

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

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
APRIL 27, 1981

The Senate Committee on Commerce and Labor was called to order by Chairman Thomas R. C. Wilson, at 2:05 p.m., on Monday, April 27, 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 Thomas R. C. Wilson, Chairman  
Senator Richard Blakemore, Vice Chairman  
Senator Melvin Close  
Senator Don Ashworth  
Senator William Raggio  
Senator Clifford McCorkle

COMMITTEE MEMBERS ABSENT:

Senator William Hernstadt

STAFF MEMBER PRESENT:

Betty Steele, Committee Secretary

SENATE BILL NO. 543--Regulates franchises granted by manufacturers or distributors to dealers in new motor vehicles.

Chairman Wilson opened the hearing, stating he did not know how many witnesses were to testify on the bill this afternoon; and who was pro or con. However, he suggested they eliminate the repetitive comments as much as possible in order to use the time more efficiently.

Mr. Darryl Cappurro, executive director of the Nevada Franchised Auto Dealers Association which sponsors Senate Bill No. 543, was the first witness to speak. He indicated there were approximately 25 new franchise dealers from throughout the state present today.

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Mr. Capurro stated these dealers had a very large stake in the outcome of the proceeding. He then proceeded to give a brief history of the dealer/manufacturer relations acts in various states and on the federal level. He said that approximately 40 states have enacted some type of regulatory law, either a combination of licensing and regulatory or regulatory itself, of the dealer manufacturer relationship.

Chairman Wilson commented this had been done two years ago in Nevada and he understood the reason the auto dealers association was back with Senate Bill No. 543 was trouble in the courts with the legislation necessitating some changes. He stated the amendment offered by the auto dealers association looked like a complete rewrite, designed to cure those problems.

Mr. Capurro agreed it was a rewrite of all new language from pages 1 to 6. He indicated the bill draft they had submitted bore little resemblance to the bill provided by the Legislative Counsel Bureau. He stated there was a considerable departure from their original draft and therefore it was found necessary to provide amendments to replace the material in sections 1 to 17, which are currently in the bill.

In response to Chairman Wilson's suggestion, Mr. Capurro made some general comments and read the enabling section from NRS chapter 482.318 covering regulation and licensing of motor vehicle manufacturers, distributors, new and used vehicle dealers, rebuilders, leasing companies, salesmen, and the representatives doing business in the State of Nevada.

Mr. Capurro then gave a moderately detailed resume and history of such legislation in Nevada's legislative sessions. He told of Chrysler Corporation's testing of the protective legislation and the resultant court case and the decisions resulting from it. Following a reversal by the U.S. Supreme Court of a similar case from California, the Nevada Supreme Court made an unfavorable ruling on the Nevada case because of the unconstitutionality of Nevada's legislation. NRS 482.3636 was the first disputed section, as well as sections 482.36365 and 482.36415. These sections were those invalidated by the Nevada Supreme Court decision. Mr. Capurro then clarified the content of the invalidated sections for the committee, giving various examples to make his point.

Chairman Wilson summarized the bill as providing the process by which an administrative determination is made as to whether or not a provisional franchisee is justified, from which a judicial appeal can be made; supported by substantial evidence.

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Mr. Capurro indicated the process was essentially as described by Senator Wilson with what amounts to judicial review of the decision of the board or administrator. He indicated that some states also provide for a trial de novo, even after the decision of the board or commission. Mr. Capurro continued with a further exposition of the ramifications of the U.S. Supreme Court reluctance to review state supreme court decisions.

Chairman Wilson indicated that a sufficient exposition of the background had been made and suggested proceeding with the discussion of the bill itself, unless there were more questions on the policy of the bill.

Mr. Capurro stated the amendment presented the changes agreed on; those approved by the attorneys for both sides (the manufacturer and the dealer). He said the amendments were a complete substitution for material submitted by the bill drafter which omitted much of the California law which the association had based their draft on. Mr. Capurro went over each section of the bill and pointed out the errors and omissions which had to be corrected with regard to definitions, dates, and procedures for dealers and franchisees.

Senator Don Ashworth asked what was meant by "special mobile equipment" and Mr. Capurro replied it referred to road graders and such things that are not usually used on highways as motor vehicles. He stated there was a special definition in chapter 482 for special mobile equipment.

Mr. Capurro indicated the changeover from a board to administrator and/or director (of the motor vehicle department) was based on the Arizona plan. This was provided in section 7. He said there were various repealers which were replaced by the new language, with section 7, currently in the law with minor adjustments to allow for the change to a director or administrator. Mr. Capurro said it was the association's desire to keep their changes in line with the California law, which was already accepted as constitutional, with very little change in the Nevada law.

Senator Raggio inquired how a franchise would read with regard to the terms of a normal franchise. Mr. Capurro replied there is no "normal franchise" agreement per se; each manufacturer has different conditions, specified areas and provisions. He indicated the intent of the legislation is to apply it to current and succeeding contracts, with regard to termination of franchises, terms of notification, and right of appeal of franchisee. Mr. Capurro defined the terms Senator Raggio asked about.

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Chairman Wilson stated the amendment was not in bill form so it was difficult to compare it with current law. He also asked Mr. Capurro if he had the California code sections available which he kept referring to. Mr. Capurro replied he could get them.

The committee members and Mr. Capurro discussed the notification provisions of the bill and the current law, with regard to emergency situations where it might be necessary to get a franchisee out of business right away.

Senator McCorkle asked why a board was chosen over a director. Mr. Capurro said it was the other way around. They had chosen to go with a director and not the board because boards and commissions are not exactly limiting with regard to this legislation, sunset laws, etc. The second reason is the chances of processing the legislation, given the time frame in which they received it, are virtually nil if the board concept is retained. The director concept has been tested and found constitutional on due process grounds. It also provides a level of administrative appeal, with review by the district court ultimately.

Senator Raggio questioned some minor deviations from the existing statute regarding merchandise available. Mr. Capurro did not feel the deletion hurt anything but it would probably be a good idea to retain it. He pointed out a possible error in subsection 5 which should be "new motor vehicle sales", on page 3.

Section 10 defines establishment of a new franchise in a relevant market area, meaning any area within a radius of 10 miles of an existing dealer of the same line and make. Mr. Capurro said it sets forth the procedure the franchisor would have to use to give notice. Senator Blakemore and Senator McCorkle also had some comments on this section which deals with termination of franchises; and the length of time before a new franchise can be granted.

Responding to Senator McCorkle's comments on the juxtaposition of dealerships on Kietzke Lane in Reno to Sparks, Mr. Capurro stated there were not any franchises located in Sparks right now. They are all physically within the confines of the city of Reno. He defined "relocation" for Senator McCorkle and stated this was a common provision in most regulatory laws. Under current statute, relocation across the street would be grounds for protest.

Mr. Capurro explained the changes which should be made in section 11, with regard to the entering into additional franchises or the relocation of an existing franchise. He said the provision is roughly

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similar to the provisions contained in NRS 482.36365, including the elements that must be taken into account by the director. He directed his comments to Senator Raggio's question that these must be taken into consideration but the director would not be limited to just those conditions indicated here. In effect, the current law is turned around so the dealer has to bring proof on a new franchise protest, the manufacturer on a revocation.

Senator McCorkle wondered why the committee is looking at whether a franchise should be approved or not since a franchise should prohibit any additional competitor. However, he felt a dealer should be able to open a branch office. Mr. Capurro explained there is only one dealership, located at only one address. The dealer has no right to establish a branch office, on the basis of franchise regulations and limitations. However, he noted, foreign car franchises do not necessarily follow these rules.

Senator Raggio summarized the changes, as presented by Mr. Capurro, to the current law. He asked Mr. Capurro for a definition of "constructive competition". Mr. Capurro turned the question around, defining "destructive competition" as two franchises in close apposition to one another for the same type and make of vehicle.

Mr. Capurro stated section 12 is not presently in Nevada law. It deals with the delivery and preparation obligations on the vehicles, with a limitation on the chronic liability between the franchisee and the franchisor. This is a common provision in most of the state laws he had reviewed. At top of page of 6, a change is made in "subject to the decision of the director" with regard to a copy of dealer preparation responsibility list to the department of motor vehicles.

Chairman Wilson commented that section was a departure from provisions for franchises and regulations thereof. It covers another type of regulation in connection with delivery and preparation obligations, to be paid by the manufacturer to the franchisee. This would then become a protestable item if the franchisor did not meet the requirements of the list submitted. Mr. Capurro stated the dealer preparation responsibility list is really a consumer protection device to make sure the vehicle is in the condition specified for a new vehicle.

Mr. Capurro explained the provisions of section 13 which deal with warranties and their being honored by the franchisor or manufacturer; but he stated this is a unfair practice which most likely would not become a protested item.

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Chairman Wilson recommended being as prompt and accurate with the bill as they possibly can, in view of the present time factor and difficulties with the bill drafting office. Mr. Capurro suggested that possibly sections 11 and 12 could be omitted from the bill as much of the unfair trade practices enumerated are already covered under present sections of Nevada law. He explained the basic thrust of the bill is due to the major problem of terminations in addition to new dealerships. Senator Wilson suggested the unfair practices section was a secondary provision and Mr. Capurro agreed.

Senator Blakemore had a question about section 3 on page 7, referring to dealers sending parts back to Detroit. Mr. Capurro indicated there was not existing language covering that as an unfair trade practice but he was willing to forego it in the section as they deal with it on a regular basis already.

Mr. Capurro covered section 14 dealing with terminations, modifications, and additions of new franchises and stated it was consistent with Chapter 323 of the Administrative Procedures Act. He rapidly went over the rest of the subsections of section 14.

Section 15 dealing with the 120 day limitation on the appeal process was presented as a reasonable time frame. Comments from the audience disagreed with this premise. There was general discussion on the points covered by Mr. Capurro by the committee and audience. The scope of judicial review was put forth by Senator Wilson to be considered more thoroughly in this respect.

Mr. Capurro stated section 16 deals with judicial review. There was no discussion on it. Section 17 is the provision cited by the manufacturers at some time in the past that in effect abrogates current contracts. He cited the Fox decision as indicating that is not an unreasonable restriction on contracts currently in effect. Responding to Senator Wilson's question, Mr. Capurro said he believed it was the same as Nevada law and Senator Wilson thought so also.

Section 18 may not be necessary, but has to do with the subpoena power of the director or the hearing officer. Mr. Capurro said he now understands the hearing officer already has that jurisdiction under existing law.

Section 19 specifies that anyone requesting a witness for a hearing is liable for the expenses of having the witness present. Mr. Capurro outlined Section 20 as dealing with relevant marketing area.

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Chairman Wilson read the definition to the committee and Mr. Capurro affirmed it was in existing law but they wished to change the last part of the definition referring to the limitations of the area of radius. They wanted it to become effective on passage and approval.

Mr. Lee Ridgeway, representing General Motors Corporation from Sacramento, was the next witness on Senate Bill No. 543. Mr. Ridgeway indicated he was not a support witness of the bill and proceeded to discuss each point with which he disagreed. As with most bills, he said they did not agree on all the points presented. He introduced Ford Simms, also with General Motors, from their marketing division, who is more conversant with the marketing law.

Mr. Simms proceeded to his discourse on the fact that dealers and General Motors are definitely not in agreement on many parts of the amendment. He went through each point of disagreement most thoroughly. He felt the franchisor should be able to terminate the franchise if a franchisee was convicted of a serious crime, or of certain unfair business practices, or a felony which reflects on the dealership, or for revocation of a license with cause.

Another area the franchisor wanted jurisdiction on was if the business was closed for seven consecutive working days, either by the IRS, bankruptcy, or an act of God. Senator Blakemore talked about the customer's vehicles that might be trapped by such closure and wanted to know if there was any recourse. He was told that was a different case from the franchisee-franchisor arrangement under discussion. Mr. Simms and the committee thereupon discussed the various ramifications of the closed dealership with regard to termination procedures. Mr. Simms felt strongly about the "temporary restraining order" action of some sections of the amendment and voiced his objections to same.

Senator McCorkle asked how the franchisor is protected from the "frivolous protest" of the franchisee. Mr. Capurro said there was a possibility but he did not think it very probable; and he referred to the 15 day protests as compared with the 30 day protests, in terms of frivolous protests.

With regard to the "one year, one mile" restriction on re-establishing a dealership, Mr. Simms felt it should be "two years, two miles" to allow the dealer more leeway in his business, to get it going again, or re-establish his business (e.g. after a fire).

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There was a general discussion on all new car registrations in a county or area as a factor in the granting of a new franchise. This means not limiting it to just the one make sold by one dealer. Several of the dealers in the audience made comments to this issue. Mr. Simms stated there was a difference in the factors considered as to whether to grant another franchise.

Mr. Simms cited the problems already encountered in states with the 120-day limitations when they are misused, by the prolonged delay that is possible through this procedure. He continued with his objection to the judicial procedure and director's review which prolongs it even more. He indicated this was also present in the federal contract law and submitted copies of GM contracts for the committee. (See Exhibit C.) He said they would like to see the procedure conformed with Nevada civil procedures. Chairman Wilson said it would be conformed.

Mr. Simms suggested that the General Motors franchise agreements (see Exhibit D) submitted to the committee be reviewed by the attorney general or the director as a basis for contract law. He cited the Holiday Inn case which was viewed as a conspiracy by the Supreme Court which made it necessary for them to change their franchise agreements to conform to it.

Chairman Wilson commented they did not believe a franchise agreement to be a personal service agreement because dealers had to furnish land, building, sell the product, etc. and provide capital investment. Mr. Simms agreed with the Chairman, but stated the franchisess should not be able to transfer the franchise without the franchisor's consent.

Mr. Bill Heinrich, Fairway Chevrolet in Las Vegas, noted that he had to agree to the stringent restrictions, but he had to wait almost nine months to be approved as a franchisee by Detroit. He also brought up the problems of another dealership which had to be closed due to escaping ammonia gas, etc. with regard to the seven day restriction mentioned by Mr. Simms.

Mr. Jim Marsh from Las Vegas mentioned that many of the dealers represent minority dealers which have a greater interest in the legislation than the GM dealers might have.

Mr. "Dutch" Stenovich, Jeep dealer from Elko cited his own example of 26 years in the business, in a community of less than 15,000, where another Jeep franchise was allowed by the manufacturer in recent years.



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Senator McCorkle asked the General Motors representatives to explain why they did not provide their dealerships with exclusive franchises in their respective areas. Their explanations were less than satisfactory to the senator. They insisted they could not provide their dealers with exclusive territories because they are assigned specific territories for their place of business but they cannot restrict where the cars are sold.

Mr. S. Barton Jacka, director of the department of motor vehicles, testified he had serious difficulty with the concept as presented by the preceding witnesses and he had difficulty with the bill in its present format but he agrees with the amendments that have been presented, particularly with the warranty problem. He indicated there would be a slight monetary impact and asked for time to study it.

Chairman Wilson stated the hearings division was established last year for administrative hearings in other specialized areas. He asked Mr. Jacka if that division was the appropriate area to hear such matters. Mr. Jacka said it was not, as he already has hearings officers in his department who can handle the franchise hearings in an expeditious manner.

With no further testimony on Senate Bill No. 543, Chairman Wilson closed the hearing on the bill.

SENATE BILL NO. 548--Reorganizes system of labor and industrial insurance.

Chairman Wilson asked if there was a way to get an overview of the bill without "plowing through it" section by section.

Mr. Leroy Bergstrom of Kafoury, Armstrong and Company gave some preliminary background material on whether the industrial commission could be better organized and managed. This encompassed the internal organization and management of NIC and the relationship of the industrial commission to the totality of Nevada's industrial insurance system. He stated that S.B. No. 548 is concerned with the implementation of the conclusions contained in Kafoury, Armstrong and Company's report and others following the same concept; and to the second part with regard to Nevada's industrial insurance program.

He cited the changes made by the 1979 legislature in establishing the self-insured group, moving their supervision to the department of insurance, and providing for the hearings function of the department of administration. The system was no longer monolithic.

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Mr. Bergstrom stated the self-insured were also insurers themselves; the NIC was an insurer and also a regulator. The state insurance commissioner was also a regulator and the department of administration has a hearings function. He summarized their findings as indicating it did not make any sense for the NIC to be both an insurer and a regulator because it was now part of a competitive system. They concluded the insurance function should be reconstituted as a legislatively chartered mutual insurance company, subject to the same regulatory requirements as a self-insured business. They proposed moving regulation to the department of commerce, with the insurance division and a new division of industrial relations.

Senator McCorkle inquired what was in the current law that prevents this entity from functioning the way Mr. Bergstrom proposes. Mr. Bergstrom cited a regulatory body responsible for regulating not only its own insurance but also those people who are self-insured, thereby creating a natural conflict of interest. He said the self-insured today are monitored by the insurance division. Mr. Bergstrom said it logically should be run like an efficient insurance company, choosing the best personnel and compensating them suitably for their skills. He commented the state compensation system is not equipped for running as a private business.

In reply to a question from Senator McCorkle, it was clear the recommendations were unanimously supported by the public members of the commission as well as the labor and management members. The problems addressed by any insurance company in securing personnel are more difficult for state agencies with regard to recruitment, moving expenses, adequate salaries, etc. were cited as part of the third item noted above. He stated all employees would be within the organization. The regulatory part would be under the classified service. The insurance part would have separate provisions, particularly for its executive personnel. The objective was to protect workers' rights and still be able to create a structure that would accommodate today's environment and three-way insurance also, if it came to the state, with a minimum of difficulty and incidental cost. This would also provide a reasonable separation of powers, which apparently is desired.

Mr. Joe Nusbaum, chairman of the Nevada Industrial Commission, introduced Mr. John Flanigan, vice chairman of the advisory board and public member to tell about the advisory board's deliberations and recommendations regarding the organizational studies.

Mr. Flanigan stated the advisory board met on the present subject over a period of about four months. He said they were all unanimous in their recommendations which he will present to the committee.

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Mr. Flanigan said the Nevada industrial commission advisory board unanimously supports, endorses and advocates the following: 1) external reorganization of NIC, placing the insurance operation in a separate public corporation; 2) formation of an inter-agency task force to consider the location and organization of the regulatory functions recommended for transfer from NIC; 3) internal restructuring of the insurance function as soon as it can be accomplished, as outlined in the Kafoury Armstrong study; 4) operation of the insurance function as a public corporation or quasi-state agency, with its own accounting, budget, and personnel controls.

Mr. Flanigan went on to explain some of the ramifications of their recommendations and indicated the advisory board had not had time to review S.B. No. 548; but believed the bill, as requested, is in line with their recommendations and the Kafoury Armstrong study. (See Exhibit F.)

Mr. Nusbaum interjected the internal reorganization referred to was not part of the bill but was more of an administrative operation. He explained to the committee it would create sort of a headquarters for the insurance function in Carson City; with two full service offices, one in Las Vegas and one in Reno, each with complete payment and policy holder service.

Chairman Wilson asked again whether this would be done administratively and Mr. Nusbaum agreed it would. Mr. Nusbaum went on to say the interagency task force, endorsed by the governor, looked first at proper placement of the regulatory functions. He said Mr. James Wadhams, director, department of commerce, was one of the first to suggest the interagency task force as a method of making the decisions on placement and Mr. Nusbaum would let Mr. Wadhams tell the committee about the interagency task force and its recommendations.

Mr. Wadhams explained the conception of the task force, some of its deliberations and conclusions. The group consisted of: Howard Barrett, director of department of administration, Larry McCracken, director, department of employment security, Edmond McGoldrick, labor commissioner, Joe Nusbaum, chairman, NIC and Mr. Wadhams, who presented the committee with a copy of their eight recommendations to the governor. (See Exhibit F.)

Asked if the task force members had read the bill, Mr. Wadhams responded there are a series of amendments, mostly mechanical in nature, which would be required in order to bring the bill into compliance with the letter just submitted (see Exhibit F.)

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There were various comments from Mr. Nusbaum, Senator Wilson, Senator Don Ashworth and interested members of the audience with regard to the technical and conceptual content of the bill, its great length, and the number of amendments which were expected to be proposed within the next few days. There was concern as to whether the agency heads and NIC commissioners had really read the bill. Mr. Nusbaum assured that the commission had read it, reviewed the proposed legislation and worked out the amendments.

Mr. Anthony Anthonisen, Summa Corporation, said he had some comments to make on various portions of the bill. He indicated the self-insured employers were not represented on the NIC advisory board and he felt they should be. He pointed out some of the changes which gave him concern and Mr. Bill Champion, MGM-Las Vegas, concurred and indicated he did not care for the change in policy to the commissioner of insurance with regard to the insurance function.

Chairman Wilson suggested another meeting of all concerned with the bill, to narrow the areas of disagreement with regard to policy and technique. He suggested the NIC advisory board review the bill itself thoroughly before that meeting.

There was a comment from the audience of being concerned with some sections of the bill which seem to be entirely out of context with the reorganization of the NIC. Chairman Wilson agreed that if there are substantive changes affecting policy and the way business is conducted now, with regard to the way of definition of benefit qualifications, etc., they should be isolated so they can be dealt with. He stated that unless this is done, a hearing processed this late in the session is not going to be adequate. Senator Wilson said too much work had gone into this bill to lose it now and he was sick that it was not presented much sooner.

Chairman Wilson then turned to setting the time for another meeting on S.B. No. 548 and the group agreed on Wednesday, April 29, 1981, 9:00 a.m., at the NIC building in Carson City.

A representative of the independent insurance agents indicated they liked the concept presented, except that it does not seem to include private insurance carriers. They would like an amendment for that purpose but Chairman Wilson said it was too late for that kind of a major change.

Mr. Nusbaum briefly summarized for the committee the contents of his submission, "Reorganization of Nevada Workers' Compensation System" (see Exhibit E).

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Mr. Nusbaum also commented on the appearance in the bill of a provision adjusting death benefits which had no business being in it. There must be "gremlins" in the drafting process as there was never any intent to change benefits, according to Mr. Nusbaum.

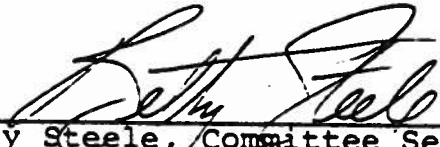
Since he will be unable to attend the Wednesday meeting, Mr. McGoldrick wanted to go on record for the labor commissioner, in that his agency had reviewed the bill and all statutes related to their agency and find no problem with the bill. All of the sections are contained. There is no fiscal impact.

There was general agreement to meet on S.B. 548 again on Wednesday afternoon, April 29, after the regular session. Individual members were invited to respond to various sections of the bill and present their comments informally. Chairman Wilson was concerned about the possibility of getting the corresponding committees from the Assembly to be there at the same time.

As there was no further testimony, Chairman Wilson closed the hearing on Senate Bill No. 548.

The meeting adjourned at 6:05 p.m.

Respectfully submitted,

  
Betty Steele, Committee Secretary

APPROVED:

  
Senator Thomas R. C. Wilson, Chairman

DATE: June 12, 1981

EXHIBITS - MEETING - APRIL 27, 1981

Exhibit A is the Meeting Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a copy of General Motors Corporation Franchise agreement, submitted by Mr. Simms.

Exhibit D is a copy of another type of General Motors agreement, also submitted by Mr. Simms.

Exhibit E is a copy of Reorganization of Nevada's Workers' Compensation System, based on the Kafoury, Armstrong recommendations, submitted by Mr. Nusbaum.

Exhibit F is a copy of letter to the governor with recommendations from the interagency task force, submitted by Mr. Wadhams.

REVISED  
SENATE AGENDA  
COMMITTEE MEETINGS

Committee on Commerce and Labor, Room 213.

Day Monday, Date April 27, 1981, Time 1:30 p.m.

S.B. No. 543--Regulates franchises granted by manufacturers or distributors to dealers in new motor vehicles.

S.B. No. 548--Reorganizes system of labor and industrial insurance.

SENATE COMMITTEE ON

Commerce & Labor

DATE:

4/27/81

EXHIBIT B

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NAME

ORGANIZATION &amp; ADDRESS

TELEPHONE

Bill Heinrich Fairway Chev Las Vegas 457 8081

Jim Chaisson ED Fountain Toyota L.V. 457 0333

Glen Taylor Nev. Labor Commission 895-4850

Jerry Warped Warren Motor Co. Elko 738-3147

Richard E. Wright Wright Motors Elko 738-8061

2 Don Ackerman Gaudin Ford Las Vegas 731 2121

Archie Stone Fletcher Jones Chev 870-9444

Ed Becker Las Vegas Honda

Wade Aireed Sunland Motrs.

Dutch Stearids Dutch Stearids Motors Elko 738-6932

Bob McQuiston Western Mazda Reno 825-1013

Jim Shyne Jim Shyne Motors 433-5198

Howard Hewning Fallon Ford 423 2171

Kurt Hewning Fallon Ford 423 7384

Ziggy Terelak Herb Hallman Chev Reno 786 3111

Tom Stuart The Gibbens Co Inc 826-6600

Wayne Carson Wash Co 705-4147

Jim Wadham Sr Commerce Dept 885 4250

Ed Muldrick Labor Commission 895-4850

George Tackett Nevada Bell 789-8496

Lee Roseway General Motors Corp 925 L St, #1170 SACRAMENTO, CA (916) 444-5788

Ford Sims General Motors Corp

S. Foster Jap. Min Bus Div



SENATE COMMITTEE ON Commerce & Labor

DATE: 4/22/81

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PLEASE PRINT

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NAME

ORGANIZATION & ADDRESS

TELEPHONE

~~Walter Schmitt~~

Dutch Sandwich Motors EMD

Wade Hall

Sunland Motor L.V.

~~Leroy Bendstrom~~  
Leroy Bendstrom

Kayway Armstrong, Inc

Reno

DON F. HELWINKEL

COD GARAGE CO

MINDO 882-1791

JOHN FLANIGAN

NIC ADV Board (Vict. Insurance)

853-5163

JOHN MADOLE

ASSOC. GEN CONTRS

329-6116

CARRY HELSER

KAYWAY ARMSTRONG

342-9871

MARVIN GROSS

SFA

386-5379

BILL CHAMPION

MGM GRAND LAS VEGAS

739-4111

Bob Ostrinski

MG-M - Reno

789-2000

N.C. ANTHONISEN

SUMMA CORP

733-0123

~~J.P. Nickerson~~

~~Champion - 110~~

# GENERAL MOTORS CORPORATION

## Dealer Sales and Service Agreement

AGREEMENT, effective the \_\_\_\_\_ day of \_\_\_\_\_  
by and between General Motors Corporation (herein called General Motors) and

a proprietorship  
 a partnership  
 a corporation, incorporated in  
the State of \_\_\_\_\_  
on \_\_\_\_\_

} of \_\_\_\_\_  
City State

(herein called Dealer).

General Motors has established a system of authorized dealers operating at approved locations to sell and service its automotive products in the most effective manner. Each authorized dealer is relied upon to provide appropriate capital, equipment, staff and facilities to properly sell, service and protect the reputation of General Motors products.

The purpose of this Agreement is to establish Dealer as an authorized dealer for Chevrolet motor vehicles (herein called Motor Vehicle Dealer), to establish the location from which Dealer will operate and to identify the individual owners and managers of Dealer on whom General Motors relies in entering into this Agreement. This is a personal service contract setting forth the rights and obligations of Dealer and its approved owners and managers and of General Motors relating to the sale and service of Chevrolet motor vehicles and related parts and accessories.

Accordingly, the parties agree as follows:

### FIRST: Rights Granted

General Motors grants Dealer:

- (a) a non-exclusive right to buy the new Chevrolet motor vehicles identified in the Motor Vehicle Addendum hereto and related parts and accessories; and
- (b) a non-exclusive right to identify itself as an authorized Chevrolet dealer at the location approved by General Motors.

Dealer accepts the rights granted by General Motors and agrees to:

- (a) effectively sell and service Chevrolet motor vehicles; and
- (b) establish and maintain satisfactory Dealership Premises at the Dealership Location.

Dealer has not paid any fee or other consideration for this Agreement. Neither this Agreement nor any right granted by this Agreement is a property right. Neither this Agreement nor any right or responsibility under this Agreement may be transferred, assigned, delegated or sold by Dealer.

### SECOND: Additional Provisions

The provisions in the "Additional Provisions" (Form No. GMMS 1013 USA 11-1-80) are incorporated as a part of this Agreement.

### THIRD: Management and Ownership

General Motors is entering into this Agreement in reliance on the capabilities of the person(s) identified below and on Dealer's assurance that their personal services will be provided in the Dealership Operations. Dealer represents that such person(s) will be the principal manager(s) of Dealer (herein called Dealer Operator) and the principal owner(s) of Dealer (herein called Dealer Owner).

General Motors and Dealer agree that the Dealer Operator(s) will actively exercise full managerial authority in the Dealership Operations, and that all owners of Dealer will each continue to own, both of record and beneficially, the percentage of ownership represented by Dealer in the Dealer Statement of Ownership approved by General Motors.

(Fill in "Yes" or "No" under both columns)

Name	Dealer Operator	Dealer Owner
_____	_____	_____
_____	_____	_____

**FOURTH: Changes in Management and Ownership**

If Dealer desires to make a change in its Dealer Operator(s) or ownership or sell its principal assets to a party that wishes to become an authorized dealer, Dealer will give General Motors prior written notice of the proposed change or sale. General Motors shall not arbitrarily refuse to agree to such proposed change or sale.

Dealer agrees to provide in the form requested and in a timely manner all applications and information customarily requested by General Motors to evaluate the proposed change or sale. General Motors agrees to consider all factors requested by Dealer and base its decision on whether the proposed change is likely to result in a successful dealership operation with acceptable management and ownership which will provide satisfactory sales and service for Chevrolet customers at the approved location.

**FIFTH: Term**

This Agreement will expire without any action by either Dealer or General Motors on \_\_\_\_\_, or ninety days after the death of a Dealer Operator or Dealer Owner, whichever occurs first.

**SIXTH: Execution on Behalf of General Motors and Dealer**

Neither this Agreement nor any related agreement will be valid unless:

- (1) It is signed on behalf of Dealer by its duly authorized representative and, in the case of this document, by its chief executive officer and each Dealer Operator and Dealer Owner; and
- (2) It is signed by either an Assistant General Sales Manager, a Regional Manager or a Zone Manager of Chevrolet Motor Division, General Motors Corporation (herein called Division) and, if space is provided, it bears the signature or facsimile signature of the General Sales Manager.

If Dealer is an authorized dealer for more than one division of General Motors, Dealer will be notified which division will be primarily responsible for administering the provisions of the Dealer Agreements relating to the Dealer Statement of Ownership, Dealership Location and Premises Addendum, and Capital Standard Addendum. The responsible division will execute those documents for all divisions.

\_\_\_\_\_

Dealer Firm Name

By \_\_\_\_\_

Signature and Title

By \_\_\_\_\_

Signature and Title

By \_\_\_\_\_

Signature and Title

Witness to Dealer Signatures: \_\_\_\_\_


Print: \_\_\_\_\_

Name

\_\_\_\_\_

Signature

**GENERAL MOTORS CORPORATION**  
Chevrolet Motor Division

By   
General Sales Manager

By \_\_\_\_\_  
\_\_\_\_\_ Manager

11/11/80 2/1

**CHEVROLET MOTOR DIVISION  
SUCCESSOR ADDENDUM  
TO  
GENERAL MOTORS CORPORATION  
Dealer Sales and Service Agreement**

EXHIBIT D

This Successor Addendum is effective \_\_\_\_\_ and is executed pursuant to the provisions of Section B of Article III of the current Dealer Agreement in effect between the undersigned Dealer and Chevrolet.

On the basis of the information provided Chevrolet by Dealer in connection with the Request for Execution of Successor Addendum furnished by Dealer, Chevrolet and Dealer agree that:

(1) Subject to paragraphs (2) and (3) below, the proposed dealer operator(s) for purposes of designating and establishing a proposed successor dealer as provided in Section B of Article III of the Dealer Agreement shall be \_\_\_\_\_

(2) If more than one current Dealer Operator is named in (1) above,

(a) the remaining Dealer Operator alone shall have the right to designate and establish a proposed successor dealer,  Yes

or

(b) all of the proposed dealer operators who remain or survive, including the remaining Dealer Operator, shall acting together have such rights.  Yes

(3) The following person(s), if any, shall be proposed owner(s) (Indicate "none," if applicable):  
\_\_\_\_\_  
\_\_\_\_\_

(4) Dealer, but not General Motors, may cancel this Addendum, and Dealer and General Motors may by mutual agreement cancel or execute a new Successor Addendum, provided, however, that no Successor Addendum can be canceled following the death of any party named in Paragraph THIRD of this Agreement. General Motors shall have no obligation to execute a subsequent Successor Addendum, however, if General Motors notifies Dealer in writing that General Motors does not plan to continue dealership operations at Dealer's location.

(5) This Addendum shall become null and void upon the execution of a new Dealer Agreement by Dealer and Chevrolet.

(6) This Successor Addendum cancels and supersedes any previous Successor Addendum between the parties.

\_\_\_\_\_  
Dealer Firm Name

**CHEVROLET MOTOR DIVISION  
General Motors Corporation**

By \_\_\_\_\_  
Signature (date)

By   
General Sales Manager

\_\_\_\_\_  
Title

By \_\_\_\_\_  
Manager

The undersigned, as all Dealer Operator(s) and owner(s) of Dealer, hereby individually signify their concurrence with the above agreements of Dealer and Chevrolet and waive any rights in conflict with the above agreements they may have or acquire under either the Dealer Agreement or applicable law.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

*re SB-548 - from 4/2  
to the President  
 testimony*

S. B. 548

EXHIBIT E

# REORGANIZATION OF NEVADA'S WORKERS' COMPENSATION SYSTEM

Based on Recommendations of:

Kafoury, Armstrong & Co.

Advisory Board of Review for NIC

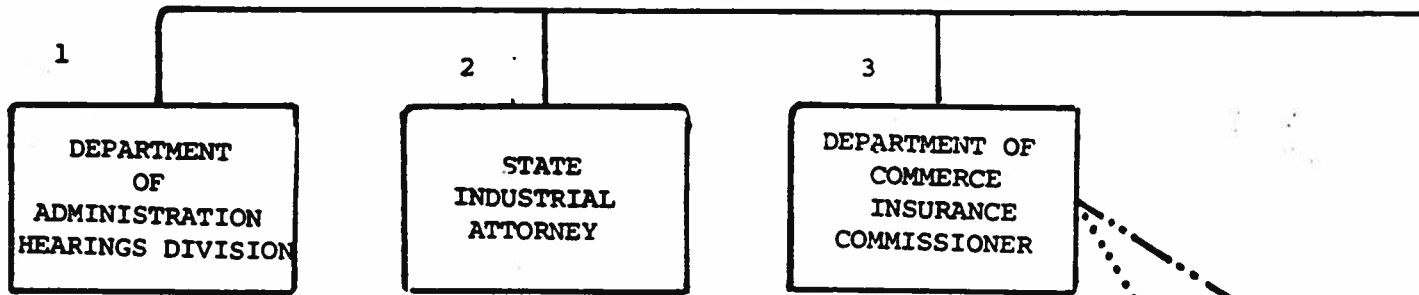
Interagency Task Force

Nevada Industrial Commission

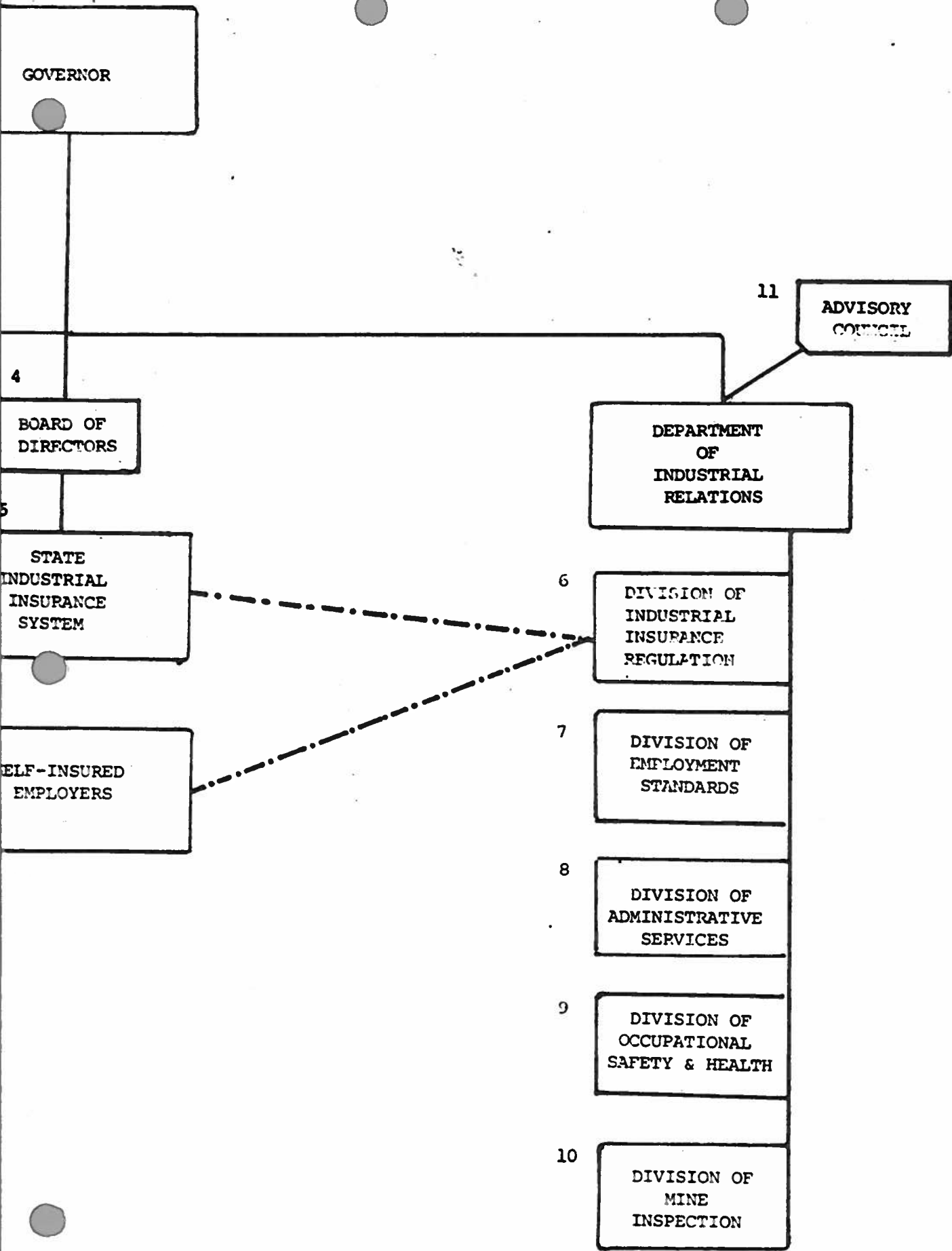
April 1981

1680

# Reorganization of Nevada's Workers' Compensation System



1. Hears claims appeals of State Industrial Insurance System and self-insured employers.
2. Represents claimants before appeals officer.
3. Certification of self-insured employers . . . . . and rate review -----
4. Nine members appointed by the Governor (3 labor, 3 policyholders, 3 public). Has specified policy and review functions.
5. Public Corporation. Successor to NIC's insurance operation providing:
  - a. workers' compensation insurance;
  - b. policyholder and claimant services;
  - c. consulting safety services; and
  - d. rehabilitation services.
6. Responsible for workers' compensation compliance regulation of the State Industrial Insurance System and self-insured employers. Restores state regulation of workers' compensation to one agency. -----
7. Successor to office of the labor commissioner.
8. Provides administrative, fiscal, statistic, and coordinating services to the Director of the Department of Industrial Relations.
9. Transfers DOSH (safety enforcement) from an insurance agency to a regulatory agency.
10. (Same as 9)
11. To be appointed by the governor to advise department - 9 members (3 labor, 3 management, and 3 public)



REORGANIZATION

During the 1979-1981 period, the Advisory Board of Review and the Nevada Industrial Commission agreed on 10 studies covering major areas of the law and administration of workers' compensation. A consulting management firm, Kafoury, Armstrong & Co., was contracted with to undertake the studies related to organization.

The report of the consultant recommended an internal restructuring of NIC along the lines of an insurance company with its headquarters in Carson City and two full service offices for claimants and policyholders in Las Vegas and Carson City.

Due to the need to restore state regulation of workers' compensation to one agency, the report also recommended the splitting of NIC's insurance function and regulatory functions with workers' compensation regulation restored to one agency. Since the placement of the regulatory functions affected other agencies, the Governor appointed an interagency task force of department heads (Administration, Commerce, Employment Security, Labor and NIC) to recommend the appropriate placement of the NIC regulatory functions. The task force unanimously recommended that the regulatory functions of NIC and the functions of the Labor Commissioner be combined in a new Department of Industrial Relations similar to the organizational pattern in many states.

The result of these studies is SB 548 which:

1. Creates a successor to NIC's insurance operation called the State Industrial Insurance System, which is a public corporation run by a board of directors and a general manager providing:
  - (a) Workers' compensation insurance, and related
  - (b) Consulting safety services, and
  - (c) Rehabilitation services.
2. Provides that the regulatory functions of NIC be combined with the functions of the Labor Commissioner into a new Department of Industrial Relations responsible for:
  - (a) Workers' compensation compliance regulations of the State Industrial Insurance System and self-insured employers.
  - (b) Occupational Safety and Health.
  - (c) Mine Inspection.
  - (d) Employment standards.
3. Retains certification of self-insurers and rate review by the Commissioner of Insurance.
4. Has a July 1, 1982 effective date.



QUESTIONS AND ANSWERS REGARDING THE REORGANIZATION OF  
NEVADA'S WORKERS' COMPENSATION SYSTEM (SB 548)

Why is a Department of Industrial Relations desirable?

1. Most states have organized the functions of this proposed department under a single department, whether called Industrial Relations, Industry and Labor, Industrial Commission or Labor Department.
2. The functions are all related to conditions of employment in industry and business.
3. The functions are all regulatory.
4. An advisory board representing management, labor and the public will bring to bear these interests on the policies of the department.

Why is it important to have the Division of Industrial Insurance Regulation (in the Department of Industrial Relations) as the single regulator of workers' compensation laws?

1. Presently NIC is an insurer that for the most part regulates itself; this is not a good practice.
2. Presently self insureds are regulated by a separate agency, the Commissioner of Insurance; almost inevitably this will lead to different standards practiced by the two regulators with different results for the claimants and conflicts between the regulators.
3. Almost all states have a special regulatory organization solely for workers' compensation because of the specialized nature of this type of insurance and because of the high degree of statutory control of workers' compensation.
4. A single regulator can provide better supervision of "grandfathered" employers and "ex-medical" employers who have not been closely supervised.
5. A single regulator can more efficiently establish the expert staff needed to regulate.

What will the State Industrial Insurance System do?

1. It will operate as an insurance company under a board of directors and manager in providing these services:
  - a. For employers; compensation insurance, premium rates and consulting safety services.
  - b. For employees; compensation payments, medical benefits and rehabilitation services.
  - c. For an actuarially sound system for both employers and employees; creating reserves, investing funds and distributing dividends.
2. It will be subject to the regulation of the Department of Industrial Relations to assure it is complying with the law and regulations in providing insurance services to claimants and policyholders, and subject to the Insurance Commissioner in premium rate making.

How will the reorganization affect other agencies involved in Nevada's workers' compensation system?

1. The functions of the Appeals Division of the Department of Administration is not changed, it will continue to handle all administrative appeals by claimants.
2. The function of the State Industrial Attorney is not changed; that office will continue to provide legal services for claimants who qualify.
3. The Insurance Commissioner will continue to certify and decertify self insured employers and review and hear appeals on the NIC (State Industrial Insurance System) premium rates. However, the regulation of self-insured employers is shifted to the Department of Industrial Relations.

Does the reorganization bill (SB 548) change any rights or obligations of employees or employers?

1. The bill intends to make only those changes that are reasonably necessary to accomplish the reorganization and to carry out the organizational policies that underlie the proposal.
2. Other changes in benefits and obligations recommended by the Advisory Board of Review and the NIC are not incorporated in this bill.

What are the sources of funding the reorganized departments?

1. The State Industrial Insurance System will be funded from premium income in the State Insurance Fund as the insurance functions of NIC are now funded.
2. The Division of Occupational Health and Safety and the Division of Mine Inspection of the Department of Industrial Relations will be partially funded from federal grants as they now are funded.
3. The director's office and the Division of Employment Standards of the Department of Industrial Relations will be funded from the General Fund as these functions are now funded.
4. The balance of the cost of the Department of Industrial Relations including the Administrative Services Division and the Division of Industrial Insurance Regulation will be assessed against insurers (mainly the State Insurance Fund) as these functions are now funded.
5. The costs of the Hearings Division of the Department of Administration and the workers' compensation functions of the Commissioner of Insurance will be assessed against insurers (mainly the State Insurance Fund) as these functions are now funded.
6. All assessments against insurers will be administered in a Fund for Workers' Compensation in the State Treasury.

Will this reorganization require additional funding?

Since all of these functions are now being carried out, the total funding should be limited to the amounts budgeted for the existing agencies.

How will budgets be established for the reorganized agencies?

During the one-year period between enactment and the effective date of the reorganization the affected agencies will work with the Department of Administration in re-ordering their budgets for 1982-83 and will submit the revised budgets to the Interim Finance Committee for approval.

*John Madlame*  
*cc SB-548* *Mon.*  
*1/27*

EXHIBIT F

Governor Robert List  
State Capitol Building  
Carson City, NV 89510

January 12, 1981

Dear Governor List:

By a memorandum dated December 18, 1980, you created a temporary task force composed of the five undersigned department heads to make recommendations to you regarding a state government organizational matter.

You related to this task force the steps that have been taken by the Nevada Industrial Commission and the Advisory Board of Review for the NIC in reorganizing the NIC. Essentially you pointed out that the Advisory Board and the Commission have recommended that the insurance functions of the State Insurance Fund be organized along the lines of an insurance company as a quasi state agency. The regulatory functions of occupational health and safety, mine inspection and workers' compensation compliance regulation would be transferred elsewhere in state government. You directed the task force to recommend to you the appropriate location and organization of the transferred regulatory functions.

After reviewing the background of this issue, the task force seriously considered three major alternatives:

1. establishing the present Commission and its regulatory functions as an independent state agency,
2. transferring the regulatory functions to the Department of Commerce, and
3. combining the regulatory functions with the functions of the Labor Commission.

After considering the relationships of various functions, the advantages and disadvantages of creating another state agency, the present organization of the Department of Commerce and the Labor Commission and the size and scope of the involved agencies, we have unanimously arrived at recommendations. We believe this set of recommendations is the best solution, but we recognize that all three of the possibilities

which we seriously considered have advantages and disadvantages. Our recommendations are:

1. The regulatory functions of the present NIC should be merged with those of the Labor Commission in a new agency called the Department of Industrial Relations.
2. NIC's Department of Occupational Safety and Health should become the Division of Occupational Safety and Health in the new agency.
3. NIC's Inspector of Mines should become the Division of Mine Inspection in the new agency.
4. NIC's workers' compensation compliance function and the corresponding responsibilities of the Commissioner of Insurance for self-insured employers should become the Division of Workers' Compensation Compliance in the new agency. This division's function would be the administrative regulation of all insurers (self-insured employers and administrators and the State Insurance Fund) for compliance with the statutory and regulatory requirements for administering workers' compensation.
5. The Insurance Division of the Department of Commerce should continue to regulate rates and analyze financial adequacy for all insurers and certify authority for self insurers.
6. The workers' compensation appeals function should remain as an independent function under the Department of Administration.
7. A board should be statutorily created representing management, labor and the public as an advisory board to the Director of the Department of Industrial Relations.
8. The effective date of the reorganization recommended herein should be not sooner than January 1, 1982 nor later than July 1, 1982, in order to give the involved agencies a reasonable time in which to work out the logistics of the transfers.

We appreciate the opportunity to be involved in this important and challenging assignment.

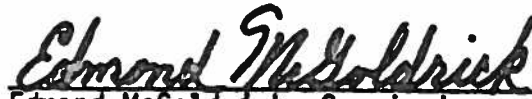
Sincerely yours,



Howard E. Barrett, Director  
Department of Administration



Lawrence J. McCracken, Director  
Department of Employment Security



Edmond McGoldrick, Commissioner  
Labor Commission



Joe E. Nusbaum, Chairman  
Nevada Industrial Commission



James E. Wadhams, Director  
Department of Commerce

/dn