training.

(2) Pay for such medical and psychological examinations and treatments and for such prosthetic appliances as are determined by the division, in its sole discretion, to be necessary for the disabled employee's rehabilitation.

3. The rehabilitation division may direct the apportionment of benefits between those provided under subparagraph (1) of paragraph (b) of subsection 2 and those provided under subparagraph (2) of paragraph (b) of subsection 2.

4. Compensation, benefits or any other payments required under any such authorized cooperative agreement shall not exceed the compensation and benefits authorized and provided for under this chapter.

(Added to NRS by 1965, 538; A 1967, 832; 1973, 1406)

616.224 Agreements, compacts with other states; insurance coverage against double liability of employers.

1. The commission may enter into agreements or compacts with appropriate agencies, bureaus, boards or commissions of other states concerning matters of mutual interest, extraterritorial problems in the administration of this chapter, and for the purpose of eliminating duplicate claims or benefits.

2. The commission may provide liability insurance coverage against any risks of double liability on the part of employers subject to this chapter, for the same accident or injury.

(Added to NRS by 1973, 368)

616.226 Power of commission, appeals officer in conducting hearings, other proceedings. An appeals officer and the commission, in conducting hearings or other proceedings pursuant to the provisions of this chapter or regulations promulgated under this chapter may:

1. Issue subpenas requiring the attendance of any witness or the production of books, accounts, papers, records and documents.
2. Administer oaths.
3. Certify to official acts.
4. Call and examine under oath any witness or party to a claim.
5. Maintain order.
6. Rule upon all questions arising during the course of a hearing or proceeding.
7. Permit discovery by deposition or interrogatories.
8. Initiate and hold conferences for the settlement or simplification of issues.
9. Dispose of procedural requests or similar matters.
10. Generally regulate and guide the course of a pending hearing or proceeding.

(Added to NRS by 1975, 761; A 1977, 313)

616.230 District judge may compel obedience to order or subpena. If any person disobeys an order of an appeals officer or the commission or a subpena issued by the commissioners, inspectors or examiners, or either of them, or refuses to permit an inspection, or as a witness, refuses to testify to any matter for which he may be lawfully interrogated, then the district judge of the county in which the person resides, on application of the appeals officer or the commission, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpenas issued from the court on a refusal to testify therein.

[48:168:1947; 1943 NCL § 2680.48]—(NRS A 1975, 762; 1977, 313)

616.235 Fees: Officers serving subpenas and witnesses.

1. Each officer who serves a subpena shall receive the same fees as a sheriff.

2. Each witness who appears in obedience to a subpena before an appeals officer or the commission is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record.

3. Claims for witnesses' fees shall be audited and paid from the state treasury in the same manner as other expenses are audited and paid upon the presentation of proper vouchers approved by an appeals officer or any two commissioners.

4. A witness subpenaed at the instance of a party other than an appeals officer or the commission is not entitled to compensation from the state treasury unless an appeals officer or the commission certifies that his testimony was material to the matter investigated.

[49:168:1947; 1943 NCL § 2680.49]—(NRS A 1975, 762; 1977, 313)

616.240 Depositions of witnesses.

1. In an investigation, the commission may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law and Nevada Rules of Civil Procedure for taking depositions in civil actions in courts of record.

2. After the initiation of a claim under the provisions of this chapter or chapter 617 of NRS, in which a claimant or other party is entitled to a hearing on the merits, any party to the proceeding may, in the manner prescribed by law and the Nevada Rules of Civil Procedure for taking written interrogatories and depositions in civil actions in courts of record:

(a) Serve upon any other party written interrogatories to be answered by the party served; or

(b) Take the testimony of any person, including a party, by deposition upon oral examination.

[50:168:1947; 1943 NCL § 2680.50]—(NRS A 1975, 762)

616.245 Transcripts; introduction in evidence.

1. A transcribed copy of the evidence and proceedings, or any specific part thereof, of any final hearing or investigation, made by a stenographer appointed by an appeals officer or the commission, being certified by that stenographer to be a true and correct transcript of the testimony in the final hearing or investigation, or of a particular witness, or of a specific part thereof, and carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on the final hearing or investigation so purporting to be taken and transcribed, may be received in evidence with the same effect as if the stenographer had been present and testified to the facts so certified.

2. A copy of the transcript shall be furnished on demand to any party upon the payment of the fee required for transcripts in courts of record.

[51:168:1947; NCL § 2680.51]—(NRS A 1967, 39; 1973, 1597; 1975, 762; 1977, 314)

616.250 Prior acts of commission continued in effect; disposition of claims and causes of action existing in June 1947.

1. All premiums, contributions, penalties, moneys, properties, securities, funds, deposits, contracts and awards received, collected, acquired, established or made by the Nevada industrial commission prior to July 1, 1947, and under the provisions of chapter 111, Statutes of Nevada 1913, shall continue in full force and effect, and the rights, obligations and liabilities of the commission thereunder shall be assumed and performed by the commission created in this chapter.

2. All proceedings shall be had and rights determined under the provisions of chapter 111, Statutes of Nevada 1913, and acts amendatory thereof and supplemental thereto, on any claims or actions pending or causes of action existing on June 30, 1947.

[99:168:1947; 1943 NCL § 2680.99] + [Part 100:168:1947; 1943 NCL § 2680.100]

616.251 Commission to provide separate program of medical coverage for members of athletic teams of University of Nevada System. The Nevada industrial commission shall offer a program of unlimited medical coverage of freshman and varsity athletic teams of the University of Nevada System for injuries incurred while the members of such teams are engaged in organized practice or actual competition or any activity related thereto, which shall be funded separately from the state insurance fund, and for this purpose shall establish premium rates on the basis of man months of athletic participation by members of the athletic teams. Any participation by the member of an athletic team during a calendar month shall be counted as 1 man month for purposes of premium calculation. A team member so covered is not entitled to any other benefit under this chapter.

(Added to NRS by 1973, 288)

3. Should such medical board not be in agreement as to the findings, conclusions and recommendations, the members of such medical board shall submit separate and individual reports, concerning medical questions only, to the appeals officer or the commission.

[Part 58:168:1947; 1943 NCL § 2680.58]—(NRS A 1971, 210, 1130; 1975, 763; 1977, 314)

616.542 Contested claims: Appointment, term, qualifications of appeals officers; finality of decision; record.

1. The governor shall appoint two appeals officers to conduct hearings in contested claims for compensation under this chapter and chapter 617 of NRS. Each appeals officer shall hold office for a term of 4 years from the date of his appointment and until his successor is appointed and has qualified. Each appeals officer is entitled to receive an annual salary in an amount provided by law for employees in the unclassified service of the state.

2. Each appeals officer shall be an attorney who has been licensed to practice law before all the courts of this state for a period of at least 2 years. An appeals officer shall not engage in the private practice of law.

3. If an appeals officer determines that he has a personal interest or a conflict of interest, directly or indirectly, in any case which is before him, he shall disqualify himself from hearing such case and the governor may appoint a special appeals officer who is vested with the same powers as the regular appeals officer would possess. The special appeals officer shall be paid at an hourly rate, based upon the appeals officer's salary.

4. An appeals officer shall render his final decision on a contested claim within 120 days after the hearing.

5. The decision of an appeals officer is the final administrative determination of a claim under this chapter or chapter 617 of NRS, and the whole record consists of all evidence taken at the hearing before the appeals officer and any findings of fact and conclusions of law based thereon.

(Added to NRS by 1973, 1595; A 1975, 764; 1977, 84, 315, 316)

616.5421 Contested claims: Use of affidavits. At any time 10 or more days prior to a scheduled hearing before an appeals officer or the commission, a party shall mail or deliver to the opposing party any affidavit which he proposes to introduce into evidence and notice to the effect that unless the opposing party, within 7 days after the mailing or delivery of such affidavit, mails or delivers to the proponent a request to cross-examine the affiant, his right to cross-examine the affiant is waived and the affidavit, if introduced into evidence, will have the same effect as if the affiant had given sworn testimony before the appeals officer or commission.

(Added to NRS by 1975, 761; A 1977, 84)

616.543 Contested claims: Judicial review.

1. No judicial proceedings may be instituted for compensation for an injury or death under this chapter unless:

(a) A claim for compensation is filed as provided in NRS 616.500; and

(b) A final decision of an appeals officer has been rendered on such claim.

2. Judicial proceedings instituted for compensation for an injury or death, under this chapter are limited to judicial review of the decision of an appeals officer.

(Added to NRS by 1973, 1596; A 1977, 84, 315, 317)

616.544 Contested claims: Costs, attorney fees in frivolous appeals. If an appeal is taken to the district court from a final decision of an appeals officer and such appeal is found by the district court to be frivolous or brought without reasonable grounds, the district court may order costs and a reasonable attorney's fee to be paid by the party taking such appeal.

(Added to NRS by 1975, 761; A 1977, 316)

616.545 Application for increase or rearrangement of compensation; limitation.

1. If change of circumstances warrants an increase or rearrangement of compensation, application shall be made therefor. The application shall be accompanied by the certificate of a physician, showing a change of circumstances which would warrant an increase or rearrangement of compensation. No increase or rearrangement shall be operative for any period prior to application therefor; but the commission may allow the cost of emergency treatment the necessity for which has been certified to by a physician and upon receipt of such other evidence as may be required by the commission.

2. No application shall be valid or claim thereunder enforcible unless filed within 1 year after the day upon which the injury occurred or the right thereto accrued.

[56:168:1947; 1943 NCL § 2680.56] + [57:168:1947; 1943 NCL § 2680.57]—(NRS A 1971, 770)

616.550 Compensation not assignable; exempt from attachment, garnishment, execution; accrued compensation payable to dependents. Compensation payable under this chapter, whether determined or due, or not, shall not, prior to the issuance and delivery of the warrant thereof, be assignable, shall be exempt from attachment, garnishment and execution, and shall not pass to any other person by operation of law; but in any case of the death of an injured employee covered by this chapter from causes independent from the injury for which compensation is payable, any compensation due such employee which was awarded or accrued but for which the warrant or warrants were not issued or delivered at the

2. Every person, firm, voluntary association, and private corporation, including any public service corporation, which has in service any employee under a contract of hire.

[Part 9:44:1947; A 1949, 365; 1951, 372]—(NRS A 1975, 1022)

617.120 "Independent contractor" defined. "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished.

[12:44:1947; 1943 NCL § 2800.12]

617.130 "Medical benefits" defined. "Medical benefits" shall be construed to mean medical, surgical, hospital or other treatments, nursing, medicine, medical and surgical supplies, crutches and apparatus, including artificial members.

[8:44:1947; 1943 NCL § 2800.08]

617.140 "Silicosis" defined. "Silicosis" shall mean a disease of the lungs caused by breathing silica dust (silicon dioxide) producing fibrous nodules, distributed through the lungs and demonstrated by X-ray examination or by autopsy.

[Part 26:44:1947; A 1949, 365; 1953, 297]

617.145 "Sole proprietor" defined. "Sole proprietor" means a self-employed owner of an unincorporated business who has been domiciled in the State of Nevada for at least 6 months immediately prior to filing for coverage and includes working partners and members of working associations.

(Added to NRS by 1975, 1020)

617.150 "Subcontractors" defined. "Subcontractors" shall include independent contractors.

[15:44:1947; 1943 NCL § 2800.15]

ADMINISTRATION

617.160 Nevada industrial commission to administer chapter. This chapter shall be administered by the Nevada industrial commission in the same manner as provided for in chapter 616 of NRS.

[2:44:1947; 1943 NCL § 2800.02] + [Part 39:44:1947; A 1951, 372]—(NRS A 1973, 1597)

617.165 Procedures for determination of contested cases. The commission may by regulation provide for specific procedures for the determination of contested cases not inconsistent with this chapter.

(Added to NRS by 1973, 1596; A 1975, 764; 1977, 1390)

6. When an autopsy has been performed pursuant to an order of the commission, no cause of action shall lie against any person, firm or corporation for participating in or requesting such autopsy.
[38:44:1947; 1943 NCL § 2800.38]

617.390 Compensation for injury or disease.
1. Compensation shall not be awarded on account of both injury and disease.
2. If an employee claims to be suffering from both an occupational disease and an injury, the commission shall determine which is causing the disability and shall pay compensation therefor from the proper fund in accordance with the provisions of chapter 616 of NRS.
[30:44:1947; 1943 NCL § 2800.30]

617.400 Compensation: Effect of false representations, willful misconduct and self-exposure.
1. No compensation shall be awarded on account of disability or death from a disease suffered by an employee who, at the time of entering into the employment from which the disease is claimed to have resulted, shall have willfully and falsely represented himself as not having previously suffered from such disease.
2. No compensation shall be payable under this chapter when disability or death is wholly or in part caused by the willful misconduct or willful self-exposure of the employee.
[29:44:1947; 1943 NCL § 2800.29]

617.405 Judicial review of contested claims.
1. No judicial proceedings may be instituted for benefits for an occupational disease under this chapter, unless:
(a) A claim is filed within the time limits prescribed in NRS 617.330; and
(b) A final decision has been rendered on such claim.
2. Judicial proceedings instituted for benefits for an occupational disease under this chapter are limited to judicial review of that decision.
(Added to NRS by 1973, 1596; A 1977, 85)

617.410 Compensation paid from occupational diseases fund. Compensation for disability sustained on account of occupational disease by an employee, or the dependents of such employee as defined in this chapter, shall be paid from the occupational diseases fund.
[31:44:1947; 1943 NCL § 2800.31]

COMPENSATION FOR DISABILITY AND DEATH

617.420 Minimum duration of incapacity; payment of medical benefits. No compensation shall be paid under this chapter for disability which does not incapacitate the employee for a period of at least 5 days

Exhibit H

ROBERT LIST
GOVERNOR

STATE OF NEVADA

J. MICHAEL McGROARTY
APPEALS OFFICER
POST BUILDING
2770 MARYLAND PARKWWAY
SUITE 314
LAS VEGAS, NEVADA 89109
(702) 386-5375

April 16, 1979

Senator Spike Wilson
Room 205F
Legislative Complex
Carson City, Nevada

RE: AB 84

Dear Mr. Wilson:

My name is J. Michael McGroarty, and I am the Appeals Officer in Las Vegas. Last Wednesday I was present during your hearings before the Commerce and Labor Committee concerning AB 84. I noted that you were most concerned that the appellate procedures before the Nevada Industrial Commission be reformed in such a manner as to separate the appellate function from the Nevada Industrial Commission and also to expedite the review of contested claims.

I also noted what appeared to be some disenchantment with the language presently in AB 84. In this regard, I have prepared the attached which are proposed modifications to AB 84 that would 1) create an independent appeals office, and 2) would restrict the appellate review to one hearing at the administrative level and one hearing thereafter at the Appeals Officer's level, with appropriate speedy time limitations.

I humbly offer these for your consideration in the hopes that my ideas and my draftsmanship might appeal to you. If you have any questions, please do not hesitate to call me.

Very truly yours,

J. Michael McGroarty

Add to AB 84:

1. "Office" means the Industrial Appeals Office.

2. The office of industrial appeals is hereby created.

3. The office shall be composed of such appeals officers appointed as provided in NRS 616.542. Appeals Officers presently serving shall be entitled to serve out their appointed term. One appeals officer must be designated by the governor as the chief appeals officer and will remain the chief appeals officer for the remainder of his term as appeals officer.

4. The chief appeals officer, in addition to his duties as a regular appeals officer, shall be the head of the industrial appeals office. He shall have general supervisory powers over the technical and administrative activities of the office, including the assignment of referees and appeals officers, the work of the office and its employees.

5. It shall be the duty of the commission to furnish such assistance to the industrial appeals office as it may request in its bookkeeping functions in the processing of its payroll, preparation of its annual line-item budget for presentation to the legislature and such other administrative matters that the chief appeals officer may request.

6. The chief appeals officer shall appoint qualified referees, and such professional, technical, clerical and operational staff as the execution of his duties and the operation of the office may require.

7. All salaries and expenses of the industrial appeals office shall be paid from the state insurance fund. The commission shall apportion the total cost of the industrial appeals office equally among all employers on the basis of the number of employees employed by each employer.

8. The employees of the industrial appeals office shall be entitled to receive from the state insurance fund their actual and necessary expenses while traveling on the business of the office. Expenses shall be itemized and sworn to by the employee who incurred the expense and allowed by the chief appeals officer.

9. The chief appeals officer as part of the administration of the office is authorized to use a facsimile signature produced through a mechanical device whenever the necessity may arise, provided the facsimile signature may be removed from the mechanical device and kept in a secure place. The use of the facsimile signature shall be made only under the direction of the chief appeals officer, and when not in use must be kept in a securely locked vault.

10. The chief appeals officer may promulgate rules and regulations not inconsistent with statute that are necessary in the administration of the office and the determination of contested claims.

§42 of AB 84 is to read as follows:

§42.NRS 616.542 is hereby amended to read as follows:

1. The governor shall appoint [two] four appeals officers to conduct hearings in contested claims for compensation under this chapter and chapter 617 of NRS. The governor shall designate one appeals officer as the chief appeals officer. Each appeals officer shall hold office for a term of 4 years from the date of his appointment and until his successor is appointed and has qualified. The chief appeals officer and [E]each appeals officer is entitled to receive an annual salary in an amount provided by law for employees in the unclassified service of the state.

2. Each appeals officer shall be an attorney who has been licensed to practice law before all the courts of this state for a period of at least 2 years. An appeals officer shall not engage in the private practice of law.

3. If an appeals officer determines that he has a personal interest or a conflict of interest, directly or indirectly, in any case which is before him, he shall disqualify himself from hearing such case and the governor may appoint a special appeals officer who is vested with the same powers as the regular appeals officer would possess. The special appeals officer shall be paid at an hourly rate, based upon the appeals officer's salary.

[4. An appeals officer shall render his final decision on a contested claim within 120 days after the hearing.

5] 4. The decision of an appeals officer is the final administrative determination of a claim under this chapter or chapter 617 of NRS, and the whole record consists of all evidence taken at the hearing before the

appeals officer and any findings of fact and conclusions of law based thereon.

EXHIBIT H

Delete §13(2) of AB 84 and insert following:

2. An employer who receives a request for an appeal must, within 5 days after receipt of a request, notify the industrial appeals office by sending to it a copy of the request. The industrial appeals office shall assign a referee to conduct an informal hearing and set the hearing for a date, time and convenient place within 30 days after its receipt of the request. The referee shall provide copies of the written decision to the employer and employee within 15 days after the hearing and include with the notice of the decision the necessary forms for taking an appeal before an appeals officer.

EXHIBIT H

Change §19 (1) of AB 84 by adding the following:

1. The commission shall, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after its receipt of the request and specify whether the hearing will be held before the commission [or], before a person designated by the commission[.] or before a referee requested from the industrial appeals office.

Delete all of §21 of AB 84 and insert the following:

(1) The hearing before the appeals officer is de novo and a record must be kept.

(2) The appeals officer must render a written decision within 60 days after the case has been submitted for decision.

(3) Unless timely appeal is made in accordance with procedures at NRS 233B.134, the decision of the appeals officer is final and binding upon the parties.

(4) The appeals officer must approve any stipulated settlement of a contested claim which thereafter becomes final and binding on the parties.

(5) Any final decision of the commission, the person designated by the commission, the referee and the appeals officer is enforceable by application to district court to compel obedience by attachment proceedings as for contempt.

EXHIBIT H

Delete §20(1) & (3) of AB 84 and insert following:

(1) Any party aggrieved by a decision of the commission, the person designated by the commission, or the referee, may appeal that decision to an appeals officer by filing a notice of appeal with the industrial appeals office within 30 days after the mailing of the decision, otherwise the decision becomes final and binding on all parties.

(3) No hearing scheduled under the provisions of this chapter and chapter 617 of NRS may be continued except upon good cause shown.

STATE OF NEVADA

NEVADA INDUSTRIAL COMMISSION

Exhibit I

LEGAL DEPARTMENT

ADDRESS ALL CORRESPONDENCE TO
NEVADA INDUSTRIAL COMMISSION

REPLY TO

515 East Musser Street
Carson City, Nevada
89714

April 11, 1979

Donald R. Mello, Chairman
Ways and Means Committee
Legislative Building
Carson City, Nevada 89701

Dear Mr. Mello:

At the request of the Assembly Ways and Means Committee, Counsel for the Nevada Industrial Commission and Legislative Counsel have discussed NRS 616.185. After reviewing both NRS 616.185 and NRS Chapter 284, Mr. Daykin suggested that the best resolution to the problem would be to clear the ambiguity of the statutes by amendment. We have made specific recommendations and understand that Mr. Daykin will be discussing his recommendation with the committee.

Yours truly,

Frank A. King

FRANK A. KING
Legal Counsel

FK:ss

cc: The Commission
Frank Daykin, Esq.

NRS 616.185 As Amended:

1. The commission shall with the approval of the governor employ and fix the salaries of or contract for the services of physicians, consultants, lawyers and other professional or technical personnel as the execution of its duties and the operation of the state insurance fund may require.

2. All employees of the Nevada Industrial Commission with the exception of those provided for in subsection 1 shall be in the classified or unclassified service pursuant to the provisions of Chapter 284 of NRS.

EXHIBIT I

NRS 284.013 As Amended:

Amend 284.013 to specifically exclude those employees of the Nevada Industrial Commission employed pursuant to NRS 616.185 as amended.