

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

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
MARCH 2, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at 1:43 p.m. on Monday, March 2, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Thomas R. C. Wilson, Chairman
Senator Richard Blakemore, Vice Chairman
Senator Melvin Close
Senator Don Ashworth
Senator William Raggio
Senator William Hernstadt
Senator Clifford McCorkle

STAFF MEMBER PRESENT:

Betty Steele, Committee Secretary

SENATE BILL NO. 195--Broadens industrial insurance coverage.

Mr. Robert Gibb, general counsel, Nevada industrial commission, stated he wanted to put Senate Bill No. 195 into perspective of the present Nevada Workers' Compensation law. Injuries occurring within the course and scope of employment are compensable injuries: Injuries occurring while the employee is traveling between the places of employment should be compensable. Mr. Gibb stated there was no necessity for the first part of the amendment in Section 3, as by practice it is already law. He stated the second part of the bill would broaden the definition of course and scope of employment to injuries occurring between the employee's residence and the place of employment. Mr. Gibb commented this is contrary to accepted workers' compensation law where the basic rule throughout the U.S. has been the "going and coming" rule or "premises" rule. The premise of this rule is that employees having fixed hours of work at a definite work site, if injured on the way to or from work, are not in the scope and course of their employment.

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Mr. Gibb went into greater detail concerning the "going and coming" rule and explained the different exceptions which have come about. (See verbatim testimony, Exhibit C.) He indicated the Nevada industrial commission did not favor Senate Bill No. 195.

Senator Neal stated he introduced the bill because of an incident in Clark County where a man was killed in an accident only five minutes from his work place. When his wife tried to collect from NIC, she was turned down. Senator Neal felt NIC ought to be able to develop an insurance coverage for a person on his way to and from work. If a person commutes to work in an employee bus, he is covered. If he uses his own transportation, he is not covered. In a state like Nevada where people have to commute long distances, they should have some insurance protection in the course of that travel.

Senator Don Ashworth asked how "to and from work" would be defined as so many people run errands before and after work. Senator Neal replied Senator Ashworth was more familiar with the law than he was. He said maybe the employee could submit his route to the employer.

Mr. Claude Evans, executive secretary treasurer of the state AFL-CIO, stated some people are covered under certain contracts for 30 minutes of travel time to and from work.

Mr. Chuck, King, representing Nevada Self Insurers, stated they are opposed to Senate Bill No. 195. They do not feel the employer is in control of the environment before and after work.

Mr. Bob Warren, executive secretary of the Nevada Mining Association, expressed their opposition to the bill. He stated mining companies would be in particular jeopardy with this piece of legislation as mining operations are frequently located at great distances from the workers' residences, some having to travel 25 or 30 miles to work.

Mr. Fred Davis, Reno/Sparks Chamber of Commerce representative, stated they oppose the bill for basically the same reasons that have already been stated.

Mr. Chuck Neely, representing the Clark County School District, stated they oppose Senate Bill No. 195 also.

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Senator Raggio suggested the legislative research division be requested to give the committee some examples of statutes or regulations in other jurisdictions which attempt to codify the exceptions to the courses of employment.

Mr. Frank Burn, secretary of the Northern Nevada Building and Construction Trades Council, testified his organization was in favor of Senate Bill No. 195. He said many of their employees travel great distances to and from work and he believes this bill is the only way they can be adequately covered.

Mr. Rowland Oakes, of Associated General Contractors, stated that over the years they have eliminated the hourly wage prior and after working hours for the specific reason of being protected from paying NIC claims during that period. He said most of their labor agreements are such that workers are paid for mileage.

Senator Raggio asked Mr. Gibb, the NIC general counsel, if that meant the workers were covered by NIC and he agreed they were. Senator Wilson commented therefore, whether paid by cents per mile or hourly, the employees are covered by NIC.

SENATE BILL NO. 203--Provides for industrial insurance coverage by private insurance.

Chairman Wilson stated the talk should be about the policy questions today--whether or not to make a policy decision to go with some kind of program of three-way insurance. If the decision is negative, then it will not be necessary to work out the technical provisions of the bill as drawn. Chairman Wilson said Section 50 addresses itself directly to the policy question and he requested the proponents of the bill to speak on that basis.

Mr. Bud Meneley, representing the Nevada Independent Insurance Agents, followed the suggestion of the broad points on the bill and what his organization intended. He stated their intent is to create a competitive atmosphere as is true of workmens' compensation insurance in most other states. Mr. Meneley touched on the intent of Senate Bill No. 203 to reconstitute the NIC as an administrative body; creating the Nevada state insurance fund; allowing private insurance carriers to provide insurance; with the department of insurance regulating market conduct and rate regulations. He commented on various technical aspects of the bill and stated in general it was pretty good but there were still some technical problems with it.

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Senator Wilson stated if a decision is made to process this bill for a three-way plan, there will be a number of hearings on it, of a technical nature, to go over the bill itself and make all necessary corrections. He remarked that, unlike prior three-way bills, Mr. Meneley was saying the proposal would now require a flooring of state rates with which the third-party underwriter would then compete.

Mr. Meneley agreed that some of the policy holders would follow that floor because they might not be writing enough policies in the state to go into analysis of the deviations. He said there would always presumably be a market similar to what now exists; hopefully nothing would disturb that market. He pointed out that, under the bill, the industrial commission as well as the private carriers would be subject to the normal premium tax. Since the total premium runs between \$125 million and \$150 million, the 2 percent premium tax would raise around \$3 million which would be far in excess of any additional administrative costs.

Mr. Rowland Oakes, representing the Associated General Contractors, noted that it was suggested testimony be limited to Section 50 and that would be the aim of his testimony. He said his attorney wrote to the association pointing out the constitution of Nevada states workmen's compensation funds must be kept in the state treasury. He suggested an amendment to the state constitution to provide for the funds to be kept elsewhere. He stated his concern for the small employer who might no longer have the immunity present legislation provides, if this bill passes. Mr. Oakes said there have been several reports, done on the Nevada industrial commission, and all have given NIC a good bill of health with regard to costs. As a representative of employers, he naturally is in favor of a plan which charged the construction industry about \$7 when the surrounding states--like Arizona and Oregon--with the three-way plans charged \$20 for the same coverage. Mr. Oakes asked that the system remain as it is and be sure the small employer is protected under self-insurance.

In response to Senator Wilson's statement, Mr. Oakes said he had heard the argument Nevada's market was too small to support a three-way system but did not feel he was competent to answer that question. However, he said he had looked at what was happening in other states that used to have monopolies and have gone to three-way and their costs have gone up, and their benefits are not any better, in some cases not as good, as in Nevada.

Mr. Oakes offered copies of a study of the committee appointed by the legislature (see Exhibit D) and indicated where the overview

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statement, middle of page 5, says Nevada is ranked 11th highest nationally in workmen's compensation benefits, but is the lowest in premium rates among the surrounding states with comparable benefit levels.

Mr. Nick Kalanges, administrative manager for Vasko and Associates, a general contracting and engineering corporation in Reno, stated on behalf of his company that they were against Senate Bill No. 203. He pointed out the various benefits of NIC including assisting with safety programs, services to the injured, investigation of claims, and the excellent rehabilitation program. He felt the main purpose of NIC is that human life is the center of their concern, not money; while with a three-way system the human element might get lost. He said he really had nothing to contribute technically, other than to ask "Why mess up a good thing?". He said Mr. George Vasko had sent a memo stating the company position on the matter to each of the committee members. (See Exhibit E.)

Mr. Claude Evans, executive secretary-treasurer of the Nevada state AFL-CIO, said he had also acted as member and chairman for approximately 10 months on the governor's advisory board of the Nevada industrial commission. However, he stated he presently is representing the view of the state AFL-CIO and they opposed the three-way insurance bill because it will cost more money. He mentioned a breakdown of rates (see Exhibit F) sent to the committee members.

Senator Wilson stated they were talking about using the same ratings, basically, as are presently employed by the NIC and that private industry would use them. He wanted to know if Mr. Evans was speaking of a new base to be determined by the insurance commissioner, irrespective of NIC's experience and asked whether Mr. Evans was talking about classifications of insurance.

Mr. Evans replied in the negative stating there are two different kinds of ratings; one of disability (meaning the extent of a workers' injury), and the rating applied to an individual employer classification. He said that speaking of rating in this context, he is referring to premiums; what the premium will be. Premium rate is filed for an annual rate for each classification based on the experience within that separate classification. He said the purpose is to charge each employer the appropriate rate for his own employment operation. He stated the National Council may not accept Nevada's classification system because there are some special circumstances and unique types of employment in this state not found elsewhere. (See Exhibit G.)

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Senator Wilson noted that he speaking basically about a conversion from the present NIC classification system to whatever the national system of classification may be.

Mr. Evans stated this was correct and he had been told a couple of years ago that NIC was actually putting the National Council classification system into their computer and may have already done so.

Senator Raggio stated he was interested in hearing testimony on the advantages of the three-way system of insurance. The statement had been made that only in Oregon had an increase been experienced and he assumed what was meant was an increase at some point over what they had previously. Mr. Evans remarked only in Oregon had there been a switch from a monopolistic system to a three-way.

Senator Don Ashworth wanted to know where there was any improvement because it did not make any sense to change to a three-way system unless there is evidence of historical data to justify it. He said when we went to "no-fault insurance" he was convinced premiums would go down. When they did not, he came back and helped repeal "no fault" insurance. He wanted to know if there are any specific historical indications that changing from a monopolistic to a competitive system will result in a lower rating, a lower premium.

Senator Wilson replied that, with a small state like Nevada, to lessen the base (the number of employes covered by state funds) would widely increase premiums or increase the rates.

Mr. Bill Molmen, of the American Insurance Association of San Francisco, stated he agreed with Senator Wilson in a sense but not with his conclusion. He indicated that is why a data base is so important because the law of large numbers still applies. In Oregon, that did get expensive but he did not want to leave the misconception that changing to three-way will mean a rate increase. On the contrary, he felt private insurers would load the rating (premium) for more service. Mr. Molmen said the long range effect would probably be what competition would give and would be a stabilizing influence on the rate; and perhaps even a decrease if accidents decrease.

Senator Wilson asked what effect this would have on the benefits to the employees. Mr. Molmen replied the insurance policy coverage is written by the legislature and private insurers would by law, pay precisely the same benefits as are paid by NIC today.

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Mr. Molmen added there would be a new commission to resolve any disputes. Three-way insurance would provide a separate adjudicatory branch, which he felt was an improvement over the present law.

Senator Raggio summarized that the benefit level would remain the same as presently provided by NIC but the premium level would increase. Mr. Evans remarked at least the going-in level might increase for some companies, depending on the deviation level provided.

Mr. Molmen said the reason some employers want to go with private insurance is that they will get safety services not presently available and, since there are certain companies who specialize in certain industries, they develop safety programs tailored to those industries. Not only that, with a private insurer, they can get other types of insurance such as fire, liability, etc., benefits and service are given quickly. However, he added, if NIC can write the policy cheaper and better, then his company will not be in business long in Nevada. He stated he would be available through George Vargas, locally.

Mr. Don Heath, commissioner of insurance, department of commerce, said he would try to touch on subject areas not covered in today's testimony, keeping in mind the chairman's request for policy and economic considerations. (See testimony, Exhibit H.)

Mr. Heath stated he has not heard any statement as to what Nevada's rating law really is. He stated a concern was voiced for excessiveness and inadequacy but there is a third criteria embraced in the statutes.

Mr. Joe Nusbaum, chairman, Nevada industrial commission, stated he was unsure what to do. The advisory board meets today and tomorrow and had hoped to go over the bill today; and some members of the board are present at this hearing. He hoped to review the bill with them tomorrow. With regard to classification rating differences, Nevada has had its own classification system since 1911 when their system began. He said there is not too great a deviation from the national system except they have more classifications. (See Exhibit I.) Nevada has gaming classifications which other states do not.

Senator Wilson commented there would be additional hearings so the discussion will be confined to policy and economic questions and will defer Mr. Nusbaum's testimony on the bill until he has a chance to meet with the advisory board.

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Mr. Nusbaum indicated that over a period of time there would be an increase as the rates level out and the state rate would go up as the private insurers would come in and take off the best risks leaving the uninsured employers with the state fund. He stated NIC applies investment income to premiums or dividends. Mr. Nusbaum said the proponents of Senate Bill No. 203 will have to make a very good case because Nevada already has a very good system and it would be easy to destroy it, with a bill NIC feels is technically very bad.

In response to Senator Hernstadt's question as to how many major employers are using self-insurance policies, Mr. Nusbaum replied approximately 21 employers, which represents about 10 percent of the premium income.

Mr. Jack Kenney, representing Southern Nevada Home Builders, Las Vegas, said he started the move toward private insurance in 1975 and is here to follow it up. He presented various statistics favoring the change. (See Exhibit J.) He indicated that he felt NIC was very expensive to run and there is room for the private insurer to participate and not charge rates or premiums higher than they are now.

Senator Wilson commented he understood from the exhibit that the premiums are too high in light of the reserves and dividends; but understood Mr. Molmen to say that, at least in the short run, the private premiums were going to be higher.

Mr. Kenney stated the Home Builders favor the private sector. He said NIC had an admitted surplus of \$30 million which they over-reserved last year so they turned around and created a new category to use \$22 million as additional reserves, which made a net of only \$8 million in changing the reserves.

Senator Wilson asked Mr. Molmen for an evaluation. He stated he had seen the figures but not being an actuary did not feel he could evaluate them. He said he assumed the rates and reserves were acceptable but if they were not, the National Council would be the one to make the determination.

Senator Wilson stated the committee should have a fairly good idea of where they are going if they elect to make a policy judgment and recommend that the Senate proceed with the three-way bill. He did not feel they could make such a judgment unless provided with some indication of the probable result in terms of premiums, charges to the employers and benefits available to the employees.

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Senator McCorkle stated Mr. Kenney's numbers are dramatic but must be proven to be credible. He said the recommendation the committee is looking for should have a consensus of opinion in that all concerned agree on a certain set of numbers, premiums, benefits and reserves to bring about a certain result. Mr. Kenney indicated the numbers came out of the NIC audit report.

Mr. John Sweatt, president, Professional Insurance Agents of California and Nevada, stated there had been a lot of testimony that the rates would go up if the three-way compensation bill went through. He commented that with or without three-way compensation, the rates are going to go up because of the rise in health-care systems costs. He said the cost of a semi-private hospital room, and medical care, are the costs that will dictate the claims costs. Mr. Sweatt considers the present system to be inequitable and unfair to the small business. He admitted that in most states the cost of private insurance is slightly more than the state funds because of the tax structure. But price alone is not the prime consideration with most small businessmen. He said the private sector can offer service and help in adjustment of losses and rates. He said the present system shuts out the private sector completely, denying the small business their help.

Senator Hernstadt inquired if they were locked out of other states which had funds similar to Nevada's and Mr. Sweatt agreed they were. In reply to Senator Hernstadt's question, Mr. Sweatt said under a three-way system the premium might be higher but the client might be willing to pay for the additional services the private insurance sector can furnish. Senator Hernstadt then asked why the larger insurance companies were not interested and Mr. Sweatt indicated the AIA representative was from the larger companies. He suggested looking to California to see what happens because the private sector exists and continues to prosper in spite of the state fund. He indicated it is because the small employer is willing to pay the extra price for the extra services.

Senator Hernstadt commented if the three-way system subtracts from the state system by lowering its capabilities and forcing rates up, it seemed logical that the private sector rates would go up also. It seemed the small businessman would be at a greater disadvantage. Mr. Sweatt suggested the rates will rise regardless of the program; and wondered if the smaller businessman was subsidizing the larger one in this regard. If so, the larger business would have to pay its fair share. In answer to Senator Hernstadt's request for a percentage breakdown on how much is self-insured, private and state-insured in California,

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Mr. Sweatt indicated he did not have the percentage breakdown at the moment.

Mr. Harvey Whittemore, attorney with the firm of Lionel, Sawyer and Collins of Reno and Las Vegas, testified against Senate Bill No. 203 on behalf of his clients, the Nevada Resort Association. He discussed the rebate of contributions to the safest Nevada employers and how it was necessary to go to court to prevent NIC from rescinding the \$15 million to Nevada employers. He pointed out specific sections of NRS which would be repealed by this bill and indicated the Nevada Resort Association wants the fund to be self-supporting but not to make a profit. They do not want to lose the judicially established mechanism that has enabled them to get some money back from the system.

In response to Senator McCorkle's question regarding the deficit, Mr. Whittemore said it was a choice made by the commission with respect to their particular operation. He commented on NIC Regulation No. 37 which allows reduction of rates but does not require NIC to return money to the self-insured who are no longer in the system or to the major employers who are still in the system.

Senator Wilson stated in the process of testimony they will deal with the problem in context of the bill. However, he wanted to know what Mr. Whittemore's position was on the three-way program which is the item under discussion. Mr. Whittemore indicated the Nevada Resort Association takes no position with respect to whether a three-way system would be good or bad. He said some small employers might benefit; the medium-sized operations might not.

Mr. Dick Thomas, from Teamsters' Local No. 995, asked to go on record in full support of the AFL-CIO's position of opposition to Senate Bill No. 203 and opposing the three-way system. He said approximately 30,000 employees and individuals are involved in Teamsters' families. He directed attention to the Stanford Research Institute Report which indicated Nevada's present system is a good one and recommended against the three-way system at the time the report was issued. He suggested private carriers may not always be located in the state making claim-handling more difficult for the worker.

Senator Hernstadt asked, with respect to Mr. Thomas' union, how many members would be placed at a disadvantage by employers who have gone to self-insurance. Mr. Thomas answered he was not too familiar with the record on self-insurance but to his knowledge there have not been any serious complaints.

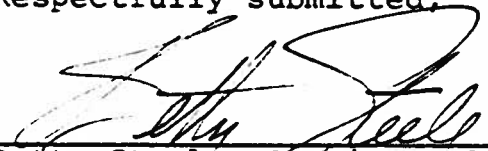
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Senator Hernstadt inquired whether there was any indication, with respect to the medical plans under the various union contracts, that employers have used substandard insurance companies and the union members have not received their benefits. Mr. Thomas said there have been cases over the years with certain carriers when they were found not to have the resources, even though licensed and bonded by the state, to carry out their obligations. He said a locally-administered plan may take only 2 to 3 weeks to give out benefits while an out of state carrier can take 6 to 8 months.

Senator Hernstadt asked why Mr. Thomas should be concerned, if the members get the benefits they are entitled to, whether through private insurers, a self-insured plan or the NIC. Mr. Thomas said it is always their problem when costs go up because cost is a concern no matter where the money goes. He stated when outside agencies find that Nevada has a good system with 89 percent of the premium dollar going to the Nevada worker and only 65 percent going back to the California worker, he would like that money to stay in Nevada for Nevada workers.

With no further testimony on the policy question, Chairman Wilson closed the hearing on Senate Bill No. 203; and the meeting adjourned at 4:50 p.m.

Respectfully submitted,


Betty Steele, Committee Secretary

APPROVED:


Senator Thomas R. C. Wilson, Chairman

DATE: _____

EXHIBITS - MARCH 2, 1981 - MEETING

Exhibit A is the Meeting Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the testimony of Mr. Robert Gibb, general counsel, Nevada industrial commission, re S.B. No. 195.

Exhibit D is the overview of the NIC system, submitted by Mr. Rowland Oakes, re S.B. No. 203.

Exhibit E is the mailgram memo from Vasko Associates in opposition to S.B. No. 203.

Exhibit F is the testimony of Mr. Claude Evans, AFL-CIO in opposition to S.B. No. 203.

Exhibit G is the rating study and cost breakdown of various occupations in Nevada, submitted by Mr. Evans.

Exhibit H is the testimony of Mr. Donald W. Heath, Nevada commissioner of insurance.

Exhibit I is the testimony of Mr. Joe Nusbaum, chairman, Nevada industrial commission.

Exhibit J is the audit figure sheet submitted by Mr. Jack Kenney, of Southern Nevada Home Builders.

SENATE AGENDA
COMMITTEE MEETINGS

EXHIBIT A

Committee on Commerce and Labor, Room 213.

Day Monday, Date March 2, Time 1:30 p.m.

S.B. No. 195--Broadens industrial insurance coverage.

S.B. No. 203--Provides for industrial insurance coverage
by private insurance.

SENATE COMMITTEE ON

Commerce and LaborDATE: March 2

EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
J. FLANIGAN	ADVISORY BOARD - NIC	853-3770
Ben Dasher	" " - "	329-6171
R.J. KOROPEY	INA	215-241-5028
DICK THOMAS	NIC ADVISORY BD	385-0995
Daryl E. Caputo	NEVADA MOTOR TRANSPORT ASSN	331-6884
CLINT KIVILL	Nevada 95 Association of Employees	329-4241
TERRY WELTY		782-3611
GARY B. KIRK	Beauty NEVADA Corp. P.O. Box 157 Reno NV	782-3611
N.C. AUTHANSEN	SUMMA Corp P.O. Box 14000 L.V.	733-0123
C. DUCKLEY	Summa Corp	733-0123
NICK KALANOS	VASKO & ASSOC 435 SPEARHEAD RD	329-2277
H. CURTIS	NIC	
Harvey Whittmore	Lionel, Sawyer & Collins	323-5050
JACK KENNEDY	SELF 2330 ABARTH LV NV 89122	452-7714
Les Harwell	Dept of Labor - Services	885-5566
CHUCK KING	WREX. SELF INSURERS	383-5501
MERRIS SAIDEN	ADVISORY BOARD NIC	323-2116
BLACKIE EVANS	STATE AFL-CIO	882-7420
FRANK BYRNE	N. Nev. BUILDING TRADES	322-3361
Don Reese	Cooperatives Local # 971	323-5786
Bill Nuggett	LPH. Nev. Self Ins.	329-0151
Jake Modell	AFL CIO CC	882-7490
Stan Jones	N. Nev. Central Labor Council	323-0390

SENATE COMMITTEE ON _____

DATE: _____

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
<i>Roland Christman</i>	Local #241 O.P.I.C.M.I.A	329-5754
MARY FINNELL	Risk Management Div, DEF-RAD (M.I.)-STATE	885-4085
TOM STUART	THE GIBBENS CO. INC-RENO	826-6600
DICK CHURB	" " " " "	"
<i>R.S. Hagan</i>	NIC	785-5253
<i>Neil Rodman</i>	Local 119	323 0169
Bob Leggett	Professional Insurance Agents - Las Vegas Chapter	382 4010
<i>Bob Gibb</i>	NIC	-5377
<i>John Sweatt</i>	Prof. Insurance Agents Reno	323.0792
BOB WARREN	NEV. MINING ASSN	323 8575
<i>W.P. Madson</i>	American Ins Assn 465 Calif. S.F. Ca	415 362-2170
W.S. MENELEY	NEV. IND. INS. AGENTS	786-4432
<i>Margie Neinhauer</i>	Alliance of American Insurers (95)	362-0870
<i>Rowland's Oakes Associates</i>	GENERAL CONTRACTORS	329-666
<i>Carl Christman</i>	Laborers Local 119	358 0169

SENATE BILL NO. 195

TESTIMONY OF ROBERT GIBB, GENERAL COUNSEL

NEVADA INDUSTRIAL COMMISSION

March 2, 1981

I would first like to put the bill into the perspective of present Nevada workers' compensation law. In Nevada, as in all states, injuries occurring in the course and scope of employment are compensable injuries. This bill, in section 3, broadens the definition of "course and scope of employment" in two different areas:

First, it states that injuries occurring while an employee is traveling between the employee's places of employment "should be compensable". This is the present practice confirmed by court decisions in the State of Nevada. For instance, if a carpenter is working on one construction site in the morning and his supervisor directs him to travel to a second construction site in the afternoon any injuries "between the employee's places of employment" are covered by workers' compensation. Since the present law is clear, the first part of the amendment in section 3 is not necessary.

The second area in section 3 which broadens the definition of "course and scope of employment" is that injuries occurring "between the employee's residence and place of employment" would be covered injuries. I don't know of any state having coverage this broad. It is contrary to accepted workers' compensation law.

There is a basic rule throughout the United States that is called the "going and coming" rule or the "premises" rule. The "going and coming" rule

is that an employee having fixed hours and a definite work site, is not in the course of his employment if injured off the premises of his employer, before or after working hours, while proceeding to or coming from his work. Conversely the "premises" rule is that going to and from work is covered on the employer's premises.

The touchstone, in many cases, seems to be the control or domination exercisable by the employer over the property where the injury occurred or over the means of ingress and egress. While the employer can control his own premises he surely has no control over hazards between the employee's home and the work site.

The real reason for the "premises" rule is, and always has been, the impracticality of drawing another line at such a point that the administrative and judicial burden of interpreting and applying the rule would not be unmanageable.

Every night millions of people across the nation will emerge from factory gates, office buildings, and school yards. Some will go straight home, some will go shopping, some will head for a tavern. Hundreds of them will be involved in accidents at varying distances from the premises and at varying degrees of deviation from the direct route home. Two things are certain: first, in the great majority of cases, no one will ever be able to prove whether the claimant was really going straight home at the time of the accident; and second, the course of the hazard will also never be one distinctly associated with the employment, although here again by gradual extension of the "arising" cases the court might well end by covering all traffic accidents, falls on ice, and the like.

It should be noted that a number of exceptions to this simple "going and coming" rule have developed over the years. Underlying some of these exceptions is the principle that course of employment should extend to any injury which occurred at a point where the employee was within range of dangers associated with the employment.

Without going into detail let me briefly list the different theories involving these exceptions.

1. The "close proximity" or "special hazards" doctrine.
 - a. By reason of the location of his employer's premises or some condition thereof, the employee is upon nearing the normal and customary means of ingress subjected to a risk or hazard greater than that to which the public generally is subjected.
2. The "reasonable time" theory.
 - a. An employment is not necessarily limited by the actual time when a workman reaches that scene of his labor and begins it, nor when he ceases, but includes a reasonable time, space and opportunity before and after while he is at or near his place of employment.
3. The "special errand" rule.
 - a. When an employee is on a special or substantial mission or errand in furtherance of his employer's business, he is considered to be in the course of the employment during his entire travel to and from his destination.
4. The "contiguous area" theory.
 - a. As a general rule, the employer's premises may include private streets and roads when their use is necessary or permissible in proceeding to and from the work area; public streets, highways, alleys and sidewalks, when it is shown that the employer exercised some dominion and control over them; parking lots established by the employer for the use of its employees, or designed for the employer's use in connection with the operation of his business; and the many avenues for entering and leaving a factory or office buildings shared by the employer with other tenants

such as stairs, elevators, hallways, lobbies and the like, the use of any one of which is considered an appropriate way to and from the space occupied by the employer.

5. Where the employer arranges transportation; pays for or reimburses transportation costs; or gives payment for time of travel.
 - a. When the employment considered in the light of all attendant circumstances, contemplates that an employer has a contractual duty to provide or arrange for transportation of an employee to and from his work site, either actually or by paying for the cost thereof, or by reimbursing the employee for the time and expense of travel, the employee is considered to be in the course of his employment while availing himself of the means of travel accorded him.

All of these exceptions are presently part of the law as practiced in Nevada since they all fall within the definition of injuries "within the course and scope of employment". Because of these exceptions, which cover the situations where the employer has some control or responsibility and because of the rationale for the nationally accepted "coming and going" rule, NIC believes S.B. 195 is not desirable legislation.

3/2 Roland-
Takes AEC

OVERVIEW

EXHIBIT D

An assessment of the state of the Nevada Industrial Commission at the time of the first Advisory Board meeting would reveal an organization which was being besieged from all sides. It was being criticized by claimants, by employers and, as a result, by the Legislature. It had a poor image with the general public although specific reasons for this could not be developed other than poor communications. This culminated in a intense desire by the Legislature to take steps to solve the "NIC problem" once and for all and resulted in the formation of the Advisory Board of Review.

The chairman of the Commission left the NIC shortly after the Advisory Board began its work. The Advisory Board interviewed a number of candidates for the chairmanship and provided the Governor with the results of the interviews. The Governor, in turn, made a selection of the new Commission chairman. The result of this was to combine the usual changes that new management brings with the inquiry of the Advisory Board. It should be said that the new chairman's cooperation with the Advisory Board has been excellent and that same attitude has mostly prevailed throughout the remainder of the organization.

Over a period of 16 months the Advisory Board has become as knowledgeable as a part-time citizen board is likely to be of the operations of a governmental agency. We have heard hours of testimony by claimants and employers regarding perceived shortcomings of the NIC. We have heard

numerous proposals from NIC for changes in internal operations and statutory direction. We have heard expert testimony by those in and out of NIC. We have individually reviewed the report of the Legislative Auditor and will monitor the Commission's progress in complying with the report. Finally, we are submitting a list of our recommendations to the Commission, the Governor and the Legislature.

In this swelter of criticism and proposed changes, it is essential to assess the overall quality of the NIC and the Nevada workers' compensation and safety programs. The public and Nevada public officials must recognize the strengths as well as the weaknesses of its programs if they are to make wise decisions about changes. The Advisory Board is left with the following impressions:

Nevada is ranked eleventh highest nationally in workers' compensation benefits, is the lowest in premium rates among the surrounding states that have comparable benefit levels and is well below the recommended administration expense level of the National Council on Compensation Insurance. Also, Nevada appears to be in the forefront in its emphasis on rehabilitation to return injured workers to gainful employment. We must build on this record. Ill-advised changes can reduce Nevada to the level of some of its sister states that have far more serious problems with their workers' compensation programs.

NIC is subjected to a degree of public scrutiny unparalleled by any private insurance company. It has been told to compete with self-insurance administrators but it is restricted by state agency controls.

Like any insurance carrier it must deal daily with claimants who do not understand nor accept the limitations of the carrier's obligations under the workers' compensation law. Unlike self-insured employers, it must deal with inherently conflicting demands of employers and employees in administering the workers' compensation and safety programs. NIC is staffed with dedicated employees though it has the usual state agency personnel problems.

The NIC has been responsive to the Advisory Board and other agencies that have reviewed its operations. Also, under its present management, it has gone through a period of self-analysis including public meetings to hear the complaints of its critics.

In our view, the state programs and the administration of these programs are basically sound. Modifications are needed due to changes in circumstances. The major circumstances have been the unparalleled growth in covered employment over the past decade, the major program changes adopted by the Legislature and NIC in the early and mid-1970's, and the introduction of self-insurance.

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EXHIBIT E

GEORGE		
FRANK		
RONNIE		
KEITH		
DEBBE		
NEBBE		
WYNN		
WILCOX		
SILVA		
NICHOLS		
PAT		
BO		
ABOTT		

VASKO AND ASSOCIATES ATTN D RASCHEN
PO BOX 10605
RENO NV 89510

RECEIVED
MAR 2 1981
VAI

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

702329 2277 MGM TDMT RENO NV 153 02-27 1201P EST
ZIP
SENATOR THOMAS WILSON, CHAIRMAN
LEGISLATIVE BLDG
CARSON CITY NV 89701

I WISH TO EXPRESS MY OPPOSITION TO SENATE BILL #203 PERTAINING TO WORKMENS COMPENSATION. THE PRESENT SYSTEM IS AN OUTSTANDING EXAMPLE OF THE STATE SYSTEMS DOING AN EXCELLENT JOB AND I SINCERELY DOUBT THAT PRIVATE INSURANCE CARRIERS CAN MATCH THEIR PERFORMANCE. I REALIZE THAT THIS IS ONE OF THE FEW AREAS THAT I CAN SUPPORT GOVERNMENT OVER FREE ENTERPRISE BUT FROM MY PERSONAL EXPERIENCE IN SEVERAL WESTERN STATES I THINK NEVADA IS FAR AHEAD OF THE OTHERS THAT PROVIDES FOR PRIVATE CARRIERS

OUR FIRM ENJOYS ONE OF THE BEST INSURANCE RATINGS IN THIS STATE AND WE BELIEVE THAT OUR INTEREST IN ON THE JOB SAFETY HAS @RIORITY. IT NOT ONLY MINIMIZES THE HUMAN PROBLEMS INVOLVED BUT INCREASE PRODUCTIVITY. NIC DOES AN EXCELLENT JOB IN ADMINISTRATION THE PROGRAM AND YOU SHOULD VOTE TO LEAVE WELL ENOUGH ALONE
GEORGE E VASKO, PRESIDENT
VASKO AND ASSOCIATES

1208 EST
MGMCOMP MGM

March 2, 1981

EXHIBIT F

Testimony of Claude Evans, Executive Secretary-Treasurer of the Nevada State AFL-CIO, before the Senate Labor and Commerce Committee on March 2, 1981 regarding Senate Bill 203.

Mr. Chairman and Members of the Committee:

The Nevada State AFL-CIO is opposed to S.B. 203 as it provides that private insurance carriers can write worker's compensation in the State of Nevada. Our research has found that in states that go from an exclusive State Fund to a three-way system, premiums are approximately 20 to 25 percent higher for the same benefits. We are of the strong opinion that the present system of delivering compensation benefits to the injured workers of Nevada is not only better for the injured worker but also for the employer in the State who must pay premiums for these benefits.

In the State of California, which has the three-way insurance coverage, approximately 60¢ out of every premium dollar reaches the injured worker in the form of either benefits or medical cost. In Nevada, under our present system, approximately 89¢ out of each dollar is delivered to the injured worker in the form of medical and compensation benefits.

We feel this one issue alone is sufficient to continue the present system of worker's compensation in the State of Nevada.

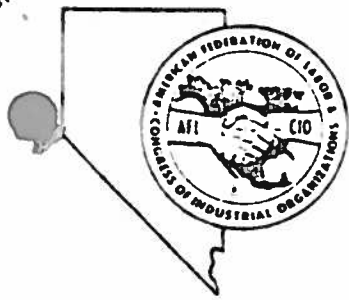
I will be happy to answer any question the Committee may have.

3/2 - Claude Evans
AFL-CIO

NEVADA STATE A.F.L. - C.I.O.

File

*Sent to all members of
Senate Labor + Commerce Committee
w/ file attached* . **EXHIBIT G**



BOYD MANNING

DONALD E. ALFORD
JACK EVANS
JOHN STRALLA

MICHAEL CHADBURN
JOHN MADILL
JACK STAFFORD

February 25, 1981

MARK TULLY MASSAGLI

CLAUDE EVANS

Senator Thomas Wilson
Nevada State Legislature
Legislative Building
Carson City, Nevada 89710

Dear Spike:

Senate Bill 203, which allows private insurers to write industrial insurance coverage in the State of Nevada, has been referred to your committee on Commerce and Labor. The Nevada State AFL-CIO is opposed to this proposed legislation.

Studies have shown that in States where private carriers are writing coverage, only 60¢ of each premium dollar is going to the injured worker in medical costs and benefits. In the State of Nevada, under our present system, approximately 89¢ of each premium dollar goes to the injured worker.

The cost of the Nevada Worker's Compensation Program is lower than our surrounding states with comparable benefits. Please see attached breakdown of the respective occupations and the cost to the employer.

We urge your assistance in the defeat of this legislation.

Sincerely yours,

Bloekie

Claude Evans
Executive Secretary-Treasurer

CE:jf
opeu-29
afl-cio

cc: Mark Tully Massagli

RATE COMPARISON CHART

	Nevada 7/1/80	California 1/1/80	Ratio of Calif. to Nevada Rate	Arizona 9/1/79	Ratio of Ariz. to Nevada Rate	Oregon 7/1/80	Ratio of Oregon to Nevada Rate
Attorney's Offices	\$.42	\$.43	102%	\$.48	114%	\$.49	117%
Auditors, Accountants,	.42	.42	100%	.48	114%	.68	162%
Automobiles or Auto Truck Dealers, except salesmen	3.15	4.45	141%	7.47	237%	0.22	261%
Automobiles and Auto Truck Salesmen	3.15	1.25	40%	1.94	62%	1.26	40%
Auto or Auto Truck Dismantling	12.09	11.43	95%	22.82	189%	A	--
Auto Repair Shops	4.16	6.05	145%	6.08	146%	0.22	198%
Auto Service Stations	4.16	6.05	145%	6.08	146%	6.89	166%
Bakeries	3.35	5.41	161%	6.46	193%	7.34	219%
Banks, except clerical employees	.70	.70	100%	.61 to 7.24	87-1034%	1.05 to 6.93	150 to 990%
Banks, clerical employees	.42	.70	166%	.48	114%	.49	117%
Barber Shops	.70	1.01	144%	.97	139%	1.70	243%
Beer or Ale Dealers Wholesale	3.62	10.38	287%	5.77	159%	6.90	191%
Blacksmithing	4.37	13.30	304%	11.51	263%	11.03	252%
Bottling Beverages	3.35	5.92	177%	6.61-12.00	197-358%	7.04-8.06	234 to 241%
Bridge Building, Metal	12.09	13.76	114%	32.23	267%	30.35	251%
Building Material, Lumberyards	5.02	6.66	133%	10.10	201%	9.12	182%
Building Material Dealers, New	5.02	6.66	133%	4.52	90%	4.56	91%
Building Material Dealers, Second Hand	5.02	10.17	203%	10.93	377%	16.09	321%
Building Raising or Moving	12.09	19.05	150%	31.11	257%	34.27	283%
Building Operation by Contractors or Owners	4.43	7.68	173%	7.24	163%	6.93	156%
Bus Operations	4.60	7.08	154%	8.53	185%	11.25	245%
Limousine Operations	4.60	7.08	154%	8.53	185%	11.25	245%
Bus or Limousine, Garage Employees	4.60	7.08	154%	7.74	168%	6.68	145%
Butchering, including Handling of Livestock	7.58	11.44	151%	15.11	199%	14.77	195%
Cabinet Works, Furniture Manufacturing	7.40	9.06	122%	11.43	155%	12.56	170%
Carpentry, shop only	7.40	9.06	122%	8.04	109%	9.60	129%
Carpentry, Construction or Remodeling of Dwellings	8.57	8.62	101%	9.43-10.62	110-124%	8.20-13.00	96 to 152%
Carpentry, N.O.C.	8.57	10.30	120%	18.94	221%	15.99	187%

A = Variable rate assigned by
Rating Bureau.

	<u>Nevada</u> <u>7/1/80</u>	<u>California</u> <u>1/1/80</u>	<u>Ratio of Calif.</u> <u>to Nevada Rate</u>	<u>Arizona</u> <u>9/1/79</u>	<u>Ratio of Ariz.</u> <u>to Nevada Rate</u>	<u>Oregon</u> <u>7/1/80</u>	<u>Ratio of Oregon</u> <u>to Nevada Rate</u>
Chemical Mfg.	X\$ 3.59	\$ 4.97-9.40	138-262%	\$ 4.46 to 21.08	124-507%	\$ A	--
Clubs - Country, Golf, Tennis	2.85	4.97	174%	3.46	121%	3.34	117%
Concrete Products Mfg. †	4.52	11.46	254%	16.10	350%	15.30	338%
Concrete Construction	range - 4.52 to 12.09	3.80 to 19.24	86% to 159%	7.03 to 16.52	156% to 137%	9.24 to 17.09	204% to 141%
Convalescent Homes or Hospitals	6.93	9.15	132%	5.97	86%	10.38	150%
Dental Laboratories	.70	1.13	161%	1.19	170%	1.06	151%
Electric Light or Power Companies †	3.15	3.71	118%	6.82	217%	3.89	121%
Power Line Construction	12.09	14.43	119%	21.23	176%	18.65	154%
Electrical Wiring in Buildings	3.26	4.09	125%	7.96	244%	4.22	129%
Engineers - Consulting	1.18	1.12	95%	1.79	152%	3.31	281%
Dairy Farms †	7.58	8.44	111%	11.15	147%	14.50	191%
Cattle Feed Yards †	7.58	15.59	206%	16.39	216%	16.94	223%
Field Crops	8.24	9.90	120%	6.27	76%	14.50	176%
Sheep and Hog Farms	4.86	7.05	145%	15.92	328%	14.50	298%
Truck Farms	4.86	4.76	98%	3.87	80%	5.77	119%
Feed Mfg.	6.35	7.00	111%	13.46	212%	11.02	174%
Fence Construction/Metal or Wood	8.57	11.09	129%	18.90 to 11.61	221% to 135%	10.49-15.99	122-187%
Fuel and Material Dealers	5.02	6.66	133%	10.10	201%	9.12	182%
Garbage or Refuse Collection †	8.24	15.57	185%	16.76	203%	13.31	162%
Gasoline or Oil Dealers, Wholesale †	5.02	5.66	113%	11.06	220%	9.39	187%
Glassers - Shop	3.79	7.30	193%	8.44	223%	7.91	209%
- Outside	3.79	7.97	210%	13.03	344%	8.41	222%
Grading Land	6.71	5.51	82%	7.53	112%	10.31	154%
Hospitals, All Employees	2.63	2.79	106%	2.85-784	108 to 298%	2.42-8.89	92 to 338%
Including Clerical	.42	2.79	664%	.48	114%	.49	117%
Hotels, All Employees	4.33	6.08	140%	3.99	92%	7.01	162%
Including Clerical	.42	.43	102%	.48	114%	.49	117%
Iron or Steel Erection, N.O.C.	12.09	16.02	133%	20.23	167%	21.17	175%
Iron or Steel Erection, Structural Construction of Buildings Over 2 Stories	12.09	16.55	137%	32.23	267%	30.35	251%
Iron Works, Shop, Fabricating	4.37	11.16	255%	14.99	343%	11.41 to 17.11	261 to 397%
Laundries †	3.88	5.75	148%	5.98	154%	6.47	167%

	Nevada 7/1/80	California 1/1/80	Ratio of Calif. to Nevada Rate	Arizona 9/1/79	Ratio of Ariz. to Nevada Rate	Oregon 7/1/80	Ratio of Oregon to Nevada Rate
Machinery Dealers	\$ 4.16	\$ 7.58 to 6.02	182-145%	\$ 7.82	188%	\$ 7.72	186%
Machine Shops, N.O.C.	4.94	5.43	110%	8.23	167%	5.42	110%
Mining, Surface	5.25	9.52	181%	6.06	115%	8.59	164%
Mining, Underground	11.05	14.29	129%	23.06	209%	23.95	217%
Surface Employees	11.05	12.20	110%	--	--	--	--
Ore Milling &	5.54	9.01	163%	4.87	88%	8.04	145%
Hotels &	4.33	6.08	140%	3.99	92%	7.01	162%
Motorcycle Dealers	4.16	3.99	96%	7.47	180%	8.22	198%
Clerical Office Employees	.42	.43	102%	.48	114%	.49	117%
Firemen	3.53	11.48	325%	8.32	236%	5.46	155%
Municipal or County Employees, White Collar	2.22 to 2.31	3.06	138% to 132%	1.77	80% to 77%	.49 to 3.06	22% to 132%
Municipal or County Employees, Blue Collar	2.22 to 2.31	9.82	442%				
Policemen, Sheriffs, Constables &	3.53	15.01	425%	6.83	193%	5.62	159%
Public Schools or Colleges	.83	1.76	212%	.53 to 5.57	64% to 671%	.56 to 6.96	67% to 1043%
Nursing Homes, All Employees	6.93	9.15	132%	5.97	86%	10.38	150%
Including Clerical	.42	.43	102%	.48	114%	.49	117%
Optical Goods Mfg., N.O.C.	1.11	1.99	179%	1.41	127%	1.76	159%
Painting	7.20	7.56	105%	7.33	102%	12.61	175%
Planing and Molding Mills	7.40	6.30	85%	7.63	103%	10.32	139%
Plaster Mills	4.26	8.00	188%	4.73	111%	5.92	139%
Plastering or Stucco Work	8.57	9.50	111%	11.03-17.12	129 to 200%	13.18	154%
Plumbing, N.O.C. - Shop and Outside &	3.96	5.34	135%	7.52	190%	6.49	164%
Quarries	5.21	9.52	183%	14.88	286%	17.45	335%
Radio, Television and Commercial Broadcasting, All Employees	.70	1.03	147%	.98	140%	1.18	169%
Including Clerical	.42	1.03	245%	.48	114%	1.18	281%
Real Estate Agencies	.70	.61	87%	.61	87%	1.05	150%
Restaurants	3.95	4.02	102%	3.94 & 3.99	99% to 101%	4.42	112%
Taverns	2.97	4.02	135%	3.94	133%	4.42	149%
Roofing	8.57	17.59	205%	30.21	353%	32.71	382%
Tire Dealers &	4.16	6.05	145%	6.08	146%	6.89	166%
Tire Recapping	4.16	9.20	221%	6.08	147%	6.89	166%

	<u>Nevada</u> <u>7/1/80</u>	<u>California</u> <u>1/1/80</u>	<u>Ratio of Calif.</u> <u>to Nevada Rate</u>	<u>Arizona</u> <u>9/1/79</u>	<u>Ratio of Ariz.</u> <u>to Nevada Rate</u>	<u>Oregon</u> <u>7/1/80</u>	<u>Ratio of Oregon</u> <u>to Nevada Rate</u>
Iron and Scrap Dealers	\$12.09	\$21.65	179%	\$21.08	174%	\$20.73	171%
Sand or Gravel Digging	5.21	6.37	122%	13.43	258%	11.83	227%
Sewer Construction	6.71	10.48	156%	14.48	216%	16.73	249%
Stores - Auto Accessories	1.78	2.63	140%	3.34	180%	3.06	172%
Stores, Department	1.78	2.01	158%	1.07	105%	A	--
Stores, Furniture	2.60	3.71	143%	4.19	161%	3.62	139%
Stores, Grocery	3.62	2.66	73%	5.73 to 8.45	158% to 233%	5.51	152%
Stc. s, Meat, Fish, Poultry	5.65	4.31-8.76	76-155%	9.70	172%	5.71-15.15	101-268%
Street and Road Construction, Grading	6.71	8.83	132%	7.53	112%	13.10	195%
Paving	6.71	8.57	128%	11.18	167%	10.27	153%
Taxicab Operation, All Employees x	6.57	15.73	239%	7.74 to 8.53	118% to 134%	11.25	171%
Clerical	.42	.43	102%	.48	114%	.49	117%
Trucking	6.76	11.43	169%	18.65-34.03	276% to 503%	14.52	215%
Wall Board Application	8.57	5.37	63%	11.98	140%	11.35	132%
Warehouses, General Merchandise	3.78	8.60	228%	7.90	209%	9.57	253%
Welding or Cutting, M.O.C. - Shop or Outside	4.94	9.13	185%	15.48	313%	13.01	263%
Wrecking or Demolition of Building	12.09	--	--	31.11-56.22	257% to 465%	34.27-49.44	283%-409%

62/1275



ROBERT LIST
GOVERNOR

JAMES L. WADSWORTH
DIRECTOR

STATE OF NEVADA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION
201 SOUTH FALL STREET
CARSON CITY, NEVADA 89710
(702) 888-4270

EXHIBIT H

DONALD W. HEATH, CLU
COMMISSIONER OF INSURANCE

March 2, 1981

TO: COMMERCE AND LABOR COMMITTEE

FROM: DONALD W. HEATH
Commissioner of Insurance

SUBJECT: SB 203, Comments

Senators, you have before you SB 203. As you all know, the bill's main thrust is to authorize coverage of industrial insurance by private carriers in the State of Nevada. However, I think there are a few observations that I would like to point out to this committee.

Section 53, on page 16, provides that private carriers, in addition to self-insured employers, are to pay an amount of money into the subsequent injury fund which has been created in my office for the purposes of the present and existing self-insurance of workmen's compensation program. Presently, the self-insured employers are paying an assessment into this fund. Interesting, however, is that Section 117, subsection 2 and 3, on page 41, further provides that there shall be another subsequent injury fund established in the State Treasurer's office. The self-insured employers are to pay into this fund additionally. With the proposed effective dates outlined in Section 176, on page 58, of the bill, there seems to be a probable payment by the self-insured employers into both funds for a least the 10-month period between January 1, 1982, and October 1, 1982. I think that some clarification is required to prevent possible double payment by the self-insured employers.

Section 74, subsection 2, on page 22, provides that an insurer may satisfy its obligations to make a rate filing by becoming a member of, or subscribing to a rating organization. This section goes on to specifically provide that nothing in that section shall require an insurer to become a member of, or subscribe to, a rating organization. However, in Section 152, on page 53, the bill specifically provides that all insurers must become a member of a rating organization beginning

Donald W. Heath
SB 203, Comments
March 2, 1981
Page 2

on October 1, 1982. In my opinion, these two sections should be consistent.

Further, Section 74, Subsection 2, states that "an insurer", yet provides no definition for an "insurer", whereas Section 152, on page 53, which is to be located in Title 57 of the Nevada Revised Statutes (i.e., Nevada Insurance Code) specifically provides a definition of an "insurer". I think that a definition should be provided in both of these sections which are consistent and uniform. This will allow a proper interpretation of exactly what insurers are to be considered within the context of the legislature's intent in SB 203.

I would again call your attention to Section 74 on page 22, subsection 3, wherein "the Director may authorize" (lines 14). "Director" is again used on line 24. I fail to understand who this individual is, as it is used in the context of this particular section. My office has no such position authorized in its budget. This is another section that requires clarification.

This concludes my discussion of specific sections of SB 203. However, I would like to discuss an important area which has not been addressed in SB 203. As you all know, my office has been the regulatory agency for the self-insurance of workmen's compensation program since its authorization on January 1, 1980. Your Honorable body allowed self-insurance of workmen's compensation in the last session by enacting AB 84. In AB 84 you provided specific prohibited criteria which could be grounds for withdrawal of a certificate to self-insure workmen's compensation. I would refer this committee's attention to NRS 616.294.

Further, if private carrier's are authorized to insure workmen's compensation, specific sections in the Nevada Insurance Code and various insurance regulations provide criteria which would be grounds for revocation of a casualty insurer's certificate of authority.

From my understanding of SB 203, the new Nevada Industrial Commission would become the regulatory agency of workmen's compensation insurers in Nevada. However, there seems to be no criteria other than Section 109, on page 38 of the bill to allow the Nevada Industrial Commission to properly execute its duties.

Donald W. Heath
SB 203, Comments
March 2, 1981
Page 3

Although the Hearings Division of the Department of Administration is the agency through which a dissatisfied claimant must go to seek relief regarding an improper determination of his or her benefits, I must inform the members of this committee that claimants have called the workmen's compensation section of my office on a few occasions to complain about a determination of their benefits. They do this because they do not wish to seek a hearing and therefore ask my office for any assistance we can provide them. I am happy to inform this committee that the workmen's compensation section of my office has been able to resolve these complaints, within hours in some cases, to the complainant's satisfaction.

It is my opinion, that the new Nevada Industrial Commission, as the regulatory body, should be given specific regulatory authority to properly regulate the three carriers authorized to insure workmen's compensation in Nevada. Therefore, I think an amendment should be made to SB 203 to provide the Nevada Industrial Commission with specific provisions regarding market conduct and compliance. This amendment should also provide the Nevada Industrial Commission with specific responsibilities before my office, if a hearing is called to withdraw a certificate to self-insure or to revoke a certificate of authority to insure in the State of Nevada.

Lastly, I call this committee's attention to the fiscal note that my office has prepared for SB 203. I think it is an accurate (conservative) estimate of the costs that my office will incur if SB 203 is enacted into law. I will be happy to explain it in detail to the committee or I can respond to any questions any of you may have regarding the fiscal note.

Further, I will be happy to respond to any questions the committee might have regarding any of my previous presentation at your convenience.

RSS:ms

Attachment

FISCAL NOTE

BDR _____
 A.B. _____
 S.B. 203

STATE AGENCY ESTIMATES Date Prepared 2-23-81

Agency Submitting Dept. of Commerce: Insurance

<u>Revenue and/or Expense Items</u>	<u>Fiscal Year 1980-81</u>	<u>Fiscal Year 1981-82</u>	<u>Fiscal Year 1982-83</u>	<u>Continuing</u>
Personnel/Administrative	_____	_____	\$ 53,363.28	\$49,763.28
Printings costs	_____	_____	\$ 6,500.00	\$ 6,500.00
Administrative costs	_____	_____	\$ 2,500.00	\$ 2,500.00
Contingent Liability	_____	_____	\$ 5,000.00	\$ 5,000.00
	_____	_____	_____	_____
	_____	_____	_____	_____
Total	_____	_____	\$ 67,363.28	\$ 63,763.28

Explanation (Use Continuation Sheets If Required)

Section 36(1): This section could require the Commission of Insurance to institute a hearing if a carrier becomes insolvent or files bankruptcy. There is only contingent monetary liability, however, it should be considered. Estimated cost=\$1,000.00

Section 50(1): Some system will have to be implemented to properly qualify and regulate those casualty insurers that are specifically insuring industrial accidents and occupational diseases. This will cause administrative costs of \$1,500.00.

Section 51(1): If a plan is requested, a proper equitable apportionment must be prepared. This will cause contingent monetary liability. Estimated cost=\$1,000.00.

Local Government Impact YES NO
 (Attach Explanation)

Signature: *Datay Edmond*
 Title: *Deputy Commissioner*

DEPARTMENT OF ADMINISTRATION COMMENTS

Date _____

Signature _____

Title _____

LOCAL GOVERNMENT FISCAL IMPACT
 (Legislative Counsel Bureau Use Only)

Date _____

652

Signature _____

Title _____

- Section 51(2): This section could require a revocation hearing, thus contingent monetary liability. Estimated cost= \$1,000.00. (Hearing costs).
- Section 53: The current regulation will have to be revised to accomodate the private carriers. He can expect a 2-3 day hearing which will require one hearing officer, one court reporter, secretarial support and other attendant costs. Estimated cost= \$2,000.00. (Hearings costs).
- Section 74- : Rate filings will require actuarial review by staff in order to determine whether they will be approved. If disapproved, an administrative hearing will be necessary. Present staff cannot accomodate this review. Further, any deviations or special rate filings could require additional review and study. It could also lead to a hearing to resolve. With the number of casualty insurer that presently write insurance in Nevada and the additional insurers that will request certification if SB 203 is enacted, further staff requirements will be necessary. It will be therefore necessary to employ one actuarial type employee, secretarial support, hearing support, office expenses. Estimated cost= \$53,363.28, initially; \$49,763.28 continuing. (administrative and personnel costs).
- Section 76 : Rate filings will require actuarial review by staff in order to determine whether they will be approved. If disapproved, an administrative hearing will be necessary. Present staff cannot accomodate this review. Further, any deviations or special rate filings could require additional review and study. It could also lead to a hearing to resolve. With the number of casualty insurer that presently write insurance in Nevada and the additional insurers that will request certification if SB 203 is enacted, further staff requirements will be necessary. It will be therefore necessary to employ one actuarial type employee, secretarial support, hearing support, office expenses. Estimated cost= \$53,363.28, initially; \$49,763.28 continuing. (administrative and personnel costs).
- Section 110: Refer to comments and costs in Section 50, hereinabove.
- Section 114(4a): Consultation will be provided to the Nevada Industrial Commission. Although the exact cost cannot be documented, monetary liability does exist. Estimated cost= \$1,000.00. (administrative costs).
- Section 114(4b): The regulation will require staff time, a hearing officer and other hearing expenses as described in Section 53, hereinabove. Estimated cost= \$2,000.00. (hearings).
- Section 134 : Refer to comments and costs in Section 74-76, hereinabove.
- Section 136 : Refer to comments and costs in Section 50, hereinabove.
- Section 138- : Proper licensing and filing procedures and/or regulations must be adopted to properly regulate rating organizations and advisory organizations. This will require an administrative hearing with its attendant costs. Further, hearings may be necessary if licensing is denied which will creat contingent monetary liability. Estimated costs= \$2,500.00 (Hearings costs).
- Section 170 : Proper licensing and filing procedures and/or regulations must be adopted to properly regulate rating organizations and advisory organizations. This will require an administrative hearing with its attendant costs. Further, hearings may be necessary if licensing is denied which will creat contingent monetary liability. Estimated costs= \$2,500.00 (Hearings costs).

Therefore, all sections that could and/or would require an administrative hearings, would require the employment of one hearing officer, one court reporter, secretarial support and other attendant hearing costs. which

All rate filings and rate organization licensing provisions will require the employment of one assistant actuary at a grade 32, one full time secretary at grade 23, plus office equipment and supplies. Further, the fact that the certification of the self insured employers will remain with the Commissioner of Insurance. This will necessitate the hiring of the above personnel. A breakdown of the budget is as follows:

<u>01 PERSONNEL:</u>	(1) Assistant Actuary @ grade 32:	\$21,517.53
	(1) Management Assist @ grade 23:	14,495.51
		<u>\$36013.04</u>
<u>02 Out-of-State Travel:</u>		\$ 2,000.00
		<u>\$ 2,000.00</u>
<u>03 In-State Travel:</u>		\$ 5,000.00
		<u>\$ 5,000.00</u>
<u>04 Operating Expenses:</u>	Office Supplies-	\$ 250.00 yearly
	Communication Expense-	\$1200.00 yearly
	Printing, Dupli., Copy-	\$1200.00 yearly
	Equipment Repair-	\$ 500.00 yearly
	Building rent/utilities-	<u>\$3600.00 yearly</u>
		<u>\$ 6,750.00</u>
<u>05 Capital Outlay-Equipment:</u>	Office equipment and furniture	\$ 3,600.00
		<u>\$ 3,600.00</u>
	TOTAL	<u>\$53,363.28</u>

The fact that the market conduct and compliance of self insured (industrial insurance) will be transferred to NIC will not cause a reduction in expense because the administrative money (assessments) collected from self insureds will be transferred to NIC. It is a break even calculation.

TO SENATOR THOMAS WILSON

ACCOUNT NO. _____

FROM BOB HALEY

CLAIM NO. _____

SUBJECT S.B. 203

DATE MARCH 2, 1981

EXHIBIT I

Chairman Nusbaum asked that I suggest some questions which you might ask during the first hearing session on S.B. 203.

He has reviewed these questions and has approved my sending them to you in time for this afternoon's hearing.

The questions generally are directed at some entirely confusing sections of the bill.

RSH/dkc

2/27/81

Suggested Questions for Spike

Question: Please explain section 74.

Comment: This section could create chaos as far as classification, premium rates and experience rating systems are concerned.

The insurance commissioner, though given the function of regulator, could be inundated with filings.

Specific points -

Section 74-1 "Every insurer shall file with the commissioner of insurance the rating system it proposes to use." If each insurer can define its own rating systems and if its filings may be supported by the "experience or judgement" of the insurer (lines 49 and 50, page 21; and lines 1-3, page 22), there could soon be no coherent classification, premium rate or experience rating system in Nevada.

Question: Section 74.2. Explain the apparent conflict between the provision on page 22, lines 9-11, "Nothing contained in this section requires any insurer to become a member or a subscriber to any rating organization" and,

Section 152, page 53, line 4, "Beginning on October 1, 1982, every insurer must be a member of a rating organization."

Question: How does one reconcile the provision of section 74 which permits a possible myriad of "rating plans" which include manuals of classifications, rules and rates, every rating plan and modification of any of them, and section 153 (page 53, line 7-13) which permits the commissioner of insurance to adopt reasonable regulations, and statistical plans which "must be used thereafter in recording and reporting by insurers of their loss and expense experience"?

Question: How does one reconcile the provisions of section 75-3 (page 23, line 18-22) "No manual of classifications, rules, rating plans or any modification of any of them which establishes standards for measuring variations in hazards, expense provisions or both, and which is being used pursuant to requirements of NRS 686.B.050, may be disapproved if the rates produced thereby meet the requirements of Section 74 of the Act." with section 153 of the Act?

Section 153 - The commissioner may adopt regulations and statistical plans which would be incompatible with a manual of classifications which may not be disapproved.

Question/Proposal: The provisions of sections 74 and 75 are so muddy that effective rate regulation would appear to be impossible.

If the purpose of these sections is to permit competition among insurers, would it not be possible to achieve the desirable end by substituting for sections 74 and 75 language along the following lines:

1. The commissioner of insurance shall designate a licensed rating organization - to establish a classification system for the purpose of classifying all risks required to provide worker's compensation to their employees.

2. All insurers writing worker's compensation policies shall assign the classification to risks in accordance with the rules and regulations promulgated by the rating organization and approved by the commissioner of insurance.
3. Base premium rates will be developed and filed by the designated rating organization based on prescribed experience data reported by insurers providing coverage to Nevada workers.
4. Insurers may deviate from the base premium rates approved by the commissioner of insurance by a fixed percentage, not to exceed ?%, applicable to all classifications. Insurers shall file a declaration with the commissioner of insurance defining the percentage deviation which will be applied to base rates. The filing must be made 15 days prior to the effective date of the rates to which it will apply.

Section 48 - This paragraph makes the state insurance fund, which is defined as a carrier, responsible for coverage of claims which are the responsibility of uninsured employers.

Question: 1. Why should the premiums of employers covered by the state insurance fund be used exclusively for this purpose?

2. Why should the Commission not assign such claims in the same manner as "assigned risks"? Each carrier would then carry his fair share.

Section 31 - Please explain the meaning of paragraph 2. "An employer who elects to insure against his liability with a carrier other than the state insurance fund assumes responsibility only so far as his carrier does not assume it."

It appears that a state insurance fund policy covers the entire liability of provisions of NRS 616 and 617. However, other "carriers" would be permitted to write limited liability policies, and the employee would be required to look to the carrier for some coverage and the employer for other coverage.

What happens if the employer disappears before the claim is settled and the carrier's liability is fulfilled?

When there is a question as to who is responsible, the carrier or the employer, how is the issue resolved?

Section 33. 2. (page 9, line 17) This section assigns coverage of trainees of the rehabilitation division to the state insurance fund for coverage.

This group is a poor risk group.

Why should it not be assigned as an assigned risk coverage?

Section 52 (page 15, line 4, line 7, line 8) - This section provides that the state insurance fund will provide accident benefits to an injured worker if the Commission finds that his employer is not providing adequate benefits.

Why should the state insurance fund provide benefits for which no premium was paid to the state insurance fund?

The cost is a cost of the workers' compensation program and is a regulatory matter. The Commission should pay from the administrative fund.

Section 65. Why should the state insurance fund be designated as the carrier responsible for benefits under "The Federal Longshoreman and Harbor Worker's Compensation Act, the Federal Coal Mine Health and Safety Act and other programs imposed on Nevada employers by the federal government?"

Why not let carriers provide such coverage as they see fit or make it eligible for assigned risk coverage?

Comment: Section 111.6. (page 39, lines 27-29) As between any claimant and the carrier no defense based on any act or omission of the insured employer, except non-payment of premium, may be raised by the carrier.

This provision reduces the coverage provided as compared to current NIC practice.

As long as a policy is in force, whether premiums are delinquent or not, NIC provides coverage.

The claimant will face greater inconvenience and possibly will be required to litigate to obtain benefits under the terms of this clause.

If the carrier denies coverage because of nonpayment of premium, will the claimant be entitled to coverage under the uninsured employer provision of the Act? Who makes the decision?

Question: Section 114.5. (page 41, lines 10-13) - Please explain the operation of this provision.

This section provides that any assessment for worker's compensation levied premiums will be offset as a credit against any other assessment or further tax or taxes upon the premiums under any other law of this state.

It would appear that a carrier could write worker's compensation and collect additional premium without paying any additional premium taxes until the premium assessment for worker's compensation exceeded all other premium taxes.

The carrier could double his premium income from the state while holding his taxes at a constant figure.

Section 116. (page 41, line 19-27) - This section requires a loan, interest free, from the state insurance fund to the administrative fund.

The state insurance fund is a trust fund which earns substantial income by investment of its assets.

The loan from the fund should be repaid at the average rate of interest realized by the fund during the years of repayment.

The cost of the money should be included in the assessments on carriers for the administrative fund.

3/2 - Cash
 Year Audited
 Report - 1980

EXHIBIT J

NIC

	ASSETS	CASH	LAND BLDG EQUIP	INVESTMENTS LONG & SHORT	PREMIUMS RECEIVABLE & OTHER	INCOME REVENUE
1972	46,473,193	2,111,605	703,448	38,457,974	4,619,981	550,185
1973	61,194,676	639,073	698,262	53,664,375	5,518,493	674,475
1974	84,858,178	891,554	1,236,420	74,428,960	7,255,630	1,005,614
1975	103,709,890	1,352,393	2,723,091	90,169,894	8,055,632	1,358,381
1976	127,514,820	1,037,258	3,530,738	110,163,368	9,761,054	3,022,401
1977	164,550,938	1,063,526	5,716,644	142,071,193	13,641,807	3,067,776
1978	213,127,000	1,740,000	8,980,000	180,619,000	19,404,000	3,384,000
1979	280,331,000	1,197,000	9,624,000	243,265,000	21,981,000	3,315,000
1980	334,190,000	1,838,000	10,243,000	293,377,000	24,248,000	4,925,000
	NET GAIN FROM OPERATIONS	PREMIUMS	LIABILITY FOR INCURRED BUT UNPAID LOSSES	ADMITTED SURPLUS	DEDUCTIONS PAID	
IN 1972	1,188,939	25,299,940	39,191,000	5,115,034		APRIL END OF
" 1973	2,508,391	32,759,194	51,358,000	7,623,425		FISCAL YEAR
" 1974	4,959,470	43,630,181	66,702,000	12,755,509		
" 1975	2,259,508	43,115,039	83,958,000	15,015,017		
" 1976	<3,158,813>	53,626,736	111,769,000	11,956,204		
" 1977	582,763	72,468,653	148,531,000	12,438,967		
" 1978	31,030,000	92,492,000	167,248,000	43,468,000	20,000,000	23,468,000
" 1979	15,673,000	111,259,000	212,739,000	37,787,000	15,000,000	22,787,000
IN 1980	22,724,000	128,278,000	256,865,000	45,515,000		
				+ 10,000,000		EARNED LAST 6 MONTHS 1980
						55,515,000 1 JAN 81