

## SUMMARY OF RECOMMENDATIONS

### LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO REVIEW THE UNITED STATES DEPARTMENT OF LABOR'S REPORT ON THE NEVADA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

*Nevada Revised Statutes 218E.200*

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Review the United States Department of Labor's Report on the Nevada Occupational Safety and Health Program at its final meeting on June 7, 2010, in Las Vegas, Nevada. The corresponding bill draft request (BDR) number follows each recommendation for legislation.

#### RECOMMENDATIONS FOR LEGISLATION

1. Enact legislation concerning assessments, fees, fines, and settlements relating to occupational safety and health, as follows:
  - a. To increase the fine for each willful violation not resulting in a workplace death from between \$5,000 and \$70,000 to between \$8,000 and \$120,000;
  - b. To increase the fine for each willful violation resulting in a workplace fatality from between \$50,000 and \$100,000 to between \$50,000 and \$250,000;
  - c. To increase insurance assessments, fines, and all other fees levied by the Nevada Occupational Safety and Health Administration (OSHA) to facilitate: (1) the hiring of additional Nevada OSHA staff, including inspectors, trainers, and administrative staff; and (2) increasing the salary of safety and mechanical inspectors to a level more comparable with the average salary of private industry inspectors;
  - d. To allow Nevada OSHA to fine employers who have failed to fulfill the conditions agreed upon in a settlement agreement within a reasonable time frame;
  - e. To require employers to pay fines due to safety violations prior to entering bankruptcy; and
  - f. To require employers, after a ruling and fines have been issued by Nevada OSHA, to make a bond or cash payment on the fines before pursuing an appeal of the ruling. **(BDR —100)**
2. Enact legislation authorizing Nevada OSHA to cite employers for workplace safety violations based on the presence of a hazardous condition, regardless of whether a State safety inspector observed an employee being exposed to the hazard. **(BDR —101)**

3. Enact legislation providing for communications with family members of workers injured or killed in occupational accidents, as follows:
  - a. To require Nevada OSHA, during investigations of workplace accidents resulting in a fatality, to interview surviving family members of workers and to solicit any pertinent information the workers may have shared with their family;
  - b. To require Nevada OSHA to notify family members or other worker representatives, regardless of whether the injured worker was a member of a union or not, when: (1) an investigation begins; (2) citations are issued; (3) formal settlement agreements are signed; (4) the case is contested; and (5) the case is closed;
  - c. To allow family members of workers injured or killed on the jobsite the opportunity to participate in all conferences and meetings pertaining to the accident investigation by Nevada OSHA;
  - d. To require Nevada OSHA to give family members or other worker representatives a written copy of all their rights pertaining to a workplace accident investigation; and
  - e. To create a worker advocate position to be a source of information and assist families that have recently lost a family member to a workplace fatality. **(BDR —102)**

During its final meeting and work session, the Subcommittee also considered a proposal to enact legislation requiring all Nevada OSHA investigations involving a workplace fatality be recommended to the local district attorney and/or the Office of the Attorney General for possible criminal prosecution. While no formal action was taken on this proposal, the Subcommittee agreed to notify the Legislative Commission of the proposal in this report should the Commission wish to further pursue the issue.

#### **SUBCOMMITTEE ACTIONS—PREPARATION OF LETTERS**

The members of the Legislative Commission's Subcommittee to Review the U.S. Department of Labor's Report on the Nevada Occupational Safety and Health Program also voted to:

4. Prepare a letter to be sent on the Subcommittee's behalf to the Division of Industrial Relations and Nevada OSHA, both within the Department of Business and Industry, and the Department of Personnel, requesting a salary survey, preferably conducted by the Department of Personnel, to determine how the average salary of State safety inspectors compares to that of safety inspectors in the private sector.
5. Prepare a letter to be sent on the Subcommittee's behalf to Nevada's Congressional Delegation; the Chair of the U.S. Senate Committee on Health, Education, Labor and Pensions; the U.S. House Committee on Education and Labor; the U.S. Department of Labor; and the U.S. Department of Labor's Occupational Safety and Health

Administration, requesting support for legislation and policies that ensure federal funding to states with OSHA plans is fair and adequate.