

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

**Eighty-first Session
April 28, 2021**

The Senate Committee on Commerce and Labor was called to order by Vice Chair Dina Neal at 8:00 a.m. on Wednesday, April 28, 2021, Online and in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Dina Neal, Vice Chair
Senator Melanie Scheible
Senator Roberta Lange
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Assemblywoman Sandra Jauregui, Assembly District No. 41

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Wil Keane, Counsel
Kim Cadra-Nixon, Committee Secretary

OTHERS PRESENT:

Chris Carothers, President, Carothers Insurance Agency; President-elect, Nevada Association of Health Underwriters
Heidi Sterner, National Association of Health Underwriters
Tom Clark, Nevada Association of Health Plans
Alex Camberos
Barbara Richardson, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Bob Laudermilch, Executive Director, Nevada Insurance Guaranty Association

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James Wadhams, Nevada Self Insured Groups
Margi A. Grein, Executive Officer, State Contractors' Board
Tim Geswein, State Contractors' Board
Matthew Walker, Southern Nevada Home Builders Association
Lindsay Knox, Builders Association of Northern Nevada; Nevada Homebuilders Association
Alexis Motarex, Associated General Contractors of America; Nevada Contractors Association

VICE CHAIR NEAL:

We open the hearing with Assembly Bill (A.B.) 250.

ASSEMBLY BILL 250 (1st Reprint): Revises provisions relating to insurance to supplement Medicare. (BDR 57-142)

ASSEMBLYWOMAN SANDRA JAUREGUI (Assembly District No. 41):

I will present A.B. 250, which establishes the "Birthday Rule" for persons who are currently enrolled in a Medicare supplement, commonly known as a Medigap plan.

The genesis for A.B. 250 came from my constituent Rick Bronstein. Mr. Bronstein explained that Nevada has never had open enrollment for Medicare Supplement Plans. The Medicare program, which is administered by the Centers for Medicare and Medicaid Services is the federal health insurance program under which qualified individuals receive health care.

Medicare does not cover all medical services, and it does not pay 100 percent of certain covered services. Although Medicare pays preventive services and covers most medically necessary services, the percentage of out-of-pocket healthcare expenses for Medicare beneficiaries can be sizable and typically increase with age.

A Medigap policy is a distinct type of insurance policy that is sold by private companies to fill the gaps in original Medicare plan coverage. Medigap policies are guaranteed issuance at certain times for eligible beneficiaries as specified by state and federal law. When an individual first becomes eligible for Medicare, an open enrollment period is available to purchase Medigap coverage without requirements for medical underwriting.

Medigap policies are guaranteed renewable as long as the premium is paid. These policies cannot be canceled because of a person's health condition or for any reason other than nonpayment of premiums. Insurers can at their discretion, increase the premiums for Medigap coverage.

However, unless eligible for open enrollment or guaranteed issuance, Medicare beneficiaries wishing to purchase Medigap coverage or change plans are subject to medical underwriting. Applicants can be denied coverage based on health status or claims experience.

What is so great about the Birthday Rule? It provides an opportunity to enroll in a plan that may offer better coverage to suit the needs of the consumer. The Birthday Rule would make this option available without requiring medical underwriting. This means that just as when a person first signs up for a supplemental insurance policy during the open enrollment period, an insurance carrier is prohibited from denying coverage based on preexisting health issues.

Assembly Bill 250 requires an insurer, nonprofit hospital and medical or dental service corporations that issue an insurance policy that provides for the payment of expenses not covered by Medicare, to offer an annual enrollment period to change to a plan of equal or lesser benefit without being subject to medical underwriting. The open enrollment period would begin the first day of the birthday month of an enrollee and continue for 60 days.

The bill requires insurers to provide a 30- to 60-day notice of the open enrollment period. An insurer must notify enrollees of the dates the open enrollment period begins and ends, any rights of the insured to change to a different plan and any modifications of current benefits.

Assembly Bill 250 offers Nevadans who have Medigap policies to annually review the price and coverage of their policies. I would like to be clear though, this measure is not a free pass for people to obtain Medigap policies who do not currently have them. Instead, it allows current enrollees to consider if other policies are available that better suit their needs.

CHRIS CAROTHERS (President, Carothers Insurance Agency; President-elect, Nevada Association of Health Underwriters):

My family agency has been in Nevada for over 51 years. I have been in the insurance business for over 30 years. I am President-elect for the Nevada

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Association of Health Underwriters. Our professional association serves our clients by advocating positive changes in our industry that will help Nevadans. I have submitted written testimony ([Exhibit B](#)) in support of A.B. 250.

ASSEMBLYWOMAN JAUREGUI:

A friendly amendment ([Exhibit C](#)) was submitted by the Nevada Association of Health Plans.

HEIDI STERNER (National Association of Health Underwriters):

There are over 100,000 Nevadans enrolled in Medicare supplement plans. This bill would improve their ability to choose coverage options; an option they do not currently have.

SENATOR SETTELMAYER:

What are the results in other states that have passed this type of legislation? Is there an increase in insurance coverage?

MR. CAROTHERS:

I do not see a trend in gain of insurance coverage, but this bill will allow greater choice without a change in premium. When a person first enrolls in Medicare they have a window to enroll in a supplemental plan without answering any questions related to their health condition. Anyone can enroll in a supplemental plan at any time, but they are required to answer health-related questions, similar to enrolling in a life insurance plan. This bill will give Medicare participants the ability to move to a supplemental plan that will better suit their needs.

SENATOR SETTELMAYER:

This is a good bill.

VICE CHAIR NEAL:

Why were innovative benefits excluded in the proposed amendment? What are innovative benefits?

MS. STERNER:

Innovative benefits are optional and not part of the core benefits required in supplemental insurance. Insurance companies are able to add innovative benefits such as vision, dental and hearing.

VICE CHAIR NEAL:

Are dietary supplements and medical equipment part of core benefits or innovative benefits?

MS. STERNER:

The examples you mentioned are considered core benefits.

VICE CHAIR NEAL:

Why were innovative benefits deleted in the amendment?

MR. CAROTHERS:

The core plans created by Medicare are identical. The intent of the language change is to allow movement to different Medicare plans. Sometimes the innovative plans are less expensive than traditional Medicare plans.

ASSEMBLYWOMAN JAUREGUI:

We did not want the language to prevent someone with a Medicare G plan with innovative benefits to be required to only change to a plan that included innovative benefits.

VICE CHAIR NEAL:

What is the process if someone is denied Medigap coverage?

ASSEMBLYWOMAN JAUREGUI:

This bill will not give additional coverage, the provision only applies to those who already have a supplemental plan. Assembly Bill 250 allows those insured to change insurance plans without underwriting.

VICE CHAIR NEAL:

If someone wants to adjust their supplemental plan, who do they go to for advice?

MR. CAROTHERS:

People usually go to an insurance professional to help them enroll in the appropriate Medicare plan. Medicare has standardized benefits and the supplemental plan will pay the balance. There are no additional benefits you can purchase, such as long-term care, through a supplemental plan. Supplemental plans only pay the balance of what Medicare does not pay for. If Medicare does not pay for it, the supplemental plan cannot pay for it.

SENATOR PICKARD:

In Nevada, those insured by Medicare with preexisting conditions cannot move to a different plan when their plan gets too expensive. This bill will enable them to find a lower-cost plan. Premiums are increased when the pool of insured gets too small.

ASSEMBLYWOMAN JAUREGUI:

As premiums go up, insured people drop the supplemental insurance because they cannot afford the plan. This bill will help insured people find plans that meet their needs.

SENATOR LANGE:

How will people find out about this new measure?

ASSEMBLYWOMAN JAUREGUI:

Requirements are written into the bill to mandate insurance companies send out a notice 60 days before the insured's birthday.

TOM CLARK (Nevada Association of Health Plans):

We worked with the bill's sponsor and have submitted a proposed amendment, [Exhibit C](#). The exclusion of innovative benefits ensures equal or lesser benefits plans are available to insured people if they wish to change plans under the provisions of this bill.

ALEX CAMBEROS:

Assembly Bill 250, the Birthday Rule, is an important bill that will help many Nevadans who are insured by Medicare along with a supplement plan. I have submitted support testimony ([Exhibit D](#)).

SENATOR HARDY:

Do enrollees have 60 or 90 days to enroll in a supplemental plan?

ASSEMBLYWOMAN JAUREGUI:

Enrollees have 60 days from the day of their birthday to enroll in a new supplemental plan.

VICE CHAIR NEAL:

We will close the hearing on A.B. 250.

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CHAIR SPEARMAN:

We will open the hearing on A.B. 4.

ASSEMBLY BILL 4 (1st Reprint): Revises provisions relating to the Nevada Insurance Guaranty Association. (BDR 57-314)

BARBARA RICHARDSON (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):

I am here to present the first of three bills for the Division of Insurance. Assembly Bill 4 represents an update by the Division of Insurance to the Nevada Insurance Guaranty Association statutes. These statutes contain changes to Title 57 of *Nevada Revised Statutes* (NRS).

The revisions in this bill are intended to update NRS 687A to comply with the model language published by the National Conference of Insurance Guaranty Funds. Evaluation and consideration have also been given to the Guaranty Association Model Act published by the National Association of Insurance Commissioners and the National Conference of Insurance Legislators.

I have submitted a section-by-section explanation table ([Exhibit E](#)) summarizing the language changes and reasons for these changes.

SENATOR NEAL:

What is the intent of the word "amenable" in section 9, subsection 1, paragraph (c)?

BOB LAUDERMILCH (Executive Director, Nevada Insurance Guaranty Association):

The insertion of the word amenable is intended to avoid litigation in the state of domicile of the insolvent insured. The intent is also to restrict litigation to courts in Nevada.

SENATOR NEAL:

Under what circumstances would discretion be used to determine what is equitable?

MR. LAUDERMILCH:

The intent of the term "equitable" in section 9 relates to the availability of funds. It is not intended to operate on a specific individual claim. This provision is an expansion of the concept covering funding issues.

SENATOR NEAL:

Will you explain the insertion of the language concerning health maintenance organizations in section 13?

MR. LAUDERMILCH:

Sections 5, 8 and 13 add in three new types of entities: health maintenance organizations, hospital plan corporations, professional health service corporations or self-insurers. Self-insurers act like insurers. Claims would not be covered within the funds of the National Guaranty Association and would be situated in the funds of the estate.

SENATOR NEAL:

What is meant by the language in section 14 subsection 1, requiring exhaustion of all coverage under a policy?

MR. LAUDERMILCH:

Insurance policies include the right of defense and the right to be indemnified. The exhaustion provision in section 14 is to avoid duplication of damages.

This section could apply in complex litigation with losses spread over many years. An insured may have many insurance policies applicable to the loss. We want the insured to fully exhaust the right under those policies. If the legal bills are being paid by another insurer there is no loss amount. If the insured exhausted recovery from the other insurers, the Nevada Insurance Guaranty Association, as a payer of last resort, would address the issue.

SENATOR NEAL:

Section 16 indicates there is no liability for failure to act. Why was this inserted?

MR. LAUDERMILCH:

The purpose of adding the language concerning failure to act is to further clarify errors and omissions in insurance.

SENATOR NEAL:

Why do you need this clause? If I was looking for a way to take legal action against you, it would be for failure to act?

MR. LAUDERMILCH:

Built in immunity already exists in statute. The statement concerning failure to act provides further clarification of errors and omissions in insurance. Even if there was a failure to act and an institution took legal action against us we would still assert the immunity statute as it currently states.

MS. RICHARDSON:

This bill adds consumer protections for the Nevada Insurance Guaranty Association and for those who might be involved in an insolvent insurer situation.

CHAIR SPEARMAN:

We will now close the hearing on A.B. 4 and open the hearing on A.B. 18.

ASSEMBLY BILL 18 (1st Reprint): Revises provisions relating to contracts of insurance and casualty insurance. (BDR 57-315)

MS. RICHARDSON:

Assembly Bill 18 provides an option for private passenger automobile insurers to offer uninsured and underinsured motorist coverage in a wider range of coverage options while still maintaining minimum liability requirements. This bill also clarifies that coverage provisions may be renewed without prior notice to the policyholder as long as any changes are wholly in favor of the policyholder. I have included an explanation of the bill ([Exhibit F](#)).

SENATOR PICKARD:

How will the insurers be able to understand this bill? This bill does not provide more clarity. I am in support of this legislation as I understand the language.

CHAIR SPEARMAN:

Is it possible to make the language friendlier? We need to make this language more understandable for the average person.

MS. RICHARDSON:

The insurance providers want legal language in the bill so that it is clear if they step into a courtroom. It is not easy to turn contract language into plain language. At the national level, we are trying to make policy language clear for the consumer.

SENATOR PICKARD:

Over the past ten years, there has been improvement at the national level to simplify language concerning insurance.

CHAIR SPEARMAN:

We will close A.B. 18 and open A.B. 45.

ASSEMBLY BILL 45 (1st Reprint): Revises provisions relating to insurance.
(BDR 57-316)

MS. RICHARDSON:

I will now present the last of three bills for the Division of Insurance. Assembly Bill 45 is the Division of Insurance's omnibus bill with numerous changes primarily within Title 57 of NRS which relate to the regulation of insurance in the State.

This bill consolidates and streamlines bond requirements, fees and renewal provisions across various agent and agency license types. This action will allow greater regulatory efficiency. The bill requests changes that promote uniformity of laws with other states and will provide efficiencies for multistate carriers. Lastly, A.B. 45 will ensure compliance with federal laws. I have included an explanation of the bill which includes a section-by-section summary ([Exhibit G](#)) of the changes proposed in this bill.

I am concerned with the proposed amendment ([Exhibit H](#)) by the Nevada Self Insured Groups because it appears to remove solvency protections. This is concerning to the Division of Insurance because the self-insured groups market has only eight groups. It is a small and noncompetitive market.

The statute contains confidentiality provisions and protections that do not allow the Division to provide much information except to say that not all of the market members are financially stable. Removing the protections in statute could lead to insolvency and given the other market players, a required step-in to support any insolvent group. This financial fragility could take down the entire market.

Language in statute allows the self-insured groups to work with the Division confidentially to help bring them back to a solvent position. I am also concerned with the removal of the audit in the proposed amendment because of the

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State's concern with employee misclassification. This is discussed on page A8 of the April 21 *Northern Nevada Business Weekly* newspaper.

SENATOR PICKARD:

This bill includes licensure for motor clubs. Do motor clubs provide insurance?

Ms. RICHARDSON:

We have licensed motor clubs in the past because they are offering insurance products. Motor clubs are in the same category as the other licensees.

SENATOR PICKARD:

Motor clubs are charged \$500 to file an application. Why are we charging so much and why is there a transfer risk?

Ms. RICHARDSON:

Motor clubs were moved in statute to the fees and taxes section. We did not actually change fees. The fees are the same as when first put under Title 57 of NRS oversight. Motor clubs are considered a company.

SENATOR PICKARD:

Are we pricing small self-insured groups out of their intent to save money?

Ms. RICHARDSON:

We have not added any requirements to self-funded insurance plans in this legislation. We are only giving self-funded insurance plans more visibility in statute.

SENATOR SETTELMAYER:

I see the concern to ensure self-funded insurance plans are solvent. The amendment, [Exhibit H](#), by the Nevada Self Insured Groups covers assessments and audits. Do you have objections to either of these items in the amendment? I also see the value of self-funded insurance plans.

Ms. RICHARDSON:

We are opposed to both sections in the proposed amendment, [Exhibit H](#), covering assessments and audits. Audits help us ensure members are protected, and that misclassification is not occurring. The bill allows self-insured groups to work with the Division.

SENATOR SETTELMAYER:

Is the Division open to working with the self-insured groups to work out a solution?

Ms. RICHARDSON:

Yes, we are open to working with the Nevada Self Insured Groups; however, we need to work with each group individually.

SENATOR NEAL:

Will you explain the Group Capital Calculation (GCC) ([Exhibit I](#)) and why it applies to local language?

Ms. RICHARDSON:

Before this agreement, large companies who span across the U.S., the European Union and other countries had to hold 100 percent collateral in each of these jurisdictions. State insurance regulators currently perform group analysis on all U.S. insurance groups which includes an assessment of risks and financial position of the insurance holding company system. Before the GCC, state regulators did not have the benefit of a consolidated statutory accounting system and financial statements. The GCC and related reporting will provide more transparency to the insurance groups. Risks are now more identifiable and more easily quantified.

SENATOR NEAL:

How does the standard exist across international borders as stated in section 6.14, subsection 3, paragraph (d)?

Ms. RICHARDSON:

This section supports the legal framework for jurisdiction.

SENATOR NEAL:

How does the jurisdictional multilateral agreement work legally for the Division of Insurance?

Ms. RICHARDSON:

Section 6 sets legal parameters to help us fall in line with the covered agreement under the Federal Insurance Office, under the U.S. Department of the Treasury. Insurance companies must agree to be part of the qualified jurisdiction and are required to abide by the same regulations as a U.S.-based company.

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SENATOR NEAL:
Who is the majority creditor in section 6.16?

MS. RICHARDSON:
This refers to the domiciliary country. The location where the bulk of the business is sold determines the domiciliary home. All regulations and oversights occur at the domiciliary level. This process saves time and money.

SENATOR NEAL:
In this same section, how does notice work?

MS. RICHARDSON:
The domiciliary location must receive approval from the regulators for restructuring. The overriding policy governing decisions is that no consumers will be harmed.

SENATOR NEAL:
What is a prepaid limited health service organization mentioned in section 69, subsection 5?

MS. RICHARDSON:
This refers to small prepaid policies. Some individuals want to buy insurance related to a particular issue, such as cancer. Few of these companies exist since the Affordable Care Act was enacted.

MR. CLARK:
I testify in support of A.B. 45 on behalf of the Nevada Association of Health Plans.

JAMES WADHAMS (Nevada Self Insured Groups):
We are in opposition to A.B. 45 only because we have to discuss a proposed amendment, [Exhibit H](#). Otherwise, we are in strong support of this bill.

The Insurance Commissioner has addressed the proposed amendment in part, however, we only ask for the opportunity to continue the discussion regarding self-insured groups. One component of the amendment is to clarify language regarding a ruling recently made of standard industrialized classifications.

There remains confusion regarding the multiplicity of audits. In no way do we want to restrict the Insurance Commissioner's authority to monitor companies' solvency. The solvency standard remains unchanged.

We discussed this issue with the Commissioner's staff and offered the proposed amendment as a placeholder to continue these discussions.

MS. RICHARDSON:

One of the items Mr. Wadhams' group requested to remove was the standard classification coding system and this is one of those situations where it is in English, and it has been interpreted to mean something that it is not.

We worked with the industry to help them understand that the standard classification coding system is any standardized classification system that is under statute and falls under the advisory code. By removing the coding system we would acknowledge that it means something that it does not. It is unclear why this is asked to be removed.

I have discussed the other solvency issues and we will work individually with the companies. We must ensure that we have an opportunity to discuss their cash flow issues and tangible net worth.

There are opportunities in existing statute to have those discussions and make allowances to get self-insured groups back on track. This can be done without altering statute.

CHAIR SPEARMAN:

We will now close A.B. 45 and open A.B. 51.

ASSEMBLY BILL 51 (1st Reprint): Revises provisions governing the Recovery Fund administered by the State Contractors' Board. (BDR 54-324)

MARGI A. GREIN (Executive Officer, State Contractors' Board):

This bill concerns the Residential Recovery Fund, which is governed by the State Contractors' Board and established in 1999. The Recovery Fund is financed by licensed residential contractors. The Recovery Fund provides recourse for homeowners who are unable to have issues resolved by their contractor during construction.

In many cases brought before the Board, the contractor went out of business, abandoned the project or the contractor's license was revoked. Since the first claim was awarded in 2001 over \$13 million has been distributed to more than 1,500 Nevada homeowners. These homeowners include seniors, young couples and respected individuals who were taken advantage of. These stories help exemplify the Boards' public safety message and our ability to assist consumers at times they need it the most.

As of March 31, the Recovery Fund has a balance of \$5.3 million. We hold committee meetings once every two months to consider claims for awards. The Board successfully increased the award amount from \$35,000 to \$40,000 for individual claims and the aggregate value of claims filed against a single contractor from \$400,000 to \$750,000 or 20 percent of the Recovery Fund balance, whichever is less, in the Eightieth Legislative Session.

This change affords the consumers greater financial protections when hiring a licensed contractor and allows the Recovery Fund Committee to award higher amounts when large claims are validated and approved.

When consumers evaluate whether to hire a licensed contractor, the Board wants to ensure statute clearly states eligibility requirements. Assembly Bill 51 does not change eligibility for the Recovery Fund, it simply clarifies requirements. This bill clarifies the definition of single-family residence while affirming the Recovery Fund does not apply to owners of manufactured homes because those residents are under the Housing Division.

We are raising the penalty imposed upon contractors who fail to provide notice of the Recovery Fund to residential consumers. The increased penalty will promote compliance among contractors who are responsible for upholding statutes that protect the health and safety of the public. Failure of the contractor to provide such information results in a lack of understanding by the consumer.

The Recovery Fund's ability to issue an award in a court-ordered judgment requires subrogation of rights stays with the claimant for any judgment amount that exceeds the Board's limit of \$40,000.

TIM GESWEIN (State Contractors' Board):

The primary revision to A.B. 51 is in section 1. This section defines a single-family residence and makes clear who is eligible to make a claim from the Recovery Fund.

While this is a new statute, it matches the definition in the current practice of the Recovery Fund Committee. This group hears and decides Recovery Fund claims. When considering this statute, the competing interests of the Recovery Fund's financial stability, the contractor's ability to pay assessments and the administrative efficiency were considered. These changes clarify who is eligible for Recovery Fund payments while still maintaining the Fund's financial health. This definition does not redraw public policy regarding eligibility. The single-family residence definition supports the long-standing public policy goal of assisting Nevada homeowners.

Section 4 offers a change to the Recovery Fund's subrogation right. Currently, if an award is made by the Recovery Fund, the injured person assigns all rights to the Recovery Fund. In the proposed change, the subrogation right is limited to the amount of the award.

This proposed limit does not harm injured homeowners. Instead, it allows homeowners, who have suffered harms in excess of \$40,000 to seek Recovery Fund payments and still seek awards through other methods. The change also leaves untouched any injunctive relief offered by a court. The limit of the subrogation right acts as a deterrent to residential contractors who would use the Recovery Fund as a shield from their misconduct.

The final substantive change is in section 5 of the bill. Statute requires residential contractors to give notice to homeowners regarding rights under the Recovery Fund. Failure to do so can result in an administrative fine that is paid into the Recovery Fund. This bill revises this statute to increase the administrative fine from not more than \$100 for a first offense to a maximum of \$250. A second or subsequent fine of not more than \$500 is included in this section.

These fines emphasize the importance of the Recovery Fund notice. The fines are paid into the Recovery Fund which helps the Fund's financial health.

SENATOR LANGE:

Where would the popular tiny homes fit into statute?

MR. GESWEIN:

A tiny home would not qualify for Recovery Fund awards unless it is on a foundation. I think tiny homes would be under the jurisdiction of manufactured homes.

SENATOR SETTELMAYER:

Manufactured or mobile homes are excluded from NRS 624 in section 1, paragraph 3 of A.B. 51. The ability to recover damages from the Recovery Fund should be based on the contractor doing the work, not the type of home.

MR. GESWEIN:

Work on a manufactured home is under the jurisdiction of NRS 489. That account is not administered by the State Contractors' Board.

Senate Bill No. 371 of the 80th Session allowed circumstances under which a NRS 624 licensee could work on a manufactured home. This bill allowed the owner of the manufactured home park to hire licensed contractors to perform certain work. By definition, this applies to landlords. The Recovery Fund does not protect landlords because landlords have the ability to correct problems through other resources. The focus of the Recovery Fund is single-family homes owned by the homeowner.

SENATOR SETTELMAYER:

What remedies are available for owners of mobile or manufactured homes against a bad contractor? These contractors are not licensed under NRS 489.

MR. GESWEIN:

The Recovery Fund is an important tool, but it is not an exclusive remedy. A person harmed by a Nevada contractor may seek other avenues for redress. These include civil litigation and insurance. Protections in certain circumstances are available under NRS 624.270.

SENATOR SETTELMAYER:

Remedies other than the Recovery Fund can be costly because litigation is usually involved.

SENATOR NEAL:

Can an estate bring action against a contractor?

MR. GESWEIN:

The estate or the owner assigned after probate can request a claim from the Recovery Fund. The person holding the life estate, as well as the owner of the property could make a joint claim to the Recovery Fund.

SENATOR NEAL:

What is the time limit to file a claim to the Recovery Fund?

MR. GESWEIN:

The Recovery Fund statute of limitations is established as four years after the completion of services. This is established in NRS 624.480.

SENATOR PICKARD:

Tiny homes and manufactured homes are often on a permanent foundation. In this circumstance, would the owners have rights to the Recovery Fund? Are modular homes on a permanent foundation also not included under this statute?

MR. GESWEIN:

We understand some homes are prefabricated and then affixed to real property. The duties of the State Contractors' Board and the Housing Division may overlap when considering these different types of homes.

SENATOR PICKARD:

Modular homes would fall under the State Contractors' Board, correct?

MR. GESWEIN:

If parts of the home are constructed onsite, a modular home would fall under the State Contractors' Board. The distinction is which department, the State Contractors' Board or the Housing Division oversaw the construction. If the State Contractors' Board oversaw the construction, the homeowner could appeal to the Recovery Fund for damages.

CHAIR SPEARMAN:

Is an amendment possible to gain clarity on modular homes?

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Ms. GREIN:

Yes, we will work on an amendment.

CHAIR SPEARMAN:

Please work with our counsel, Wil Keane, on the amendment.

MATTHEW WALKER (Southern Nevada Home Builders Association):

The residential Recovery Fund is the homebuilding industry's commitment to home buyers. This Fund can make homeowners financially whole within a matter of weeks. Southern Nevada Home Builders Association is a supporter and custodian of these funds.

Last Session, we supported A.B. No. 26 of the 80th Session, which increased the remedy amount to individual homeowners. We were also in support of A.B. No 440 of the 80th Session that required contractors to provide homeowners with a single-page disclosure describing the rights to pursue remedies from the Recovery Fund.

We support A.B. 51 to ensure adequate resources are available to homeowners. By defining eligible homes, the bill ensures owners of condos, townhomes and duplexes have access to the funds. It is critical that these homeowners are aware of this resource.

In response to the discussion about eligible home types, it is the understanding of our association that the remedies are pursued through the department that issues the building permit.

SENATOR PICKARD:

Mr. Walker makes an important distinction; the historical approach was to see who issued the permit. My concern is A.B. 51 is narrowing the scope of those homeowners eligible to receive damages under the Recovery Fund. I need greater understanding of how this bill differs from previous policies affecting injured homeowners.

LINDSAY KNOX (Builders Association of Northern Nevada; Nevada Homebuilders Association):

The homebuilding industry takes every opportunity to highlight the Recovery Fund. The Fund is an effective alternative to litigation. The Recovery Fund

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provides a tested and efficient remedy for consumers who are victimized by defective work.

Homeowner claims against the Recovery Fund are adjudicated within six months. By contrast, most lawsuits take years to be resolved. We support A.B. 51 because it ensures ongoing viability of the Recovery Fund, protects homeowners and ensures contractors are held accountable for substandard work.

ALEXIS MOTAREX (Associated General Contractors of America; Nevada Contractors Association):

We support A.B. 51 and believe it builds on a successful program by clarifying who is eligible to receive judgements from the Recovery Fund. This bill will build confidence in the construction industry.

MS. GREIN:

The Residential Recovery Fund has been a valuable resource for Nevada homeowners for the past 22 years. The State Contractors' Board has identified opportunities to improve and clarify the program as new trends are noted. The changes in A.B. 51 support this effort.

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CHAIR SPEARMAN:

We will close the hearing on A.B. 51 and adjourn at 10:33 a.m.

RESPECTFULLY SUBMITTED:

Kim Cadra-Nixon,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
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A.B. 250	C	1	Assemblywoman Sandra Jauregui	Proposed Amendment by Nevada Association of Health Plans
A.B. 250	C	1	Tom Clark / Nevada Association of Health Plans	Proposed Amendment
A.B. 250	D	1	Alex Camberos	Support Testimony
A.B. 4	E	1	Barbara Richardson / Division of Insurance, Department of Business and Industry	Explanation of Bill
A.B. 18	F	1	Barbara Richardson / Division of Insurance, Department of Business and Industry	Explanation of Bill
A.B. 45	G	1	Barbara Richardson / Division of Insurance, Department of Business and Industry	Explanation of Bill
A.B. 45	H	1	Barbara Richardson / Division of Insurance, Department of Business and Industry	Proposed Amendment by Nevada Self Insured Groups
A.B. 45	H	1	Senator James A. Settelmeyer	Proposed Amendment
A.B. 45	I	1	Senator Dina Neal	Group Capital Calculation