



**MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION
(*Nevada Revised Statutes 218.5375*)
January 14, 2000
Las Vegas Nevada**

The second meeting of the Legislative Committee on Workers' Compensation (*Nevada Revised Statutes* [NRS] 218.5375) for the 1999-2000 interim was held on Friday, January 14, 2000, at 8 a.m., in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and videoconferenced to the Legislative Building, Room 3138, 401 South Carson Street, Carson City, Nevada. Pages 2 through 5 contain the "Meeting Notice and Agenda."

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblyman David R. Parks, Chairman
Senator Margaret A. Carlton, Vice Chairwoman
Senator Ann O'Connell
Senator Dean A. Rhoads
Assemblyman Lynn C. Hettrick
Assemblywoman Gene Wines Segerblom

COMMITTEE MEMBER PRESENT IN CARSON CITY:

Senator Randolph J. Townsend

COMMITTEE MEMBER ABSENT:

Assemblyman David E. Goldwater

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Vance A. Hughey, Principal Research Analyst
Crystal M. McGee, Senior Research Analyst
Sue S. Matuska, Senior Deputy Legislative Counsel
Susan Furlong Reil, Senior Research Secretary

MEETING NOTICE AND AGENDA

Name of Organization: Legislative Committee on Workers= Compensation
 (*Nevada Revised Statutes 218.5375*)

Date and Time of Meeting: Friday, January 14, 2000

8 a.m.

Place of Meeting: Grant Sawyer State Office Building
Room 4401
555 East Washington Avenue
Las Vegas, Nevada

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

Legislative Building
Room 3138
401 South Carson Street
Carson City, Nevada

A G E N D A

- I. Opening Remarks and Introductions
Assemblyman David R. Parks, Chairman
- *II. Election of Vice Chairman
- *III. Approval of Minutes from October 14, 1999, Meeting
- IV. Informational Presentation Regarding the Duties of the Office for Consumer Health Assistance (OCHA)
Laurie England, Director, OCHA, Office of the Governor
- *V. Report Regarding Purchase of Public Employees= Retirement System of Nevada (PERS) Service Credit for Certain Employees of the Employers Insurance Company of Nevada (EICON)
Robert Gagnier, Executive Director, State of Nevada Employees Association (SNEA)
- VI. Informational Presentation Regarding the Functions Performed by Nevada=s Advisory Organization for Industrial Insurance, the National Council on Compensation Insurance (NCCI)
Maggie Karpuk, State Relations Executive, NCCI
Linda Presutti, Nevada Implementation Manager, NCCI
- VII. Informational Presentation Regarding the Division of Industrial Relations= Industrial Insurance Proof of Coverage Information System
Roger Bremner, Administrator, Division of Industrial Relations (DIR), Department of Business and Industry
Linda Presutti, Nevada Implementation Manager, NCCI
Mike Williams, Product Consultant, NCCI
- *VIII. Report Regarding Procedures for Investigating and Administering the Benefit Penalty
Nancyann Leeder, Nevada Attorney for Injured Workers
- *IX. Report Regarding the Consideration of Economic and Physical Harm of an Injured Employee When Determining the Amount of a Benefit Penalty
Roger Bremner, Administrator, DIR, Department of Business and Industry
John F. Wiles, Division Counsel, DIR, Department of Business and Industry
- *X. Report Regarding the Effect of the \$36,000 Maximum Annual Payroll for an Employee When Calculating an Employer=s Industrial Insurance Premium
Cliff King, Chief Insurance Examiner, Division of Insurance, Department of Business and Industry
Maggie Karpuk, State Relations Executive, NCCI

***XI. Report Regarding the Administration of Subsequent Injury Funds**

Roger Bremner, Administrator, DIR, Department of Business and Industry

Susan Dunt, Workers' Compensation and Safety Manager, Risk Management Division, Department of Administration

Robert A. Ostrovsky, President, Ostrovsky & Associates, and Representative for Employers Insurance Company of Nevada (EICON)

Sandra Simon, President, Nevada Self-Insurers Association

Danny L. Thompson, Executive Secretary/Treasurer, Nevada AFL-CIO

Patricia R. Walquist, Chairwoman, Subsequent Injury Board for Self-Insured Employers

John F. Wiles, Division Counsel, DIR, Department of Business and Industry

XII. Public Comment

XIII. Discussion of Future Meeting Dates

XIV. Adjournment

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

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Susan Furlong Reil at 775/684-6825 as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue.

OPENING REMARKS AND INTRODUCTIONS

Chairman Parks called the meeting to order at 8:17 a.m. and directed the Committee's secretary to call roll. All members were present except Assemblyman Goldwater.

ELECTION OF VICE CHAIRMAN

Chairman Parks reported that the Committee had not yet elected a Vice Chairman and requested nominations. He noted that by statute, the Chairman must be elected from one house of the Legislature and the Vice Chairman from the other house.

ASSEMBLYWOMAN SEGERBLOM MOVED TO NOMINATE SENATOR CARLTON AS VICE CHAIRWOMAN OF THE LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION. SENATOR O'CONNELL SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

APPROVAL OF MINUTES FROM OCTOBER 14, 1999, MEETING

Assemblyman Parks asked for approval of the minutes of the Committee meeting held on October 14, 1999.

SENATOR O'CONNELL MOVED FOR APPROVAL OF THE MINUTES OF THE COMMITTEE'S MEETING HELD ON OCTOBER 14, 1999, IN LAS VEGAS, NEVADA. ASSEMBLYMAN HETTRICK SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

**INFORMATIONAL PRESENTATION REGARDING THE DUTIES
OF THE OFFICE FOR CONSUMER HEALTH ASSISTANCE (OCHA)**

Laurie England

Laurie England, Director, Governor's Office for Consumer Health Assistance (OCHA), Las Vegas, provided the Committee with informational materials regarding OCHA (Exhibit A) and presented an overview regarding the organization's first three months of operation.

The OCHA was created pursuant to Senate Bill 37 (Chapter 388, *Statutes of Nevada 1999*), which "makes various changes regarding industrial insurance." The Office provides consumers with a single, objective point of contact to assist them with understanding their rights and responsibilities under various health plans, including industrial insurance policies. Other duties of the OCHA include: (1) establishing a system for the collection and maintenance of information pertaining to the written and telephonic inquiries received by OCHA; and (2) ensuring public awareness of the existence and purpose of OCHA. In this regard, she has met with private insurance carriers and various state agencies, including the Division of Insurance (DOI) and the Division of Industrial Relations (DIR), both of Nevada's Department of Business and Industry, to establish relations and develop effective channels of communication. In addition, a Web site has been established for the OCHA and can be accessed via the Internet at www.state.nv.us/cha.

Ms. England reported that the OCHA's Las Vegas office opened in late October 1999, and the Carson City office opened a short time later, in early November 1999. The hiring and training of staff is currently ongoing. It is anticipated that the OCHA's policies and procedures will be completed and ready for distribution by February 1, 2000. Also slated for completion by February 1, 2000, is a consumer satisfaction survey to assist management in assessing the satisfaction of both consumers and the insurance industry with OCHA's performance. The OCHA's ultimate goal is to create an accessible, consumer-friendly environment within which parties can meet and resolve issues relating to health care plans and industrial insurance policies.

Ms. England introduced the following OCHA staff and advisers: Dr. Javaid Anwar, Medical Adviser, Las Vegas; Dr. Ikram Khan, Medical Adviser, Las Vegas; and Judy Hammer, Quality Assurance Specialist, Las Vegas, who formerly served as the workers' compensation manager for Nevada Power Company.

**REPORT REGARDING PURCHASE OF
PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF NEVADA (PERS)
SERVICE CREDIT FOR CERTAIN EMPLOYEES OF THE EMPLOYERS INSURANCE COMPANY OF
NEVADA (EICON)**

Robert Gagnier

Robert Gagnier, Executive Director, State of Nevada Employees Association (SNEA), Carson City, directed the Committee's attention to a copy of the Complaint (Exhibit B) filed in the First Judicial District Court of the State of Nevada, in and for Carson City, against the Employers Insurance Company of Nevada (EICON). Please see also Exhibits C and D. Mr. Gagnier prefaced his remarks by stating that he is not an attorney, and as such, his comments with regard to the lawsuit filed by the SNEA on behalf of EICON employees are limited to the events that led to the filing of the complaint and to policy issues. Mr. Gagnier provided the following testimony:

- The Legislative Counsel Bureau's (LCB) Legal Division issued an opinion at the request of Assemblywoman Bonnie Parnell during the summer of 1999 stating that according to statute, effective December 31, 1999, all classified employees of EICON would be deemed laid off. Given this interpretation of the statute, EICON must purchase service credit under the Public Employees Retirement System (PERS) for certain eligible employees of EICON.
- The EICON received notice from a number of its employees requesting the purchase of PERS service credit in accordance with NRS 286.3007, "Purchase by state agency of credit for service: Conditions."
- *Nevada Revised Statutes* 286.3007 was established in 1985 as a joint effort of the Bryan Administration and the

SNEA to correct inequities that existed in statute. The law requires, in part, that if a state agency is required to reduce the size of its staff, it must participate in the purchase of up to five years of service credit under PERS for its eligible employees. The statute provides that if a state agency is required to purchase service credit for an employee, it must pay 5 percent of the cost of purchasing the service credit from PERS plus an additional 5 percent of the cost for each year that the person has been employed by the agency in excess of the minimum requirement of five years. The criteria that an employee must meet in order to qualify for this benefit are that he or she: (1) must be eligible to purchase credit; (2) must be eligible to retire or will be made eligible by the purchase of the credit; (3) agrees to retire upon completion of the purchase; and (4) has been employed by the agency for five or more years.

- On average, a state employee will pay approximately \$10,000 to purchase one year of service credit from PERS. Under the provisions of NRS 286.3007, EICON must pay 100 percent of the purchase cost if an employee has 24 or more years of service with the state (of which at least 5 years were with EICON).
- The EICON agreed to pay the purchase cost for five years of service for those employees who were 60 years of age or who would have 30 years of service with the purchase. However, its interpretation of the eligibility criterion set forth in NRS 286.3007(3)(b) is that the employee must be eligible to retire at an unreduced service retirement allowance.
- The PERS advised EICON that it was misinterpreting the statute. Thereafter, on November 2, 1999, the SNEA sent a letter to EICON's Chief Executive Officer asking that he explain the basis upon which EICON reached its interpretation of the subject statute. The SNEA did not receive a response to its letter from EICON.
- Subsequently, Assemblywoman Parnell again asked the Legal Division of LCB to provide its interpretation of the statute. The Legislative Counsel issued an opinion that concurred with PERS' and the SNEA's interpretation of the statute, but EICON continued to maintain its position. Consequently, PERS requested a formal opinion from the Office of the Attorney General. The Attorney General's legal opinion is consistent with that of the Legislative Counsel and supports the position taken by both PERS and the SNEA. Please see Exhibit E. Despite the opinions given by the Legislative Counsel and the Office of the Attorney General, EICON did not change its position. Thereafter, a lawsuit was filed by SNEA on behalf of a number of state employees against EICON.
- An Amended Complaint with an additional 6 plaintiffs was filed on January 12, 2000, bringing the total number of plaintiffs to 15.

Senator O'Connell questioned whether the statutes make reference to reemployment of such employees by other state agencies. Responding, Mr. Gagnier explained that it is PERS' policy that a retired employee may not be reemployed by another PERS-covered employer for at least 90 days. However, the retiree may work for a PERS-covered agency after this 90-day period, but his or her retirement benefit would be suspended for the duration of such employment.

Chairman Parks reported that he received a letter by fax that morning from EICON's legal counsel (Exhibit F), and he requested the Committee's legal staff to comment on the correspondence. Sue S. Matuska, Senior Deputy Legislative Counsel, Legal Division, LCB, Carson City, acknowledged that Chairman Parks did receive a letter from EICON's legal counsel in relation to the lawsuit filed by the SNEA on behalf of certain EICON employees. She reported that in the letter, EICON's legal counsel expressed some concern that the lawsuit is listed on the Committee's agenda for this meeting and further, emphasizing that the lawsuit is between two private parties and is of a private nature. Ms. Matuska stated that the Committee has the authority to review issues related to workers' compensation, and as Mr. Gagnier's testimony provided information on the circumstances which led to the filing of the lawsuit against EICON, she is of the opinion that the Committee is well within its bounds to hear testimony on this issue. Continuing, Ms. Matuska reported that the letter from EICON's legal representative further indicated that the Committee's members might be subpoenaed to testify based on their comments. Ms. Matuska noted that if any of the Committee members were to be subpoenaed, it would most likely be related to comments made by them during the 1999 Legislative Session.

Robert A. Ostrovsky

Robert A. Ostrovsky, President, Ostrovsky & Associates, Las Vegas, addressed the Committee on behalf of EICON. He stated that it is EICON's position that it would be inappropriate to discuss the Complaint filed against it as the

matter is currently in litigation. He opined that issues regarding policy are likely within the Committee's purview; however, the lawsuit filed against EICON involves a disagreement regarding the interpretation of an existing law, and EICON intends to defend its position in a court of law.

Chairman Parks indicated that the Committee will continue to follow the progress of the lawsuit.

**INFORMATIONAL PRESENTATION REGARDING THE FUNCTIONS PERFORMED
BY NEVADA'S ADVISORY ORGANIZATION FOR INDUSTRIAL INSURANCE,
THE NATIONAL COUNCIL ON COMPENSATION INSURANCE (NCCI)**

Maggie Karpuk

Maggie Karpuk, State Relations Executive, National Council on Compensation Insurance, Inc. (NCCI), Agoura Hills, California, presented background information on NCCI (please see Exhibits G, H, and I) and reported on its activities in Nevada, covering the following points:

- The NCCI is a nonprofit, statistical research and ratemaking entity that serves as an advisory organization. It was formed approximately 75 years ago by insurance companies to aggregate data. Each insurance carrier pays a fee to NCCI based upon its written premium, and these fees fund NCCI's operation. The NCCI's advisory services are provided to the State of Nevada without charge.
- Three divisions are encompassed within NCCI:
 1. Regulatory Services Division—This division is responsible for all matters pertaining to the governance of workers' compensation, including laws, rate filings, and state regulators. It serves as the liaison between NCCI and participating states.
 2. Residual Market Division—The workers' compensation assigned risk plan is under the Residual Market Division. The NCCI maintains a large customer service staff and a toll-free telephone number with hours of service to accommodate business in all time zones within the United States. Customer support staff typically provide information to agents, carriers, and employers on a wide variety of matters, including classification interpretation, modification factors, and other pertinent workers' compensation inquiries.
 3. Risk Services Division—Responsibility for dissemination of information from the various states to insurance carriers rests with this division. In addition, the Risk Services Division administers products and services that are derived from the NCCI's data collection efforts, e.g., affiliation contracts with carriers.
- The NCCI is governed by a board of directors. Its membership includes consumers, former insurance commissioners and regulators, insurance agents, and insurance carriers.
- In its traditional role as a statistical organization, the NCCI collects data related to workers' compensation in 38 states. The NCCI's actuaries analyze this information and make rate recommendations to the various states.
- Nevada's Commissioner of Insurance has designated NCCI as Nevada's ratemaking organization. The NCCI serves at the direction of the Commissioner of Insurance and the DOI.
- In some states with operating accident boards and labor commissions, the NCCI, as a vendor, supplies proof of coverage service. This service product enables subscribing states to obtain policy information from NCCI for each employer, as documented by the insurance carrier.
- The NCCI's operations in each state are governed by the regulations and rules of that locality. It collects and maintains information on various classifications, experience ratings, rates, and rules, and with this data compiles plans and reports. The resulting manuals and plans are filed with the Commissioner of Insurance, who reviews and then either modifies or approves the filings.
- Nevada's Commissioner of Insurance recognized that transition to a new classification system and ratemaking

methodology would disrupt employers' premiums. To address this issue, she formed a task force comprised of carriers, employers, and insurance agents, and requested that NCCI actuaries devise a proposed rate plan and present it this group. The proposed rate plan submitted by NCCI is tailored to Nevada's needs and maintains the employers' premium ranges at a manageable level. The Commissioner of Insurance subsequently approved this rate plan, referred to as the "Premium Transition Program."

- The NCCI developed a notification which contained the information that each employer would need in order to obtain industrial insurance bids from carriers, including the company's experience rating, new classification, and payroll. The notification was mailed to all Nevada employers and included an 800-telephone number for employers to call with questions. This 800 hotline was staffed by NCCI representatives.
- In a competitive marketplace, each carrier may develop its own unique market strategy. For example, an insurer may choose to target a specific range of business and write only policies over \$10,000. This circumstance occurred in Nevada when EICON, as part of its market strategy, chose not to renew policies with premium less than \$750. As a result, the policies of many self-employed state contractors were not renewed by EICON. The DOI and NCCI collaborated to create a separate classification system and a special rate and payment plan to ensure that affordable coverage is available to independent contractors who have contracted with the state.
- Another service offered by NCCI is that of providing review and third-party analysis of issues related to workers' compensation, both from a data and a financial aspect, to participating states. During the 1999 Nevada Legislative Session, NCCI reviewed S.B. 37 and provided the Legislature with an analysis of the potential impact the proposed benefit increases would have on industrial insurance rates should the measure be enacted into law.
- The NCCI proposes two types of advisory rate filings:
 1. Rate Components—These advisory rates are based on a number of factors, including acquisition costs, audits, board and bureau fees, commissions paid to agents, the DIR assessment, general administrative expenses, inspections, license fees, loss-based expenses, and premium taxes. These rates are presently filed in Nevada by NCCI. Please see Exhibit J.
 2. Loss Cost Components—With loss cost components, often referred to as "benchmark rates," the NCCI analyzes losses and premiums and sets a benchmark rate for carriers. The insurance carriers compare the loss cost components to their individual operating experience and then file multipliers with the DOI for review and approval. Please see Exhibit J.

Advisory rates are submitted annually to the Commissioner of Insurance for review. After the Commissioner of Insurance and her staff review the advisory rates, they either modify them or approve the rates as filed. The NCCI submitted a rate components filing in 1999 and will do so again this year. At the direction of Nevada's Legislature, the NCCI will submit a loss cost components filing in 2001.

Chairman Parks reported that a constituent who had received a nonrenewal notice from EICON suggested that as Chairman of the Legislative Committee on Workers' Compensation, he should go through the process of determining an employer's options for new coverage. He agreed to participate in this exercise and called NCCI's hotline. Chairman Parks complimented NCCI's hotline staff, stating that they responded quickly to his inquiries. He reported that in shopping for coverage, he found some carriers are not interested in insuring a small entity while others are willing to write policies for most employers, regardless of size, in the hope that they will retain the company's business as it grows.

Senator O'Connell asked Ms. Karpuk to provide the Committee with a list of those carriers who are willing to insure small employers. She commented that she has received a number of inquiries from constituents seeking direction on obtaining new coverage. Responding, Ms. Karpuk explained that the carriers' business plans, which describes the target market of each carrier, are filed with the DOI. She offered to work with Cliff King, Chief Insurance Examiner, Division of Insurance, Nevada's Department of Business and Industry, Carson City, to establish a telephone hotline to direct employers to carriers interested in writing small businesses.

Mr. King reported that more than 200 carriers are now authorized to write workers' compensation coverage in Nevada and indicated that the DOI does have a list of carriers willing to write small risks. He noted that the DOI has

prepared at least three press releases advising small employers how to secure new coverage; however, these public announcements have not appeared in all newspapers.

Continuing, Mr. King stated that EICON is providing 60 days' notice of its intent not to renew policies as required by law. The DOI and NCCI have agreed that if an employer is frustrated and no longer desires to shop for new coverage, he may elect to be placed in the assigned risk plan by calling NCCI directly at 1-800-NCCI-123 and completing an application over the phone. The application process takes approximately ten minutes to complete.

Mr. King concluded his remarks by emphasizing that not all employers who receive nonrenewal notices from EICON obtain coverage through the assigned risk plan. He reported that before Nevada's industrial insurance marketplace was opened to competition, EICON provided workers' compensation coverage to approximately 44,000 employers, and he estimated that approximately 18,000 of these policies reached their renewal anniversary dates between July 1, 1999, and December 31, 1999. Mr. King further reported that EICON has declined to renew the policies of approximately 1,500 small employers each month; hence, for the period August 1999 through December 1999, about 7,500 employers have received nonrenewal notices. The DOI's December 1999 report shows only 602 employers participating in the assigned risk plan, clearly demonstrating that adequate choices are available to employers trying to obtain new industrial insurance coverage. Employers seeking guidance on securing coverage are encouraged to contact the insurance agent who provides them with other types of insurance coverage. If that agent is unable to provide assistance, the DOI suggests that an employer seek referrals to other agents from business associates, family, and friends. Mr. King noted that some programs are available through several carriers, including EICON, who will write small risks on a group basis.

Senator O'Connell requested that Mr. King send her a copy of the DOI's news releases on this topic. Mr. King indicated that he would do so, and added that the press releases are also available on the DOI's Web site (<http://doi.state.nv.us>).

INFORMATIONAL PRESENTATION REGARDING THE DIVISION OF INDUSTRIAL RELATIONS' INDUSTRIAL INSURANCE PROOF OF COVERAGE INFORMATION SYSTEM

Roger Bremner

Roger Bremner, Administrator, DIR, Carson City, advised the Committee that Mike Williams, Product Consultant, NCCI, Boca Raton, Florida, and Marlene Lockard, Director, Department of Information Technology (DOIT), Carson City, were available to answer questions or provide clarification with regard to the DIR's proof of coverage information system.

Linda Presutti

Linda Presutti, Nevada Implementation Manager, NCCI, Boca Raton, Florida, provided the Committee with an overview of Nevada's proof of coverage system (Exhibit K) and discussed NCCI's relationship as a vendor for the DIR. Ms. Presutti made the following remarks:

- She has worked closely with both the DOI and EICON for the past three years to transition Nevada's historical workers' compensation data into formats that are compatible with NCCI's databases so that the information would be available for use by all insurers once Nevada's industrial insurance marketplace was opened to competition. Most recently, her efforts with the DIR have focused on the implementation of proof of coverage services.
- In excess of 2.3 million policies are reported annually to NCCI by private carriers, self-insured employers, and state funds. At any given time, the NCCI maintains approximately 10 million policies nationally in its online database.
- The NCCI began offering proof of coverage service on behalf of its affiliates in 1986. Currently, the NCCI provides this service in 22 states. Three proof of coverage (POC) products are available, and these may be modified to suit each state's requirements:

1. Online Inquiry—This program enables agencies such as the DIR to access the NCCI's database directly and conduct research necessary for compliance purposes. Many states take advantage of this online inquiry in concert with other services.
2. Monthly or Semimonthly Activity Extract Record Layout—In most states, the NCCI provides either a monthly or semimonthly extract of activity. Because the extracts are only sent on a monthly or semimonthly basis, the information is not as accurate or timely as the online inquiry product.
3. Electronic Data Interchange (EDI) International Association of Industrial Insurance Accident Boards and Commissions (IAIABC) Standard Flat File Record Layout—The NCCI transmits edited policy transactions daily to those states that select this POC product. The state processes these transactions and sends an acknowledgment or critique to NCCI. Once the NCCI receives the state's acknowledgement or critique, it transmits this information, either electronically or in hard copy, back to the data provider.

States may select more than one of these mechanisms for receiving proof of coverage information. Nevada currently utilizes NCCI's POC service through the online inquiry system and the EDI transmission product. These services are provided to the DOI and the DIR at no cost.

- One of NCCI's goals in providing the POC service is to assist participating states in their efforts to protect employees by ensuring that all employers comply with the law.
- Data collection is an expensive and time-consuming process. The POC service offered by NCCI enables states to forego this expense and at the same time relieves carriers of the need to report policy data to multiple entities, e.g., the NCCI and various state agencies. The flexibility of NCCI's policy transaction process allows insurers to submit data in a variety of electronic and hard copy formats. As a result, there is minimal delay in the transmission of policy information from insurers to NCCI.
- Agencies such as the DIR are able to achieve a paperless reporting environment with little impact to insurers' established processes.
- The NCCI edits the policy information submitted by insurers and provides immediate feedback to the data provider as to the acceptability of that information. This policy data is then converted to the IAIABC standard EDI format, and Nevada-specific edits that have been selected by the DIR are applied. Once these edits have been completed, the data is transferred electronically to the DIR. The transmission of data takes place daily.
- Policy data received by NCCI via electronic transmission is added to the database within two days, and in hard copy format, within five days.
- The NCCI currently assists the DIR in its compliance efforts by providing ad hoc reports upon request. This has proven to be an effective interim tool for DIR while the DOIT finalizes the DIR's proof of coverage system.
- By leveraging its existing relationships with insurers and providing common familiar reporting formats, data transmission methodology, and procedures, the NCCI is able to provide states with more accurate and timely information than they would receive if they required direct reporting.
- In analyzing the data of states that have transitioned from a direct reporting process to NCCI's IPOC service, NCCI has found that it receives policy data sooner than the states had been receiving this information. In addition, the NCCI's analysis revealed that the policy data it receives is generally more complete than that provided directly to the states. These differences may be attributed to the elimination of delays that occur when multiple correction processes are required. For instance, insurers who submit data to NCCI receive one critique of the data and submit the corrections to one central site while those who report directly to the states must submit data corrections to NCCI and also complete at least one additional correction process for the state. In addition, when the NCCI receives multistate policy data, it ensures that every state mentioned therein is notified of the policy's existence.
- Insurers are required to report policy data to NCCI for a number of reasons. One byproduct of this requirement is that NCCI can provide that information directly to accident boards and workers' compensation commissions,

thus eliminating the need for dual reporting by insurers. As a result, insurers enjoy lower operating costs and are able to offer more attractive premium rates to employers.

- Because NCCI collects policy data in the same format utilized by all carriers that report to a rating organization, the insurers are able to satisfy Nevada's reporting requirements using their mainstream of data.
- The NCCI worked closely with EICON over a two-year period to convert the state's historical workers' compensation data to the standard format utilized by all carriers that report to a rating agency, thereby allowing the data to be effectively shared with all interested insurers for purposes such as determining experience ratings.
- The vast majority of all Nevada carriers had established relationships with NCCI before Nevada's market was opened to competition. Therefore, NCCI is able to utilize its established network to communicate any reporting requirements or changes to carriers.

Senator O'Connell questioned whether the information collected by NCCI, including the experience rating, is confidential or if it is available to the public. Ms. Presutti explained that an experience rating modification factor may be obtained by calling NCCI, but the underlying information that was used to determine that factor may be obtained only if the request is accompanied by a letter of authority, with the following exception: an employer may obtain the information that was used to set the experience modification factor if the employer's carrier authored the underlying rationale for that factor.

Continuing, Senator O'Connell noted that efforts have been underway for a number of years to diversify Nevada's economy, and she questioned whether any information on average workers' compensation costs is currently available to companies that are considering opening a business or relocating in the state. She observed that for many years, Nevada has been known for its high workers' compensation costs. This circumstance has deterred companies from further expanding their Nevada operations and also hindered efforts to attract new industries to the state. Ms. Karpuk, previously identified on page 10 of these minutes, indicated that NCCI's actuaries can provide an average experience modification factor for a specific industry. Senator O'Connell asked when average statewide workers' compensation cost information would be available. Responding, Ms. Karpuk indicated that she would find out how long it will take NCCI's actuaries to provide industry-specific average modification factors and provide the information to the Committee either that day, or to the Committee's chairman at a later date.

Ms. Presutti continued her presentation, making the following remarks:

- The benefits of NCCI's proof of coverage service to Nevada include the following:
 1. The DIR is able to access workers' compensation policy information from one source, NCCI, rather than collecting it from in excess of 200 insurance providers that are authorized to offer this coverage in Nevada.
 2. Policy data is transmitted electronically to the DIR on a daily basis.
 3. At the direction of the DIR, the NCCI is able to quickly alter the state profile so that changes are reflected in the next day's data.
 4. Data transmission is accomplished through the file transfer protocol (FTP) process, allowing for total automation at both the DIR and NCCI sites.
 5. Access to NCCI's online system provides a "real time" view of the proof of coverage information.
 6. The NCCI performs state-specific and quality edits of policy data in accordance with the IAIABC format.
 7. In addition, NCCI performs hundreds of different logical edits to the data, produces error reports, and returns error reports to the carriers.
- Data protection is a priority of NCCI, and rapid return to operations in the event of a disaster is one of its major objectives. The NCCI data is backed up in four different locations. In addition, insurance providers retain their original transmissions. Further, copies of NCCI's database are stored at various libraries, and another copy is

stored at a separate physical location.

In the event of a local disaster, NCCI maintains a fully tested "hot site" in Sterling, New York. Its goal is to become operational within 48 hours of an emergency.

- The NCCI maintains manuals and policies as reference tools for the insurance industry. Insurers are kept advised of changes through circulars and informational bulletins. All circulars, manuals, and policies are available on the NCCI's Web site, and a section of that Web site is dedicated to Nevada.
- In addition, NCCI conducts seminars nationwide to answer the questions of data providers and give them instructions on data reporting. State-specific seminars are also available upon request.
- The NCCI receives over 200 telephone calls per day, and its goal is to return each call within 24 hours. Customer service representatives are available to answer questions between 8 a.m. and 8 p.m. (Eastern Standard/Daylight Time) to accommodate customers nationwide.
- The statistical services unit of NCCI is responsible for communication with regulatory agencies and bodies, and it provides direct reports to the DIR and addresses issues regarding proof of coverage.

Concluding her remarks, Ms. Presutti stated that NCCI is committed to providing the State of Nevada with a full array of workers' compensation products and expertise.

Roger Bremner

Roger Bremner, Administrator, DIR, Carson City, commented that before the transition to a competitive workers' compensation marketplace, the DIR was concerned that it may not have adequate information to ensure that uninsured claims did not increase. According to DIR statistics, during the last six months of 1999, 50 possible uninsured claims were submitted for review in northern Nevada, and only 4 of these were accepted. In southern Nevada, 178 possible uninsured claims were submitted, and 13 were accepted. In comparison, for the first six months of 1999, 31 uninsured claims were accepted for southern Nevada and 7 for northern Nevada. These statistics demonstrate that the efforts of DIR staff to review potentially uninsured claims at the earliest possible date have been effective in lowering the number of uninsured claims.

Chairman Parks asked Mr. Bremner to comment on the size of the typical uninsured employer and number of employees that the DIR has dealt with on this issue. He also questioned whether lack of knowledge regarding Nevada's statutory requirements might have been a factor in these uninsured cases. Responding, Mr. Bremner stated that a statistical analysis of this issue is not currently available, and he indicated that he would provide a report to the Committee at a future date.

Assemblyman Hettrick questioned whether there is an investigative section of the DIR that immediately attempts to locate the claimant's employer as soon as a possible uninsured claim is submitted. Mr. Bremner reported that the DIR's enforcement section performs investigations as necessary.

Marlene Lockard

Marlene Lockard, Director, DOIT, Carson City, reported that the DOIT is working with NCCI to develop a proof of coverage system for the State of Nevada. The expected completion date for the first phase of this project is April 21, 2000, and it is anticipated that the investigation interface will be finished by June 1, 2000.

REPORT REGARDING PROCEDURES FOR INVESTIGATING AND ADMINISTERING THE BENEFIT PENALTY

Nancyann Leeder

Nancyann Leeder, Nevada Attorney for Injured Workers, Carson City, indicated that she had been asked to advise the Committee of an issue which has arisen with respect to the procedures for investigating and administering the

benefit penalty. Ms. Leeder provided the Committee with a copy of her December 29, 1999, memorandum (Exhibit L) regarding this topic to Crystal M. McGee, Senior Research Analyst, Research Division, LCB and made the following remarks:

- The Hearings Division of Nevada's Department of Administration is charged with deciding the merits of contested workers' compensation claims. Enforcement of Appeals office and court decisions regarding these cases is the responsibility of the DIR.
- Additional duties of the DIR include enforcing workers' compensation regulations and statutes and conducting investigations when no litigation is pending.
- *Nevada Revised Statutes* 616D.120 was amended in 1995 and in effect became a substitute for civil tort litigation for cases involving claims of bad faith and mismanagement of workers' compensation claims. This intensified the DIR's enforcement and investigation duties. In addition, the DIR continued to carry out its independent responsibility to enforce workers' safety regulations and statutes.
- Some disputes have arisen regarding the DIR's enforcement of decisions of the Appeals office and court determinations in contested workers' compensation claims. If a decision is rendered in favor of an injured worker, and the claimant is of the opinion that a party has failed to comply with that decision, then either he or his counsel must file a complaint with the DIR to seek enforcement of the order.
- The DIR has established an internal procedure for investigation of these types of complaints, and once it completes its inquiry, it issues a decision as to whether there is reasonable compliance with the order of the court or Appeals office and if a fine or benefit penalty should be assessed. Thereafter, the established process is as follows:
 1. In the event a fine or benefit penalty is assessed, then the party against whom the decision is rendered may appeal and obtain a hearing through the Appeals office.
 2. If the DIR determines that a fine or benefit penalty is not appropriate, no hearing may be had.
 3. However, if an injured worker seeks compliance with a decision rendered in his favor by the Appeals office or a court, and the DIR determines that there is no noncompliance or that noncompliance is insufficient to assess a fine or benefit penalty, then the injured worker is deemed to be aggrieved by that decision and is entitled to appeal the DIR's decision to the district court.
 4. The district court then must decide whether or not the DIR's decision is proper. However, because there is no record of the DIR's decision other than its written order, the court, in her view, does not have a record on appeal as required by statute and thus does not have access to all the facts necessary to make an informed decision. The district court may:
 - (a) Conduct a hearing on the issue and render a decision based on that hearing and the documents filed with the appeal;
 - (b) Remand the case to the DIR and order that it hold an administrative hearing; or
 - (c) Render a decision based upon its review of the record provided to it by the parties and the arguments and research of counsel.
- There are presently two court cases pending which present this issue, one in the Eighth Judicial District Court of the State of Nevada, in and for Clark County; and the second in the Fourth Judicial District Court of the State of Nevada, in and for Elko County. She anticipates that an additional case will be filed in the near future in the district court for either Carson City or Washoe County, Nevada. No court decisions have been rendered in any of these cases.

Assemblyman Hettrick questioned whether the notice sent by DIR to the interested parties simply provides its findings or if the notice also sets forth the basis upon which the DIR reached its conclusions. Responding, Ms. Leeder

indicated that the DIR's decisions contain an explanation of the basis for its findings. Assemblyman Hettrick pointed out that at a minimum, the court has before it the appellant's complaint and the DIR's decision, and he questioned why the court could not make a ruling based on these materials. He also invited Ms. Leeder to suggest possible solutions to the problem. Responding, Ms. Leeder indicated that during its investigation, the DIR has the initial complaint of the injured worker, which may only consist of a short handwritten statement with few details. She referenced a case in which the DIR allegedly made a decision without the benefit of evidence or a full transcript of the hearing. Assemblyman Hettrick acknowledged that in such a case, he could understand a ruling against the DIR; however, he questioned whether it is possible for the NAIW to provide a more complete written summary of the complaint to the court. Ms. Leeder agreed that a summary could be provided to the court in the form of a brief and attachments, which would in essence supplement the record. She emphasized that the issue she was addressing is the lack of an adequate record on appeal. Ms. Leeder did not provide a possible solution to the problem.

Assemblyman Hettrick again asked Ms. Leeder to share her thoughts on possible solutions to the lack of an adequate record on appeal, and opined that any action on the part of the Committee at this juncture may be premature, particularly in view of the fact that a court decision has not yet been rendered on this issue. Ms. Leeder explained that in one of the two cases currently on appeal to the district courts, the NAIW filed the complaint and attachments with the DIR but was not involved in the investigation or the decision-making process. With regard to the other case on appeal, the DIR became involved only after the district court remanded the case to the DIR and directed that the Administrator appoint the NAIW to represent the injured worker. Since the NAIW was not involved when the injured worker initially filed the complaint with the DIR, it did not provide any additional information. She acknowledged that in those instances where the NAIW is involved at the time the complaint is filed with the DIR, the NAIW can supply supplemental information for consideration.

Continuing, Ms. Leeder noted that she was asked to present this issue to the Committee but has not yet had an opportunity to explore possible solutions with other interested parties. She suggested that one possible option would be to have orders enforced by the body that renders the decision. Assemblyman Hettrick expressed concern that this type of arrangement would create the effect of a summary judgment in that the decision making body would likely order that its decision be carried out regardless of whether the DIR has determined that there is reasonable compliance. Alternatives he suggested were: (1) require a hearing; or (2) provide that the record on appeal may be supplemented, particularly in those cases where the NAIW does not become involved until after the DIR issues its decision. He pointed out that in the case where the NAIW was involved with filing the injured worker's complaint with the DIR, it did provide supplemental information. Ms. Leeder pointed out that while it can provide additional documentation at that point, it cannot fully respond unless it is aware of the issues being reviewed by the DIR. Assemblyman Hettrick indicated that with Ms. Leeder's guidance, the Committee will find a reasonable solution that provides the courts with adequate information to make well-informed decisions.

In response to an inquiry from Assemblywoman Segerblom, Ms. Leeder reported that the Office of the Attorney General investigates workers' compensation fraud. Assemblywoman Segerblom also questioned whether a claimant who receives temporary total disability (TTD) benefits might secure employment that requires performance of tasks not associated with his or her previous injury. Ms. Leeder indicated that a claimant may not return to work while receiving TTD benefits unless: (1) the treating physician gives the injured worker permission to attempt to return to work; or (2) the physician releases the injured employee to work on a restricted basis, e.g., reduced hours.

REPORT REGARDING THE CONSIDERATION OF ECONOMIC AND PHYSICAL HARM OF AN INJURED EMPLOYEE WHEN DETERMINING THE AMOUNT OF A BENEFIT PENALTY

Roger Bremner

Roger Bremner, Administrator, DIR, Carson City, introduced John F. Wiles, Division Counsel, DIR, Henderson, Nevada, and Nancy E. Fong Wong, Division Counsel, DIR, Reno, Nevada.

Nancy E. Fong Wong

Ms. Wong explained that in 1995, NRS 616D.120 was amended and provisions for benefit penalties added. This statute was again amended during the 1999 Session to change the amount of benefit penalty that could be awarded to

an injured worker from a range of \$500 to \$10,000, to a range of \$5,000 to \$25,000. The statute, as amended in 1999, also directs that in setting a benefit penalty, the DIR must consider the physical harm to the injured employee. The 1999 legislation further provided that if an employer receives three violations in a five-year period, the DIR must also consider the economic harm caused to the injured employee or his family when assessing a benefit penalty.

Continuing, Ms. Wong reported that while the DIR prepared to work on new regulations, it held two workshops in October 1999 to provide the public with an opportunity to comment on the changes to statute. Seven persons signed the attendance sheet in Las Vegas, and four members of the public attended the meeting in Carson City. The viewpoints presented by the public at each meeting differed greatly. The meeting in Las Vegas included discussion about the possible use of a point system. In contrast, it was the consensus of the people attending the Carson City meeting that the DIR should handle each matter on a case-by-case basis and that new regulations are probably unnecessary. The DIR is considering the public input it has received as it works on drafting regulations.

Senator O'Connell questioned when the new regulations would be available. Responding, Ms. Wong reported that the DIR is currently working on the regulations, and it must give 30 days' notice before a public hearing on the proposed regulations can be conducted. Mr. Wiles added that the DIR is considering the comments received at the public workshops, and he anticipates that other parties will provide the DIR with additional input. He pointed out that the issues that have arisen from the changes to statute are complex, and the DIR would like an opportunity to solicit more comments prior to finalizing a draft of proposed regulations. It is anticipated that a hearing on proposed regulations can be accomplished within the next 60 days.

Continuing her questioning, Senator O'Connell expressed surprise regarding the low public attendance at the DIR's workshops and questioned who received notice regarding these meetings. Ms. Wong indicated that she, too, is surprised that so few people attended the workshops. She explained that a certificate of mailing was prepared and notice posted to the county libraries and to the usual posting locations, such as the DIR office, EICON's offices, and the Grant Sawyer State Office Building. In addition, a mailing was sent to all persons who have requested to be placed on the DIR's mailing list and to other interested parties. Further, Ms. Wong indicated that all persons who attended the hearing on the assessment issue held earlier the same day were advised of the public workshop. Senator O'Connell requested that people in the audience indicate by a show of hands whether they were aware that public workshops had been conducted. In response, six people in the audience raised their hands. Senator O'Connell requested that all persons who signed the attendance sheet for the Committee's meeting be provided with notice of the DIR's next hearing on its proposed regulations. Chairman Parks indicated that Committee staff would ensure that a copy of the attendance record is provided to Ms. Wong.

REPORT REGARDING THE EFFECT OF THE \$36,000 MAXIMUM ANNUAL PAYROLL FOR AN EMPLOYEE WHEN CALCULATING AN EMPLOYER'S INDUSTRIAL INSURANCE PREMIUM

Cliff King

Cliff King, Chief Insurance Examiner, DOI, Carson City, announced that Maggie Karpuk, State Relations Executive, NCCI, Agoura Hills, California, would be discussing the implications of removing the \$36,000 payroll cap for an employee when calculating an employer's industrial insurance premium. He indicated that the DOI's consulting actuary, Glen Taylor, of Taylor, Walker & Associates, would be available to answer any questions of the Committee following Ms. Karpuk's presentation.

Maggie Karpuk

Maggie Karpuk, State Relations Executive, NCCI, provided the Committee with a report regarding the effect of the \$36,000 maximum annual payroll for an employee when calculating an employer's industrial insurance premium. Please see Exhibit M. Ms. Karpuk made the following remarks:

- Nevada law provides for a maximum annual payroll per employee of \$36,000 for purposes of determining workers' compensation premiums. In making its annual rate filing recommendation, the NCCI analyzes and evaluates premiums and losses on a statewide basis. Contained within that rate filing is also a classification-by-classification rate filing with specific rates for each classification code. Hence, even if there is no change in the

overall rate, the rates for each individual class code may increase or decrease.

- If the payroll cap were removed, premiums would remain the same, class by class. Because of the increased payroll, however, rates would go down. For example, if a particular class was assigned a rate of \$10 per \$100 of payroll, the rate would need to be adjusted downward in order to keep the overall premium at the same level.
- Removing the payroll cap would not cause the rate for a classification to increase proportionately. However, individual employers could experience a change in their premium. As demonstrated by the example contained on the last page of Exhibit N, if an employer's payroll is within the average for a particular class, its premium will remain the same; if its payroll is above the average, its premium will rise; and if its payroll is below the average, its premium will decrease. If an employer requires its employees to work an unusual amount of overtime, it exposes its employees to greater potential for injury; hence, the employer's premium may be higher.
- In effect, removal of the payroll cap would cause a more even distribution of the premium among employers, with each paying its fair share based on exposure.

Assemblyman Hettrick observed that the information provided by NCCI suggests that higher paid workers have higher medical costs. He pointed out that because this group may include executives, these same employees might also tend to experience fewer losses. Further, he questioned the average claims costs for higher paid employees as a group taking into account the lower number of claims and the alleged greater medical costs. He also expressed concern that the information presented by NCCI characterizes removal of the payroll cap as resulting in fair and even distribution of the premium among employers.

Assemblyman Hettrick also observed that since the average wage in Nevada is \$23,000 to \$24,000 per year and there is a payroll cap of \$36,000 on workers' compensation premiums, an employer most likely is already required to pay more premium for the additional exposure to loss that is created when one of its average wage employees works overtime. He questioned the rationale for any proposal to eliminate the payroll cap in Nevada when the system as currently structured is operating smoothly.

Ms. Karpuk advised the Committee that NCCI follows state regulations and does not have a position with respect to Nevada's \$36,000 payroll cap. She noted, however, that the national trend is to eliminate payroll caps. Continuing, she explained that the example provided by Assemblyman Hettrick of an employer's premium being based on \$36,000 while its average payroll is actually \$24,000 illustrates the fact that it is possible for subsidies to occur under the present system. In contrast, if the payroll cap were eliminated, the premiums of an employer with lower payroll would decrease. She further explained that executives are not included in the group she referred to in her presentation as "higher paid workers" because these individuals are treated separately.

Assemblyman Hettrick questioned how the premiums paid by one company subsidize those of another company if the industrial insurance costs of both companies are based on wages paid, e.g., if one company pays \$24,000 for a certain job and another company pays \$36,000 for that same job, and both employers' premiums are based on the actual wages paid. Ms. Karpuk explained that if a company has 24 employees and one worker earns \$60,000 and another \$40,000 for the same position, there is a range of pay that must average \$36,000. Assemblyman Hettrick indicated that his understanding of Ms. Karpuk's testimony is that an employer's total premium would not change if the payroll cap was eliminated. Responding, Ms. Karpuk indicated that without a payroll cap, the risk would be spread differently, with some employers paying more on an individual basis and some paying less, but the entire classification paying the same. Directing the Committee's attention to the examples contained on the last page of Exhibit M, Ms. Karpuk further explained that because the wages paid by Risk A are within the average range, its premiums would remain the same. However, Risk B, which either pays its employees above-average wages or requires them to work more overtime than most companies, would pay higher premiums. Finally, if an employer pays its workers less than average wages as indicated for Risk C, then its premiums would decrease. Hence, an employer's premium would change based on the loss exposure to its workers, but the overall premium paid for a given classification would remain the same.

Assemblyman Hettrick expressed concern that broadening or eliminating the payroll cap would in essence penalize those employers who pay higher wages for the same job classification. For example, if Employer A pays \$36,000 for a particular position and Employer B pays \$24,000 for that same job, then Employer A—whose worker is exposed to the same risk of injury as is the employee of Employer B—will be required to pay a higher premium and thus will be

penalized for offering its employee a higher wage.

Ms. Karpuk explained that because the pay scales of most companies are based on industry salary standards, differences in pay for the same position can most often be attributed to overtime. She pointed out that most companies cannot afford to offer their employees a salary which is a great deal higher than their competitors pay for the same position. She stated that the analysis provided to the Committee by NCCI is based on a state-by-state and national review of data and opined that sometimes the data does not support the conclusion reached through a common sense evaluation of an issue.

Concluding his remarks, Assemblyman Hettrick pointed out that since the average Nevada wage is \$24,000, an employee would need to work 50 percent overtime in one year before reaching the \$36,000 payroll cap. Hence, in the vast majority of cases, the employer is already paying premiums for overtime wages. Assemblyman Hettrick noted that he is unaware of any issues that would justify broadening or eliminating the current payroll cap.

Ms. Karpuk reiterated that NCCI does not have a position regarding Nevada's payroll cap and emphasized that her presentation is intended solely to provide information to the Committee for its review, the theory being that elimination of the payroll cap would create a more equitable distribution of workers' compensation premiums.

Cliff King

Cliff King, Chief Insurance Examiner, Division of Insurance, Nevada's Department of Business and Industry, Carson City, emphasized that it is important to note that the examples provided by NCCI in its presentation are based upon the assumption that there would be no rate change other than the conversion from a limited to an unlimited payroll. He explained that rate changes are based upon actual experience for a three-year period and that a change in experience can cause a change in the rate. For instance, current rates are based upon experience for the years 1996, 1997, and 1998. As of July 1, 2000, the rates will be based upon experience for the years 1997, 1998, and 1999. He pointed out that in the event a rate change occurred at the same time that the payroll cap was broadened or eliminated, employers' premiums could be impacted. Further, he indicated that while removal of the payroll cap may eliminate some cross-subsidization, it would also create disruption in the market. Mr. King concluded his remarks by stating that the DOI has no position on the payroll cap at this time.

James Wadhams

James Wadhams, Wadhams & Akridge, Las Vegas, appeared on behalf of the American Insurance Association (AIA). Mr. Wadhams spoke in favor of eliminating the payroll cap and shared his views as follows:

- Assemblyman Hettrick's comparison of an employee who earns \$24,000 per year to another worker earning \$36,000 annually does not adequately illustrate the issue before the Committee, because the wages of both employees are underneath the payroll cap and thus their employers will pay premiums based upon their respective payrolls.
- The issue of cross-subsidy is more easily demonstrated when comparing employees whose earnings exceed the payroll cap, as is illustrated in the following example: Company A pays its employee \$20 per hour and Company B compensates its employee at the same rate for the same position. The employee at Company A required is required to work 70 hours a week while his counterpart at Company B only works 50 hours a week. Assuming each company pays its workers straight time, Company A's payroll is \$168,000 and Company B's payroll is \$120,000. Because of Nevada's payroll cap, both companies pay the same premium based on \$36,000 payroll, yet the employee of Company A—by virtue of the number of hours he is required to work—is exposed to greater risk of a workplace injury than his counterpart at Company B.

In conclusion, Mr. Wadhams urged the Committee to consider the policy issues presented by the payroll cap to ensure that employers' premiums are proportionate to their risk.

Assemblyman Hettrick acknowledged that the points made by Mr. Wadhams are correct insofar as they relate to a higher payroll marketplace. He pointed out, however, that Mr. Wadhams' argument does not address the issues that arise when two employees with the same risk of exposure are paid different wages, e.g., one is paid \$24,000 and another \$36,000. Continuing, Assemblyman Hettrick reiterated that in his view, elimination or broadening of the

payroll cap penalizes those employers who offer higher wages, and he suggested that the Committee may need to weigh the economic benefit of higher wages to the spreading of risk among Nevada employers. Further, he indicated that his concerns pertain to the philosophy of the statute.

Responding, Mr. Wadhams provided the following example: Company A is a contractor who only engages in construction of public works and Employer B only undertakes private construction projects. Both companies build a 100,000 square foot office building, one for the federal government and the other for a bank, and expose their employees to equal risk of injury. In accordance with federal law, Company A must pay Davis-Bacon Act wages, while Company B compensates its employees at a different rate, so that a disparity exists in the pay received by the employees of each company. Mr. Wadhams opined that this example illustrates that the issue at hand is whether the salary cap is a fair mechanism for avoiding negative cross-subsidization and addressing similarity of risk. Continuing, he emphasized that the legislatures in all other states across the country have considered elimination of payroll caps to be the best public policy. Mr. Wadhams suggested that if the Committee wishes to review this issue in greater detail, it may want to obtain more detailed information regarding the facts that led the legislatures of other states to eliminate their payroll caps.

Senator Carlton observed that since many employers are eligible for experience rating, then the number of claims filed by an employer is included as a factor in the employer's premiums. She questioned whether exposing workers to increased workplace injuries by requiring them to work overtime is an issue that should be addressed through experience modification factors rather than the premium cap.

Mr. Wadhams reported that it is his understanding that experience modification factors and risk exposure adjustments are two separate issues for evaluation. For example, a traveling salesman who drives 200,000 miles per year has a greater exposure of risk to workplace injury because his vehicle is on the road a great deal of the time; however, if the employee is accident free, a premium adjustment may be made.

Ms. Karpuk agreed, stating that experience rating is an equalizing force. Referencing the example contained on the last page of Exhibit M, Ms. Karpuk pointed out that while Company B's premiums may be higher because of the increased exposure to risk caused by the overtime its employees are required to work, if the company has satisfactory safety programs and a good safety record, then its premium may be lowered accordingly. Senator Carlton expressed concern that removing the payroll cap may penalize those employers who offer higher salaries.

Robert A. Ostrovsky

Robert A. Ostrovsky, President, Ostrovsky & Associates, Las Vegas, representing EICON, spoke in favor of eliminating the \$36,000 payroll cap. He reported that under the state-operated monopolistic worker's compensation insurance system, employers' premiums were based on the first \$36,000 of payroll. However, in the current competitive market environment, an employer may pay an insurer premiums that are based on the first \$36,000 of a highly paid employee's wages and then, in the middle of the year, move its policy to another industrial insurance carrier. In this instance, the employer could take the position that it has already paid its premiums to the first insurer and that it should not have to pay the new carrier any premium for the remainder of the year. Mr. Ostrovsky indicated that some discussion has taken place at the Commissioner of Insurance's office regarding the possible transfer of funds from one carrier to another or whether an employer should pay premium only on the first \$3,000 of wages each month, thereby spreading the premium over a 12-month period. He suggested that the Committee might wish to consider a number of issues for possible clarification, including the definition of an annual premium, e.g., is an annual premium based on the calendar year or the policy year.

Danny L. Thompson

Danny L. Thompson, Nevada State AFL-CIO, Las Vegas, spoke in favor of maintaining the \$36,000 payroll cap. Mr. Thompson pointed out that insurance by its nature is cross-subsidized, and he voiced concern that eliminating the payroll cap would in effect penalize employers who offer higher wages.

Mr. Thompson suggested that if the Committee intends to further consider removal of the payroll cap, it should conduct a separate hearing on the issue to afford contractors with an opportunity to appear and share their views on this topic. He related that testimony before the Senate's Committee on Commerce and Labor revealed at least one Reno iron works company whose premiums would have increased \$1.5 million per year had the payroll cap been

removed.

Ms. Karpuk agreed that this issue is of particular concern to the construction industry, especially since their premiums are factors in project bids. She reported that other states, including California, have addressed this bidding issue by working with contractors, legislators, and regulators to develop special programs to meet the special needs of the construction industry.

REPORT REGARDING THE ADMINISTRATION OF SUBSEQUENT INJURY FUNDS

Roger Bremner

Roger Bremner, Administrator, DIR, Carson City, appeared before the Committee with John F. Wiles, Division Counsel for the DIR, and requested that the Committee consider conducting a comprehensive review of the subsequent injury funds and their administration. Mr. Bremner reported that Senate Bill 42 of the 1999 Session, which would have revised the "provisions governing payment of workers' compensation for subsequent injuries from subsequent injury funds," was indefinitely postponed, with the suggestion that the subsequent injury funds mechanism and their administration be reviewed by the Legislative Committee on Workers' Compensation. He noted that Nevada currently has three separate subsequent injury funds. Only two of these subsequent injury funds have boards. The DIR's ultimate goal is to either simplify and improve the administration of the subsequent injury funds or to eliminate the funds altogether. Mr. Bremner suggested that the Committee could appoint a subcommittee to study the operation of Nevada's subsequent injury funds and report back to the full Committee with possible solutions.

James Wadhams

James Wadhams, Wadhams & Akridge, Las Vegas, spoke on behalf of the AIA in support of conducting a study to review the effectiveness and operation of Nevada's subsequent injury funds. Mr. Wadhams offered to participate in such an effort. He reported that many states have already taken action to dismantle their subsequent injury funds because they are difficult to negotiate and create an added expense to the cost of work-related injuries.

Patricia R. Walquist

Patricia R. Walquist, Manager, Corporate Workers' Compensation, Mandalay Resorts Group, Las Vegas, stated that she has served as Chairwoman of the Board for the Administration of the Subsequent Injury Fund for Self-Insured Employers (*Nevada Revised Statutes* 616B.548) since its inception in December 1995. Also serving on this Board are Bruce Mackay, Eldorado Hotel/Casino, Reno; Rod Sled, Barrick Goldstrike Mines, Incorporated, Elko; and Vicki Robinson, City of Las Vegas. One board seat is currently vacant.

Ms. Walquist reported that at its last meeting, the Board's members discussed their views regarding subsequent injury funding and reviewed a summary report of subsequent injury fund assessments and reimbursements for Fiscal Years (FY) 1996 through 1998 which was prepared by the DIR's Administrative Services Unit (Exhibit N). She pointed out that only 9.68 percent of the 310 self-insured employers eligible to access the subsequent injury fund have been approved for reimbursement from the fund. Based on the number of self-insured companies that have received subsequent injury fund reimbursement, it is the view of the Board that an employer evaluating a job applicant does not take into consideration the potential employee's possible eligibility for a subsequent injury fund-reimbursable injury at some future date. Further, Ms. Walquist is of the opinion that most employees with hiring authority have no knowledge of the subsequent injury funds.

Continuing, Ms. Walquist indicated that the subsequent injury fund application process is difficult and requires a substantial amount of time to complete. The Board did attempt to simplify the application process; however, after consulting with the DIR, its members concurred that the amount of information requested is necessary in order for the DIR to fulfill its fiduciary responsibilities. The Board is also concerned that a claim reimbursed from a subsequent injury fund may not be monitored as closely as it would be if an insurer or employer was paying the claim.

Ms. Walquist noted that if the subsequent injury funds are eliminated, claims that have already been approved would

continue to be funded, and an equitable plan could be developed for employers whereby claims would be considered through a certain date and thereafter would no longer be eligible for funding.

Sandra Simon

Sandra Simon, President, Nevada Self-Insurers Association, Las Vegas, spoke in favor of eliminating the subsequent injury fund. It is the Nevada Self-Insurers Association's view that with the enactment of the Americans with Disabilities Act (ADA), the subsequent injury fund is no longer an effective tool to promote hiring and retention of disabled persons, and that elimination of the fund would not adversely impact workers. The Association agrees that once a claim is accepted by the subsequent injury fund, it is probably not monitored as closely as it would be if an insurer or employer was paying the claim directly.

Concluding her remarks, Ms. Simon stated if the subsequent injury funds are eliminated, the Nevada Self-Insurers Association recommends that: (1) annuities be purchased to fund active claims; and (2) the Legislature establish a date beyond which claims will no longer be covered by the funds.

Robert A. Ostrovsky

Robert A. Ostrovsky, President, Ostrovsky & Associates, Las Vegas, reported that his client, EICON, was asked to provide the Committee with statistical information on subsequent injury funds but was unable to do so, in part because of recently discovered discrepancies between its records and those of the Public Employees' Benefits Program. For example, EICON's records indicate that the State of Nevada has 40 subsequent injury claims, while the Public Employees' Benefits Program lists 15 claims. Efforts are underway to resolve these inconsistencies.

Mr. Ostrovsky reported that EICON advocates the elimination or, in the alternative, the amalgamation, of Nevada's subsequent injury funds. He noted that under the monopolistic system that existed in Nevada prior to July 1, 1999, when an employer received subsequent injury fund relief, the state-operated industrial insurance agency applied a credit to that employer's account. While the new statute relative to administration of subsequent injury funds for private carriers provides that applications are to be made by insurers and that the benefits will accrue to the insurer, it does not specify the manner in which the insurer must account for these funds.

Continuing, Mr. Ostrovsky agreed with Ms. Simon that the advent of the ADA has rendered the subsequent injury fund ineffective as a means of promoting the hiring and retention of disabled persons. He expressed a desire to participate in a group effort to study the role of Nevada's subsequent injury funds in the current workers' compensation environment and their impact on individual employers.

Arthur L. Busby Jr.

Arthur L. Busby Jr., Risk Manager, Binion's Horseshoe Club, Las Vegas, shared the results of his research on subsequent injury funds with the Committee, noting that 13 states have abolished their subsequent injury funds. He explained that these type of funds were originally designed to encourage employers to hire and retain employees with preexisting disabilities while furnishing economic relief to those employers should a subsequent injury occur. However, with the enactment of the ADA and other antidiscriminatory laws, including Nevada's Fair Employment Practices Act, he is of the opinion that the subsequent injury fund mechanism no longer plays a significant role in an employer's decision to hire a disabled person. Mr. Busby pointed out that tax and wage relief benefits are available to employers who hire disabled persons, and the Horseshoe Club has taken advantage of such programs.

Susan Dunt

Susan Dunt, Workers' Compensation and Safety Manager, Risk Management Division (formerly a part of the Public Employees' Benefits Program), Nevada's Department of Administration, Carson City, provided the Committee with copies of materials that were presented to the Assembly's Committee on Commerce and Labor during the 1999 Session with regard to the proposed phasing out of Nevada's subsequent injury funds together with a report titled "State of Nevada, Subsequent Injury Fund Relief." Please see Exhibits O, P, and Q. The Risk Management Division opposes the elimination of the subsequent injury funds, and Ms. Dunt made the following remarks in support of its position:

- For the past five years, the State of Nevada has availed itself of the benefits and incentives provided by the subsequent injury fund; as a result, it has achieved an average cost savings of approximately \$1.5 million per year, and these savings have been passed on to the individual state agencies. Therefore, any changes to the subsequent injury fund will have a fiscal impact to the State of Nevada.
- The subsequent injury fund mechanism provides an added incentive to agencies to place employees who are no longer able to perform their current duties in alternate positions.
- While the ADA requires that an employer provide reasonable accommodations to enable an employee to do the essential functions of his or her regular job, it does not require that the employer place an injured employee in an alternate position.
- The Risk Management Division recognizes that improvements are needed to the administration of the subsequent injury funds to ensure fairness to all employers.

Concluding her presentation, Ms. Dunt expressed support for a study of subsequent injury funds and requested that the Risk Management Division be included in any such effort.

Responding to a question from Assemblyman Hettrick, Ms. Dunt noted that the Subsequent Injury Analysis prepared by the DIR (Exhibit N) does not include statistical data from EICON; hence, it does not include information on the State of Nevada. Assemblyman Hettrick noted that the analysis prepared by the DIR demonstrates that a few companies derived considerable benefit from the subsequent injury funds, while the majority of employers paid their assessments and received nothing in return. He pointed out that the Committee needs to know the amount contributed by the State of Nevada to the subsequent injury fund and the benefits it receives from that fund so that it can determine to what extent the elimination of the subsequent injury funds would financially impact the state.

Robert A. Ostrovsky

Robert A. Ostrovsky, President, Ostrovsky & Associates, Las Vegas, representing EICON, explained that years ago, the state-operated industrial insurance system paid into a subsequent injury account for all its policyholders, but specific amounts were not attributed to each employer. Later, the laws pertaining to subsequent injury funds were changed, and the funds from this subsequent injury account were transferred to a subsequent injury fund that was administered by the DIR. Thereafter, additional changes to statute were made, and the state-operated industrial insurance system again became responsible for administering subsequent injuries within its own accounting system. At that point in time, some of the funds that had been paid by the state-operated industrial insurance system into the subsequent injury fund administered by the DIR were transferred back to the system. Mr. Ostrovsky noted that because of the number and complexity of changes that have taken place with respect to administration of subsequent injury funds in Nevada, more time would be needed to precisely determine the potential fiscal impact of eliminating these funds in Nevada. On behalf of EICON, Mr. Ostrovsky offered to participate in a group effort to more fully address this issue and report back to the Committee at a later date.

Danny L. Thompson

Danny L. Thompson, Nevada AFL-CIO, Las Vegas, spoke in opposition to the elimination of subsequent injury funds in Nevada. Mr. Thompson opined that the subsequent injury funds provide an incentive for employers to retain employees who have suffered a previous work-related injury. For this reason, the Nevada AFL-CIO opposed Senate Bill 42 of the 1999 Session, which proposed to revise "provisions governing payment of workers' compensation for subsequent injuries from subsequent injury funds," by phasing out these funds. Mr. Thompson offered to participate in any group effort that may be initiated to study the operation of Nevada's subsequent injury funds.

Patricia R. Walquist

Ms. Walquist, Manager, Corporate Workers' Compensation, Mandalay Resorts Group, Las Vegas, and Chairwoman of the Board for the Administration of the Subsequent Injury Fund for Self-Insured Employers, clarified that an employer remains eligible for subsequent injury fund relief even if the employee from whose injury the claim arose is no longer working for the employer.

Lynn Grandlund

Lynn Grandlund, Employers of Nevada, Las Vegas, offered to participate in any group effort that may be initiated to study the operation of Nevada's subsequent injury funds or address the issue of the payroll cap.

John R. Reiser

John R. Reiser, CLU, President, Reiser & Associates, Carson City, appeared on behalf of the Builders Association of Northern Nevada, and spoke in support of maintaining subsequent injury funds in Nevada. Mr. Reiser provided the Committee with a copy of an editorial written by former Nevada Governor Mike O'Callaghan and requested that it be made a part of the official records of the meeting. Please see Exhibit R. He noted that at the time that creation of a subsequent injury fund was first considered, Mike O'Callaghan was serving as Nevada's Governor.

Mr. Reiser stated that it is the position of the Builders Association of Northern Nevada that the subsequent injury fund mechanism is fulfilling its purpose. The funds encourage employers to retain employees after they have sustained an industrial injury and incentivize them to return these injured workers to productive modified work as quickly as possible. He urged the Committee to maintain the subsequent injury funds and to search for solutions to the administrative challenges presented by the funds. Mr. Reiser also offered to participate in any group effort that may be initiated to study the operation of Nevada's subsequent injury funds.

Mat Dorangricchia

Mat Dorangricchia, Diversified Management Group, Reno, testified on behalf of the Nevada Chapter of the Associated General Contractors (AGC). Mr. Dorangricchia agreed with the testimony given in support of maintaining some form of subsequent injury program in Nevada. He offered to participate in any group effort that may be initiated to study the operation of Nevada's subsequent injury funds.

With regard to administration of the subsequent injury funds, Senator O'Connell suggested that it would be helpful to the Committee if legal counsel could provide clarification on the differences between the current and the expired statute. Chairman Parks agreed that clarification from legal staff with respect to the statutes governing subsequent injury funds together with additional background information on this topic would provide the Committee with the information it needs to make a decision as to whether to form a subcommittee to further study the operation of subsequent injury funds in Nevada.

Rod Sled

Rod Sled, Director of Human Resources, Barrick Goldstrike Mines, Incorporated, Elko, Nevada, stated that he has served as a member of the Board for the Administration of the Subsequent Injury Fund for Self-Insured Employers since its inception in 1995. Mr. Sled spoke in favor of eliminating the subsequent injury funds in Nevada. He pointed out that one of the reasons organizations became self-insured was to gain greater control over their claims management and workers' compensation costs. However, a review of the report prepared by the DIR's Administrative Services Unit (Exhibit N) demonstrates that one employer received 47 percent of the benefits paid from the subsequent injury fund for self-insured employers for the FYs 1996 through 1998.

PUBLIC COMMENT

John Petrelli

John Petrelli, General Manager, Humana Workers' Compensation Services, Las Vegas, which represents Villanova Insurance Company as its managing general agency, spoke in opposition to the midterm increase in workers' compensation insurance rates that became effective January 1, 2000. Mr. Petrelli stated that his calculations indicate that the rate increase is unwarranted. He explained that carriers must conduct a second, separate audit of each policy of insurance because of the midterm rate increase, in effect doubling an insurer's audit costs and resulting in an increased expense of about 2.75 percent to the insurer.

Jack McClary

Jack McClary, Insurance Solutions, Las Vegas, and President, Nevada Association of Automotive Service Professions (NAAST), Las Vegas, also presented testimony in opposition to the midterm rate increase in industrial insurance coverage that became effective January 1, 2000. He discussed his views as a business owner, an insurance agent, and President of NAAST, and making the following points:

- His goal as an insurer is not only to provide insurance coverage, but also to represent the interests of his clients.
- While the overall industrial insurance rate rose 6.4 percent, some class codes experienced increases up to 11 percent. As a result, one of his clients found it necessary to revise its budget in order to accommodate the midterm rate increase.
- In his discussions with representatives of private insurers, no carrier has been able to provide him with justification for the midterm rate increase.
- As a small business owner, his industrial insurance rates rose 6.4 percent, resulting in an increased premium of \$260 per year. He changed his shop rate from \$45 per hour to \$53 per hour to accommodate this additional expense.
- Had he been able to maintain his industrial insurance policy through term, he would have had more time to spread the cost of the increase and may not have had to pass this expense on to his customers.
- Little input was received from the business community and consumers at the hearing on the midterm rate increase.
- It is the position of NAAST that the midterm rate increase is inappropriate because the views of the private sector were not sought or received.

Senator O'Connell questioned whether Mr. McClary understood the justification for the rate increase. Responding, Mr. McClary stated that he did not. Continuing, he indicated that in reviewing the testimony presented at the rate increase hearing, several issues were raised, in particular the increase in workers' compensation benefits. In speaking to private insurers, he learned that prior to the implementation of three-way insurance, they were aware that there would be an increase in workers' compensation benefits effective January 1, 2000.

Mr. Petrelli, previously identified on page 34 of these minutes, pointed out that the rates were supposed to be adjusted effective January 1, 2000. However, in communications he has had with NCCI, as of January 12, 2000, an approved endorsement that provides direction to insurers on how to adjust the policies to accommodate the rate increase was not available.

Chairman Parks invited Cliff King, Chief Insurance Examiner, DOI, to comment on the midterm rate increase. Mr. King stated that the DOI conducted a hearing on the issue on December 15, 1999, and the rate order was signed on December 17, 1999. He reported that two individuals testified at the hearing; however, they did not provide any actuarial statistical data in support their comments. In addition, one representative of a self-insured employer asked a question. Mr. King noted for the record that the rate increase applies only to insured programs, not to self-insured employers.

Continuing his remarks, Mr. King explained that the rates that were in effect on July 1, 1999, were based on data for the years 1996, 1997, and 1998, and were approved in January of 1999, prior to the passage of S.B. 37. Senate Bill 37 changed the workers' compensation benefits effective January 1, 2000. In preparing its rate proposal, the NCCI conducted an actuarial review of claims data from EICON and determined that a 6 percent rate increase was needed to accommodate the benefit changes mandated by S.B. 37, and that the DIR assessment should be increased .4 percent.

Mr. McClary stated that he understands the rationale for the rate increase; however, as a businessman, he is not at liberty to automatically pass expense increases on to his customers. He pointed out that the rate increase proposed by NCCI is advisory, not mandatory, and opined that no consideration was given to the ultimate financial impact of such action on the consumer. Concluding his remarks, he urged that consideration be given to the concerns of

business owners and consumers at hearings on rate increases.

DISCUSSION OF FUTURE MEETING DATES

Chairman Parks referenced a memorandum sent to the Committee members with proposed future meeting dates. There being no objection, the next meeting of the Committee was set for March 10, 2000. Chairman Parks requested that any conflicts with future proposed meeting dates should be referred to Crystal M. McGee, Senior Research Analyst, Research Division, LCB.

ADJOURNMENT

ASSEMBLYMAN HETTRICK MOVED THAT THE MEETING BE ADJOURNED. SENATOR CARLTON SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

There being no further business to come before the Committee, Chairman Parks adjourned the meeting at 11:45 a.m.

Exhibit S is the Attendance Record for this meeting.

Respectfully submitted,

Susan Furlong Reil
Senior Research Secretary

Crystal M. McGee
Senior Research Analyst

APPROVED BY:

Assemblyman David R. Parks, Chairman

Date: _____

LIST OF EXHIBITS

Exhibit A is a letter from Laurie England, Director, Office for Consumer Health Assistance, Office of the Governor, Las Vegas, Nevada, to Assemblyman David R. Parks, dated December 29, 1999, with attached information regarding the Office for Consumer Health Assistance, provided by Ms. England.

Exhibit B is a copy of the Complaint in the matter of *Cable v. State of Nevada* filed with the First Judicial District Court of the State of Nevada, in and for Carson City, on December 29, 1999, provided by Robert Gagnier, Executive Director, State of Nevada Employees Association (SNEA), Carson City, Nevada.

Exhibit C is a copy of a newspaper article titled "State workers sue over benefits," which appeared in the December 30, 1999, edition of the *Nevada Appeal*, provided by Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, Carson City, Nevada.

Exhibit D is a copy of a news article titled "State employees file lawsuit over retirement benefits," which appeared in

the December 30, 1999 edition of the *Las Vegas Review-Journal*, provided by Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, Carson City, Nevada.

Exhibit E is a copy of Opinion No. 99-40 dated December 10, 1999, issued by the Office of the Attorney General, and provided by Sue S. Matuska, Senior Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau, Carson City, Nevada.

Exhibit F is a copy of a letter from Steven T. Walther, of Walther, Key, Maupin, Oats, Cox, Klaich & LeGoy, counsel for the Employers Insurance Company of Nevada, to Assemblyman David R. Parks, dated January 13, 2000, provided by Assemblyman Parks.

Exhibit G is an undated document titled "Nevada: Legislative Presentation" provided by Maggie Karpuk, State Relations Executive, National Council on Compensation Insurance, Inc., Agoura Hills, California.

Exhibit H is a brochure titled "Where Experience Adds Value" provided by Maggie Karpuk, State Relations Executive, National Council on Compensation Insurance, Inc., Agoura Hills, California.

Exhibit I is a brochure titled "Workers Compensation, Information for a Competitive Marketplace" provided by Maggie Karpuk, State Relations Executive, National Council on Compensation Insurance, Inc., Agoura Hills, California.

Exhibit J is an undated chart titled "State of Nevada, Rate Components" together with an attached chart titled "State of Nevada, Loss Cost Components" and an additional document titled "State of Nevada, Rate Components, Loss Cost Components" provided by Maggie Karpuk, State Relations Executive, National Council on Compensation Insurance, Inc., Agoura Hills, California.

Exhibit K is an undated document titled "Nevada: Proof of Coverage (POC) Services" provided by Linda Presutti, Nevada Implementation Manager, NCCI, Boca Raton, Florida.

Exhibit L is a copy of a memorandum dated December 29, 1999, from Nancyann Leeder, Nevada Attorney for Injured Workers, Carson City, Nevada, to Crystal M. McGee, Senior Research Analyst, Research Division, Legislative Counsel Bureau, Carson City, Nevada, regarding procedures for investigating and administering the benefit penalty, provided by Ms. Leeder.

Exhibit M is a document dated January 14, 2000, titled "State of Nevada, Limited vs. Unlimited Payroll in Workers' Compensation" provided by Maggie Karpuk, State Relations Executive, National Council on Compensation Insurance, Inc., Agoura Hills, California.

Exhibit N is a document titled "Subsequent Injury Analysis, FY 96-98" prepared by the Division of Industrial Relations, Administrative Services Unit, Nevada's Department of Business and Industry, and provided by Patricia R. Walquist, Manager, Corporate Workers' Compensation, Mandalay Resorts Group, Las Vegas, Nevada.

Exhibit O is a copy of a memorandum dated May 4, 1999, from Susan Dunt, Workers' Compensation and Safety Manager, Risk Management Division, Nevada's Department of Administration, Carson City, Nevada, to Chairwoman Barbara E. Buckley and members of the Assembly Standing Committee on Commerce and Labor, regarding the fiscal impact of Senate Bill 42 of the 1999 Session, which proposed to revise "provisions governing payment of workers' compensation for subsequent injuries from subsequent injury funds," provided by Ms. Dunt.

Exhibit P is a copy of a memorandum dated May 13, 1999, from Susan Dunt, Workers' Compensation and Safety Manager, Risk Management Division, Nevada's Department of Administration, Carson City, Nevada, to Assemblywoman Barbara E. Buckley, Chairwoman, Assembly Standing Committee on Commerce and Labor, with respect to options regarding Senate Bill 42 of the 1999 Session, which proposed to revise "provisions governing payment of workers' compensation for subsequent injuries from subsequent injury funds," provided by Ms. Dunt.

Exhibit Q is a document dated December 1999 and titled "State of Nevada, Subsequent Injury Fund Relief" provided by Susan Dunt, Workers' Compensation and Safety Manager, Risk Management Division, Nevada's Department of Administration, Carson City, Nevada.

Exhibit R is an undated copy of a newspaper article which appeared in the *Las Vegas Sun* written by former Nevada Governor Mike O'Callaghan titled "SB 42 is bad legislation," provided by John R. Reiser, CLU, President, Reiser & Associates, Carson City, Nevada.

Exhibit S is the "Attendance Record" for this meeting.

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at (702) 684-6827.