

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Ninth Session  
May 3, 2017**

The Committee on Commerce and Labor was called to order by Chair Irene Bustamante Adams at 1:08 p.m. on Wednesday, May 3, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Irene Bustamante Adams, Chair  
Assemblywoman Maggie Carlton, Vice Chair  
Assemblyman Nelson Araujo  
Assemblyman Chris Brooks  
Assemblyman Skip Daly  
Assemblyman Ira Hansen  
Assemblywoman Sandra Jauregui  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblywoman Dina Neal  
Assemblyman James Ohrenschall  
Assemblywoman Jill Tolles

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Paul Anderson (excused)  
Assemblyman Jason Frierson (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Tick Segerblom, Senate District No. 3



**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
Wil Keane, Committee Counsel  
Kathryn Kever, Committee Secretary  
Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

Jesse Wadhams, representing Nevada Surplus Lines Association; Nevada State Association of Health Underwriters; and Asurion Insurance Services  
Robert Ostrovsky, representing Employers Insurance Group.  
Robert L. Compan, Manager, Government and Industry Affairs, Farmers Insurance Group, Inc.  
Barbara D. Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry  
Jeanette K. Belz, representing Property Casualty Insurers Association of America  
Paul J. Enos, representing Nevada Self-Insurers Association  
Chas R. Nort, President, Nevada Alternative Solutions, Inc.  
David Oakden, President, S&C Claims Services, Inc.  
Helen Foley, representing Nevada Assisted Living Association  
Marlene Lockard, representing Service Employees International Union, Local 1107 Nevada  
Rocio Avila, State Director and Staff Attorney, National Domestic Workers Alliance  
Maria Salinas, Member, Service Employees International Union, Local 1107 Nevada  
Stacey Shinn, Policy Director, Progressive Leadership Alliance of Nevada

**Chair Bustamante Adams:**

[Roll was called. Committee rules and protocol were explained.] We have three bills today. I will open the hearing for Senate Bill 209 (1st Reprint). I know the stakeholders are still meeting to resolve the final details. The sections that still may not be resolved are sections 1 through 5. We will start the hearing with sections 6 through 12, and then we will discuss sections 1 through 5. I would like to tell the Committee members that this is a bill where there are four bills together in one. That is why I am separating the sections because there are many stakeholders, and it will make it easier to understand.

**Senate Bill 209 (1st Reprint): Revises provisions relating to insurance. (BDR 53-485)**

**Jesse Wadhams, representing Nevada Surplus Lines Association; Nevada State Association of Health Underwriters; and Asurion Insurance Services:**

I appreciate Senator Atkinson, Chair for the Senate Committee on Commerce and Labor, for processing this bill forward. Starting with section 6, I will briefly walk through the bill to let you know what we are trying to accomplish.

Section 6 works in conjunction with section 12, so I will come back to section 6 at the end. Section 7 is a component affecting what is called the Nevada Surplus Lines Association. The Nevada Surplus Lines Association works with the Commissioner of Insurance at the Division of Insurance, Department of Business and Industry, to help regulate the licensed but nonadmitted insurance market. Our association functions as an adjunct to the Commissioner of Insurance on that particular area. Section 7 would grant the Commissioner of Insurance authority to use an independent audit of our association in lieu of sending in her own examiners. This is simply authorization language and adds another ability for the Commissioner to utilize resources in the best manner. An independent audit could stand in place of an examination of our association, should the Commissioner so choose.

Section 8 is also for the Nevada Surplus Lines Association. Section 8 attempts to clarify that in any surplus lines transaction, there may be a number of different brokers who come in contact with the placement of the insurance. We want to make sure it is the last person in line who places the risk with the insurer who gets the commission on the underlying placement. There is some ambiguity under the current law. As it currently happens, any number of brokers could come in contact with the placement. If each one adds 20 percent commission to the product, it becomes somewhat expensive. We are simply clarifying that the last broker in line who finally places the risk with the insurer gets the 20 percent commission.

Sections 9 and 10, and the text of repealed sections at the very back of the bill deal with a concept that came out about six or eight years ago where there was some move to do a multistate compact on how states would deal with premium tax on these surplus lines, which tend to cross different state lines. The states would come together and have a clearinghouse for premium tax and would then distribute it back to the states. Ultimately, those compacts never really went anywhere. We are simply repealing some extraneous language. A number of states are moving in this direction. I want to say Kansas recently repealed its authorization as well.

**Chair Bustamante Adams:**

Mr. Wadhams, can I have you stop there? For the new legislators, could you put on the record what kind of insurance surplus lines actually provide? I know it is unique items, but if you could give an example for the Committee.

**Jesse Wadhams:**

Probably the most famous surplus lines include Lloyds of London, which insures unique risks or maybe something that is in transit. For example, performers insuring various body parts will go through a company like Lloyds of London. It can apply to things such as products in transit or unique items that move through the state. It is things like that which might be somewhat different than a Nevada-admitted insurer would insure.

Section 11 is on behalf of the Nevada State Association of Health Underwriters. This component grants authorization to the Commissioner of Insurance to promulgate regulations possibly allowing brokers to assess a commission when they sell health insurance to an individual. Currently, in the individual health insurance market, brokers are not allowed to charge a commission.

Section 12 is on behalf of Asurion Insurance Services, which provides cellphone or portable electronics insurance. The macro concept here is the way this product is sold is a little different from the average insurer and agent process. People simply go to the Verizon store, talk to the clerk, and he or she will ask how many minutes are wanted on the phone, how much data, how many text messages, and if protection is wanted. We are clarifying what we believe was the original intent of the law in 2011 [Senate Bill 292 of the 76th Session] that says the individual who offers and enrolls someone into an insurance program can get some compensation. There is an amendment ([Exhibit C](#)) where we, in conjunction with the Division of Insurance, have come up with a little more clarifying language. The concept is essentially as I just said, but the language in the amendment clarifies that it is offered to individuals who enroll customers into the program of insurance, and that the compensation is incidental to their overall compensation.

**Chair Bustamante Adams:**

We will pause here and take questions on sections 6 through 12.

**Assemblywoman Carlton:**

What part of the Senate Bill 292 of the 76th Session did people not understand?

**Jesse Wadhams:**

This is where it gets a little confusing. In 2015, there was a bill that came through on travel insurance [Senate Bill 373 of the 78th Session], unrelated to anything any of us were working on and how that product is sold. That codification of law affected *Nevada Revised Statutes* (NRS) Chapter 691D. We believe that under Senate Bill 292 of the 76th Session, our provision allowed that an employee who offered and processed individuals into the cell phone insurance would get compensation for offering that product. Senate Bill 373 of the 78th Session that codified travel insurance made it clear that only travel insurance and another particular component could be compensated for employees selling the product. We are basically going back and reestablishing what we believe the 2011 law intended.

**Assemblyman Kramer:**

Regarding the surplus lines insurance, usually people cannot buy insurance across state lines. Is this the sort of thing where individuals can buy insurance from any provider in the world for any particular thing? If the insurance company is not registered in Nevada, how is it contacted if something goes wrong? I also want to ask about the broker who signs up the client and gets the commission. Is it normal for the state to step in and dictate business practices such as that?

**Jesse Wadhams:**

As to your first question, it is not necessarily that individuals are looking to an out-of-state insurance company to place the risk; it is because the item may be unique, or for whatever reason, a Nevada-admitted insurer is not appropriate for that particular risk.

As to your second question in terms of commissioning, this bill and the amendment add clarity to the current process of who gets the commission. I believe the state deals all the time with how commissions are processed in a regulated industry such as insurance.

**Assemblyman Kramer:**

My point is, if you are a real estate broker and two or three brokers get together to make a sale, they find a way to split the commission. What you are talking about is the last person to touch it is the one who gets the commission, and the others are out of luck. There is no sharing of the commission. Is that correct?

**Jesse Wadhams:**

We intend to clarify that it is the individual who places the risk. A number of other people will be interested in speaking to him, so we move it to that level, and they deal with it.

**Assemblywoman Neal:**

My question is regarding the strike-out language in section 10, subsection 6. I am trying to understand a multistate agreement and the language that has been struck out. I am assuming there was some kind of relationship or nexus to the state, and we were collecting the insurance premium tax. Now, this particular section is completely struck out. I need more explanation around the strike-out language, and why it is being struck out.

**Jesse Wadhams:**

All of that actually works in conjunction with the entering into the multistate agreement, which never happened. Section 10, subsection 6 starts with "If the Commissioner has entered into a multi-state agreement . . . " they will do the following in paragraphs (a) through (c). Ultimately, what happened is no multistate agreement was ever entered into by Nevada. As it would work, Nevada does take the portion of the insurance premium tax for the component that is in the state. I believe that is correct, but I would have the Commissioner of Insurance check me.

**Assemblywoman Neal:**

You said this is cleanup from 2011.

**Jesse Wadhams:**

As to section 10, subsection 6, I do not recall exactly when the language about the multistate compacts went into place, but there was an idea nationwide that a number of states would get together and enter into multistate compacts. There were a number of different multistate compacts that were being discussed at the time. As I said, none of them ended up going anywhere, so we are taking the language out.

**Assemblyman Daly:**

In section 7, subsection 3, where we are going to allow the Commissioner of Insurance to look at the audits, were there supplemental lines of insurance being sold in the state prior so they had to comply with this, and this is now a new option? What happened and how were they doing it before? Is this trying to make it easier for them, for us, or both? They were probably selling this insurance before and complying with existing law, so what changed?

**Jesse Wadhams:**

You are exactly right. Lines of insurance have been around for quite some time. As it stands now, the Division of Insurance will send in examiners to look at our association to make sure it has the proper funding and organizations are following the law. An independent audit can also be done, which is probably easier for both sides. If a company is already going through an independent audit, Nevada does not have to send in examiners. I think it provides an ease of compliance, but we do not want to take anything away from the Commissioner's authority. The Commissioner can still send in her own examiners for an audit if she feels it is needed.

**Assemblyman Daly:**

There is a permissive portion, and I am sure we will hear from the insurance companies. I have a question on section 12, subsection 3. Aside from the created incentive for an employee to sell this insurance, and maybe try a little harder than he did before, is this on a per sale basis? Do employees get their own commission, or is it pooled? Could you explain how it is actually going to work?

**Jesse Wadhams:**

As I understand from my client how the product is sold, the intention is employees will ask if protection is wanted on the product purchased. If the customer wants insurance, the employee will go through the process of enrolling the insurance. That salesperson would then get some compensation. It is not a continuing component.

**Assemblyman Ohrenschall:**

In section 11, if this bill passes and the broker is able to place a fee on a health insurance policy, has this happened in any other states yet? Do we have an estimate of what those fees may be?

**Jesse Wadhams:**

I do not know the answer to that question. I do know that this would be a part of the rule-making authority of the Division of Insurance, so the Commissioner would look at this to determine commissioning for an individual market.

**Assemblyman Ohrenschall:**

If this bill passes, the Commissioner would be able to possibly look at the rates a broker might set for people trying to buy an individual health policy. Is that correct?

**Jesse Wadhams:**

Yes. The Commissioner would go through the rule-making authority and look at all the components.

**Chair Bustamante Adams:**

Are there any further questions from the members? [There were none.] We will now go through sections 1 through 5 of the bill.

**Robert Ostrovsky, representing Employers Insurance Group:**

We originally asked for the inclusion of sections 1 through 5 in a separate bill in the Senate, but it was combined with this bill, which was passed by the Senate. Since the time it was processed, I have had further discussions with the regulators, the third-party administrators, and some insurance companies that have all indicated they have issues with the language as drafted. Based on those discussions, and discussions with my clients, I have come to the table today to ask to withdraw sections 1 through 5 of this bill with the intent that the parties will work in the interim to try to resolve the issues.

The issue, as everyone understands, is the law currently requires that in order to administer a workers' compensation claim, there has to be a brick-and-mortar establishment in Nevada that a claimant can go to if there is a question about a claim. The change that was originally proposed would have eliminated the brick-and-mortar requirement in a modernization effort and the recognition that this is all being done by computer anyway, and some individual with authority in the state could perform the same duties. However, there are auditing issues and other issues that arose that we did not foresee. Therefore, we ask for the deletion of these sections. There is disagreement among friends.

Mr. Compan may have alternative language, perhaps in the form of an amendment. However, I will commit to you that we will work with the stakeholders over the next 18 months and will be back in front of this Committee with this issue. It turns out it was not right. Even though it looked good in the Senate and no one testified against it in the Senate, the significant pushback we got afterwards we considered reasonable and needed to be attended to. We just did not have the time to get that done. That is our position.

**Chair Bustamante Adams:**

Mr. Compan, I think you have a different perspective. Could you please share that with the Committee now?

**Robert L. Compan, Manager, Government and Industry Affairs, Farmers Insurance Group, Inc.:**

I apologize for not being in Carson City in person. I do have a different perspective. I am not just speaking about Farmers Insurance, but I am also speaking about several trade groups, Property Casualty Insurance and American Insurance Association. We, as an industry, are in support of this legislation.

I have been working with the Division of Industrial Relations (DIR), Department of Business and Industry for four years on this process. I will first submit my testimony, and then I will go into the history and the proposed changes we have.

Nevada has enacted many laws and regulations in an attempt to ensure injured workers and their employers receive the best possible service from workers' compensation carriers. Farmers Insurance Exchange and its affiliate companies share the same spirit of service. In accordance with NRS 616B.027, our Nevada claims office is staffed with workers' compensation claim representatives authorized to act on our behalf. We also utilize an electronic claim file system to administer claims in an effective and efficient manner. This electronic claim file system allows access to all the records of any claim file from any of our claims offices nationwide.

Given that NRS 616B.027 does not consider advances in technology, we are seeking approval from the DIR to allow claims to be handled by the most appropriate and competent claims adjuster, no matter where that individual might be located. This will ensure that claim needs are recognized quickly, and the best possible claims representative is assigned to each claim. We currently have staff adjusters outside the state who know and understand Nevada law. As a matter of fact, this Committee passed Assembly Bill 12, which will require third-party administrators and independent adjusters be competent in Nevada law.

We are confident this process would allow the injured worker and employer to receive the claim information and service needed while also complying with NRS 616B.027. Of course, all claims would continue to be handled and processed in accordance with Nevada statutes.

This change in the process will not impact our current compliance with the requirements of the statutes to have claims offices with a statewide, toll-free number or to accept collect calls from injured workers. Incoming calls to our claims center will be answered by Nevada support staff and transferred directly to the proper claims professionals. The injured worker will be provided with the toll-free number to use for continued assistance as well.

We have been working on this issue with the DIR for almost four years now. In 2015, the DIR staff agreed with us. I understand, after having a conversation with them yesterday, that they have changed their position. I do not know if it is under pressure from the self-insured groups or the third-party administrators. The DIR's opinion several years ago was that they agreed with the technological aspects and the processing of claims. Now the DIR has changed its mind and admitted it was wrong. It has been a long-working project, working with the DIR and our stakeholders.

After the Senate passed S.B. 209 (R1) with a 21-0 vote, we were approached by some self-insured groups and third-party administrators with some concerns. We would like to thank Senator Atkinson for sponsoring this bill, but the concept of the bill had changed dramatically since it was sponsored for us and allowed employers to take on the additional language, which Mr. Ostrovsky is suggesting be removed rather than reworked.



Farmers Insurance, our affiliates, and most of our member companies through our trade companies really do not deal with third-party administrators. I have submitted a very rudimentary conceptual amendment ([Exhibit D](#)). Chair Bustamante Adams, you and I had a conversation a couple of days ago regarding the concerns I have received from the different stakeholders, third-party administrators, and the self-insured groups. I have had conversations with them as well. This did not come to light to us until last week, once the bill was introduced into this Committee. We have had ongoing conversations since then with the different stakeholders. I am probably the worst bill drafter in conceptual language, and I am not really good with all the colors, but I will try to walk you through what we are trying to do.

Since the passage of A.B. 12 from this Committee, and which I am confident will pass in both houses, third-party administrators will have to be licensed to be a third-party administrator. Whether the third-party administrator is in Nevada or Arizona, they have to be competent and be able to understand the claim processes in Nevada. We are proposing to remove the third-party language out of this bill so third-party administrators will not be affected. They will still be required to maintain offices in the state. We are also proposing to remove the brick-and-mortar provision to allow that all claim files be maintained in Nevada.

For example, we have a small workers' compensation operation. I have been sitting in that office now for almost 31 years. In my 31 years, I have never seen one injured employee come into that office, yet the claims are still being applied there. In 2014, through technical advances, we were being required to send our claim files, every piece of paper, to Nevada. Most companies now have claims-processing document centers. As a matter of fact, Mr. Ostrovsky's company has a document center in Reno where they take claim documents from all around the country and scan them into the claim file to make them electronically available 24 hours a day.

Under the current statute, we received a desktop ruling from DIR because we were having to take each individual piece of paper—and sometimes we are talking about thousands of pieces of paper on complex files—date stamp them, send them to Oklahoma to our processing center, where they can scan several thousand pages a minute, to make an electronic claim file. It was a strange work-around, but the DIR was allowing us to do that. This bill addresses that issue. In doing that, when the DIR audits our claims office here in Nevada, we are basically pressing a button to print the claim file. The DIR rarely works through audits with the claims adjusters. Usually, it is a supervisor who comes in from out of state.

What came into motion in having claims handled out of state but still be adjudicated in Nevada and have the claims filed, and what we are trying to change with the amendment ([Exhibit D](#)), is there are specialized claims that take specialized people who are competent in Nevada law and can handle mid-loss to large-loss claims exceeding \$300,000 and above to handle the claim. With the amendment, we would allow the claim to come back to the state, and it would still be the responsibility of the state in the brick-and-mortar building.

Because I have been working on this for four years now, I think it is something we can get the stakeholders together to talk about. I know, Chair Bustamante Adams, you have offered that the Committee's policy analyst and legal counsel work with us on some conceptual language that we think would benefit Nevadans. It would also benefit the injured workers as well as our consumers who are buying the products of workers' compensation to protect their companies. I would be happy to answer any questions. [([Exhibit E](#)) was also submitted.]

**Chair Bustamante Adams:**

Members, the stakeholders are still working through sections 1 through 5. Hopefully, they will be able to come to a compromise. I did offer the Committee policy analyst and legal counsel to work with them to see if they can come to a compromise. I know they asked to move the bill to a later date, but we have a heavy schedule in other committees and in this Committee, so I told them to go ahead and present, knowing it is not ready and there is still work to be done.

I did receive your conceptual amendment, Mr. Compan ([Exhibit D](#)). I appreciate your honesty when you said you are not the best drafter. Are there any questions from the members?

**Assemblywoman Carlton:**

Mr. Compan, I want to understand what you are actually trying to accomplish. What does the end product look like for you? We have had this discussion about brick and mortar since I was a freshman in the Senate. It has been around for a very long time.

**Robert Compan:**

The brick-and-mortar requirement is going to be removed, and the claim file will be maintained in Nevada. The best example I can give is, we have a small workers' compensation operation. At one time, we had one person out sick and another person on vacation. We had asked the DIR at that time if it would be okay to have someone competent in Nevada law handle the claims from a centralized workers' compensation section. Under A.B. 12, they would have to be licensed to handle the claims under the Farmers Insurance umbrella. At that time, we were told we could not do that because of the statutory requirements under NRS Chapter 616B. We actually had to fly a person in from Arizona to handle the claims. To be able to have someone out of state administer mid-loss or large-loss claims by taking in bills and providing documents to all the interested parties is the end product here. The claim file would still remain in Nevada, our employees would still remain in Nevada, and the claim file would still remain under the jurisdiction of Nevada. That is not what the bill looks like right now. By getting rid of the third-party administrator provisions and the brick-and-mortar requirement, we will still maintain the claim file.

**Assemblywoman Carlton:**

In essence, this would be remote access to a file that is located in Nevada but be processed from a remote location. Is that correct?

**Robert Compan:**

Correct.

**Chair Bustamante Adams:**

Seeing no further questions from the Committee, we will find a time tomorrow to see if there is room for compromise. I have asked the Commissioner of Insurance if she would give our freshmen legislators a brief overview.

**Barbara D. Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry:**

I will talk a little bit about the different sections, which might be helpful. I will start with sections 1 through 5. I understand there is a compromise working, which is fantastic. It does not really affect the Division of Insurance. All the other types of claims that get reviewed and processed for property casualty, automobile, and home are mostly done out of the state. Already, all of this is done by computer. We know the DIR is attempting to move in that direction. The DIR tends to look at different issues than we do, which is probably why they may not be in the same robust computer forum that we are. I just want the Committee to know this is already being done in other lines of insurance. I am sure that is why Farmers Insurance is already moving in that direction.

Section 7, which Mr. Wadhams spoke about, has to do with an allowance for the Commissioner of Insurance to do an audit instead of an examination. I will say that we looked at the examination costs for the last few examinations that did occur. We are talking anywhere between \$300,000 and \$500,000 to do these examinations because our examinations are looking for financial solvency. As an organization, the Division of Insurance is not concerned with the solvency of another divisional arm. We do not have a solvency concern over Nevada Surplus Lines Association. What they do for us is collect taxes. We looked to a section of the Internal Revenue Service (IRS) called Service Organization Corporations, which does internal audits. That is really to focus on tax collection and tax payments. Are the tax collections being done correctly? That is one of the reasons why we are open to doing an audit instead of an examination, because the real focus is supposed to be on the tax collection and the tax collection processes.

Section 8 has to do with the surplus lines. One of the questions asked had to do with why the broker has to pay. It just happens in the surplus lines world that the surplus lines broker also has to pay the tax. The last man on the totem pole who actually places the product itself is the one who has to pay the taxes, whether or not he shares that with his fellow brokers who might be part of the commission structure. He is ultimately the person responsible for paying the tax. This cleanup just pushes it in that direction. I believe that is where the industry was going with that.

Sections 9 and 10 have to do with the Nonadmitted Reinsurance and Reform Act, which is a 2010 federal law. It was enacted in Nevada in 2011. That specifically has to do with the organizations or possible compacts. There was one called "Nonadmitted Insurance Multi-State Agreement" (NIMA) and another called "Surplus Lines Insurance Multi-state Pact" (SLIMPACT). The idea was to try to make the gathering of income tax for these very large surplus lines policies easier. One of the issues that came up is these cross-state lines. These are firework policies that include multimillion-dollar homes or airports. These are the kind of risks that cannot be covered in one state alone, which is why Lloyd's of London, which is the oldest one out there, is the most well-known. There are not that many surplus lines companies, but they are very good at taking on unique risks that cannot be found in the market, and they usually cross state lines.

One of the things that comes with that, as Assemblywoman Neal was focusing on, is the payment of tax. When an organization is going to be splitting up the tax by states' risk, what we found in Nevada was that we are a donor state. There was an uncomfortable feeling that we should not be giving our tax to other states. That is what actually happened in the downfall of both NIMA and SLIMPACT. All the donor states decided this was not going to be appropriate for them to be giving away the tax. The tax is all gathered in the home state. If the risk is here, the tax is here.

Section 11 has to do with the health insurance market. Mr. Wadhams was talking about commissions, when in fact, it really has to do with charging fees. What we found in Nevada this past year in the individual health insurance market is the companies found they were, for business reasons, not getting the bang for the buck from all of their brokers; they did a shift in the way they marketed. What happened for some brokers and some agents is they stopped paying commission. That did put a bite on quite a few of those brokers and agents in Nevada. This has been a request from them to us to make an allowance for talking about what would be a reasonable fee if they were not getting any commission for selling in a particular market.

We have seen two states move in this direction. It is not an overwhelming move yet, but it is a move in that direction. What happened in Nevada with the health insurance markets happened everywhere.

Those are my comments, and if you have any questions, I would be happy to answer them.

**Chair Bustamante Adams:**

Are there any questions from the members? [There were none.] I will place Commissioner Richardson's testimony in the neutral position. I did want her to give that overview, and that was very helpful. We will continue on that path. Is there anyone wishing to testify in the neutral position? [There was no one.] Is there anyone wishing to testify in support?

**Jeanette K. Belz, representing Property Casualty Insurers Association of America:**

I am here to speak to sections 1 through 5. I certainly appreciate your guidance to Mr. Compan about continuing to work on this. We are hopeful there is a little bit of time before the deadline to be able to work something out, and we would appreciate the opportunity to continue to do that.

**Chair Bustamante Adams:**

Is there anyone else wishing to testify in support of S.B. 209 (R1)? [There was no one.] Is there anyone wishing to testify in opposition to the bill? If you are testifying in opposition to sections 1 through 5, please be clear on what your concerns are, knowing there are still things to be worked out.

**Paul J. Enos, representing Nevada Self-Insurers Association:**

We are opposed to sections 1 through 5 of S.B. 209 (R1). I do appreciate Mr. Compan, and we have had numerous discussions about how we can make this work. When we talk about remote access, I do not think we have any issues with that. Really, where we see the issue is how is this going to impact the quality of care for those injured workers. In workers' compensation, there is a lot of tension on this issue because we are always talking about the balance between what looks good in terms of financials and how we get that injured worker either back to work or figure out a path forward through vocational rehabilitation. Unfortunately, it could be a permanent partial disability or a permanent total disability. There is some tension. We do think having that face-to-face interaction with third-party administrators here in the state with the injured worker does help assist the quality of care.

The Commissioner of Insurance talked about all the other lines of insurance. It is one thing when dealing with a car, but it is definitely another thing when dealing with an individual who is injured and may need to get an Achilles' rupture taken care of quickly. One thing our 34 Nevada-based third-party administrators do have are relationships with those medical providers on a local level. They are able to pick up the phone to call those individuals to have an injured worker taken care of right away. A rapport develops.

As the chief executive officer of the Nevada Trucking Association, we have a workers' compensation group. I review every claim we get. There are issues that the third-party administrators identify in terms of problems that may arise from the treatment or care the injured worker is getting and are able to address. I think it is very important to have that face-to-face interaction.

Jobs are important. Will this potentially impact the jobs of those third-party administrators here in the state? It definitely could. To me, it is more about having face-to-face interaction in something that is very important. It is not health insurance or taking care of deductibles on a house or a car; we are talking about how to get that injured worker the best care. Whenever I pick up the phone to get something taken care of and I am put on hold or I cannot get ahold of someone because of time zones, it is very frustrating. I am a face-to-face person. I like to deal with people face to face. I am sure there are a number of members of this Committee who would like it better if I lobbied via telephone, but having that interaction is important.

We will continue to work with Mr. Compan and the other stakeholders to see if there are some issues we can address in terms of modernization. However, if we are talking about processing claims out of state where we are not able to have that interaction with the people in Nevada to help get the injured workers back on a path where they can get back to work and get their injuries taken care of, I think we are going to have some sticking points. That being said, we will continue to work with them.

**Chas R. Nort, President, Nevada Alternative Solutions, Inc.:**

Nevada Alternative Solutions, Inc. has been licensed in Nevada since 1993. As such, I concur with the presentation of Mr. Enos in its entirety, as well as Mr. Ostrovsky's comments with respect to sections 1 through 5. That said, I have no objection to sections 6 through 12. Sections 1 through 5 hit me immediately, and I immediately became interested in having dialogue. There are seven current Western states that have this particular requirement, and Nevada is one of them. I provided an in-state approach to some of the issues that occurred.

Remember, Nevada has only had this since 1999 in terms of the requirement of an in-state office and using third-party administrators, self-insured groups, or whatever it is, but not out-of-state claims examination. There is a reason for that. I was present in 1999, and I worked with Mr. Ostrovsky, Mr. Wadhams, and more important, the coordinator of the then Self-Insured Workers' Compensation Section of the Division of Insurance, Eloise Koenig, who was absolutely top drawer. One of the requirements and one of the concerns at that point in time was, are we going to have minimal impact to the injured workers, employers, and employees in Nevada when this happens—allowing private carriers to write insurance policies?

Oregon is a specific example I would like to point out. I represented Oregon in the 1990s as well. In Oregon's reforms, one of the concerns was how are claims going to be administered? Before Oregon had this law in place, the claims were being processed all over the country. It was difficult for the department and injured workers to pin down the location where a claim was being processed and to get responses in a timely fashion to claim inquiries.

I know there have been some discussions and amendments as to telephonic or electronic files. I would like to address that for a moment. Everyone has modernized to a certain extent, but there is no substitute for readily available, one-on-one discussions in an office in Las Vegas, Reno, or even the rural communities where we often go. That said, the injured worker has the ability to come into our office and discuss a claim.

As another example, I had an injured worker who was in a wheelchair. He could not travel. He was in an assisted-care facility. We went out to the facility because the wheelchair being provided for the injured worker did not work. The only thing the injured worker wanted was to see his file. They had electronic data capability, and he could have gone online. I currently have online access for the DIR and for my insurance carriers. I have used their systems on electronic data formatting, but when I look at those files, the first thing I notice is where is the organization. I am not an information technology person, but I am a claims handler. I basically have 50 years of experience combined with my office staff and myself. There is no substitute for expertise in that area.

If this is outsourced, there may be jobs affected. In my case, I deal with three major carriers. That would be 30 percent of my business if those carriers elect to process claims out of state. One of the problems with that is many insurers have multiple layers of companies. In other words, there is a group, and underneath the major company, there are five subcompanies. They all do things differently. They may all write policies in Nevada, and I have to decipher, as the third-party administrator, where and when that happens. That is a constant battle. The benefit is I have the file in my office. When that injured worker comes in, I sit down with him. So do my claims examiners. I sit down with the attorneys. This is contrary to the assertions that no one comes into the offices anymore. I employ 15 people, and if that business goes out the door, I would probably have to downsize somewhat. That said, the injured worker still has the ability to talk to us. That one-on-one readily available is critical.

My other concern is quality of care. I have had established relationships with the providers for 17 years. I will go back to the example of the injured worker in the wheelchair. We got him to come to the office, and we spent a day going over his file with him. He was ecstatic. He was unrepresented by counsel at that point in time. It was a good result. There are plenty of stories on both sides.

Regarding quality of care, now, where I have the opportunity to contact a physician for prior authorization or prior medical records, I think there are going to be concerns outsourcing to try to get ahold of where they are, where they are going to be situated, and how a prior authorization is going to be given in a timely fashion. I think the quality of care will be impacted in terms of deferring or delaying care for diagnostic examinations.

The other thing I wanted to point out, which has not been mentioned at all, is there are lifetime reopening rights in Nevada. That is what is really at stake. When we are talking about that, where are those files kept? They could be in storage as hard files. They could be on electronic discs, but try to decipher the organization. Still, going to those storage houses now, I will go with an injured worker if I have to. We are talking about claims that may be from 1984. There better be a hard record on that because the DIR preference currently is to review hard files.

We have current, regular audits going on right now. They are routine. When I left my office yesterday, the auditor asked to speak to me before I left. She gave me the update for that daily auditing scheme on the files she had reviewed. She wanted me to answer management questions, which I answered in 20 minutes. It is going to cut down the time of auditing and the streamlining. If they have to go out of state to do that, good luck. I would be happy to answer any questions.

**David Oakden, President, S&C Claims Services, Inc.:**

I submitted a letter ([Exhibit F](#)) to the Committee with regard to my concerns on the first five sections of the bill. I would like to emphasize that I am totally in line with what Mr. Nort and the other speakers mentioned with regard to their opposition to this bill as well.

I have been doing workers' compensation personally since 1982. Our company has been in business since 2001. I presently have 16 employees in the Las Vegas office, and about 90 percent of my business is with insurers based outside of Nevada. Should those insurers choose to administer claims out of state, that would basically destroy 90 percent of my business. I think there is a responsibility for the Legislature to protect Nevada businesses, and I am one of them.

There are a couple of things I would like to emphasize. One is the expertise and training. I appreciate that there is licensing, and S&C Claims Services, Inc. is licensed in seven states, including Oregon, Idaho, and New Mexico, which all require resident adjusters. Having gone through those jurisdictions and established offices in those states, and having done the work in those communities, they have become more interested in keeping claims in state and have expressed no interest in having things done outside the state because of their concerns regarding the skill sets and the ability to make sure the claims are managed in an appropriate fashion. Arizona, which is also a state where we are licensed and manage as a nonresident, is now considering requiring brick-and-mortar offices in order to do workers' compensation claims administration. If there is a trend, then Nevada seems to be going against the trend with regard to workers' compensation claims administration in the western United States.

With regard to training, prior to the inception of the three-way, I was engaged by a company called Insurance Educational Association. I wrote the curriculum for them for the training of workers' compensation claims examiners for Nevada. Subsequent to that, I basically did the training for more than 100 workers' compensation claims adjusters in Nevada. At the time, that was the only training available. When I stopped doing that training because of a lack of time, one of my employees did it for a couple of years, and then another person did it for another couple of years. At this time, there is no specific training program for workers' compensation claims adjusters. There could be a lot of scores of 72, which passes, but I think that would be the quality of the claims adjusters if there is not some sort of expertise demonstrated with regard to a higher skill set than just passing an examination.



The last thing I want to touch on is the quality of care. We have generated relationships with local medical providers throughout the state, whether it is in Elko or Tonopah, but especially in Las Vegas, Reno, and Carson City. We can call a medical provider, oftentimes on a backline number, and get an injured worker seen immediately, especially when talking about tendon ruptures or tendon injuries. There are many lacerations that include tendon injuries that need to be seen the same day. We can actually get surgery the same day because of those relationships. Before coming to this hearing, I had an orthopedic surgeon in my office doing a training session for my adjusters. These are things we can do on a local level that do not happen on a national level.

Mr. Nort referred to people coming into the office. People always come into my office; some to pick up their checks. If someone needs a compensation check, we can print checks as required. Injured workers can address their issues. If there is an emergency, we can facilitate that. During the rush of construction, we had many injured workers who did not have a valid mailing address. Those injured workers would come into the office every Friday, and we would give them their checks. We have multiple staff who are fluent in Spanish and other languages. Those injured workers can sit with those staff members to have a discussion about their claim, the allowable benefits, and things that are required in their own language. That ability eliminates a lot of litigation and claim disputes. Adjusters out of state, whether or not there is a requirement to have bilingual staff, is something else. With our office and the people we have, we can facilitate all of those things. I think the consideration should be that we really have a pretty good operation in the state with the resident adjusters, and I think that is something that should be considered.

**Chair Bustamante Adams:**

Is there anyone else wishing to testify in opposition? [There was no one.] Mr. Compan and Mr. Ostrovsky, I will ask you to follow up tomorrow to set a date and time for us to see if there is any room for compromise. I will close the hearing on Senate Bill 209 (1st Reprint). I will open the hearing on Senate Bill 468 (1st Reprint).

**Senate Bill 468 (1st Reprint): Makes changes relating to overtime and the calculation of hours worked for certain domestic service employees. (BDR 53-149)**

**Helen Foley, representing Nevada Assisted Living Association:**

Senate Bill 468 (1st Reprint) was an outgrowth of the Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. I had hoped that either Assemblywoman Titus or Senator Hardy would be here to discuss it, but I am more than equipped to do it myself.

One of the things that is very unique to residential facilities for groups or group homes is these individuals are live-in employees. I am only talking about those groups that are between two and ten individuals. They live on the premises. There is a federal law, U.S. Code of Federal Regulation Title 29 under the U.S. Department of Labor, that gives an exemption from the Act's overtime requirements for domestic service employees who reside in the household where they are employed. It is important to note that this exemption does

not excuse the employer from paying the live-in worker at the applicable minimum wage rate or higher for all hours worked. If the employee has sleep time and that sleep time is interrupted, they must be paid for every hour worked.

I would have assumed that because the federal law provides for this, there would have been no problem at the state level. However, states have an opportunity to have different laws than the federal law requires. In the last couple of years, there have been situations where an individual will work for eight hours, go to their room and watch television, hang out, or go out for a while, and then come back. The Office of Labor Commissioner has determined those employees had to be paid for every single hour they were on the premises, although they certainly did not work every hour. They lived there and did not pay rent, which was all part of the deal. This needs to be clarified in Nevada law.

We believe S.B. 468 (R1) does just that. In section 1, the domestic service employee who resides in the household has to have a signed agreement with the employer outlining wages, meal periods, sleep hours, and the hours where they have complete freedom from their duties without being paid. Under this law, they do not have to be precise in the total hours worked. In section 1, subsection 3, it states ". . . in lieu of maintaining precise records of the number of hours worked per day." There can be an agreement as to how many hours the employee works. If it is determined there was a significant deviation in the hours worked, then the employee has a cause of action. In section 4 of the bill, it shows where the employee can go, either the local district attorney or the Deputy Labor Commissioner, for some type of remedy. Having a contract helps both the employer and the employee have a clear understanding of what the expectations are.

Section 2.5, deals with time and a half. Subsection 3, paragraph (a) states, "Except as otherwise provided in paragraph (o) . . . ." Section 2.5, subsection 3, paragraph (o) says, "A domestic service employee who resides in the household where he or she works if the domestic service employee and his or her employer agree in writing to exempt the domestic service employee from the requirements of subsections 1 and 2," which are the requirements of overtime.

This is federal law, and we would like it to apply in Nevada. In speaking with several of my clients who are involved in group homes, they pay more than minimum wage, and they pay workers' compensation. They have an outline of sick leave, paid vacations, and all of those things. I discussed this with the AFL-CIO specifically, and Service Employees International Union (SEIU). They actually testified in support of this bill in the Senate.

You will be hearing a bill a little bit later about Domestic Workers' Bill of Rights [Senate Bill 232]. Senate Bill 468 (1st Reprint) does not conflict with that bill. In the materials they provide, it expresses the federal law and how live-in employees are supposed to be treated. We wholeheartedly agree and support this for Nevada. I would be happy to answer any questions.

**Chair Bustamante Adams:**

Are there any questions from the Committee?

**Assemblywoman Tolles:**

If I understand this correctly, it seems to be a two-way protection. In one way, it is protecting the employees to make sure they are being treated fairly, but it is also protecting the employers so it is not misinterpreted that they have to pay the domestic employees for time they are not actually working but still in the home. Is that correct?

**Helen Foley:**

That is a very fair assessment, yes. We never had a problem with this until the taxi drivers had been taken out of the overtime situation. A lot was thrown out at that time. That is where we got caught up in this and did not conform to federal law.

**Assemblywoman Tolles:**

Is it possible that without this law, an employer of a domestic worker can be overpaying because they are paying for every hour except for the hours that are exempt for sleep?

**Helen Foley:**

I do not think that is the case, but what has happened in real-life situations is there is a disgruntled employee who quits and files with the Office of Labor Commissioner. It is determined the employer has to pay \$30,000 in overtime that had not been anticipated.

**Assemblywoman Carlton:**

Are there any court cases right now that this bill will impact?

**Helen Foley:**

I do not know if there are any pending cases, but I can certainly find out through the Office of Labor Commissioner.

**Assemblywoman Carlton:**

We can ask the Labor Commissioner. I would hate to see someone in the middle of something and we change the rulebook. How many people will this impact? It is my understanding people are currently being paid this way, or they are supposed to be paid this way but are not.

**Helen Foley:**

That is correct. The employees have free rent and food. It is their home. That is where they get their mail. It is their living environment. I am sure many of them have written agreements, but some of them may not. It has not been enforced in all situations, and we certainly believe we should conform to federal law. Specifically to your question, I do not know.

**Assemblywoman Carlton:**

I would hate to get in the middle of a court case. Many times things will pop up in this building that have something to do with a court case. I want to make sure that is on the record.

**Chair Bustamante Adams:**

How many group homes have two to ten employees?

**Helen Foley:**

I do not know how many employees there are. There are tens of thousands of senior citizens who live in these group home settings. I will say the vast majority of the group homes pay workers' compensation, which they should, and at least minimum wage.

**Chair Bustamante Adams:**

Seeing no further questions from the Committee, is there anyone wishing to testify in support of S.B. 468 (R1)?

**Marlene Lockard, representing Service Employees International Union, Local 1107 Nevada:**

We are in support of this measure. We will discuss this issue in more detail in the next bill [S.B. 232].

**Chair Bustamante Adams:**

The next testifier, Ms. Avila, is by telephone. Ms. Avila, we have not opened the hearing for Senate Bill 232 yet, but if you would hang on, we will open it momentarily. Is there any further testimony in support of S.B. 468 (R1)? [There was none.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify in the neutral position? [There was no one.] I will close the hearing on S.B. 468 (R1). I will open the hearing on S.B. 232. Ms. Lockard, I know Senator Segerblom is not here yet, but are you going to start the presentation?

**Senate Bill 232: Enacts the Domestic Workers' Bill of Rights. (BDR 53-887)**

**Marlene Lockard, representing Service Employees International Union, Local 1107 Nevada:**

I think we can begin. I am sure Senator Segerblom is on his way.

**Chair Bustamante Adams:**

You have an individual who will testify by telephone. Will you announce that person so the members know who is calling?

**Marlene Lockard:**

Rocio Avila is on the telephone. She is the State Policy Director for the National Domestic Workers Alliance. If you would like to begin with her, that would be fine. We do have an amendment that has been submitted ([Exhibit G](#)) for your review.

**Chair Bustamante Adams:**

Ms. Avila, we are going to start with you. I know you cannot see us, but you can hear us. The Committee may have some questions for you after your presentation.

**Rocio Avila, State Director and Staff Attorney, National Domestic Workers Alliance:**

The National Domestic Workers Alliance (NDWA) is the nation's leading voice on the dignity and fairness of millions of domestic workers in the United States. We were founded in 2007, and we have over 60 affiliate organizations across the country, including Atlanta, Seattle, and New York City; and over 20,000 nannies, health keepers, and direct care workers in 36 cities and 17 states. When we heard about Senate Bill 232, we were very excited and eager to work with the Service Employees International Union (SEIU) on this very important policy.

As many of you know, domestic workers comprise a growing workforce that has been historically excluded from basic workplace protections, such as minimum wage, overtime, and antidiscrimination protections, as well as health, safety, and the right to organize. The NDWA has led the movement, both at the federal level and in several states, to pass the Domestic Workers' Bill of Rights, similar to S.B. 232, to eliminate the exclusions that are still part of our system. We have passed seven Domestic Workers' Bill of Rights since 2010. These exclusions can be traced back, not to policy motivations, but rather to politically motivated carve-outs done on a federal level in order to appease racist legislators and then mirrored in state labor protections.

Domestic workers, as we define them in our membership base, provide in-home services, such as childcare, homecare to seniors and persons with disabilities, and housecleaning and housekeeping. The unique nature of domestic work subjects domestic workers to extreme exploitation and abuse.

I would like to talk a little bit about how these state exclusions apply in Nevada. Currently, some sectors of domestic workers are excluded from the Nevada worker protections, specifically as they relate to minimum wage and overtime. Nevada law expressly excludes them under *Nevada Revised Statutes* (NRS) 608.250. I will submit my testimony via email as well so you have it as a reference. I believe NRS 608.250 should be eliminated from state law to ensure all domestic workers have coverage of these basic protections.

Beyond that, Nevada law also excludes domestic workers from workers' compensation, discrimination, harassment, and health and safety. Many of these worker protections or carve-outs are modeled on biased federal law exclusions. While federal law has made significant gains in extending basic minimum wage and overtime protection to domestic workers, there is still a lot of room to be gained at the federal level. Specifically, domestic workers continue to be excluded from the National Labor Relations Act, the U.S. Occupational Safety and Health Administration, and the U.S. Equal Employment Opportunity Commission, or Title XII of the Civil Rights Act.

The NDWA has sought to counteract these federal exclusions through several strategies, including campaigning to enhance protections in state law. We have passed bills in California, Connecticut, Hawaii, Illinois, Massachusetts, and New York. The most recent was in Illinois this past fall in 2016. Each one of these bills is very different based on the state law that existed and how it interacted with federal law on protections. Overall, all of the bills have one thing in common, which is the goal of eliminating the basic exclusions that stem from federal law and to raise industry standards specific to the needs of domestic workers in their particular state.

In Nevada, one of the things I have reviewed is, aside from the exclusions of minimum wage and overtime, S.B. 232 is seeking to raise the standard by providing requirements of written agreements, which the NDWA supports. Domestic workers have little control over their working conditions. Employment is usually arranged without the benefit of a formal contract. As a result, both workers and employers often face confusion about job hours, payment, and duties, which can lead to both wage theft and exploitation of the worker, and unnecessary strife between workers and employers. Nevada should require that employers provide a written disclosure at the onset of the employment relationship that spells out basic worker protections, including pay rate, work hours, wage payment, schedule, job duties, and any other deductions or workers' rights provided under this bill.

We also recommend that the Office of Labor Commissioner be commissioned to create templates for employers to use. The Domestic Workers' Bill of Rights in Massachusetts included such a requirement, as did Hawaii and New York. We have seen some success in curbing wage theft in these states upon having the Office of Labor Commissioner provide the templates, ensuring workers and employers have access.

Another provision of the bill extends antitrafficking and privacy protections. Employers would be prohibited from taking or holding workers' personal documents, as well as monitoring private conversations. This is also a provision that stems from Massachusetts and Oregon's Domestic Workers' Bill of Rights. We believe it should stay in Nevada's bill as well, given the benefit for live-in workers and workers who are unfortunately victims of trafficking.

The provision that pertains to live-in domestic workers is something the NDWA also supports. Many domestic workers whose employment is tied to their living situation are more vulnerable to exploitation. Therefore, the 30-day notice of termination and 30 days of paid lodging, unless terminated with cause, is an essential protection. This is also a provision that was in other states. We have seen great improvement in the lives of domestic workers in those states.

I would like to address the actual levels of poverty and labor conditions that are experienced by domestic workers. A report by the National Women's Law Center indicates that in Nevada, low-wage women comprise 14.9 percent, and out of those, 25.5 percent of black women are low-income, 21 percent Latina, 11.6 percent Asian, and 24.8 percent Native-American; 25.8 percent of those are female heads of household.

Our data from a report conducted by the NDWA a few years ago shows at least 48 percent of domestic workers were paid an hourly wage below what is needed to adequately support their families. Domestic workers experience acute financial hardships. Many indicate their most basic needs go unmet. Our study shows many cannot afford to pay rent or mortgage payments. Thirty-seven percent of workers are paid the minimum to survive while others go without being able to afford food or other basic needs.

This is why we believe S.B. 232 is very important because it provides a baseline of protections that allow domestic workers to earn fair compensation and dignity. We believe domestic workers should be able to earn annual paid leave, be entitled to at least one day off, meals, lodging credits, compensation for all hours worked, and the right to meal and rest breaks. In doing so, we believe it will address poverty and curb wage theft by providing some regulation and formalizing this industry. We strongly believe the notice of all state and federal laws applicable to domestic workers under this bill is very important, as well as setting limitations for food and lodging credits for live-in domestic workers.

The requirement of a day off has consistently been an issue for domestic workers across the country. They have voiced the need to have the opportunity to have time off without risk of being retaliated against by employers. Having it expressed in the bill is fundamental.

Record-keeping requirements also curb wage theft. It mandates that employers treat domestic workers like any other workers. It also ensures domestic workers are not victims of being cheated out of wages, ensuring all the time they are working is being compensated.

I would like to share my thoughts on what additional provisions we believe should be included in this bill. Antidiscrimination and harassment is not included; however, it is a very important protection which domestic workers are completely unable to access if they are being sexually harassed or racially harassed, especially in these times. That issue should be addressed by virtue of reducing or removing the employee threshold of 15 or more, as is required under state law.

Elimination of the exclusion of workers' compensation under state law expressly excludes workers in private households, and extending overtime rights to live-in or 24-hour workers, as there is a growing need for home-care work. We also expect Nevada to face the demands of a growing workforce of home-care workers; many of whom may be in a live-in situation. The current proposal excludes them from overtime.

I also believe an amendment to define "employer" to include third-party employers or agencies is important. An amendment to provide domestic workers a private right of action to enforce their rights under S.B. 232 is key with all available remedies under the law. Incorporating antiretaliation language to dissuade employers from taking adverse action against domestic workers for asserting their rights under this bill, or any other Nevada law, is also important. This should also include expansive language that includes employers' threats to contact the police and federal immigration authorities.

Lastly, I would like to recommend for the bill to be amended to ensure the Office of Labor Commissioner, within available appropriations, establish an outreach coordinator position and interagency program that can actually dedicate time to cultivate community organizing and education for domestic workers in this sector so the intention of this bill actually gets implemented, and domestic workers can benefit from the protections they would be afforded. Outreach and education are essential tools for the implementation of a new law, as well as the ability to address wage theft.

We believe workers, employers, employment agencies, and your government will have to collaborate to raise industry standards. This collaboration is necessary given the fast-paced growth of this industry and the poor conditions in which many domestic workers currently labor. In order to allow all members of the industry to raise standards in Nevada, laws should allow employers to sue other employers for repeated failures to comply with domestic workers' rights laws, and the state should create clear material developed in collaboration with workers and consumers to ensure all parties understand their rights and responsibilities.

For the reasons I have shared with you, I want to say the NDWA supports S.B. 232, and we strongly urge you to support this important reform in making Nevada the eighth state in the country to pass a Domestic Workers' Bill of Rights.

Thank you for your attention. If you have any questions, please feel free to get in touch with me. I will share my written testimony, which is more expansive than my summary. [Written testimony was not provided.]

**Chair Bustamante Adams:**

Are there any questions from the Committee?

**Assemblywoman Tolles:**

I am curious, particularly when we have national bills that come to us about what aspects of employment law are already covered in Nevada law. What current protections versus what new protections are being brought in by this Domestic Workers' Bill of Rights?



**Senator Tick Segerblom, Senate District No. 3:**

Everything in the bill is new. There were several national issues that were not brought, such as discrimination laws, but as far as providing minimum wage, overtime, days off, et cetera, they are not in existing law.

**Marlene Lockard:**

I would like to point your attention to this document ([Exhibit H](#)), Nevada Domestic Workers Rights. It does go into a comparison of what exists in the bill and what does not. For example, in Nevada law, live-in domestic workers are not eligible for minimum wage, but they are eligible under federal law. It is those kinds of distinctions Ms. Avila was referring to. Senate Bill 232 lists a stated Bill of Rights for domestic workers that are delineated in the bill very clearly. Those would be a first for Nevada's domestic workers.

**Senator Segerblom:**

From my perspective, the relevance of this is the fact that many of us are getting older. The way health care works now, sick people are being sent home more often. It is becoming more prevalent to hire people to work in the home. Many of these people are at the bottom of the spectrum and currently have zero rights. This would provide a basic floor that, over time, may expand. At least it would provide that when a domestic worker is first hired, the employer has to provide a written explanation of duties and hours. If the domestic worker is a live-in employee, there would be protections that are not in the law today. It is a fundamental start, but I think it is something that over the next few decades, because of the aging population, will become more important. I think it is great that we would start this.

**Chair Bustamante Adams:**

Ms. Avila mentioned that other states have enacted some type of legislation. Are those states where you borrowed the verbiage?

**Senator Segerblom:**

Correct. This is a national set of standards that have been adapted to Nevada. We did not take the entire litany. For example, the discrimination laws only cover employers with 15 employees. We do not have that in Nevada. There are more details in the model bill, but the provisions in this bill are from the model bill.

**Chair Bustamante Adams:**

Do you know the other states that have enacted the law?

**Senator Segerblom:**

I know Massachusetts has, but if she is still on the telephone, maybe Ms. Avila could answer that question.

**Rocio Avila:**

Seven states have passed this legislation so far. It started in New York, then Hawaii, California, Massachusetts, Oregon, Connecticut, and Illinois. Nevada would be the eighth state.

**Senator Segerblom:**

Unlike most things, Nevada would be at the top of the list as opposed to the bottom of the list.

**Chair Bustamante Adams:**

Are there any other questions? [There were none.] Ms. Lockard, would you like to add any comments to the record?

**Marlene Lockard:**

I would like to emphasize there is an amendment ([Exhibit G](#)) that addresses a drafting issue. It simply includes private party domestic workers who work for third-party services.

**Chair Bustamante Adams:**

Can you help me understand exactly what that means?

**Marlene Lockard:**

A number of the issues that SEIU workers have been caught up in have been with third-party businesses that provide domestic worker service to residential employers. They are paid by the business. Sometimes, a person will own several third-party services, and our workers go from one company to another to another. We want to make sure this Bill of Rights includes those third-party businesses. It was just a drafting omission.

**Chair Bustamante Adams:**

How many individuals have this type of employment across the state?

**Marlene Lockard:**

There are literally hundreds of workers in Las Vegas, and we do have some actual domestic workers in Las Vegas to testify today, which might be helpful to the Committee.

**Chair Bustamante Adams:**

Are we talking 500 or 1,000?

**Marlene Lockard:**

I would be speculating if I put a number to it, but I can provide that information to you.

**Chair Bustamante Adams:**

The bill we heard prior to this one [Senate Bill 468 (1st Reprint)] was for small assisted living group homes with under ten employees. Is Senate Bill 232 for small, large, and third-party businesses?

**Marlene Lockard:**

Yes.

**Chair Bustamante Adams:**

Is there anyone wishing to testify in support of S.B. 232?

**Maria Salinas, Member, Service International Union, Local 1107 Nevada:**

I am a home-care worker and a member of SEIU. I am here on behalf of my fellow home-care workers in support of S.B. 232 with the amendment that allows employees of service agencies to be included in the Domestic Workers' Bill of Rights. This bill provides much-needed rights and protection to workers like me. Luckily, I am a union member, and I already have a contract with my employer. However, many of my peers do not. Because of that, they are often exploited by the agencies they work for. This bill will change the law to guarantee fairness and equal pay, and improve working conditions for all.

Many home-care workers are immigrants who do not speak English as their first language. This bill allows those workers to have access to information about their rights and working conditions in a language they can understand. Knowledge is power. With this bill, home-care workers will be empowered by knowing their rights.

This bill takes important steps to address wage theft by requiring employers to agree to a frequency of payment for work performed. Accordingly, there are many agencies in southern Nevada that underpay, or the employers delay payment for long periods of time. This bill also requires home-care workers be paid overtime when they work more than 40 hours a week, which regularly happens in our line of work.

Thank you for bringing this bill, and I urge the members of this Committee to pass S.B. 232 for the home-care workers in our state.

**Chair Bustamante Adams:**

How many individuals are employed in this type of employment?

**Maria Salinas:**

I do not want to say something wrong, but I think we are talking about more than 4,000 home-care workers here in Nevada. It may be more or less, but it is around that number.

**Chair Bustamante Adams:**

You said you have a contract with your employer. I am assuming the working relationship with your employer is good. Does your contract spell out when you are paid and any time off you are allowed? Is it that specific?

**Maria Salinas:**

Yes. We have a contract, so we are allowed to get overtime if we work. We are talking about hundreds of other agencies that do not have any benefits at all. For myself, I am a member of the union, and I am talking for the other home-care workers who do not have support or anything. We want them included in this bill because we are tired of hearing that these home-care workers are not paid for overtime. There are a lot of these agencies opening, and these workers have to work for three or four agencies. To avoid overtime, the agencies will have the workers work for Agency A for 20 hours, Agency B another 20 hours, then Agency C for another 10 or 20 hours. With this law, it will be great for our home-care workers in Nevada.

**Chair Bustamante Adams:**

Out of those 4,000 workers, how many of those individuals actually live in the facilities where they work?

**Maria Salinas:**

I do not have that information. We will try to provide it for you.

**Chair Bustamante Adams:**

Is there anyone else wishing to testify in support of the bill?

**Stacey Shinn, Policy Director, Progressive Leadership Alliance of Nevada:**

I would like to put on the record that Priscilla Malone from the American Federation of State, County and Municipal Employees was here but she had to leave. They are also in support and did testify in the Senate. I also want to point out that Progressive Leadership Alliance of Nevada (PLAN) is a part of a coalition called Nevada Coalition for Women's Equity. Eight different organizations came together about a year and a half ago to come up with a platform to strengthen gender and employment equity issues at the 2017 Legislative Session. This was one of the issues we chose as one of our top five priorities.

Previous lack of inclusion of domestic workers in the law is part of the entrenched undervaluing of women's work. We need to combat this discrimination by improving working conditions for women in Nevada, including domestic workers, by implementing basic labor protections that are afforded to other workers. This is a gender issue, as 93 percent of domestic workers are women. This is a racial justice issue. This is an immigrant issue, as 46 percent of domestic workers are foreign born. It is also an economic justice issue, so we stand here today in support.

**Chair Bustamante Adams:**

Is there anyone else wishing to testify in support of the bill? [There was no one.] Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify in the neutral position? [There was no one.]

[Submitted but not discussed were ([Exhibit I](#)), ([Exhibit J](#)), and ([Exhibit K](#)) and will become part of the record.]

I will close the hearing on S.B. 232. Is there anyone here for public comment? [There was no one.] Having no further business, this meeting is adjourned [at 2:57 p.m.].

RESPECTFULLY SUBMITTED:

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Kathryn Keever  
Recording Secretary

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Lori McCleary  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Irene Bustamante Adams, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a proposed amendment to [Senate Bill 209 \(1st Reprint\)](#), submitted by Jesse Wadhams, representing Nevada Surplus Lines Association; Nevada State Association of Health Underwriters; and Asurion Insurance Services.

[Exhibit D](#) is a conceptual amendment to [Senate Bill 209 \(1st Reprint\)](#), submitted by Robert L. Compan, Manager, Government and Industry Affairs, Farmers Insurance Group, Inc.

[Exhibit E](#) is a letter to The Honorable Irene Bustamante Adams and members of the Assembly Committee on Commerce and Labor, dated April 28, 2017, in support of [Senate Bill 209 \(1st Reprint\)](#), submitted by Robert L. Compan, Manager, Government and Industry Affairs, Farmers Insurance Group, Inc.

[Exhibit F](#) is a letter to Assemblywoman Irene Bustamante Adams, dated April 21, 2017, regarding [Senate Bill 209 \(1st Reprint\)](#), submitted by David Oakden, President, S&C Claims Services, Inc.

[Exhibit G](#) is a proposed amendment to [Senate Bill 232](#), dated March 8, 2017, submitted by Senator Tick Segerblom, Senate District No. 3.

[Exhibit H](#) is a copy of a document titled "Nevada Domestic Workers Rights," dated May 2017, submitted by Marlene Lockard, representing Service Employees International Union, Local 1107 Nevada, in support of [Senate Bill 232](#).

[Exhibit I](#) is a copy of a PowerPoint presentation titled "S.B. 232 Domestic Workers' Bill of Right," submitted by Senator Tick Segerblom, Senate District No. 3.

[Exhibit J](#) is a document titled "National Domestic Workers Alliance DW BOR's Policy Wins," dated February 2017, submitted by Marlene Lockard, representing Service Employees International Union, Local 1107 Nevada, in support of [Senate Bill 232](#).

[Exhibit K](#) is a document titled "SB232 Fact Sheet (2017)", dated 2017, by the National Domestic Workers Alliance, submitted by Marlene Lockard, representing Service Employees International Union, Local 1107 Nevada.