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## OFFICE OF THE LABOR COMMISSIONER

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### TASK FORCE ON EMPLOYEE MISCLASSIFICATION

#### JANUARY 25, 2021 - MEETING MINUTES

1. **Call to Order and Roll Call.**

Shannon Chambers, Nevada State Labor Commissioner, called the meeting to order at 9:30 a.m. Roll Call and Quorum.

2. **Public Comment.**

There was no public comment.

3. **Overview of Task Force on Employee Misclassification.**

Shannon Chambers, Nevada State Labor Commissioner, presented this item. Ms. Chambers provided information on the history and background of Senate Bill 493 80<sup>th</sup> (2019) Session of the Nevada Legislature, that created the Task Force on Employee Misclassification (Task Force). The Office of the Labor Commissioner supports the Task Force.

4. **Election of Chair and Vice-Chair.**

A motion was made to elect Teresa McKee, Chair, of the Task Force on Employee Misclassification. The motion was seconded and passed unanimously.

A motion was made to elect Fran Almaraz, Vice-Chair, of the Task Force on Employee Misclassification. The motion was seconded and passed unanimously.

5. **Overview of current state and federal laws on Independent Contractors.**

Shannon M. Chambers, Nevada State Labor Commissioner, presented this item. The following information was provided to the Task Force members.

<http://labor.nv.gov/uploadedFiles/labornvgov/content/Employer/Independent%20Contractor%20-%20Information%20Sheet.pdf>

[Final Rule: Independent Contractor Status under the Fair Labor Standards Act | U.S. Department of Labor \(dol.gov\)](#)

Ms. Chambers provided information on the Office of the Labor Commissioner and the current misclassification and independent contractor laws, regulations, and presumptions regarding independent contractors that are enforced by the Office of the Labor Commissioner. Ms. Chambers provided an outline of the claim process, penalties/fines, and the amount of claims involving potential misclassification.

The new United States Department of Labor Rule on Independent Contractors was mentioned and whether it would actually take effect in March 2021, given the election of President Biden, the appointment of a new Secretary of Labor, and the regulatory freeze implemented by President Biden on January 20, 2021. This issue will continue to be followed and information and updates provided.

Ms. Chambers also provided information on what happened in the State of California regarding the efforts to classify more workers as employees, and how that effort was overturned by California voters.

Vice-Chair Almaraz provided the Task Force with more information and background on the issue of misclassification and the various legislative actions that have been taken to address the issue of misclassification.

The Task Force members discussed studies that have been completed on misclassification and the Task Force was informed that a new study is set to be released regarding misclassification and the amount of money it costs the State.

Several Task Force members emphasized the importance of independent contractors and the value of the independent contractor work model. The COVID-19 public health emergency has required flexibility in the workplace and the ability to work from home with various schedules. Chair McKee noted the essential use of independent contractors in certain industries, such as the Real Estate Industry, and the value to the industry that this provides. Ms. Chambers and other members of the Task Force agreed that the independent contractor framework when done right is an essential element of modern employment and needed considering the events related to COVID-19.

The Task Force discussed targeting those potential industries where misclassification has been known to occur and working with other agencies to create a designated investigative task force for investigation of misclassification.

The Task Force members looked forward to addressing the potential issues related to misclassification, the benefits of the independent contractor structure, and developing potential recommendations to address those entities/industries that may be engaged in intentional misclassification of workers.

6. **Comments from Task Force members and discussion of possible subcommittees.**

Ms. Chambers informed the Task Force members that the creation of subcommittees was allowed and could be used to address specific issues related to misclassification.

The Task Force members discussed the creation of potential subcommittees, such as an Audit Subcommittee, Legislative Subcommittee, and a subcommittee that could address industry issues.

It was agreed that the Task Force members would submit subcommittee ideas by Friday, January 29, 2021, to the Labor Commissioner.

7. **Agenda Items for next meeting.**

Agenda items for the next meeting could include the following:

- Approval of Task Force Subcommittees and Subcommittee Appointments.
- Presentation of Misclassification Studies.
- Ideas on creation of investigative unit with other agencies to support Task Force.
- Presentation of laws and regulations on misclassification from other agencies.
- Other items to be placed on the agenda at the request of the Chair and Vice-Chair.

8. **Public Comment.**

There was no public comment.

9. **Adjournment.**

The meeting adjourned at 10:30 a.m.