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WORK SESSION DOCUMENT

ASSEMBLY COMMITTEE ON COMMERCE AND LABOR

FRIDAY, MAY 16, 2003

The following measures will be considered for action during the work session. Possible amendments are noted; these were either suggested during testimony or submitted in writing and do not necessarily have the approval of the Committee, but are merely compiled here to assist the Committee in its deliberations.

• **Senate Bill 7** (Heard in Committee on 4/21/03—NACT)

Repeals various obsolete provisions relating to telegraphs. (BDR 58-587)

This bill repeals various obsolete provisions in *Nevada Revised Statutes* relating to telegraphs. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 8** (Heard in Committee on 4/21/03—NACT)

Increases penalty for certain punishable conduct by employer leading to death of employee. (BDR 53-298)

This bill increases the penalty for certain punishable conduct by an employer that leads to the death of an employee. It increases the fine for a first offense from \$20,000 to \$50,000, and increases the fine for a subsequent offense from \$40,000 to \$100,000. This bill resulted from a recommendation made by the Legislative Commission's Subcommittee on Industrial Explosions. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 10** (Heard in Committee on 4/30/03—NACT)

Prohibits certain regulation of use of telephonic device by person who is operating motor vehicle. (BDR 58-57)

This bill prevents a local government from regulating the use of a telephone by a person who is operating a motor vehicle. No one testified in opposition to this bill and no amendments have been proposed.

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ASSEMBLY COMMERCE & LABOR 10810
DATE: 5/16/03 ROOM: 400 EXHIBIT C
SUBMITTED BY: VANCE HUGHES

• **Senate Bill 19** (Heard in Committee on 5/5/03—NACT)

Makes various changes relating to advertising and awarding contracts for certain smaller public works projects and requires Department of Transportation to follow contracting procedures used by other state agencies. (BDR 28-409)

Ruedy Edgington, Nevada's Department of Transportation (NDOT), proposed that provisions of the bill that affect NDOT be deleted (see Exhibit A).

• **Senate Bill 66** (Heard in Committee on 5/14/03—NACT)

Requires supplier of cigarettes to reimburse retail cigarette dealer for consumer price discount or consumer promotion provided to consumer within 90 days after retail cigarette dealer provides discount or promotion to consumer. (BDR 52-186)

The following amendments to S.B. 66 have been proposed:

1. Barton Freedman, representing Brown & Williamson Tobacco Corporation, proposed amending the bill to restore certain provisions that were deleted from the bill by the Senate. These provisions place certain restrictions on contracts between a supplier and a retail cigarette dealer (see Exhibit B).
2. Michael Alonzo, representing Lorillard Tobacco Company, proposed that Section 1 of the bill be amended to make a payment for a promotion contingent upon the retail cigarette dealer being in compliance with the terms of the promotion contract (see Exhibit C).

• **Senate Bill 83** (Heard in Committee on 4/23/03—NACT)

Expands circumstances under which registered nurses are authorized to dispense dangerous drugs. (BDR 40-533)

This bill extends psychiatric medication dispensing authority to registered nurses working in the Mental Health and Developmental Services Division's rural clinics. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 102** (Heard in Committee on 5/2/03—NACT)

Revises provisions relating to the Public Utilities Commission of Nevada. (BDR 58-968)

The following amendments to S.B. 102 have been proposed:

1. Chairman Goldwater proposed adding a provision that would allow the Legislative Commission to confirm the gubernatorial appointees to the Public Utilities Commission of Nevada (PUCN). According to the National Regulatory Research Institute, in most states, including the western states of California, Idaho, Oregon, and Washington,

public utilities commissioners are appointed by the governor and confirmed by the Senate. (Commissioners in Arizona and New Mexico are elected by the general public).

2. Don Soderberg, Chairman, PUCN, suggested the following amendment:

Insert a new section in S.B. 102 to read as follows:

Chapter 703 of NRS is hereby amended by adding thereto a new section to read as follows:

Unless the Governor appoints a person to serve as an Acting Commissioner pursuant to section 1 of this act, the Manager of the Policy Analysis Division of the Commission shall serve as the Acting Commissioner to act on the matter.

• **Senate Bill 125** (Heard in Committee on 5/2/03—NACT)

Makes various changes relating to utilities and providers of new electric resources. (BDR 58-488)

This bill was requested on behalf of the PUCN. The bill allows a natural gas utility that purchases natural gas for resale to use deferred accounting methods. In addition, the bill provides that once a customer has left the incumbent utility system to purchase services from a provider of new electric resources, the customer does not have to repeat the approval process with the Commission. Lastly, the bill authorizes the Commission to waive the 180-day waiting period. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 168** (Heard in Committee on 5/12/03—NACT)

Revises provisions governing industrial insurance. (BDR 53-466)

Senate Bill 168 was requested by the Division of Industrial Relations (DIR). According to John Wiles, Legal Counsel for DIR, the bill corrects certain regulatory deficiencies. The bill defines "medical facility," clarifies the confidentiality provisions of the Nevada Industrial Insurance Act, and allows a treating physician or chiropractor to delegate the duty of filing a claim.

Mr. Wiles proposed the following amendment to S.B. 168:

- On page 6, line 30, change the words "district court" to "a court of competent jurisdiction."

The following amendment was agreed to by various interested parties:

- Amend Section 9 of S.B. 168 to be consistent with Section 16 of A.B. 168 as indicated in Exhibit D.

• **Senate Bill 193** (Heard in Committee on 5/12/03—NACT)

Revises provisions regarding coverage of industrial insurance for certain employees. (BDR 53-782)

This bill provides that a member of the Nevada Legislature is covered by industrial insurance while acting in the course and scope of employment. In addition, the bill extends workers' compensation coverage to employees of a school district under certain circumstances.

• **Senate Bill 196** (Heard in Committee on 5/14/03—NACT)

Enacts Uniform Prudent Investor Act and Uniform Principal and Income Act (1997). (BDR 13-1107)

Frank Daykin presented an amendment on behalf of the Nevada Bankers' Association (see Exhibit E).

• **Senate Bill 248** (Heard in Committee on 5/12/03—NACT)

Revises provisions relating to alcohol and drug abuse counselors. (BDR 54-327)

This bill makes various changes to provisions relating to alcohol and drug abuse counselors. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 281** (Heard in Committee on 4/28/03—NACT)

Revises provisions relating to osteopathic physicians. (BDR 54-985)

This bill makes various changes to provisions relating to osteopathic physicians. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 283** (Heard in Committee on 4/21/03—NACT)

Revises requirements for issuance of limited license to practice dentistry or dental hygiene. (BDR 54-1095)

This bill revises requirements for the issuance of a limited license to practice dentistry or dental hygiene. No one was present to testify on this bill and no amendments have been proposed.

• **Senate Bill 319** (Heard in Committee on 5/12/03—NACT)

Makes various changes to provisions regulating insurance. (BDR 57-599)

The following amendments were agreed to by various interested parties:

1. Delete Section 1 of the bill and replace it with Section 2 of Senate Bill 319 as introduced.

Sec. 2. NRS 680A.310 is hereby amended to read as follows:

680A.310 NRS 680A.300 does not apply to any of the following:

1. Life insurance and annuities.
2. Health insurance.
3. Policies covering property in transit while in the possession or custody of any common carrier, or the rolling stock or other property of any common carrier employed by it in the operation and maintenance of its plant and business as a common carrier of freight or passengers, or both.
4. Reinsurance or retrocessions made by or for authorized insurers.
5. Bid bonds issued in connection with any public or private contract.
6. A policy issued to a risk retention group, as defined in NRS 695E.110, or to a member of a risk retention group.
7. ***A policy issued to a person who is not resident of this state.***

2. In Section 8, page 6, line 39, delete the phrase "*as determined by*" and replace it with "*at the discretion of*". Make the same change to Section 9, page 9, line 3.

• **Senate Bill 320 (Heard in Committee on 5/12/03--NACT)**

Makes various changes to provisions governing industrial insurance. (BDR 53-600)

The following amendments were agreed to by various interested parties:

1. Delete Sections 1 and 2 of the bill.
2. On page 3, amend Section 4, lines 29 through 38, to read:
 2. *A hearing must not be scheduled until the following information is provided:*
 - (a) *The name of:*
 - (1) *The claimant;*
 - (2) *The employer; and*
 - (3) *The insurer, or third party administrator;*
 - (b) *The number of the claim; and*
 - (c) *If applicable, a copy of the letter of determination being appealed, or if such a copy is unavailable, the date of the determination and the issues stated in the determination.*
3. Replace subsection 2 of Section 5 on page 4, lines 27 through 36, with the amended language in recommendation 2 above.

Robert Ostrovsky, representing Employers Insurance Company of Nevada, proposed adding new sections to the bill to establish a system of external review for certain matters relating to industrial insurance as indicated in Exhibit F, except with the following changes:

- Both parties must agree to the external review.
- Neither party can be ordered to submit to the external review.

- The result of the external review is non-binding (delete subsection 6 of Section 5, of Exhibit F).
- The insurer must pay for the external review.

• **Senate Bill 323** (Heard in Committee on 5/5/03—NACT)

Revises provisions governing funeral directors, embalmers, and operators of cemeteries and crematories. (BDR 54-306)

The following amendments to S.B. 323 have been proposed:

1. Assemblywoman Buckley proposed striking Section 10 of the bill, thereby retaining the term limits for members of the State Board of Funeral Directors, Embalmers, and Operators of Cemeteries and Crematories.
2. The Committee discussed adding language on page 3, line 43, to read, "The Board shall charge and collect not more than the following fees."

• **Senate Bill 372** (Heard in Committee on 5/9/03—NACT)

Revises provisions relating to cosmetology. (BDR 54-886)

This bill authorizes certain providers of health care to practice in a cosmetological establishment and prohibits the Board of Cosmetology from including certain information on a license or certificate that is required to be displayed publicly.

Assemblywoman Giunchigliani and Senator Schneider have proposed amendments to S.B. 372 as indicated in Exhibit H. Further, Jonnie West-Rich, on behalf of the Board of Cosmetology, proposed amendments as indicated in Exhibit I.

• **Senate Bill 422** (Heard in Committee on 5/2/03—NACT)

Revises certain provisions relating to operation of service stations by refiners. (BDR 52-1071)

This bill eliminates obsolete language from *Nevada Revised Statutes*, and allows a refiner to operate a service station acquired from a retailer or a contract dealer. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 423** (Heard in Committee on 5/14/03—NACT)

Makes various changes relating to unemployment compensation benefits. (BDR 53-476)

Birgit Baker, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation, proposed that on page 3 of the bill, lines 21 and 22, the phrase "any district court of this state" be replaced with "the district court in the county where the employment giving rise to the claim was performed."

• **Senate Bill 425** (Heard in Committee on 5/14/03—NACT)

Makes various changes relating to pharmacy. (BDR 54-530)

The following amendments to S.B. 425 have been proposed:

1. Fred Hillerby, representing the Board of Pharmacy, and Senator Titus proposed that Sections 38 and 39 of this bill be deleted to avoid a conflict with Senate Bill 387.
2. Helen Foley, representing the Nevada Pharmaceutical Wholesalers, proposed that Section 3.5 of the bill be amended to require that a purchasing wholesaler be licensed either by the Board or by a regulatory authority in another state. She also proposed that subsection 4(c) of Section 3.5 be amended to remove the reference to "a corporation whose securities are publicly traded and regulated by the Securities Exchange Act," and to replace it with a provision that would allow intra-company transfers of prescription drugs. Further, Ms. Foley proposed that the summary suspension provision in Section 25 be amended to require clear and convincing evidence of an immediate emergency public health risk before the Board may summarily suspend a license or take any disciplinary action relating to a license (see Exhibit J).
3. Chairman Goldwater proposed that Section 3.5 of the bill be amended to provide that a wholesaler located in Nevada may sell a prescription drug to another wholesaler located outside of this state who is not licensed in this state.

• **Senate Bill 426** (Heard in Committee on 5/2/03—NACT)

Establishes statewide procedures for approval of applications for construction of facilities for personal wireless communications. (BDR 58-1286)

The bill requires that a land use authority must establish procedures and standards for approval of an application to construct personal wireless service. However, the land use authority would retain the authority to consider applications and to set approval standards of applications to construct facilities for personal wireless service. The amendments proposed in Exhibit K were discussed during the hearing on this bill.

• **Senate Bill 427** (Heard in Committee on 5/9/03—NACT)

Makes various changes relating to veterinarians. (BDR 54-472)

Senate Bill 427 was requested on behalf of the Board of Veterinary Medical Examiners.

Adam Levine, an attorney with the law firm of Daniel Marks, suggested that a written report of the findings and recommendations concerning the disposition of a complaint, which is referred to on page 5 of the bill, at lines 29 through 31, be considered a public record.

Mr. Levine also expressed concern regarding Section 11 of the bill that changes the evidentiary standard for refusing to issue a license or for taking disciplinary action from

“upon satisfactory proof” to “a preponderance of the evidence” (see Exhibit L). He suggested that a “clear and convincing evidence” standard is more appropriate. Debbie Machen, Executive Director of the Board, provided a letter (see Exhibit M) in which she indicates that the Board would not object to using the clear and convincing evidence standard.

Finally, Mr. Levine suggested that the provision on page 7, lines 9 through 11, that allows the establishment of proof of actual injury by the testimony and opinion of a witness who is not an expert witness be deleted from the bill.

• **Senate Bill 428 (Heard in Committee on 5/12/03—NACT)**

Makes various changes regarding certain state agencies that regulate real estate practices and professions. (BDR 54-471)

No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 429 (Heard in Committee on 5/5/03—NACT)**

Makes various changes relating to community antenna television systems and video programming services. (BDR 58-1072)

According to Russell Rowe, representing CC Communications, and Bob Gastonguay, representing Nevada State Cable Telecommunications Association, this measure allows competition between CC Communications (a county-owned telephone company) and Charter Communications (a private business). No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 437 (Heard in Committee on 4/30/03—NACT)**

Makes various changes relating to contractors and projects involving residential pools and spas. (BDR 52-1288)

This bill makes various changes affecting residential pool and spa contractors. No one testified in opposition to this bill and no amendments have been proposed.

• **Senate Bill 445 (Heard in Committee on 5/5/03—NACT)**

Revises provisions governing grants of money from Fund for the Promotion of Tourism by Committee for the Development of Projects Relating to Tourism. (BDR 18-510)

This bill eliminates the \$200,000 per biennium spending limit on the amount of revenue from taxes on the gross receipts from the rental of transient lodging that may be made available to the Committee for the Development of Projects Relating to Tourism. The measure also eliminates the requirement that the Interim Finance Committee approve the transfer of money from the Fund for the Promotion of Tourism to the State General Fund. No one was present to testify on this bill and no amendments have been proposed.

• **Senate Bill 332 (Heard in Committee on 5/14/03—NACT)**

Revises qualifications of State Health Officer, clarifies restrictions on use of "M.D." title and makes various changes relating to licensure of physicians. (BDR 40-1036)

Keith Lee, representing the Board of Medical Examiners, proposed an amendment to the licensing standards provisions of Chapter 630 of *Nevada Revised Statutes* ("Physicians, Physician Assistants and Practitioners of Respiratory Care") to allow the Governor to declare that a state of critical medical need exists for a particular medical specialty in one or more geographic areas in the state (see Exhibit G).

Chairman Goldwater proposed the following amendments:

1. Require the Board to put its licensing applications online (Internet website);
2. Require the Board to develop frequently asked questions and answers about its processes and put this information online; and
3. Change licensing standards to allow (a) licensure by endorsement which allows granting of licenses based on documentation of successful completion of an approved exam; (b) acceptance of core documents which have been authenticated by an approved process; and (c) completion of additional requirements which assess the applicant's fitness to practice.

• **Senate Bill 491 (Heard in Committee on 5/5/03—NACT)**

Makes various changes regarding bidding on contracts for public works of this state. (BDR 28-487)

The following amendments to S.B. 491 have been proposed:

1. Renny Ashelman, representing the State Public Works Board, proposed amending subsection 6 of Section 6 (on page 6) and paragraph (f) of subsection 2 of Section 7 (on page 6) to make it expressly clear that these provisions do not affect local governments. Committee Counsel has suggested that the following wording could be adopted to accommodate this proposed amendment:
 6. *If the public body awarding the contract for the public work is not a local government, ensure that the prime contractor is qualified to bid on a public work pursuant to NRS 338.1379 or is exempt from meeting such qualifications pursuant to NRS 338.1383.*

A similar change could be made to Section 7(2)(f) of the bill.

2. Jeanette Belz, representing the Nevada Chapter of the Associated General Contractors, objected to the disqualification process provisions in Sections 1 and 5 of the bill. Renny Ashelman and Steve Holloway, representing the Associated General

Contractors, submitted the following proposed amendment to Section 1 of the bill to address the concerns expressed by Ms. Belz:

3. Upon receipt of verifiable information of a type described in subsection 2, the State Public Works Board shall determine if the information, if true, would be likely to disqualify the subcontractor. If so, the subcontractor must complete an application for qualification as promulgated by the Board. The Board will then determine whether the subcontractor is qualified. ~~conduct an investigation to determine whether the subcontractor meets the criteria established by regulation pursuant to this section.~~ Except as otherwise provided in subsection 4, if the State Public Works Board determines that the subcontractor does not meet such criteria, the State Public Works Board may disqualify the subcontractor, for a period set by the State Public Works Board, from participating in public works projects which are sponsored by the State Public Works Board. The State Public Works Board shall provide written notice to the subcontractor of any such disqualification.

4. A subcontractor may appeal a disqualification pursuant to subsection 3 in the manner set forth in NRS 338.1381.

5. Any bid submitted with a subcontractor who has qualified at the time the bid was submitted shall stand. Any bid submitted when the subcontractor was disqualified shall stand if the contractor obtains a substitute contractor at his cost.