

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
February 25, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:33 a.m. on Wednesday, February 25, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Senatorial District No. 7
Senator Tick Segerblom, Senatorial District No. 3

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Patricia Devereux, Committee Secretary

OTHERS PRESENT:

Shawn McGivney, M.D.
Ernie Adler, Board of Directors, Rite of Passage High Schools
Patricia Theresa Brushfield
Gregory Martin
Rusty McAllister, President, Professional Fire Fighters of Nevada

Senate Committee on Commerce, Labor and Energy
February 25, 2015
Page 2

Lydia Edwards, Greater Boston Legal Services; National Domestic Workers Alliance

Stacey Shinn, Progressive Leadership Alliance of Nevada

Brian Shepherd, State Director, Service Employees International Union Nevada Local 1107

Maria Yolanda Florian

Andrew Chang

Jamie Shanklin

Dolores Rael

Lizabeth Bonilla

Ron Sumbang, Asian American Group LLC

Jose Castillo, Group Home Association, Reno

Mike Fitzpatrick, And Your Home, Too, Inc.

Chair Settlemeyer:

We have two bill draft requests (BDRs) for Committee introduction, BDR 53-991 and BDR 53-989.

BILL DRAFT REQUEST 53-991: Revises provisions relating to business. (Later introduced as [Senate Bill 194](#).)

BILL DRAFT REQUEST 53-989: Revises provisions governing compensation for overtime. (Later introduced as [Senate Bill 193](#).)

SENATOR HARDY MOVED TO INTRODUCE BDR 53-991.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

SENATOR HARDY MOVED TO INTRODUCE BDR 53-989.

SENATOR FARLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Settlemeyer:

We will open the hearing on Senate Bill (S.B.) 146.

SENATE BILL 146: Revises provisions relating to the payment of wages to certain employees. (BDR 53-629)

Senator David R. Parks (Senatorial District No. 7):

Under *Nevada Revised Statutes* (NRS), all live-in health care facility employers are required to pay for all hours that live-in caregivers are on-site, even if caregivers are sleeping and not actively working. This situation can be unreasonable, restrictive and costly. Under the Fair Labor Standards Act (FLSA), an employer may claim an overtime compensation exemption for a live-in caregiver. Persons employed in domestic service are covered by the FLSA. They must be paid at least the federal minimum wage for all hours worked and receive overtime pay of time and a half of their regular pay rate for all hours worked more than 40 hours in a week, unless they are subject to an exemption. Domestic service workers who live in the employer's facility or home may be exempt from the FLSA's overtime pay requirement. The definition of a "live-in domestic service worker" is someone who resides on the employer's premise permanently or for extended periods.

Senate Bill 146 was requested to provide relief for residential health care facilities that are required to pay for all hours that live-in caregivers are on the premises. As drafted, S.B. 146 does not capture what I had requested, as the bill's sponsor. My intent was only to request adoption in NRS of Title 29 CFR section 552.102, as outlined in my handout ([Exhibit C](#)). The Legislative Counsel Bureau's Legal Division will provide a mockup of a proposed amendment to S.B. 146 for the Committee.

Shawn McGivney, M.D.:

You have a copy of my written testimony ([Exhibit D](#)). I am a Las Vegas-area internist and geriatrics physician. I also run a residential care home (RCH) and serve on many long-term care boards. Up until 2014, there were three exemptions to Nevada's minimum wage and overtime rules: live-in domestic service workers, babysitters and taxicab drivers. In 2013, taxi drivers filed a lawsuit claiming they were entitled to minimum wage and overtime pay. In 2014, the Nevada Supreme Court deemed that all exemptions to the minimum wage law were unconstitutional. Despite that ruling, live-in domestic workers and babysitters are still subject to the exemption.

Many other states' laws mirror the minimum wage provisions of the FLSA. Removal of all exemptions in Nevada has resulted in a huge shift in the RCH industry. A very small group of domestic service workers who choose to be live-in and thus paid for all hours worked, but do not agree to be paid for personal, sleep and overtime, still have to be paid for all three categories.

There are approximately 5,000 nursing home beds and 3,000 RCH beds in Nevada. They comprise most of the long-term care system that offers 24-hour care. Nevada RCHs have operated with live-in domestic service workers for almost 20 years. Many care homes will close if they no longer have the live-in pay exemption. The State has a shortage of nursing home and RCH beds, which has forced 70 Nevadans to live in out-of-state nursing homes. If Nevada cannot allow the same live-in pay exemption as 29 CFR section 552.102, we could see more of its residents forced onto Medicaid and sent out of the State for long-term care. This has far-reaching effects on the residential care home and long-term care industries.

Domestic service workers choose to live in because of benefits like free housing, utilities, food, savings on transportation costs and job satisfaction derived from working in a family environment. The minimum wage exemption in Title 29 CFR section 552.102 protects live-in caregivers' rights. My industry also wants to protect the rights of caregivers, while realizing the live-in exemption is necessary to protect the ability of elderly and disabled people to have safe, cost-effective, community-based care and to minimize the number of people with low to middle incomes forced onto Medicaid and into State-run nursing homes.

Nevada is a national leader in residential care home safety. We are the only state that requires fire sprinklers, Board of Examiners for Long-Term Care Administrators-certified managers, liability insurance, annual State inspections, frequent ombudsman inspections and a developed license and training program. Just recently, California passed a law requiring nursing home liability insurance, and it still does not require sprinklers for homes with six or fewer residents. Arizona and Oregon do not require sprinklers. I have 76 statements of support for S.B. 146 ([Exhibit E](#)).

Senator Hardy:

Would the Nevada Supreme Court decision affect Opportunity Village or Easter Seals Nevada, Las Vegas?

Dr. McGivney:

The State's live-in exemption is excessively narrow. To be considered a live-in, a worker really has to be living on-site five nights a week. I do not think Opportunity Village would be affected.

Chair Settlemeyer:

We will ask staff to report to the Committee if S.B. 146 would affect Opportunity Village, because that was not the bill's intent.

Ernie Adler (Board of Directors, Rite of Passage Schools):

I am an attorney for Rite of Passage, which has several group homes throughout the Nation. The organization's counselors for troubled or foster children live in group homes. Counselors often sleep in the homes. If Rite of Passage had to pay them for sleep time, the cost would be prohibitive. We would have to ask them to sleep at home then return to the workplace, which is inconvenient for staff. Counselors are paid much more than minimum wage and the average Nevada wage, because most of them have bachelor's degrees. Rite of Passage operates in 17 states, of which Nevada is the only one that does not have provisions for the sleep-time pay exemption. If a group home has an emergency, and a counselor is awakened to take a child to the hospital, the counselors are paid for that. The counselors are not paid if they are sleeping for 8 hours in a separate room from their charges.

Chair Settlemeyer:

My understanding is the bill's exemption does not apply if workers have their own homes in which to sleep. Is that correct?

Mr. Adler:

The FLSA does not have that provision. It is bad policy to exempt workers who have their own homes. The Office of Labor Commissioner, Department of Business and Industry, would have to determine if workers have some other place in which to live outside of work, which could become a bureaucratic mess. That is unnecessary. The exemption is well defined in the FLSA, has been implemented all over the Country and works well. Most states exempt workers covered by collective bargaining agreements.

Patricia Theresa Brushfield:

I have operated a six-bed residential care facility for 25 years. Senate Bill 146 would affect a small number of workers, just caregivers who live in residential facilities. My two caregivers have worked for me for 9 years. They consider my facility their home; some of the residents and their families believe the staff owns the home. Staff members invite their friends and family over in the evening, hold birthday parties for themselves and the residents, organize card-playing nights for friends and Skype to their overseas families. They work approximately 12 hours per day, but they do things like sit down and watch television during their shifts, because we are a family.

The typical small residential care facility patient cannot function in large assisted-living facilities. Their acuity is high, and they need extra, personalized assistance. Patients are often low income, so cannot afford a large facility. It would be impossible for me to continue to pay my caregivers as the labor commissioner would dictate. My profit is approximately \$1,700 a month, and my payroll is \$12,000 a month. I have enough money for food, my mortgage and my State-required license fees, but I cannot continue much longer. I do not get days off and must sleep at my facility to avoid paying 8 hours of overtime to an employee. Over 24 hours, a caregiver would be paid regular wages for 8 hours, then work 16 hours with overtime pay, which I cannot afford. Either I must sleep at my facility every night, or I have to raise my residents' costs by \$1,000 per month; trust me, they do not have that kind of money. In December 2014, a U.S. district court ruled that my industry would collapse if caregivers were paid for sleep time. I have 130 petitions ([Exhibit F](#)) signed by people who believe that S.B. 146, if revised in accordance with Title 29 CFR section 552.102, would be a perfect law.

Gregory Martin:

I am a direct-care caregiver in Las Vegas. I was at a meeting of the Legislative Committee on Health Care's Task Force to Develop a State Plan to Address Alzheimer's Disease along with hundreds of people angry at the State. Every day, I am stunned at the disregard for dying people's care and families lost in an inescapable mire of darkness. Families are so financially strapped and worried, they do not sleep. Senate Bill 146 is, in some ways, preventative of discrimination, but in other ways is designed to keep the caregiver from being destroyed by a single court order. If the bill fails, a large part of the medical safety net will be irretrievably lost. The bill addresses several orders of workers who are ignored or put upon.

Rusty McAllister (President, Professional Fire Fighters of Nevada):

The Professional Fire Fighters of Nevada is neutral on S.B. 146. We would support it if an amendment clarified that it does not include public safety officials. Under the FLSA, public sector firefighters and police cannot have their sleep time or mealtime deducted from their working hours under various conditions, including if their shifts are more than 24 hours. That regulation is in Title 29 CFR section 553.222. Senator Parks has agreed to amend the bill to address those concerns. If the bill were to exempt workers covered by collective bargaining agreements or exempt public safety officials, we would fully support it.

Senator Hardy:

Would other workers be affected by this bill in unintended ways?

Mr. McAllister:

I am unaware of any other category of affected workers. All full-time salaried firefighters work 24-hour shifts. Typically, police officers do not.

Chair Settlemeyer:

What about prisoners, correctional officers or firefighters sleeping in fire areas? Perhaps only collective-bargaining workers should be excluded from the bill.

Mr. McAllister:

I do not know how firefighters are paid when they are on a work crew. Firefighters and Division of Forestry crew foremen can be out for a week at a time, but they are not paid for the entire time. Those employees are not covered by a collective-bargaining agreement, so if a provision were added to S.B. 146 including such workers, they would not be covered as State workers.

Chair Settlemeyer:

Agricultural workers do not earn minimum wage. We will close the hearing on S.B. 146 and open the hearing on S.B. 165.

SENATE BILL 165: Enacts the Domestic Workers' Bill of Rights. (BDR 53-135)

Senator Tick Segerblom (Senatorial District No. 3):

Senate Bill 165 deals with a subterranean economy: people who work in private homes, one-on-one, in jobs such as maids, caregivers, gardeners or chauffeurs. They are not hired through an agency. There are an estimated 30,000 to

40,000 such workers in Nevada. They do not have the legal right to earn minimum wage, legal protections, time for meals, things like that. The Domestic Workers' Bill of Rights is a national movement, with laws enacted in New York, California, Massachusetts and Hawaii. Domestic workers are vital to our economy and deserve legal protection.

Lydia Edwards (Greater Boston Legal Services; National Domestic Workers Alliance):

I am an attorney and was part of the campaign to draft, lobby for and pass the Massachusetts Domestic Workers' Bill of Rights. Much of the language in S.B. 165 is similar to our Domestic Workers' Bill of Rights. I also represent the National Domestic Workers Alliance (NDWA), a coalition of organizations representing house cleaners, nannies and eldercare service workers.

We are trying to correct past wrongs. In the 1930s, when sweeping legal rights were given to U.S. workers, domestic and farmworkers were excluded. We are trying to bring domestic workers' rights up to the same level as other workers' basic rights. The bill is trying to assure that domestic workers' labor is valued and dignified, and to maintain a workforce that will continue to care for and love American families. In addition to the four states that have passed similar bills, Illinois and Connecticut are considering them, and the NDWA is planning citywide versions in Texas, Florida and Atlanta, Georgia.

There is a tidal wave of inclusion of these excluded workers. The NDWA's HomeEconomics national survey of domestic workers found that most of them make an average of \$6.15 per hour and work 15-hour days without breaks. Many feel too intimidated to speak up. This movement and industry are about love. Employers like working moms and working families are on our side because they depend on and love their nannies and elder-service workers.

Domestic workers are the backbone of our economy; their work makes all other work possible. If they do not show up, employers cannot come to the statehouse, teach or go to their judgeship jobs. The bill assures that the backbone is getting recognition for all of the work it does, and its duties are actually recognized as "work." I run a legal clinic for domestic workers, and many of the issues addressed are solved in the bill. What is working time? If a judge asks me if nap time should be paid, what do I say? These questions do not arise with other workers when there is downtime. No one questions if a construction worker is actually working if he is walking to and from a project.

The reason this industry is undervalued could be a vestige of sexism and racism. We ask Nevada to treat domestic workers like the hard-working professionals they are and grant them the basic rights of being paid for the time they work, have that time recognized as actual work and have written contracts explaining their duties. This is an oral industry rife with communications breakdowns. People often forget what is in oral contracts. You have the sample draft contracts ([Exhibit G](#)) that follow the Massachusetts law.

Senator Segerblom:

The contract is something any homeowner could download from the Internet, fill out and have the worker sign.

Ms. Edwards:

Then, they would be done and comply with the law. If homeowners communicated and recorded exactly what they expected from home-care workers and had regular conversations, 90 percent of the wage claims and 90 percent of miscommunications and other concerns would be resolved.

Chair Settlemeyer:

In section 2 of S.B. 165, the provision concerning NRS 608.155 would apply to all Nevada workers. The Department of Employment, Training and Rehabilitation's Website states, "In general, all remuneration paid by a personal service is considered wages. Payments may be in the form of cash, other than cash, such as meals, lodging and merchandise ..." Could that adversely affect the gaming industry? If a gaming establishment provides meals to employees, if the value of meals is changed, would that drastically increase the businesses' tax burden?

Senator Segerblom:

No gaming establishments have contacted me, but they do not think the bill applies to them; however, it does to an extent. We can address that in amendments. The bill is intended to cover only individuals employed by homeowners, not people on worksites or who contract with agencies to work in private homes.

Senator Harris:

I want to make sure that all workers' rights are taken care of. As part of S.B. 165, will we ask homeowners and people who employ domestic workers

to provide workers' compensation insurance benefits paid into the State system and other things like that?

Ms. Edwards:

Senate Bill 165 does not have provisions about providing additional workers' compensation insurance for domestic workers. In Massachusetts, it is only required for workers who work more than 16 hours a week in homes. It was usually added to homeowners' insurance policies for \$100 to \$200 a year.

Senator Harris:

What would be required in Nevada?

Senator Segerblom:

If you have a worker in your home, you are required to deduct social security taxes and workers' compensation insurance. The bill does not provide legal remedies. It strictly tells employers what they must do, and if workers feel they are not being paid appropriately as per their contract, they could go to court.

Senator Harris:

Is the bill simply trying to establish a floor of basic rights for domestic workers, not subject homeowners to all of the responsibilities of typical employers?

Ms. Edwards:

The domestic workers industry is in a free-fall. I am surprised at the types of cases coming to the Greater Boston Legal Services clinic. Nannies have been asked to clean out cars that had been in accidents and where dead bodies had been. People were paid \$25 per day for 10 to 15 hours of work. There is no "floor," so employers just do what they think is right. That is why the proposed contracts, [Exhibit G](#), are not a form. Most job duties are subject to bargaining, and not requirements.

We would like the conversation to address questionable duties. Many of the workers whom I represent are too afraid after a year to ask about things like vacation or a pay raise. The movement is about both parties sitting down, working through contracts point-by-point and assessing their working relationship. When that happens, the retention rate dramatically increases, and salary negotiations occur. The flexibility and creativity of employers and workers is left alone by the movement.

Stacey Shinn (Progressive Leadership Alliance of Nevada):

Domestic labor has historically been invisible and unregulated. The Progressive Leadership Alliance of Nevada supports the movement to increase protections and fair compensation to these exploited employees. Senate Bill 165 addresses issues that disproportionately affect women, communities of color and immigrants.

Brian Shepherd (State Director, Service Employees International Union Nevada Local 1107):

Service Employees International Union Nevada Local 1107 supports S.B. 165. For more than 70 years, domestic workers have been excluded from basic labor protections. Accordingly, they often face abuse, exploitation, lack of rights such as meal and rest breaks, and exclusion from overtime laws. This bill is about making sure the person who cares for your home and loved ones is also cared for, by acknowledging that domestic workers deserve basic human dignity on the job.

Senator Farley:

How does the Domestic Workers' Bill of Rights impact international domestic workers who come here under contracts? Employers end up paying a lot to agencies, not the people working for them.

Ms. Shinn:

This is not about workers who go through contracted agencies; it is about individual homeowners and their laborers.

Senator Farley:

Are international contracts more unfair in terms of working hours and requirements? International agencies are probably more abusive than U.S. agencies.

Maria Yolanda Florian:

I have been a personal-care attendant in Clark County for about 5 years. I support S.B. 165, because some personal-care attendants living in homes have few rights, no meals and no respect. If their employers dismiss them for no reason, attendants become homeless. The bill would allow dismissed workers to stay in the home for 30 days until they find another job or home. The solution to disputes is a written contract with specified days off and work hours. We are human beings who deserve the right to be paid for the hours we work.

Mr. Martin:

The issue that Senator Farley asked about was addressed in A.B. No. 67 of the 77th Legislative Session, the sex-trafficking bill. International agencies bring workers here, then do not grant them rights and the money they earn goes to someone else. That bill covered international labor agreements.

Andrew Chang:

The extremely important work done by domestic workers includes caregiving for seniors, the disabled and children. When home-care workers are treated with dignity and have basic rights, the quality of care improves. My father was a caregiver. This issue is about sexism and racism in our laws, as the vast majority of workers are women.

Jamie Shanklin:

I am a Las Vegas personal-care attendant. I support S.B. 165 because domestic workers' jobs are very important, as they take care of children and elderly family members. They deserve the same rights, protections and fair treatment enjoyed by all workers.

Dolores Rael:

I have been a home-care worker for more than 15 years. I support S.B. 165 because domestic workers are invisible, and the industry is unregulated.

Lizabeth Bonilla:

I have been a caregiver for 42 years and in and out of homes like crazy. My biggest concern is that we are not considered human beings. We are gardeners, nannies, housekeepers, pet caregivers and chauffeurs. I do not mind working, but I support S.B. 165 to get some type of recognition.

Ms. Brushfield:

Senate Bill 146 deals with domestic service workers in residential facilities. Would that industry be subject to the provisions of S.B. 165? If so, my colleagues and I do not agree with certain aspects of the bill.

Chair Settlemeyer:

The Committee will look into what aspects of S.B. 146 and S.B. 165 might conflict. Your issues will be addressed.

Ms. Brushfield:

If S.B. 165 specifically addresses homeowners, not domestic worker employers who are not business owners regulated under some guidelines, I support the bill.

Ron Sumbang (Asian American Group LLC):

I am a board member of the Asian American Group LLC. I am speaking on behalf of our clientele. Nevada has 2.7 million residents, of which 12 percent are our most vulnerable citizens: the elderly. That is about 325,000 who may need care. Let us lower that down to 30,000 low-income elderly. They receive Supplemental Security Income, from \$900 to \$1,200 per month. How can they pay for care? If they cannot pay, will they not receive care? That is why they utilize the group-home industry, because we offer low-cost, alternative board and care. We care for people with very high acuity—who else would take care of someone like that with an income of only \$1,200 a month? In a couple of years, the 12 percent elderly population will increase to 30 percent in Nevada. How will we care for them?

Jose Castillo (Group Home Association, Reno):

Senate Bill 165 has conflicting provisions regarding domestic service workers. My organization consists of owners of small group homes. We are not a deep-pockets industry. We must pay for workers' compensation insurance and install sprinkler systems and other State requirements. We provide many services for people who cannot easily afford them. Medicaid only gives us a certain amount, based on a client's condition. Larger facilities can request higher Medicaid reimbursements.

I own a group home and am also a caregiver, which allows me to operate. The elderly need choices. We provide a home-like environment, like a family. Most caregivers are Filipino who were raised to take care of the elderly. Without the provisions of S.B. 165, home care could disappear when it will be needed most, as baby boomers age. I have 23 petitions in support of S.B. 146 ([Exhibit H](#)).

Senator Spearman:

Ms. Edwards indicated domestic workers have contracts. If so, why are workers afraid? A contract means there is negotiation between employers and workers about pay and expected duties. Contracts are not prescriptive, and there are usually written or verbal contracts at the time of hiring.

Mr. Castillo:

It is confusing because there are two bills with similar issues. I support both of them. I wanted to express the views of small-group homeowners.

Senator Hardy:

How would the bills intersect with patients' family members being paid by Medicare to be caregivers?

Mike Fitzpatrick (And Your Home, Too, Inc.):

I am on the board of an association of adult group care-home providers and administrators. Senate Bill 165 has great potential to cause unintended consequences. Many people on limited incomes or who have many children need domestic help. Students and other people are willing to work at a lower rate of pay in domestic situations. How will the bill impact payers and payees if it is not crafted to protect everyone?

Senator Spearman:

What unintended consequences are you predicting?

Mr. Fitzpatrick:

I do not have a specific answer, but in general, we need to be aware of potential unintended consequences.

Chair Settlemeyer:

When the bill is amended, we need to make sure that government workers are exempt, for the concern stated beforehand about fire crews who work for a week at a time. We also need to resolve the hotel-industry meals issue, so the hotel industry suddenly does not end up owing \$20 million in taxes to the State next year.

Senator Spearman:

All employees should have verbal or written contracts. It is incumbent upon employers to identify contract terms for potential employees to accept or reject. My first job, in high school, was as a hotel maid. I know people working as domestics are treated as less than human, which is inconsistent with Nevada's values. If you do not know how domestics are treated, view the movie "The Help."

Senator Segerblom:

Senate Bill 165 only deals with one-on-one situations in which a maid, nanny or housekeeper works in a private home. In group homes, companies hire workers, so the bill does not apply to them. We do not want to interfere with family members being paid as caregivers by Medicaid. Most of us have employed domestic workers and have treated them fairly. However, there are some situations in which that does not happen. Everyone's work has dignity, and we need to start enforcing that at the bottom floor. Domestic workers take care of our most prized possessions: our houses, kids, pets and the elderly.

Ms. Edwards:

In regard to Senator Farley's question, foreign workers were brought into Massachusetts under J-1 visas as au pairs. If they are still employed by the contracting agency, our law does not apply to them. However, if an au pair was brought in to work in a private home, we did not want her further "disappeared" or not seen, so she would be considered a domestic if she specifically did domestic work. Many au pairs are brought in on student exchanges for the summer to take care of vacationing children and are not doing domestic work as a vocation.

Chair Settlemeyer:

What happens if an out-of-state family with an au pair comes to ski in Nevada? Does the bill only apply to State residents?

Ms. Edwards:

Several states neighboring Massachusetts do not have the Domestic Workers' Bill of Rights. Out-of-state families go there to vacation. Traditional employment laws of their own state would apply to their help. When families have second homes on Cape Cod or Martha's Vineyard, they are considered residents and thus under the Commonwealth's jurisdiction.

Chair Settlemeyer:

Some out-of-state residents have Nevada homes in which they do not even live, for income tax purposes.

Ms. Edwards:

In streamlining the Massachusetts law, we wanted to make sure we defined who is the employer. In the Commonwealth, a caregiver who is paid by the state through Medicaid is considered an employee of the Commonwealth, for

tax purposes, and also by the individual homeowner. When such a joint employment arrangement exists, the worker is excluded from the Domestic Workers' Bill of Rights, because such a worker is already regulated as to taxes, hours and pay, and has legal protections.

The working families of the Commonwealth want our Domestic Workers' Bill of Rights. They want to feel like, "I did everything I could, she wrote it down, and I'm all set." I train employers as to what "all set" means, legally. Employers' top concern is whether they can afford to pay their live-in workers. I ask them to compare the cost of day care, versus employing a live-in domestic. The law does not require employers to make the most expensive decision. You can negotiate with a nanny about working times, services performed; day care operators may not be as flexible. Many people found that in order to stay independent and in their homes, they need someone to check in on them regularly. The bill assists—not burdens—them in their economic calculations.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Commerce, Labor and Energy
February 25, 2015
Page 17

Chair Settlemeyer:

We will close the hearing on S.B. 165. Seeing no further public comment or business before the Senate Committee on Commerce, Labor and Energy, I adjourn this meeting at 9:47 a.m.

RESPECTFULLY SUBMITTED:

Patricia Devereux,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	13		Attendance Roster
S.B. 146	C	1	Senator David R. Parks	Handout
S.B. 146	D	3	Shawn McGivney	Written testimony
S.B. 146	E	76	Shawn McGivney	Statements of support
S.B. 146	F	130	Patricia Theresa Brushfield	Statements of support
S.B. 165	G	5	Lydia Edwards	Draft sample contracts for domestic workers
S.B. 146	H	23	Jose Castillo	Statements of support