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DEPARTMENT OF BUSINESS & INDUSTRY  
STATE OF NEVADA  
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON EDUCATION AND LABOR  
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Good Morning. Thank you Chairman Miller, Ranking Member Kline, Congresswoman Titus and distinguished Committee members for this opportunity to speak with you today about Nevada's Occupational Safety and Health Program.

My name is Donald Jayne. I am the Administrator of Nevada's Division of Industrial Relations and the state plan designee for Nevada's Occupational Safety and Health Program. I have with me the newly appointed Chief Administrative Officer for Nevada OSHA, Stephen Coffield.

We are pleased to be here today to answer your questions about Federal OSHA's *Review of the Nevada Occupational Safety and Health Program* ("Federal OSHA Report"). The report is the product of a special study by Federal OSHA—the first in what I understand will be a series of special studies of state plans.

When I was asked if I would agree to have Nevada OSHA be the first of the state plans to be evaluated by a special study, I said "yes." My reason was simple: I wanted to know what *was*, and what *was not*, working.

Now I know. I know Nevada OSHA needs work. Quite a bit of work. But, I am here to tell you Nevada OSHA is not a wreck. The program should not be junked; it just needs to be repaired and properly maintained. In moving forward, we should not forget about the people who work for Nevada OSHA. Like employees of Federal OSHA and other state plan states, our employees are committed to enforcing occupational safety and health standards.

In many ways, Nevada OSHA is similar to the highway patrol, we are the cops, the enforcement officers who enforce the laws and investigate tragic accidents. We don't blame cops for tragic accidents and we should not blame OSHA enforcement officers either. We should keep in mind that the primary responsibility for occupational safety and health rests on employers. If an employer fails in its responsibility, we—like the highway patrol—will issue a citation carrying an appropriate fine.

But I am not here today to talk about fines. I am here to discuss Nevada OSHA's response to Federal OSHA's Report. Now, after reviewing the report and considering the testimony preceding me you may wonder how I can be so sure Nevada OSHA can be salvaged. My answer is simple: I have confidence in Mr. Coffield and the Nevada OSHA employees who have dedicated themselves to reducing work-related accidents, illness and

fatalities. Therefore, as part of Nevada's new leadership, I know Nevada OSHA *will* improve.

Thus, my opening comments—*and my answers to your questions*—may be more positive than you might expect.

I believe the issuance of Federal OSHA's Report marks the beginning of a new relationship based on a shared goal—reducing injuries, illnesses and fatalities. I am here today to tell you that Federal OSHA and the state plans can work together to achieve this goal.

We *must* work together because even one work-related death is too many. The impact on family, loved-ones, friends and fellow employees is too great. In Nevada, we have shared the pain of work-related fatalities all too often. Therefore, at this time, I want to offer my public condolences to all those who have lost someone to a work-related accident.

As I said, even one work-related death is too many. Federal OSHA and the state plans must do more to eliminate fatalities.

For its part, Nevada has a history of doing more. In 1991, we adopted a law requiring each employer with more than 10 employees to establish and carry out a written safety program; and, in 1995, Nevada OSHA was authorized to adopt standards and procedures for the safe operation of cranes. More recently, Nevada responded to work-related fatalities by requiring

mandatory OSHA 10 & 30 hour training for employees and supervisors engaged in construction work. Nevada also requires consultation with members of the deceased's family.

Today, I am here to state on the record that Nevada OSHA is going to address the issues raised in Federal OSHA's Report. However, budgetary constraints may have an adverse impact on our ability to address the issues quickly. Thus, while we are committed to change we are mindful of our financial limitations.

Historically, Nevada has stepped up to the plate financially. At present, the State of Nevada contributes over three quarters of the operational cost for Nevada OSHA. But, Nevada is not alone. Over the years, the ratio of federal contribution has slipped, with the state plans picking up an increasing share of the costs.

Therefore, as Federal OSHA increases its oversight of state plans, we are compelled to ask you implement an equitable and consistent formula to fund state plan programs. The current formula is antiquated and inadequate. If you want state plans to succeed, you must address the funding formula.

In my remaining time I would like to take this opportunity to address a couple issues raised in the Federal OSHA Report.

At the onset, I want to touch on “willful” and “repeat” violations. Here, I can tell you we are already addressing the perception that willful violations are discouraged; they are not. In conjunction with this effort, we are forging a new and effective working relationship between our enforcement personnel and our attorneys.

These actions, along with others, will ensure that employers who willfully or repeatedly violate OSHA standards are issued appropriate citations.

Overall, it is my intention to enhance and strengthen all our enforcement policies and practices. Accordingly, Nevada will develop an action plan addressing all the findings and recommendations in Federal OSHA’s Report.

Next, I want to say a few words about training. We do not take this issue lightly. Like other state plans we rely on training from the OSHA Training Institute (OTI). That will not change; we will continue to send our inspectors to OTI. We will also continue to schedule on-site training because we think it is extremely cost effective. In addition, we will take steps to ensure our enforcement personnel understand and apply their training, particularly in the area of hazard recognition.

In closing, Nevada OSHA welcomes the advent of uniform, meaningful and effective Federal OSHA oversight. Therefore, I say to you today, let us all work together in a positive and constructive manner to achieve our common

goals. Nevada will take the lead in addressing issues raised in the Federal OSHA Report but we need your support and assistance.

Thank you for your time and attention.