File

MEMBERS PRESENT: Chairman Stewart
Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: None

GUESTS PRESENT: DeArmond Sharp, Crown Zellerbach
Sheila Leslie, CSA/WC
Jean Ford, Senator, Clark County District 3
David L. Howard, Secretary of State office
Virgil H. Wedge, Woodburn, Wedge, Blakey, Jeppson
Susan McCleary, Inter-Tribal Council of Nevada
Al Edmundson, Health Division
Marilyn Nichols, Community Food Bank
Nancy Fryer, supporter of SB 282
David Lehr, supporter of SB 282
David Hoffman, Nevada State Office of Community Service
Pamela M. Bugge, Advocates for Abused Women
Peter Christiansen, supporter of SB 282

Chairman Stewart called the meeting to order at 8:05 a.m., noting the first bill to be heard would be SB 282.

SB 282 - Establishes immunity from liability for certain persons and authorizes creation of centers of collection and distribution of donated food. (BDR 3-443)

Jean Ford, Senator, Clark County Senate District 3, speaking in favor of SB 282, said she became aware of the community food bank program in Southern Nevada the last year and was particularly made aware of its importance in the aftermath of the MGM fire when the program really came into its own in terms of public awareness and service to the community. People who run that program had come to her earlier and indicated that there was a problem in terms of getting more people to contribute to the food bank because of the possible liability that might ensue. They researched the law in other states, worked with legal counsel in California that is involved with community food banks there; and proposed some legislation that would allow groups that do donate food to be immune from liability so that potential donators would be encouraged to donate the food instead of merely throwing it away. She said we have all seen food wasted in resturants or hotels and wonder what happens to the food that is dated on the grocery shelves

When that date time has expired. She distributed an article that came out in March about the value of community food banks throughout the country (EXHIBIT A). This article indicates that the value of all wasted food that can be recovered equals the 6.2 billion dollars spent on the national food stamp program in 1979 and tells about some of the programs around the country. The bill as originally introduced provided for involvement on the part of the county; that is, their getting into the food bank business itself and then regulating the food bank program. The Senate felt the least amount of government involved in the issue the better and so the reprint reflects omitting the county role but keeping in the law the immunity from liability issue and placing in the law that the charitable nonprofit corporations that get involved in this program could not sell the food that they have received. That is the thurst of the bill.

Senator Ford, continuing, said Section 1 is the immunity from liability if the injury results from gross negligence or willful act of the donor, the nonprofit charitable organization or an employee. The remainder of the bill is verbage that is required to prevent the sale of the food.

Section 2, the new language, "in case of an educational corporation, charitable corporation" all of that is transferred from page 3, line 7 through 18. It is a rewrite in order to get a third subheading; page 2, lines 7 through 10 is the location. The new language is "In the case of a charitable corporation whose stated purpose is to receive salvage food in bulk quantity, to distribute that food without charge when such a corporation does not have the power to distribute that food outside the state or to sell or to offer to sell it". Section 6 is to modify the definition of "food establishment" in Chapter 446 so that these groups do not have to meet the multitude of regulations that apply to normal food establishments. They are inspected by the Health Department at this time. The bill passed the Senate with no opposition.

In response to a question from a committee member, Senator Ford said the original bill involved the county but the reprint version does not. The county did not oppose it.

Mr. Stewart remarked that in the first reprint, the Health Department was entitled to inspect food establishments. Was that in the original Senate version?

Senator Ford replied the county under existing law relating to the Health Department already has neces-
sary to include that in the bill.

Mr. Stewart asked if in the provision itself, they were attempting to insure freedom from liability for the donated food. If the food that is donated is for some reason unfit for human consumption and makes someone sick, no one will be liable.

Senator Ford said there would be no liability unless there was evidence of willful wrong.

Mr. Sader said it is unclear to him exactly the limits of this liability. No action for an injury which occurs in connection with the free distribution of donated food could be interpreted to mean that, for example "if you are driving your truck from the resturant to the distribution center and get into an accident, there would be no liability".

Senator Ford stated that was not the intent of the Senate committee.

Mr. Sader was of the opinion that this could be interpreted as "in connection" with the donation of food. He was informed the question was not raised at the Senate hearing. The intent was to apply it to the food itself and the handling of the food.

Mr. Stewart asked if the intent was to free the inhibitions of the donor, and Senator Ford answered "yes".

Mr. Sader observed the provisions seem to apply primarily to charitable corporations. He questions the applicability to charitable organizations that were not incorporated.

Senator Ford stated that the groups distributing food in the state are incorporated under Chapter 81. For an organization to get into the distribution of food they must be incorporated. Incorporation is a very simple procedure. All the groups in the state at this time are incorporated. In order for them to get donations and prove they are nonprofit they have to be incorporated or people will the question the motive by which they have been organized.

Marilyn Nichols, Director of the Community Food Bank in Las Vegas, for the past year, said not only does this bill take the liability away from the donor, which takes away the inhibition of donating food, it also alleviates a lot of the funding problems. They have to purchase food for the emergency food boxes. They have spent $16,000 in Las Vegas through March that was susposed to be allocated for 1981. Allowing food to be donated opens the doors for donations for the emergency food box program. It would also eliminate the hardship of trying to find funding for these programs. Last year they received 576,000 pounds of salvage food. They project it would at least increase by one-fold, if not double that amount if this bill passes. She said she was trying to work through the airlines and other catering services in town . The potential donators of food seem to be open to the suggestion that if they had a good salvage program they would consider donating their left over food. That will not guarantee them receiving that food, but it is a step in the right direction. Big corporations always feel liability and it is very important that this bill be passed. The salvage food in the United States, let alone Las Vegas, is enough to feed a great number of people. Otherwise the food will be going to pig farmers or will be thrown out and demolished.

Mrs. Cafferata asked how the food bank operated. Ms. Nichols told her they were funded by Community Service Administration, a federal grant, under food and nutrition. She explained in detail the food donation programs of her organization. These programs include donations to transients, unemployed, and senior citizens. The types of foods are bread, cheese, produce and nonpreishables.

Mr. Sader asked how the program was funded. Ms. Nichols responded they were funded through CSA, Community Service Administration in the amount of $71,000 this year. They were cut back. This measure would help. It would increase the food supply.

Mrs. Cafferata asked how agencies qualified for receipt of food from CSA. Ma. Nichols said that if an agency goes through the CSA salvage program they have to produce a particular document signifying they are a proper agency and have gone through the Internal Revenue from which the status has been obtained proving that they are a nonprofit agency, and incorporated. A charge of four cents per pound is levied by CSA. That money is returned to the salvage program to pay for gasoline used in food deliveries, liability insurance, etc. One in need of help in an emergency situation has to be referred to the program from welfare, food stamps program, social services, agencies in town, churches or state. The person is screened to ascertain the need exists. These persons are given food for three balanced meals for three days, mostly nonperishables such as peanut butter, jelly, bread, vegetables. The salvage program exists totally on donations, mostly from chain stores, or supermarkets. For the emergency food box program the food is purchased. This bill would help.

They have been in existance for four years and have experienced no mishaps from unwholesome food. There is a nutritionist on the staff.

Mr. Sader asked that if this bill should pass, could they get food that was spoiled. Was there someone on the staff that checked the food as it came in.

Ms. Nichols answered that they have a warehouse manager who is trained, all the volunteers go through a training program, because there is sometimes food that is unedible or food that does not look presentable enough to eat. Ms. Nichols explains the process by which the food arrives at their facility. Food that is made available to the needy has been inspected by the staff and the health department and deemed fit. They have never had a problem.

Mrs. Ham asked how many people were severed by CSA. She was informed that there were 53 agencies in the salvage program. 15,000 people were served by the emergency food box program last year.

Shiela Leslie, Coordinator of the Community Services Program Agency in Washoe County, distributed an article from the Review Journal. (EXHIBIT B.) Their food bank has just begun and is much smaller than the one in Las Vegas. She summarized the material in EXHIBIT B.

They have two programs. The major one is the Emergency Box Program and they are now beginning a salvage food operation. One of the major problems encountered in seeking food donations is the concern of liability. They work strictly on a referral basis. The people are screened as to their needs. They can help a person only one time because of the limited resources. They received a grant through Community Services Administration for the program, which included a very small amount to begin a food bank. The funds from the Community Services Administration have been reduced and they are concerned with organizing a food bank within the community to continue their work. In 1980 the food stamp cases in Washoe County increased by 32%. They are now serving 300 people a month and expect that to steadly increase. By encouraging food donations they are helping people that cannot be helped by other social programs. Theirs is a stop-gap service. The passage of this bill will increase their capacity.

Susan McCleary, Inter-Tribal Council of Nevada, a public health nutritionist, said she concurs with the two previous speakers. She works with a number of community food programs, elderly nutrition, headstart, daycare, and others. The people who will be served are people who have marginal nutritional status, they are in need. They are those most susceptable to ill health, whether they are pregnant, elderly, or children. The treatment costs of effects of poor nutrition are much greater than any preventive measures that could be taken. There is a lot of waste in stores because the consumers have a higher standard of aesthetics in food. Much of the food that has the greatest nutritional value is that portion that is discarded. It is important to have a central clearing place for these foods because many vendors discard them as there is not a collection agency for them.

Mrs. Ham questioned the salvage value of lettuce leaves. She was informed the leaves were perfectly good and contained more nutrition than the more attractive balance of the vegetable. Many times the stores would offer it to customers at little or no cost. The food is perfectly good and safe.

Pamela Bugge, speaking on behalf of advocates for abused women, said she is on the board of directors and former chairman. They are a nonprofit charitable organization but are not in the business of distributing food per se, however, within the shelter they do distribute food. They get some food from commodity food services and also have food donated to them from private and community organizations. They normally encourage the women in the shelter to obtain food through their own means, but there are instances when they supply the food. They have not had any major problems in this area. This bill would have a good impact on their organination. Some of the people they serve are needy and their children are lacking in proper nutritional foods. They urge the passage of this bill.

SB 270 - Permits persons to register their willingness to serve as resident agents of foreign corporations with secretary of state (BDR 7-693)

There was no one present to testify on SB 270.

SB 359 - Revises certain requirements for takeover bids affecting corporation (BDR 7-850)

De Armond Sharp, attorney from Reno, spoke in favor of SB 359. He said this bill asks for amendments to what is known as "The Nevada Takeover Bid Disclosure Statute". Nevada, along with about 35 other states have these types of statutes. They relate to tender offers made by one corporation for the stock of another in an effort for the offering corporation to obtain control of the target corporation. The statement from the Illinois, which is part of EXHIBIT C, best explains the idea. He read the portion of the exhibit, page one, that is inset and enclosed by quotation marks. He explained that the term "security holders" referred to stock holders. If a person owns a share of stock in the company that is the target company, the rating company will make an offer to buy so many shares of stock for a certain amount of money and the owner has a certain period of time within which to offer his stock for that sum. The idea of the rating company is that they will be able to acquire enough stock at that price to take control. These things happen very, very quickly, within periods of days. Nevada has had its takeover bid disclosure law for a number of years, but because of recent SEC rules which were adopted pursuant to authority granted to the SEC by the Williams Act which is a federal law dealing with this area, it is necessary to make some changes in the Nevada statute. The Nevada statute conflicts with some provisions adopted by the SEC after the Nevada Act was passed. That means that the Nevada Act is unconstitutional because any state statute which conflicts with a federal statute is preempted. There are two provisions which cause problems. The Nevada ACT, NRS 78 3771 requires a 30 day disclosure notice before the tender offer or the bid may be made. That is, the rating company is required by the Nevada Act to give to the target company, a notice 30 days before they make their public disclosure, Their tender offer, that they are going to do this. The SEC rule prohibits public announcement of price and number of shares to be sought, more than five days before the actual commencement of the offer; thus, the Nevada Act is in contravention of that rule since it requires that a notice more than five days before the commencement of the offer. That is the source of one of the amendments that now has been changed to require the information four days before the bid. In the Senate, Judiciary Committee also changed thirty days to twenty days because twenty days is what the Delaware law provides, and requires public announcement of the disclosure as well as the disclosure being delivered to the target company. But the disclosure that comes forth twenty days ahead of time, simply says "we are going to make a tender offer". It doesn't say "we are making a tender offer for X number of shares

at any price", because if it did it would be in contravention. All it says is that "we are going to make a tender offer sometime in the future", that has to come 20 days before the offer is actually made and it has t be made publicly as well as to the target company. The SEC rule permits a public announcement if it doesn't specify the securities and the price.

The other problem with the Nevada statute,the change sought, is to change the time within which the shares can be depositied. In order to accept the offer to purchase them change the time from 35 to 60 days, and change from 10 to 7 days the time within which the shares maybe withdrawn. You deposit your shares, if you change your mind, you can withdraw them. You now have 10 days in which to withdraw your shares. They seek to change that to 7 days. There is also an extention of the period of time to determine what to do in the event more shares are tendered than are offered to be purchased. If that happens there has to be prorations made in order to treat everyone fairly. He indicated that the requirements they were seeking to eliminate, particularly the pre-notice requirement which discloses the number of shares to be purchased and the amount of money to be offered, has been held unconstitutional almost every time it has been challenged. It has been held preliminarily unconstitutional in Nevada by Federal Judge Bruce Thompson in the Texas International- Continental Airlines case. On a motion for a preliminary injunction, he held the Nevada statute was unconstitutional. That case is now set for trial later this year, when that issue will be decided once and for all. There are not very many authorities that do say that it is constitutional the better part of valor is to change it and that is what this bill seeks to do.

Mr. Thompson asked if Line 2, of the bill were also constitutionally required and was it not also a contravention of the federal law.

Mr. Sharp replied that their position is that it is not, because it does not require the disclosure of the number of shares to be purchased, or how much money is to be offered. The SEC rules say that you cannot make a public announcement of the number of shares or the dollars more than five days before. We think this is at least arguably constitutional; however, people in the judiciary, Judge Thompson among them, that take the position that any activity by a state in this area is simply preempted by the Williams Act, so it doesn't make any difference what you do. The Supreme Court may give some information on that this term because they have accepted a case from another state dealing with the Williams Act. If a statute is going to be constitutional, with this change the Nevada statute has a good chance of being constitutional. Judge Thompson said "this is the most innocuous tender offer statute that he has seen in all of the ones that were offered to him in the litigation". This will make it more innocuous.

Mr. Stewart asked the SEC regulation that requires only five days and the purpose of the requirement.

Mr Sharp responded that as best he understands it, they feel that more notice than that gives an unfair advantage to the target company. Because the target company reacts, usually violently, to these tender offers and tries to think up ways to thwart them. The paths that they choose are innumerable. It is fair game. For example, in the Continental - Texas International case, even after the tender offer was made the management came up with an idea of creating a plan whereby the employees would gain control of the company through purchase of the stock in a retirement trust arrangement. The company is helping the employees finance that. They are going to issue enough of the unissued stock to give the employees control versus the Texas International who now have 49%. It is those kinds of activities which apparently the SEC rule makers felt they wanted to prohibit by putting a very short time frame on the announcement. The five day provision does not appear in the statute which is known as the Williams Act. It only appears in the SEC regulation and a number of experts in this area, (he is not one) consider that the SEC has probably overstepped its bounds in putting in the five day limitation and they really have no authority to do that.

Mr. Stewart asked if this has been litigated; Mr. Sharp said he was not aware of a case that tested the SEC authority.

Mr. Stewart commented he knew of a couple of district court cases that were held against the argument and Mr. Sharp added that no circuit court had acted on it yet.

Mr. Stewart inquired if the opinion was that the market was affected by this notice of tender offer and was informed that it was, The effect on the market may also be reasoning behind the SEC short time requirement.

Mr. Sharp said the fact that the tender offer comes out is, for a number of reasons the trigger to the market response. The offer is open for at least 60 days. It is the pre-notice period. They talk about the legislative intent behind the Williams Act and the pre-notice requirement, the delicate balance that is involved, the balance between the offering company and the target company, and how that balance has to be preserved. The way they have chosen to do that is by structuring these notice requirements and by these other rules the Williams Act provdes. Once the offer is made the market responds to what the target company does in reaction to it. The market is probably going to respond to a public notice that someone is going to made a tender offer.

Mr. Stewart questioned the opportunity for the takeover company to withdraw an offer and was told an offer could be withdrawn up until the expiration period of 60 days. Mr. Sharp had some of the federal regulations with him but not all.

Mr. Sharp reads from Federal Secuities Law - Tender Offers, Sec. 14(d). (EXHIBIT D). Continuing, he said in 1979, when the legislature acted on this, the statute was probably constitutional

because it was not until early this year that the SEC adopted the regulation and triggered the five day rule, by a disclosure of the price and terms. That is really what got Nevada statute into trouble. Prior to that time it was fairly compatible with the Williams Act. If you take the position that anything in the Act is preemptive because the the Williams Act has preempted the field there is nothing that we can legislate. If you take the position that that is not the case,that all it has preempted are conflicts, that you can't have anything that conflicts, then the way proposed to clean it up pretty much does that. Disclosing the identity of the offeror in both of them is not a conflict.

Mr. Stewart asked if the identity of the bidder were required within five days. The State requires the identity of the bidder 20 days in advance.

Mr. Sharp said it doesn't work that way. It works this way - The SEC says it doesn't preclude any advance public announcement except announcements that contain the price and the number of shares. They can talk about all they want ahead just so they don't announce the price and the number of shares. But the announcement on the price and the number of shares can only come five days before the offer commences. SEC Rule 14d-2, effective the beginning of 1980 covered these specific provisions. (EXHIBIT D)

Mr. Stewart requested a copy of the SEC rule 14d-2 and added the SEC seemed to have determined that they are the ones that are going to regulate the area. Mr. Sharp said he was sure that was their position.

Mr. Stewart then commented the committee was wasting time in a field in which they probably didn't belong.

Mr. Sharp remarked that that may not be the case. The State has some protection in their statute. 35 other states have similar protection, and there is contention there is room for both. The Supreme Court has elected to decide the "mite" case which came out of Illinois. That could put an end to a lot of the argument, one way or the other. That was an appeal from a federal district court case in Illinois.

Mr. Stewart inquired if the case went through the court of appeals and was informed by Mr. Sharp that it did. He would furnish the committee with a copy of the citation.

Mrs. Ham asked if an SEC rule could preempt a state law and Mr. Sharp responded that it could if it is a rule promulgated under the authority of the federal act.

Mr. Sharp continuing, said as a matter of law, when the SEC adopts rules they have the same status and effect as if Congress had adopted them.

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AB 438 - Amends provisions relating to corporations (BDR 7-136)

SB 438

David Howard of the Secretary of State's Office, said this is a housekeeping bill, meaning that it is to help clean up matters in their house. Two things of interest for them in this bill. Section 1, lines 2 and 3 would change the required number of incorporators to form a corporation from a mandatory 3, to one or more. Two reasons for this. One is they have been told by the people who provide corporation service to their office that it would increase their business signifiantly. They probably lose a good many corporations a year from the east coast because the law is three or more. Sometime it is inconvenient to have three incorporators. The second reason is that it really is not valid to have three or more. The incorporators are most often the secretaries of the law firms office. He cited examples of why the "3 or more" requirement was unnecessary.

The other part of the bill in which their office is interested is Section 3, lines 23 and 24. (Most of the rest of the bill is the bill drafter perogative). The fee for filing a certificate of disolution whether it occurs before or after payment of capital and beginning of business is $20. This will eliminate some confusion on the part of their customers in the State, in that the law will be specific.

Mrs. Ham questioned the need for one person to incorporate and Mr. Howard said it was a frequent occurence.

Comments from the committee regarding "one person incorporation" followed. Mr. Howard explained that often the people who are meeting the requirement of three or more, recruit people who are convenient, people who have nothing to do with the corporation whatsoever.

Virgil H. Wedge, attorney, Woodburn, Wedge, Blakey and Jepson in Reno, Nevada, said he had asked for an amendment Section 78 253, of Corporate Statutes and he has asked that it be made a be made a part of SB 438. With reference to SB 438, he has reviewed it and thinks it is a good housekeeping bill and recommends that it be passed. In reference to the proposed amendment he is asking for, the present law is that treasury shares, or shares that are acquired by a corporation, shares that have no voting rights and dividend rights, and he would like to expand this law to include shares that are held by a wholey owned subsidiary. The theory is that the holding of corporate shares by a subsidiary is the same as if the parent or issuing company held them. To accomplish this he suggests amending of Section 1 of 78 283 (EXHIBIT E) to read "as used in this section treasury shares means shares issued and thereafter acquired by a corporation but not retired or restored to the status of issued shares". That is the way it reads at the present, he wishes to expand by saying "as used in this section, treasury shares means shares issued and thereafter acquired by the corporation or a wholey owned subsidiary of the corporation". The merits of the proposed amendment

are as follows: Frequently the parent company issues stock which is then acquired by the subsidiary and following that, the remaining shares of stock may be held by the general public and may represent hundred or thousands of shares of stock, with the subsidiary merely holding a percentage of the parent company stock. The subsidiary company is frequently a sole, or one purpose company, carrying on a certain function on behalf of the parent company and it does not need and does not want the money that would flow from a distribution from the parent company. Yet that dividend money flows over to the subsidiary and there is a question of how to return it to the parent company which needs the money for its own functions. In that dividend transaction that flows from the parent company to the subsidiary there is a tax consequence but no benefit to either. It runs 15% under the present IRS laws. There is a second reason for treating treasury shares as having no voting rights. If a corporation uses its own funds to go out and purchase its own stock and bring it back into the treasury, it would be unfair and unreasonable to allow that corporation to then vote those shares for whatever reason the corporation chooses. It would in effect deny voting power to the stock holders, the general public who hold the stock of that corporation. On the same reasoning and under the same thrust if the subsidiary acquires the capital stock of the parent corporation, to allow that subsidiary to vote that stock would have the same effect as to allow the corporation to vote its own stock which has been reacquired by the company. For those reasons, they ask that the law be amended to treat corporate shares held by a subsidiary in the same way and manner that corporate stock is treated when reacquired by a corporation.

Mr. Stewart asked it were a frequent occurrence for a subsidiary to purchase shares of stock in the parent corporation.

Mr. Wedge said that was a frequent occurrence and it is done for many different reasons that they cannot be enumerated. Sometimes a corporation acquires all of the stock of another corporation through merger. It then becomes the parent corporation and the second is a wholely owned subsidiary. In that exchange sometimes the subsidiary obtains stock of the parent corporation. He had experienced this in his own corporation. Various and different situations arise whereby the subsidiary transfers assets of certain kinds to the parent and in consideration for receipt of those assets the parent company issues its own stock to the subsidiary. That is frequently deemed necessary because the two corporate entities are separate entities in the eyes of the law. The subsidiary gives up assets to the parent and has to get some consideration in return. That exchange comes about from time to time.

Mr. Wedge continuing said this amendment constitutes what is a reasonable and logical extention of what is treated as treasury stock at the present time. As an example of a transaction, "A" issues 100,000 shares of its capital stock to the general public. Then the company reacquires 10,000 shares, brings it back into the company and holds it as treasury stock, and declares a dividend.

That treasury stock under present law does not enjoy dividend rights and so no tax consequence occurs from the dividend granted, this being merely and extention of a wholey owned subsidiary although by law they are treated as separate entities, they are the same economic interests. The parent corporation owns all of the capital stock of the subsidiary and under those circumstances if you treat that stock which the subsidiary holds of the parent corporation and deny it dividend rights it is being treated as treasury stock is treated.

Mr. Stewart asked if there were other states that have defined this type of stock and Mr. Wedge could not answer the question.

Mr. Sader inquired if this would apply to all corporations that are on state statutes and Mr. Wedge replied in the affirmative. He knows of no federal regulation specifying what can be deemed treasury stock.

SB 439 - Removes restriction on renewal of reservation of name for corporation (BDR 7-139)

David Howard of the Secretary of States Office, said that this too was a housekeeping bill. As far as their routine operations are effected there was not a more important bill before the legislature this session. Last session, this particular language, the existing language was changed and inadvertently Section 3 was put into the bill and the result is they have an enormous problem with people calling into the office asking to reserve a name for a corporation. Currently there are 437 names in a six-month status under subsection 3 of this bill. They have 326 names that are within the first 6 months. If they receive an inquiry regarding a particular name the two people assigned to the section must research the records, to determine if the name is already reserved. Most of the inquiries are from law firms and they may have as many as six names they want checked, which requires from 20 minutes to an hour. They are suggesting an elimination of 90 days of the time for a which a corporate name may remain on file. There will be 90 days remaining for a reserved name to be used. Ninety days is enough time to make a decision as to whether the requester does or does not want that name for a corporation. The purpose of this bill is to eliminate those 437 names on file and they wish to do it immediately because the problem increases daily. They cannot handle it physically in the office with present staff. Initially this language was not intended to be in the bill. The old law was 45 days for name reservations and an additional 45 days in which the name could not be reserved. It could be used after the initial 45 day period. The six month period that the name is on file at present is too long and they need to eradicate the back log resulting from this long period.

Mr. Howard continuing, said it was common practice persons to reserve the names of well known industries if they get information indicating the industry may locate in the state. An example is MX project and people will attempt to reserve names relating to that particular industry. This bill will not solve that problem.

but it will allow better control of daily operations.

Mr. Sader said the person who had reserved the "MX Corporation" could sell the name and realize an unearned profit. Mr. Howard agreed this was a likelyhood. Mr. Sader questioned whether persons should be allowed to reserve particular names for the purpose of making a profit on the name itself.

Mr. Howard did not have an answer. He was of the opinion that if someone who wanted to insure a name would be available when they were ready to form a corporation, forty-five days, the original time was adequate for people who are genuinely interested in using the name. It is sufficient time to prepare articles of incorporation. If that second ninety day period is eliminated will greatly increase the efficiency of their operation. In response to a question he said five dollars was the charge for reserving a name.

Mr. Beyer said suppose he filed for a certain name, once the ninety days expires the name is no longer reserved; would the Secretary of State's office publish a notice to that effect; could a friend file on the ninety-first day for that name and it would remain reserved for another ninety days.

Mr. Howard said under current law one cannot reserve the name again but one could file corporation articles. That is the only way the name con be used. The name cannot be reserved for another 90 days but can be used. These names are not on a computer.

A discussion among the committee members followed.

Ms. Foley commented she thought, regarding SB 439, the names should be on a computer and Mr. Stewart agreed, adding it should not require additional staff. Ms. Foley questioned the statement of Mr. Howard to the effect that names could not be rereserved. Mr. Sader explained that a reservation of a name was good for ninety days. At the expiration of that ninety days, nobody can pickup that name for another ninety days for re-reservation. If one goes in on the ninety-first day they can't reserve the name but the name is still free, and someone can file for corporation under that name.

Ms. Foley requested opinions of the forty-five day reservation period.

Mr. Sader said that was changed in the last session. When a business opportunity presents itself, forty-five days may be insufficient time and could cause real problems. That is probably one of the reasons it was changed two years ago.

Mr. Thompson said he was not speaking for or against the forty-five

day period he only wanted to emphasize the importance of having a reservation. It was very important from a business standpoint

Mrs. Ham asked if someone could reserve the name of a well known out of state corporation and sell that name to them should they locate in this state.

Mr. Stewart said some names were registered by a patent trademark and those names are protected under federal statutes. If a name is not patented it could probably be reserved. He was of the opinion the bill should be passed.

Ms. Foley Moved to Do Pass SB 439. Mr. Sader seconded the motion; motion carried unanimously. Mr. Price was absent for the vote.

SB 270 - permits persons to register their willingness to serve as resident agents of foreign corporations with secretary of state.

Mr. Stewart read the summary and added he had been advised Senator Close introduced the bill, which came to him from the publisher of the Nevada Legal News in Las Vegas. Referring to the minutes of the Senate hearings of March 5 and 11, (EXHIBIT F), said the bill states if anyone specifically wants to serve as resident agent he can advise the secretary of state, pay $500 and go on a list. This is available through the secretary of state for anyone wanting to serve as resident agent. There is no requirement that each resident agent put his name on the list. It is optional. Senator Close stated Delaware uses this procedure. He felt it would be a good way to raise money for the State. Mr. Swackhamer, Secretary of State, stated he came to testify on SB 270. (reading from exhibit F) He said he had no feelings either way on the bill. He was concerned it might impact the budget. They have had calls from out of state but they do not recommend anyone. We suggest they check the telephone book. He felt this became a major thing developing into additional duties in the department not needed. The money received would go to the state. The duties of resident agent were explained by Mr. Swackhamer. The secretary of state sends an annual list of officers for resident agent who has people fill it out and return it to the department. The resident agent is not required to return it. Senator Close stated that substantial monies were raised in Delaware and the cost to the state is minimal, just the cost of preparing the list.

Mr. Stewart said Senator Close not only designed this to make it easier for out of state companies to locate someone to act as resident agent here in the state, but to allow those wishing to act in that capacity a vehicle to make known this fact.

Mrs. Ham asked why the original bill excluded members of the bar, banks and trust companies.

Mr. Stewart again reads from Exhibit F, information on the origina

discussion. "Senator Hernstadt suggested this is on another day's testimony. Keith Ashworth advised the committee that Senator Blakemore raised the question if the secretary maintains a list and that list becomes available to anyone that requests it, an attorney will have to pay $500 to have his name included on the list. Senator Hernstadt suggested persons suggesting the bill wanted to foreclose the lawyers and trust companies and set it up in his newspaper in Las Vegas and make a business for himself. Senator Hernstadt moved to have the exemption on lines 3 through 5 deleted on SB No. 270 and the bill become effective upon passage and approval.

Mrs. Ham asked the duties of a resident agent.

Mr. Stewart replied that every corporation that was going to do business in Nevada, whether it is formed here or in another state, has to have a resident agent. That is a person designated by the law to receive any suits that are filed. If any suits are filed against that corporation, there is someone here that can be served. That address of the resident agent is on file with the secretary of state. It does not have to be an attorney, it doesn't have to be a corporation - it could be an officer of the company.

In response to a question from Ms. Foley, Mr. Stewart said the only comment available is that an attorney would have to pay $500 to have his name on the list.

Mrs. Ham commented they would have to pay $500 for the privilege of getting sued.

Mr. Stewart said once one became a resident agent, he collected an annual fee from the corporation.

Senator Ford said the representative of the secretary of state' office had testified at the Senate hearing on SB 270. They felt it could be a slight money maker for the state. They did get requests from time to time from people wanting to do business in the state. It would be helpful to have a list of people interested in acting in this capacity.

Mrs. Cafferata asked Senator Ford why the charge had been changed from $500 to $250. Senator Ford said she could not answer the question. The original bill would not permit attorneys to file as resident agent and the committee felt that was not justified.

Mr. Sader said this appeared to be no more than legalization of a referral system. Nevada, like Delaware and couple of other states, purposely enact a law to make it advantageous to incorporate here. We will be in competition with the State of Delaware, for loose corporation laws to make money from corporations that may have no other contact with the State of Nevada other than the incorporation. This is simply another way to make it more attractive for an outside group to come in and incorporate. If we can provide them with a list of local people who are willing to serve professionally as resident agent, then it makes it easier for them

to come here. The secretary of state instead has to turn away requests for names for this purpose and the potential corporations have to search further for resident agent, they consider that to be less conducive to generating business from outside people. He serves as a resident agent in several corporations and he does not wish to register with the secretary of state. If a legal news publication prints a list of resident agents he wishes to be included on that list of resident agents. Those people who are professional agents could profit by the publication. The bar in Washoe County has a referral list for various states and there is a fee for inclusion on the list.

Mr. Malone said his concern was the same as that of Ms. Foley. Why was the fee lowered from $500 to $250. How did they arrive at the $250 figure.

Mr. Stewart was of the opinion that perhaps the higher figure would discourage registration.

Ms. Foley said she felt the secretary of state's office should address this proposal.

Mr. Malone observed that according to the Senate minutes, he seems to be neutral on the subject.

Mr. Stewart, again referring to the Senate minutes said "Keith Ashworth brought it up because Senator Blakemore had raised the question: "Secretary maintains a list....an attorney will have to pay $500 to have his name on the list". Mr. Stewart said the Senate Committee had probably been convinced the $500 fee was too expensive.

Ms. Cafferata said she did not feel this bill merited any more of their time or attention.

Mr. Sader moved to Do Pass SB 270; Ms. Foley seconded the motion; motion carried unanimously. Mr. Banner was absent for the vote.

The committee discussed the bills in their possession that had not yet been introduced. There were comments to the effect that it was too late in the session to introduce some of them.

Mr. Malone said about four of the bills were malpractice bills. They appeared to him to be special interest type proposals, with the exception of two. There were two good bills in the group.

Ms. Cafferata asked the cost of introducing the bills once they had been drafted.

Mrs. Ham commented the cost had been incurred whether or not the bills were heard.

Ms. Foley said refusal to introduce the bills would be setting a precedent.

Mr. Price moved to introduce the bills.

A discussion followed.

Mr. Stewart said all of the Assembly bills had been scheduled except those received last week, and the ones now before them. There were about 15 proposed bills.

The Senate had cut off introductions. They are not meeting today.

Mr. Stewart called for a roll call vote on the introduction of the bills. There were five "ayes"; Mr. Beyer, Ms. Foley, Mrs. Ham, Mr. Price and Mr. Sader. There were five "nays"; Mrs Cafferata, Mr. Chaney, Mr. Malone, Mr. Thompson and Mr. Stewart. Motion Failed.

Meeting adjourned at 10:30 a.m.

Respectfully submitted,

M Robertson

Marjorie Robertson

ASSEMBLY JUDICIARY COMMITTEE

GUEST LIST

DATE: Monday, 11 May 1981

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK FOR	AGAINST	BILL NO.
DeArmond Sharp	Crown Zellerbach	X		SB 359
Sheila Leslie	CSA/WC	X		SB 282
Jim Ford		X		SB 282
DAVID L. HOWARD	Sec of State	X		SB 438 SB 439
Virgil H Wedge	Woodburn Wedge Blakey Jeppson	X		438
Susan McCleary	Inter-Tribal Council of Nevada	X		SB 282
Al Edmundson	Health Division			SB 282
Marilyn Nichols	Community Food Bank	X		~~SB~~ 282
Nancy Fryer	self-supporter of S.B. 282	X		SB 282
David Lehr	Self-supporter of SB 282	X		SB 282
David Hoffman	Nevada State Office of Community Services	X		SB 282
Pamela M Bugge	Advocate for Abused Women	X		SB 282
PETER CHRISTIANSEN	~~Nevada~~ Self Supporter of SB 282	X		SB 282

1336

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: May 11, 1981

SUBJECT: SB 439 - Removes restriction on renewal of reservation of name for corporation (BDR 7-139

MOTION:
DO PASS X AMEND ___ INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: Ms. Foley SECONDED BY: Mr. Sader

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	X					
Foley	X					
Beyer	X					
Price		(absent)				
Sader	X					
Stewart	X					
Chaney	X					
Malone	X					
Cafferata	X					
Ham	X					
Banner	X					
TALLY:	10	0				

ORIGINAL MOTION: Passed X Defeated ___ Withdrawn ___

AMENDED & PASSED _____ AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF May 11, 1981
Assembly Judiciary Committee

1837

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: May 11, 1981

SUBJECT: SB 270 - Permits persons to register their willingness to serve as resident agents of foreign corporations with secretary of state.

MOTION:

DO PASS x AMEND ___ INDEFINITELY POSTPONE ___
RECONSIDER ___

MOVED BY: Mr. Sader SECONDED BY: Ms. Foley

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

	MOTION		AMEND		AMEND	
VOTE:	YES	NO	YES	NO	YES	NO
Thompson	X					
Foley	X					
Beyer	X					
Price	X					
Sader	X					
Stewart	X					
Chaney	X					
Malone	X					
Cafferata	X					
Ham	X					
Banner (absent)						
TALLY:	10	0				

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF May 11, 1981
Assembly Judiciary Committee

EXHIBIT A

Saving meals, not money is food bank network goal

3-6-81 R.J

KANSAS CITY, Mo. (AP) — America, the land of plenty, wastes enough food to feed its hungry several times over — more than $6 billion worth a year, by one government estimate.

Hoping to change that, a network of "food banks" has sprung up to save the nation's leftovers from the garbage dump and put them on the plates of those who need.

"If we recovered everything that goes to waste here, we couldn't consume 25 percent of it," said John Van Hengel, executive director of Second Harvest, the country's only national food recovery network. Based in Phoenix, Ariz., Second Harvest solicits food from the giants of the food industry, then stores it in one of its 30 non-profit member food banks.

The food banks, in turn, run their own local distribution projects.

Potential for the network seems limitless. The value of all wasted food that can be recovered equals the $6.2 billion spent on the national food stamp program in 1979, Van Hengel said.

Van Hengel ticks off some recent donations: 200,000 pounds of frozen trout, 5 million pounds of frozen corn on the cob, enough dehydrated soup to make 7 million gallons.

Manufacturers send food in packages that were short-weighted or damaged. Other products were over-stocked or the stuff of marketing ideas that flopped.

Donations, all tax-deductible, also come from local retailers, including "brights," those mystery cans with the labels missing, and damaged items or food with freshness date is about to expire.

Food is also collecting by gleaning, picking up what's left in the fields after harvest or picking crops that would otherwise rot.

The Harvesters, Second Harvest's Kansas City affiliate, organized two trips last year, using volunteers from an alcoholic recovery mission and a youth home who picked more than four tons of apples in local orchards.

"Things are just beginning to break loose like crazy," said Jean

See Bank, Page 7D

Bank—

From Page 2D

Grate, a 29-year-old former VISTA volunteer and food stamp worker who manages Harvesters.

Harvesters' newly acquired six-story warehouse holds thousands of cases of food, from canned green beans to macaroni and cheese dinners to soup mix and caramels.

Ms. Grate became the manager of Harvesters two years ago and has seen it grow to distribute more than 160 tons of food a year. Similar banks are operating in Atlanta, Detroit, Washington, Albuquerque and Anchorage, Alaska.

"The biggest boost to the food banks was a change in the tax laws in 1976. Manufacturers who donate food not only write off the cost of producing it, but can also claim credit for half the profit they would have made if the merchandise had been sold from a grocery shelf.

"It all seems just about perfect," Ms. Grate said. "The hungry people are there, the food is there, the volunteers are there, and now there's an incentive. It's just putting everything together."

A food bank seeking to join the Second Harvest network must have at least 2,500 square feet of warehouse space, freezer storage capacity, a fulltime manager and, most importantly, at least 50 non-profit food outlets which cook food and feed people on the premises.

The lattermost qualification makes it possible for a food bank to take in truckloads of food and distribute it before it perishes.

"In an affluent society where waste runs rampant, the potential for recovery is unbelievable," Van Hengel said upon a visit to Harvesters.

"And the program is fantastically practical. In 1980 we returned $23 worth of food for every dollar invested."

Second Harvest operated last year on a $350,000 grant from the federal Community Services Administration. This year the grant was upped to $500,000 to encourage setting up food banks in every major U.S. city.

"Our goal is to have 50 or 60," said Harold Gore, a CSA official who oversees Second Harvest's federal grant. "It's a situation in which everybody wins. The government wins, because the taxpayer doesn't have to provide that food to poor people. And it gives the companies a tax break and a boost to their public image."

Van Hengel, 52, helped found what he says was the first food bank in Phoenix 14 years ago.

A dropout from advertising and women's clothing manufacturing, Van Hengel drifted for some years and did odd jobs. He was working at a church mission when he realized food donations were coming in faster than the mission could serve them. He and a colleague began taking food to other missions. They formed the St. Mary's Food Bank in 1967.

The idea spread to California, and Second Harvest was on its way. Van Hengel turned down a government grant in 1975, saying he put more value on the organization's grassroots style, but Second Harvest accepted a $50,000 grant the next year.

"Then this thing started to mushroom," Van Hengel said. The missions, the poor feeding the poor, had been doing it for years. It's not a new idea. We've

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Assembly Judiciary
May 11, 1981

EXHIBIT B

Community Services Agency Of Washoe County

PLEASE ADDRESS REPLY TO:
Post Office Box 10167
Reno, Nevada 89510
(702) 972-1601

ADMINISTRATION and EDUCATION
5045 Alpha Avenue
Stead, Nevada
972-1601

OPERATIONS CENTER I
575 East Fourth Street
Reno, Nevada
786-5829

OPERATIONS CENTER II
785 Sutro Street
Reno, Nevada
786-6023

HEAD START FOOD CENTER
14325 Mt. Vida
Stead, Nevada
972-1601

The Community Services Agency of Washoe County is currently operating a Community Food Bank to meet the emergency food needs of Washoe County residents. The food bank opened on January 22, 1981, as part of CSA/WC's Community Food and Nutrition Program. Between that date and April 30, 1981, a total of 295 families representing 821 people were given emergency food aid. The program operates on a referral basis, with local social service agencies certifying that clients require emergency aid and cannot receive such aid from existing agencies. In this way, we assist those who truly are in need.

The families we have served were referred to the food bank from a wide variety of agencies including Nevada State Welfare, Community Welfare, County Welfare, Catholic Welfare Bureau, Washoe Association for Retarded Citizens, Veteran's Administration, Red Cross, Vocational Rehabilitation, Salvation Army, Senior Citizens Center, Committee to Aid Abused Women, El Centro and various Indian organizations. We have met the food needs of people experiencing various types of emergencies. Unfortunately, our limited resources only allow us to assist people one time; therefore, we emphasize referring clients to programs which can provide long-term assistance.

The need to expand emergency food assistance to Washoe County residents is evident. During the past three years, public and non-profit providers have been hard pressed to keep up with demand. For example, during 1980 the Food Stamp caseload in Washoe County increased by 32% while the WIC (Women, Infants and Children) commodities program is currently operating at near capacity. Other non-profit providers are considering cutbacks as they are not in a position to continue to finance this escalating demand.

We estimate a caseload of 250-300 individuals referred to our food bank every month. However, if proposed food stamp and school lunch cutbacks take place, the number of people finding themselves in need of emergency food assistanc will increase accordingly.

Although our food bank is funded through a grant from the Community Services Administration, these funds are extremely limited and will not support the food bank indefinitely. We are in the process of soliciting donations from local retailers, distributors and warehouses in an attempt to create an effective food salvage network. Our goal is to receive enough donations to supply our needs as well as to redistribute surplus food to other agencies with

food programs. We have begun to receive limited donations from local retailers; we are certain we would receive much more if Nevada had a law protecting donors from liability for injuries. Potential donors are naturally hesitant to assist us until legislation is enacted shielding them from responsibility for injury.

Senate Bill 282 will encourage individuals, groups and local businesses to donate their surplus food to the hungry people of our community. We can effectively mobilize needed resources from the private sector by assuring potential donors that they will not be held liable except in cases of gross negligence or willful act. By increasing the capacity of local non-profit agencies to serve the needy, a substancial burden will be removed from publicly-financed food programs.

Valuable sources of surplus food have been brought to our attention by large donations of acorn squash and english muffins during past months. The food bank was able to redistribute this food to many agencies including the Salvation Army, Reno/Sparks Gospel Mission, Gemini House, Senior Citizens Center, Lakes Crossing, Voluntary Action Center, Washoe Association for Retarded Citizens, Community Welfare, St. Vincents and Head Start as well as to our own clients. The farmer indicated he has been unable to sell large amounts of produce in the past and this food was subsequently wasted for lack of an agency willing to accept and redistribute such a large donation of perishable items. There are many hungry people in Washoe County who could have benefited from this food.

The passage of this bill will substantially increase our capacity to deliver food to the needy people of Washoe County. It will assist us in collecting food for direct distribution and, in cases of large donations of perishable items, in centralizing redistribution to other charitable providers.

Providing a mechanism to increase the amount of food for hungry Nevadans will help the entire Human Service system become more responsive. Many individuals experience short-term financial problems resulting from temporary unemployment or disability. In such circumstances a little help at the right time can prevent future dependence upon public assistance programs.

EXPLANATION OF SENATE BILL 359

TAKEOVER BID DISCLOSURE

Two sections of Nevada's corporation law, concerning takeover bid disclosure, need to be amended to conform to federal developments.

Nevada and thirty-five other states, have statutes relating to tender offers. The purpose is explained in §1.1 of the Illinois Act:

> "In recent years, numerous companies have been subjected to takeover offers in which equity securities were acquired suddenly by means of tender offers. Many of these tender offers have been made without advance notice and without giving security holders of the acquired company adequate time to consider the offer, and without giving the management of the acquired company adequate time to evaluate alternatives so that they might recommend a course of action that would be in the best interests of all security holders."

The bill proposes to amend NRS 78.3771 to conform to Rule 14d-2 as adopted by the Securities Exchange Commission effective January 7, 1980.

Nevada, in NRS 78.3771, requires a 30-day disclosure notice before making a takeover bid. The S.E.C. Rule prohibits a public announcement of the price, and number of shares, more than five days before the actual commencement of the offer. Therefore, the amendment deletes from Nevada's disclosure the amount of securities to be sought, and the consideration to be offered. That information is to be furnished four days before the bid. The Senate Judiciary Committee also changed thirty days to twenty days to correspond with Delaware's law and to require public announcement of the disclosure being delivered to the target company. The S.E.C. rule expresslypermits a public announcement if it does not specify the amount of securities or the price.

The bill also amends §78.3772 to change the time within which shares may be deposited from thirty five to sixty days, to change from ten to seven days the time within which shares may be withdrawn, and to extend the possible period for proration when more shares are offered than are purchased.

Notification requirements not restricted by eliminating the bid price and number of shares, have been held unconstitutional as being in conflict with federal law, and on February 13, 1981, the Nevada statute was preliminarily held unconstitutional. Therefore, the proposed amendments are necessary.

April 7, 1981.

Prince A. Hawkins

EXHIBIT D

• *Regulations*

[¶ 24,282A] Date of Commencement of a Tender Offer

SEE NEXT PAGE

Reg. § 240.14d-2 (a) *Commencement.* A tender offer shall commence for the purposes of section 14(d) of the Act and the rules promulgated thereunder at 12:01 a.m. on the date when the first of the following events occurs:

(1) The long form publication of the tender offer is first published by the bidder pursuant to Rule 14d-4(a)(1) (§ 240.14d-4(a)(1));

(2) The summary advertisement of the tender offer is first published by the bidder pursuant to Rule 14d-4(a)(2) (§ 240.14d-4(a)(2));

(3) The summary advertisement or the long form publication of the tender offer is first published by the bidder pursuant to Rule 14d-4(a)(3) (§ 240.14d-4(a)(3));

(4) Definitive copies of a tender offer, in which the consideration offered by the bidder consists of securities registered pursuant to the Securities Act of 1933, are first published or sent or given by the bidder to security holders; or

(5) The tender offer is first published or sent or given to security holders by the bidder by any means not otherwise referred to in paragraphs (a)(1) through (a)(4) of this section.

(b) [illegible] A public announcement by a bidder through a press release, newspaper advertisement or public statement which includes the information in paragraph (c) of this section with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section *except that* such tender offer shall not be deemed to be first published or sent or given to security holders by the bidder under paragraph (a)(5) of this section on the date of such public announcement [illegible] within five business days of such public announcement, the bidder either:

(1) Makes a subsequent public announcement stating that the bidder has determined not to continue with such tender offer, in which event paragraph (a)(5) of this section shall not apply to the initial public announcement; or

(2) Complies with Rule 14d-3(a) (§ 240.14d-3(a)) and contemporaneously disseminates the disclosure required by Rule 14d-6 (§ 240.14d-6) to security holders pursuant to Rule 14d-4 (§ 240.14d-4) or otherwise in which event:

(i) The date of commencement of such tender offer under paragraph (a) of this section will be determined by the date the information required by Rule 14d-6 is first published or sent or given to security holders pursuant to Rule 14d-4 or otherwise; and

(ii) Notwithstanding paragraph (b)(2)(i) of this section, section 14(d)(7) of the Act shall be deemed to apply to such tender offer from the date of such public announcement.

(c) *Information.* The information referred to in paragraph (b) of this section is as follows:

(1) The identity of the bidder;

(2) The identity of the subject company; and

(3) The amount and class of securities being sought and the price or range of prices being offered thereon

Assembly Judiciary Committee
May 11, 1981

[¶ 24,282A]—Continued

(d) *Announcements not resulting in commencement.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which only discloses the information in paragraphs (c)(1) through (d)(3) of this section concerning a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section.

(1) The identity of the bidder;

(2) The identity of the subject company; and

(3) A statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject company which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

(e) *Announcement made pursuant to Rule 135.* A public announcement by a bidder through a press release, newspaper advertisement or public statement which discloses only the information in Rule 135(a)(4) (§ 230.135(a)(4)) concerning a tender offer in which the consideration consists solely or in part of securities to be registered under the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under paragraph (a)(5) of this section: *Provided*, That such bidder files a registration statement with respect to such securities promptly after such public announcement.

[Adopted in Release No. 34-8392 (43 FR 35[illegible], August 30, 1968, 33 F. R. 14110; amended in [illegible] January 7, 1979, 44 F. R. 70326.)

[¶ 24,282B] Filing and Transmission of Tender Offer Statement

Reg. § 240.14d-3. (a) *Filing and transmittal.* No bidder shall make a tender offer if, after consummation thereof, such bidder would be the beneficial owner of more than 5 percent of the class of the subject company's securities for which the tender offer is made, unless as soon as practicable on the date of the commencement of the tender offer such bidder:

(1) Files with the Commission ten copies of a Tender Offer Statement on Schedule 14D-1 (§ 240.14d-100), including all exhibits thereto;

(2) Hand delivers a copy of such Schedule 14D-1, including all exhibits thereto:

(i) To the subject company at its principal executive office; and

(ii) To any other bidder which has filed a Schedule 14D-1 with the Commission relating to a tender offer which has not yet terminated for the same class of securities of the subject company, at such bidder's principal executive office or at the address of the person authorized to receive notices and communications (which is disclosed on the cover sheet of such other bidder's Schedule 14D-1);

(3) Gives telephonic notice of the information required by Rule 14d-6(e)(2)(i) and (ii) (§ 240.14d-6(e)(2)(i) and (ii)) and mails by means of first class mail a copy of such Schedule 14D-1, including all exhibits thereto:

(i) To each national securities exchange where such class of the subject company's securities is registered and listed for trading (which

EXHIBIT E

WOODBURN, WEDGE, BLAKEY AND JEPPSON

MEMORANDUM

Date April 2, 1981

Subject NRS 78.283

We would like to have the Legislature change NRS 78.283 to include within the definition of "treasury shares" shares of the parent which are held by a wholly owned subsidiary. NRS 78.283 reads as follows:

> **78.283 Treasury shares: Definition; limitations on voting, dividend rights; retirement.**
> 1. As used in this section, "treasury shares" means shares issued and thereafter acquired by the corporation but not retired or restored to the status of unissued shares.
> 2. Treasury shares shall not carry voting or dividend rights and shall not be counted as outstanding shares for any purpose, nor as assets for the purpose of computing the amount available for dividends or the purchase of shares issued by the corporation or the making of any other distributions to its stockholders. Unless the articles of incorporation provide otherwise, treasury shares may be retired and restored to the status of authorized and unissued shares without the reduction of capital pursuant to NRS 78.415 or 78.420 or may be disposed of for such consideration as the board of directors may determine. If the shares are reissued, the amount of the proceeds shall be attributed to surplus insofar as excess of net assets over the amount of capital results therefrom.
> 3. Shares which have been acquired from surplus and carried as treasury shares may be retired by resolution of the board of directors and capital may be reduced thereon as if acquired out of capital with appropriate proceedings under NRS 78.415 or 78.420.
> (Added to NRS by 1959, 682)

We believe that only Section 1 requires amendment. The proposed new section should read as follows:

> 1. As used in this section, "treasury shares" means shares issued and thereafter acquired by the corporation or a wholly owned subsidiary of the corporation, but not retired or restored to the status of unissued shares.
> (new language underlined)

EXHIBIT F .

SENATE COMMITTEE ON JUDICIARY
March 11, 1981

SENATE BILL NO. 358--Prohibits murderer from succeeding to community property.

Senator Don Ashworth moved to Do Pass S. B. No. 358.

Senator Keith Ashworth seconded the motion.

The motion carried unanimously.

SENATE BILL NO. 245--Allows certain justices of the peace to have partners who practice law.

Chairman Close said it should preclude him from practicing before that particular judge, any judge in that district, there are two Justice of the Peace. He cannot practice before the justice court in that township. There are no J. P.s in Washoe or Clark County that have partners, they are prohibited from practicing. Senator Raggio suggested an amendment which precluded his appearing before that judge. Senator Ford said the language should read, that he would never be able to appear before any court which his partner the judge presides.

Senator Don Ashworth moved to amend and Do Pass S. B. No. 245.

Senator Raggio seconded the motion.

The motion carried.

SENATE BILL NO. 270--Permits persons to register their willingness to serve as resident agents of foreign corporations with secretary of state.

Senator Keith Ashworth advised the committee Senator Blakemore raised the question, if the secretary maintains a list and that list becomes available to anyone requesting it, an attorney will have to pay $500 to have his name included on the list. Senator Hernstadt suggested the person suggesting the bill wanted to foreclose the lawyers and trust companies and set it up in his newspaper in Las Vegas and make a business for himself.

Senator Hernstadt moved to have the exemption on lines 3 through 5 deleted on S. B. No. 270 and the bill become effective upon passage and approval.

Senator Don Ashworth seconded the motion.

The motion carried unanimously.

The committee further discussed S. B. No. 270 and the fees to be charged for putting a name on the list to serve as a resident agent. Senator Keith Ashworth was against lowering the fee. The following action was taken.

SENATE BILL NO. 270

Senator Wagner moved to have the fee reduced from $500 to $250 on S. B. No. 270.

Senator Raggio seconded the motion.

The motion carried. (Senator Keith Ashworth voted no.)

Senator Don Ashworth asked for a committee introduction on a bill. He had received a letter from Chuck Johnson, Attorney, Las Vegas requesting a bill regarding the presumption still would be in community property, that there is no right of survivorship. He stated you could rebut that presumption by putting on the deed that it is community property with right of survivorship just like joint tenancy property. The reason is because in the internal revenue code, if there is joint tenancy property and it is not probated, you do not get a step-up basis on both halves. This has not been changed.

Senator Don Ashworth moved to have the bill drafted.

Senator Hernstadt seconded the motion.

The motion carried unanimously.

SENATE BILL NO. 188--Specifies generic drugs which may be substituted for proprietary drugs.

Chairman Close advised the committee that when the amendment was drafted, the bill drafter indicated the language in Section 8 conflicts with lines 21 through 27 on page 3, therefore, they are deleting the new language in Section 8 and taking out the brackets.

SENATE BILL NO. 247--Limits length of probation and use of presentence reports and provides for disposal of certain confiscated property.

Chairman Close asked the committee to look at page 3 of S. B. No. 247. An amendment has been requested and it appears the language has duplicated the amendment, one amendment has been put out for

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 5, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 8:35 a.m., Thursday, March 5, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman
Senator Keith Ashworth, Vice Chairman
Senator Don W. Ashworth
Senator Jean E. Ford
Senator William J. Raggio
Senator William H. Hernstadt
Senator Sue Wagner

STAFF MEMBERS PRESENT:

Shirley LaBadie, Committee Secretary

SENATE BILL NO. 270--Permits persons to register their willingness to serve as resident agents of foreign corporations with secretary of state.

Chairman Close advised the committee he introduced the bill, it came to him from the publisher of the Nevada Legal News in Las Vegas, Nevada. He said the bill states that if anyone specifically wants to serve as a resident agent, he can advise the Secretary of the State, pay $500 and go on a list. This list would be available through the Secretary of State for anyone wanting the services of a resident agent. There is no requirement that each resident agent put his name on the list, it is optional. Chairman Close stated Delaware uses this procedure. He felt it would be a good way to raise money for the state. Mr. Bill Swackhamer stated he came to testify on S. B. No. 270. He said he had no feelings either way on the bill, he was concerned it might impact the budget. He said they have had calls from out of the state but they do not recommend anyone, we suggest they check the telephone book. He felt if this became a major thing,

the budget is very tight and additional duties in the department are not needed. The money received would go to the state. Mr. Swackhamer explained the duties of a resident agent. The Secretary of State sends an annual list of officers to a resident agent, he has the people fill it out and return to the department. A resident agent is a legal agent but not required to be an attorney. Chairman Close stated a substantial amount of money has been raised in Delaware and the cost to the state is minimal, just the cost of preparing a list.

SENATE BILL NO. 264--Provides right of visitation for grandparents after divorce or death of a parent.

Senator Neal stated he was the sponsor of the bill because of a conversation with a person in Las Vegas who asked that a bill be passed to provide weekend visits of grandchildren when there is a divorce. He said a similar bill was passed in the 1979 session. Senator Hernstadt stated under the existing law, visitation rights for grandparents are available, however a petition must be filed. S. B. No. 264 would make this automatic.

SENATE BILL NO. 248--Establishes definite duration for civil commitment in certain criminal cases and provides for review and renewal by court.

Chairman Close read to the committee parts of NRS 433.A and NRS 178.455. The committee debated the bill. Chairman Close proposed changes such as: before he goes to court, he has to go before the Sanity Commission, and they have to agree that he can get out, then they go to court and the court makes that decision. The committee agreed with the changes and it was decided to get the amendments and bring the bill back into the committee.

Mr. Joe Midmore, Nevada Consumer Finance Association offered remarks on S. B. No. 101 which had been requested by someone on the committee. The question was which states now have or are in the process of moving towards no limit on interest rates. He informed the committee, Arizona did this two years ago, Deleware, New York, and New Jersey have passed legislation in the past 90 days removing interest rate restrictions and New Mexico is almost there and the governor stated he would support the legislation. Pennsylvania has introduced a bill. California also has this legislation but it does not apply to regulated lenders or corporate loans.

SENATE COMMITTEE ON JUDICIARY
March 5, 1981

SENATE BILL NO. 264

Senator Don Ashworth moved to indefinitely postpone S. B. No. 264.

Senator Hernstadt seconded the motion.

The motion carried. (Senators Raggio and Ford were absent for the vote.)

SENATE BILL NO. 270

Senator Wagner moved to Do Pass S. B. No. 270.

Senator Don Ashworth seconded the motion.

The motion carried. (Senators Raggio and Ford were absent for the vote.)

SENATE BILL NO. 255--Revises certain provisions concerning violation of parole and probation.

The committee discussed possible amendments to S. B. No. 255. Chairman Close stated two credits on a sentence should not be given when a person is picked up on a second offense, is on parole and is put in jail. He suggested the language read: eligible for credit on the second offense for the time he has spent in confinement.

SENATE BILL NO. 255

Senator Wagner moved to amend and Do Pass S. B. No. 255.

Senator Hernstadt seconded the motion.

The motion carried. (Senators Raggio and Ford were absent for the vote.)

SENATE BILL NO. 256--Makes various changes in provisions regarding presentence reports.

Chairman Close advised the committee the first amendment states there is no limitation to the information which is put in the report. The second amendment on page 2, lines 10 and 11 was requested by Judge Mendoza. The language is not very well written. Discussion of the proposed amendments resulted in the following action.