

**EDUCATION & LABOR COMMITTEE**

**Congressman George Miller, Chairman**

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**Chairman Miller Statement at Committee Hearing On “Nevada’s Workplace Health and Safety Enforcement Program: OSHA’s Findings and Recommendations”**

WASHINGTON, D.C. – *Below are the prepared remarks of U.S. Rep. George Miller (D-CA), chairman of the House Education and Labor Committee, for a committee hearing on “Nevada’s Workplace Health and Safety Enforcement Program: OSHA’s Findings and Recommendations.”*

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The Education and Labor Committee meets this morning to examine a federal Occupational Safety Health Administration review of the Nevada health and safety program.

The committee first heard testimony regarding problems with Nevada’s OSHA program at a June 2008 hearing on construction safety. During an 18-month period between 2006 and 2008, 12 construction workers died on the Las Vegas strip. At the hearing, witnesses said that it was routine for Nevada OSHA officials to reduce or eliminate tough sanctions behind closed doors.

Nevada workplace health and safety was also the focus of a year-long investigation by the *Las Vegas Sun* in 2007 and 2008. The paper reported that productivity was frequently put ahead of safety as contractors pursued completion bonuses.

These growing health and safety issues sparked labor disputes. Workers staged a walkout in June 2008 demanding safety improvements after concerns grew over eight deaths at two construction sites in Las Vegas.

Safety trends in Nevada had been pointing in the wrong direction: between 2003 and 2007, Nevada’s construction illness and injury rate went up by more than twenty percent while the national construction injury and illness rate fell by 11 percent.

As safety became an issue, so did enforcement.

Two complaints alleging backroom deals between Nevada OSHA and politically connected firms were lodged by those involved in a 2008 tragedy that killed two workers and nearly took the life of another at the Orleans Hotel and Casino.

The mother of one worker who was killed at the Orleans Hotel joins us today. She will recount the reckless disregard of workers safety by Boyd Gaming and the agreement with Nevada OSHA

that resulted in Boyd escaping willful violations even though they had been cited for substantially similar violations at its other properties in Nevada over the previous three years.

The lead Nevada OSHA inspector who recommended willful violations against the Orleans took the extraordinary step of filing a complaint with federal OSHA officials after a deal was made. He resigned his position shortly thereafter. He was counseled that assisting in a complaint against the state could result in an adverse personnel action.

The inspector pointed to “extensive irregularities” in the Boyd Gaming deal and said that the deal could only be the result of OSHA protecting the contractor from bad publicity and a wrongful death lawsuit by the workers’ families.

This and many other allegations of misconduct eventually led to a special review of the Nevada state plan by the new administration.

The review shows that Nevada’s OSHA program failed to cite employers for clear hazards, didn't properly train inspectors, didn't follow up to ensure that dangerous conditions were fixed, failed to include worker representatives in inspections, and even failed to notify families of deceased workers of investigations or give them the chance to speak to investigators.

It is also troubling how infrequently Nevada inspectors found serious violations and took little meaningful enforcement action. As this chart shows, last year only 29 percent of Nevada’s citations were classified as “serious.” Compare that to 44 percent for other state plans and 77 percent for federal OSHA.

It is clear that there is something terribly wrong with the Nevada’s OSHA program.

But, Nevada’s problems may also reflect a larger problem with the oversight of the 27 states and territories that operate their own plans. Federal OSHA must ensure that a state operates its own plan in a manner that is “at least as effective” as the federal program.

No flags were raised during previous reviews of Nevada’s plan under the Bush administration. In fact Bush OSHA officials called Nevada’s health and safety program “very good overall.” These thumbs-up were occurring at the same time that fatalities and injuries were skyrocketing. Federal officials were clearly asleep at the switch.

With rosy proclamations from the Bush administration, there was no push for Nevada to better protect its workers.

This was at least until the new acting assistant secretary of OSHA, under the leadership of a new administration, ordered a comprehensive review of the state plan. He will join us today to explore the agency’s conclusions and recommendations.

I am also pleased that Nevada OSHA’s new director joins us today and I look forward to hearing from him about how Nevada plans on turning this program around. While Nevada’s promises to

improve the program are an important first step, they must be strictly monitored by federal officials.

Basic oversight of state plans is not only important in Nevada, but it is vital to the 57 million American workers whose health and safety protections are enforced by a state plan. While some states are running innovative programs, it is clear that additional reviews of state plans are warranted.

Excluding California because they have higher penalties, the average serious penalty assessed by state plans is only 65 percent of the federal OSHA average. This disparity suggests that some state plans may not be as effective as federal OSHA,

Indeed, one witness today will offer his perspective that Nevada may not be the only state with problems meriting closer scrutiny.

OSHA's announcement of additional state reviews is important to ensure that every worker has sufficient health and safety protection while on the job.

Before we get to these witnesses, we will first hear from a distinguished guest from the State of Nevada. Senate Majority Leader Harry Reid has been a stalwart in the fight for the health and safety of American workers and ensuring that those who have been harmed on the job receive just compensation.

Thank you for joining us today. I look forward your testimony and the testimony of all our witnesses today. I now yield to Ranking Member Kline for his opening statement.

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