

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

**Seventy-Eighth Session
February 4, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:06 a.m. on Wednesday, February 4, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Renee Olson, Administrator, Employment Security Division, Department of
Employment, Training and Rehabilitation
Robert Ostrovsky, Employers Insurance Company of Nevada
Patrick Sanderson, Laborers' International Union Local 872, AFL-CIO

Chair Settelmeyer:

I will introduce our "Senate Committee on Commerce, Labor and Energy Committee Rules—78th Legislative Session" ([Exhibit C](#)).

Senator Atkinson:

As Chair, do you plan for us to vote on bills at the time of the hearing(s), or will we have a 24-hour waiting period?

Chair Settlemeyer:

I intend to have work sessions on Fridays. I would not vote on a bill that is problematic or contentious. If we hear a bill on Friday that is not problematic, we may be voting on it that day. Otherwise, for bills that are argumentative, I would allow a minimum of 24 hours before it was voted out of committee.

Senator Hardy:

According to rule 6 of the Committee Rules, [Exhibit C](#), are you saying a vote cannot happen at the same time as the hearing, or does it just need to be a separate action?

Chair Settlemeyer:

If everyone agrees with the bill, we can and will vote on it at the same meeting, as a separate action, especially as we get closer to deadlines.

SENATOR HARDY MOVED TO ADOPT THE COMMITTEE RULES.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Settlemeyer:

I will now open the discussion on the Committee Brief ([Exhibit D](#)).

Marji Paslov Thomas (Policy Analyst):

The Senate Committee on Commerce, Energy and Labor is typically a busy committee. The Committee heard 135 bills last Session. Please see [Exhibit D](#) to note the important deadlines on page 4, specifically April 10 and May 22, where bills must pass out of this Committee.

Pages 5-6 contain select State agency contacts that are used quite frequently. Page 7 lists select regulatory boards that this Committee hears from regularly. Page 9 contains some common acronyms, often used by our Committee.

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Committee staff contacts are found on page 10. Pages 11-18 list the *Nevada Revised Statutes* (NRS) chapters over which the Committee has jurisdiction.

Chair Settlemeyer:

We have a request for Committee introduction of Bill Draft Request (BDR) 52-634.

BILL DRAFT REQUEST 52-634: Revises provisions governing certain loans.
(Later introduced as Senate Bill 123.)

SENATOR HARDY MOVED TO INTRODUCE BDR 52-634.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Settlemeyer:

I will now open the hearing on Senate Bill (S.B.) 24.

SENATE BILL 24: Revises provisions governing unemployment compensation.
(BDR 53-383)

Renee Olson (Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):

I have submitted my written testimony (Exhibit E), which I will now summarize. Senate Bill 24 requests changes to NRS 612. Section 1 of S.B. 24 amends NRS 612.265 concerning confidentiality. Section 2 of S.B. 24 amends NRS 612.344 regarding rules governing the base period for filing an unemployment claim for a person who has received benefits for a disability or rehabilitation services. Additionally, on page 6, line 8, the wording "the initial" is replaced with "any," thus removing the limitation originally established in the statutory language. The published Nevada Supreme Court opinion driving this change is *Anderson v. State of Nevada Employment Security Division*, 130 Nev. Adv. Op. 32, 324 P.3d (2014). The Legislature may opt to reaffirm the original statute by retaining the current term "the initial." In that case, the Division would revert to adjudicating these cases according to existing statutory language.

Section 3 of S.B. 24 amends NRS 612.365 to extend the statute of limitations for the collection of unemployment benefit overpayment due to fraud from 5 years to 10 years. Section 4 of S.B. 24 amends NRS 612.445 to add a penalty of fraud if the person filing for unemployment does not disclose having received benefits for a disability or rehabilitation.

I would now like to introduce a proposed amendment ([Exhibit F](#)) to S.B. 24, changing the wording of NRS 612.115, subsection 1, paragraph (c) to include members of the Nevada National Guard. The payment for any unemployment claim for a member of the Nevada National Guard will be paid directly from the federal government, and, therefore, will not cost Nevada any money. I would like to comment further that support for this amendment has been offered by Caleb Cage, Executive Director of the Office of Veterans' Services, included in [Exhibit F](#).

Senator Hardy:

Can you summarize the significance of changing the term "the initial" to "any" in section 2, subsection 2? Is there any economic significance?

Ms. Olson:

"Initial" limits the period of time used to look for wages on the claimant's initial period of disability. Changing the terminology to "any" broadens the number of periods that can be used to establish wages for the claim. This activity generates so few claims that we do not see a large economic impact.

Senator Hardy:

Are you stating that if a person files a disability claim, the Employment Security Division's process will use a longer period of employment time to establish a fair benefit?

Ms. Olson:

Yes, that is a fair characterization.

Senator Hardy:

When we change the terminology to the word "any," does the State benefit by giving fewer benefits, or does the claimant potentially receive a better benefit?

Ms. Olson:

Use of the word “any” expands the claimant’s opportunity; therefore, it would benefit the claimant, not the State.

Senator Hardy:

Are you stating that the intent is to give the claimant a better benefit or a lesser benefit?

Ms. Olson:

The intent is to allow a better benefit.

Senator Spearman:

Regarding the emergency regulation, Exhibit A, of the Division, dated December 19, 2014, included in [Exhibit E](#), the last paragraph on page 2 states, “Reservists include the Army and Air National Guard and their servicemembers.” Is it implied that reservists are a separate category of the National Guard, or are they excluded?

Ms. Olson:

It was not the intention to exclude them. I can provide additional follow-up information.

Chair Settlemeyer:

Please follow up and report to the full Committee to make sure the reservists are not excluded. My additional comment is that I completely agree with the intent of the amendment and the emergency action the Governor took to make sure our Armed Forces are taken care of; however, I find it perplexing that an administrative action by the Governor invalidated NRS. I am not sure that is proper, although I do agree with the effect.

Robert Ostrovsky (Employers Insurance Company of Nevada):

I would like to offer an amendment to [S.B. 24](#) on behalf of Employers Insurance Company of Nevada (EICON) ([Exhibit G](#)). The workers’ compensation insurance (WCI) system started out as an exclusive system as the Nevada Industrial Commission (NIC). The Industrial Commission reorganized into the State Industrial Insurance System (SIIS), which was a one-way system. If injured on the job, the benefits are paid through the State fund, regardless of the name of the fund. In the early 1980s, a two-way system was created that allowed large

employers to self-insure. Now benefits could be paid through either the self-insurance fund or the State fund.

In the 1990s, private insurance was added, thus making benefit payment a three-way system. In the early 2000s, we went back to a two-way system since benefits were no longer offered by the State fund. The State fund was replaced with, and became, EICON. An employer's choice now is to purchase insurance from a private carrier or self-insure. Those are the two current methods of providing services covered under NRS 616 and NRS 617.

My amendment addresses updated language due to changes in the insurance systems. When the SIIS became a private insurer, language was added to the statute that required the private insurers to report a claims history, so Employment Security could investigate any potential fraud. Now there are a lot of private insurance companies, all of which supply claims information directly to the Division of Industrial Relations (DIR).

The DIR's computer system collects data from private and self-insurers. It is the intent of Employment Security to compare their payment schedule to the payment schedule of WCI to determine whether there is any fraud.

The last time data was compared on both systems, no fraud was evident. The statute requires Employment Security to request this information from the private carriers. Unfortunately, to supply all of this information from the large number of insurance carriers is a monumental task. In the 2013 Legislative Session, I proposed an amendment to S.B. No. 35 of the 77th Session. After meeting with DIR and Employment Security, EICON agreed to withdraw the amendment with the understanding that both would execute a memorandum of understanding to work toward the sharing of this electronic data as outlined in the attached Assembly Committee on Commerce and Labor minutes of May 10, 2013 ([Exhibit H](#)).

There have been subsequent meetings between DIR and Employment Security, which have revealed that the computer systems are not compatible. The DIR has requested funding from their budget cycle to begin acquiring a new computer system more compatible with the Employment Security system. Meanwhile, the statute still states that Employment Security can ask for the data from DIR, which is extremely cumbersome. Our amendment, [Exhibit G](#), would require the information to be provided by the other agencies.

I provided [Exhibit G](#) to EICON just a couple of days ago and did not realize this bill would be heard so quickly. Therefore, I will be working with EICON over the next week and a half to work out language that is suitable to protect EICON from having to supply data that is already available to Employment Security, although on an incompatible system.

We support S.B. 24, however, our amendment, [Exhibit G](#), would amend section 1, subsection 10, to take out the language of "private carrier" because EICON does not believe it will have enough authority to get the information required.

Chair Settlemeyer:

In section 1, new subsection 10 of [Exhibit G](#), I see that you are striking the sentence stating, "The Administrator shall charge a fee to cover the actual costs of any related administrative expenses." By deleting this, do you realize this would send the bill, which has great intent, straight to the Senate Committee on Finance, which is very dangerous.

Mr. Ostrovsky:

The fee was meant to apply to private carriers. We assume that if you are deleting the term "private carriers" from the language, one State agency would not be charging the other State agency.

Chair Settlemeyer:

You may want to reword the amendment to make sure the intent of the agencies not charging one another is fulfilled, but that the fee still exists.

Mr. Ostrovsky:

Thank you, I will look into it.

Chair Settlemeyer:

I would like to allow Ms. Olson to address the additional amendment and reach out to Mr. Ostrovsky to find some compromise.

Ms. Olson:

I am willing to work with all interested parties as well as DIR. Our unemployment insurance program is funded with federal dollars. We have rules we must follow with those federally funded dollars so when we provide services through our system that benefit another program, we are not allowed to spend

our federal dollars on that program. To take out the language we would not charge even our fellow agency, we need to make sure the benefit is properly charged to the correct funding source.

The other language that removes the authority to collect data from the industry refers to a section in the statute that governs WCI. It is Employment Security's understanding there would be a mandate to compare information that we have no authority to collect from any other agency. That portion of the statute does not provide a means to send information to us. We will agree to work on the language to come up with something that makes the most sense.

Chair Settlemeyer:

Please report back when the language has been updated.

Patrick Sanderson (Laborers' International Union Local 872, AFL-CIO):

We call Mr. Ostrovsky the Godfather of WCI because he was there over 50 years ago when I got my first WCI claim, and he is still here today. The most important aspect on WCI is getting injured people fixed. For every working person in Nevada, the only place for on-the-job injury benefits is WCI. We are in favor of S.B. 24; however, it is the language that is not understandable. I am asking this Committee to keep it simple to help the constituents of Nevada.

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Chair Settlemeyer:

I will now close the hearing on S.B. 24. The meeting is adjourned at 8:51 a.m.

RESPECTFULLY SUBMITTED:

Renee Fletcher,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	2		Attendance Roster
	C	2		Committee Rules
	D	19		Committee Brief
S.B. 24	E	6	Renee Olson	Written Testimony
S.B. 24	F	9	Renee Olson	Proposed Amendment
S.B. 24	G	7	Robert Ostrovsky	Proposed Amendment
S.B. 24	H	2	Robert Ostrovsky	Minutes from Assembly Committee (5-10-2013)