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OFFICE OF THE
SECRETARY OF STATE

April 28, 2003

Senator Mark Amodei, Chair
Senate Judiciary Committee
Capitol Complex
Carson City, NV 89701

Re: Proposed Amendments to Assembly Bill 536

Dear Chairman Amodei,

In preparation for your April 29, 2003 hearing on Assembly Bill 536, we enclose a copy of our proposed testimony on and proposed amendment to Assembly Bill 536. The amendment is necessary as the language in the amended bill differs from the amendment language presented to the Assembly Judiciary Committee and does not meet the intent of the original bill.

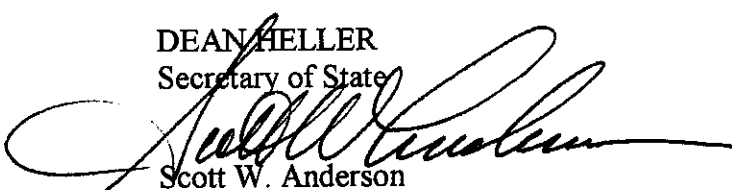
The proposed amendment will allow the prescribed forms to control for all matters required by the applicable statutes to appear in a document in order for it to be filed in the Office of the Secretary of State. The accompanying documents would control for all other matters.

Specifically, Assembly Bill 536, including the proposed amendment, will allow the Secretary of State to further standardize the filing processes in his office and allow for the smooth transition to E-Commerce in the office.

If you have any questions concerning the foregoing or require additional information, please do not hesitate to contact me at 684-5711. We remain available to answer any questions posed by the members of the Committee concerning the above.

Respectfully Submitted,

DEAN HELLER
Secretary of State


Scott W. Anderson

Deputy, Commercial Recordings Division

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EXHIBIT D Committee on Judiciary

Date: 4-29-03 Page 1 of 5

TESTIMONY ON A.B. 536
OFFERED BY DEPUTY SECRETARY OF STATE
SCOTT ANDERSON

ON BEHALF OF
SECRETARY OF STATE DEAN HELLER

April 29, 2003

AB 536 as amended by our proposed amendment will further standardize the filings processed by our office. Many of the provisions are housekeeping provisions, cleaning up many of the provisions that are not standard, may be confusing to our customers or were perhaps overlooked in our bill of 2001. Many other provisions allow for the streamlining and advancement of business practices.

There are many chapters within Title 7 of the Nevada Revised Statutes that have standard filing provisions. Most of the provisions of this bill affect a number of different chapters. This will be reflected in my testimony relating to multiple sections of the bill.

I will touch on the major provisions of the bill in some detail. I would be happy to answer any questions you may have as we go.

Sections 1, 17, 19, 32, 36, 51, 55, 73, 88, 106 and 124

Allow the Secretary of State to prescribe forms for filings processed in his office. Documents submitted for filing in the office of the Secretary of State would be required to be on or accompanied by a form prescribed by the Secretary of State. These forms would contain the minimum requirements for filing. Entities may attach related documents, such as articles of incorporation or amendments in their own format. If a disparity exists between the prescribed form and its attachments, the attachments would rule except for those provision required by statute for filing in the Office of the Secretary of State.

These prescribed forms are intended to further streamline the review and input processes in the office of the Secretary of State and allow for the efficient transition from a paper-based processing system to image based processing and electronic filing systems and will allow us to better utilize the advances in technology now available to our office.

These sections would allow the Secretary of State, by regulation, to provide for the electronic filing of documents in his office.

I have submitted a proposed amendment to this Assembly Bill 536. This amendment is necessary as the amended language as drafted by LCB Staff differed from the language

we proposed during the Assembly hearings and did not quite meet the intent of the original amendment. The proposed amendment before you revises the language to reflect our original intent, while maintaining a format similar to the bill. John Fowler, Chair of the Business Law Section of The Nevada State Bar Association, drafted this language.

Sections 2, 21, 49 and 98

Allow the Secretary of State to image documents on file in his office. This will provide for the more efficient retrieval of documents. We will continue to transfer these images to microfilm as a means of long-term storage as directed by the state library and archives.

Sections 3 and 22

Allow for the correction of a document by the directors or incorporators of a corporation, when stock has not yet been issued (no officers.)

Sections 5, 9, 45, 46, 81, 84, 96 and 101

Add provisions from the Real Estate Division of the Department of Business and Industry instructing the Secretary of State not to accept for filing any organizational documents or amendments from homeowners' or unit owners' association without certification from the Real Estate Division that the association has registered and paid fees pursuant to NRS 116. Sections also allow for the placing of non-compliant associations in default status until registering and paying such fee.

We met with the Real Estate Division and agreed that this would be a way to ensure that these Associations comply with the provisions of NRS 116. These sections replace the provisions of NRS 78.150(8).

These provisions are similar to those requiring certain financial institutions and insurance companies to get approval from their respective Commissioner before organizational documents and amendments may be accepted for filing.

Sections 6, 25, 38, 56, 66, 74, 83, 89, 100, 107 and 117

Add the declaration that the filer of an annual list acknowledges that it is a Category C felony to knowingly offer any false or forged instrument for filing with the Secretary of State.

This language was the result of hearings regarding the unauthorized changing of officers and directors. We hope that this additional acknowledgement will further discourage the filing of false or fraudulent lists in our office.

Sections 10, 29, 42, 53, 60, 69, 78, 84, 93, 102, 111 and 120

Provide for written notice, as opposed to a letter, when an entity is in default or its status revoked. This will allow for notifications to be sent in other forms, such as post cards, and upon request of the resident agent, in electronic form, thus reducing the costs of supplies and postage. Electronic notifications will be delivered promptly without the delays associated with mailed notifications.

Sections 11, 30, 43, 61, 70, 79, 85, 94, 103, 112, and 121

Provide for the issuance of a certificate of reinstatement upon request and payment of proper certificate fees. Currently one or more copies of a certificate of reinstatement may be requested at no additional charge to the customer. Other certificates, such as certificates of existence or certificates of good standing require payment before issuance.

Sections 20, 44, 62, 80 and 95

Allow for foreign entities to reinstate under a new name if their name has become unavailable. This directly follows the current provisions for domestic business entities.

Sections 7, 26, 39, 57, 67, 75, 90, 101, 108 and 118

Allow for other types of proof of payment, other than a cancelled check, such as a credit card receipt, trust account voucher or electronic payment verification as certificate authorizing it to transact business in this state. These sections also remove the formal certificate requirement, thus eliminating the additional supply costs associated with this seldom-used certificate. Over 205,000 lists including this certificate are printed and handled each year, with a majority of the certificates not used and ultimately thrown away.

Sections 22, 33, 37, 54 and 86

Allow for certificates of correction for all types of business entities. This standardizes the certificate of correction process. An entity may file a certificate of correction correcting an inaccurate record of an action described in a document or if the document was defectively executed, attested, sealed, verified or acknowledged.

Sections 38 – 44, 56 – 62, 74 – 80, 89 – 95 and 107 – 113

Add filing provisions for foreign nonprofit corporations, foreign limited liability companies, foreign limited liability partnerships, foreign limited partnerships and foreign business trusts. While these have the same filing requirements as their domestic entities, there was some confusion among our customers as to foreign filing provisions. Placing these provisions within the foreign sections of these chapters will alleviate some of this confusion by specifying the filing provisions for foreign entities.

I would be happy to answer any questions posed by the Committee.

PROPOSED AMENDMENT TO A.B. 536
OFFERED BY SECRETARY OF STATE DEAN HELLER

April 29, 2003

Amend Section 1, pages 1 and 2, Subsection 3, lines 9 – 15 and 1 and 2 respectively;
Section 17, page 13, Subsection 3, lines 22 – 29; Section 19, Pages 12 and 13, Subsection
3 lines 40 – 45 and line 1 respectively; Section 32, Pages 20 and 21, Subsection 3, lines
40 – 45 and 1 and 2 respectively; Section 36, Page 22, Subsection 3, lines 23 – 30;
Section 51, Pages 29 and 30, Subsection 3, lines 40 – 45 and 1 and 2 respectively;
Section 55, Page 31, Subsection 3, lines 23 - 30; Section 73, Page 42, Subsection 3, lines
26 - 33; Section 88, Page 53, Subsection 3, lines 1 – 8; Section 106, Page 63, Subsection
3, lines 16 - 23; Section 124, Page 71, Subsection 3, lines 30 – 37; Section 126, Page 75,
Subsection 3, lines 32 - 39 to strike the current wording and replace with the following:

*3. If the provisions of the form prescribed by the Secretary of State conflict with the
provisions of any document that is submitted for filing with the form:*

*(a) The provisions of the form control for all purposes with respect to that
information the Nevada Revised Statutes requires to appear in the document in order to
be filed;*

*(b) Unless otherwise provided in the document, the provisions of the
document control in every other situation.*