

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-sixth Session  
March 2, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 1:13 p.m. on Wednesday, March 2, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Michael A. Schneider, Chair  
Senator David R. Parks  
Senator Allison Copening  
Senator James A. Settelmeyer  
Senator Elizabeth Halseth  
Senator Michael Roberson

**COMMITTEE MEMBERS ABSENT:**

Senator Shirley A. Breeden, Vice Chair (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Mo Denis, Clark County Senatorial District No. 2  
Senator Joseph (Joe) Hardy, Clark County Senatorial District No.12

**STAFF MEMBERS PRESENT:**

Scott Young, Policy Analyst  
Matt Nichols, Counsel  
Linda Hiller, Committee Secretary

**OTHERS PRESENT:**

Donald E. Jayne, Administrator, Division of Industrial Relations, Department of  
Business and Industry

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Judith Pinkerton, Chair, Music Therapy Task Force  
Mary Liveratti, Deputy Director, Programs, Department of Health and Human Services  
Michelle Carro, Ph.D., Nevada Psychological Association  
Manal Toppozada, Music Therapy Task Force; Executive Director, The Note-Ables  
Mark Geeson, Music Therapy Task Force  
Helen Foley, Marriage & Family Therapist Association of Nevada  
Robert Crowell, Asurion Insurance Services, Inc.  
Joy Miller, Chief of Producer Licensing, Division of Insurance, Department of Business and Industry  
Jack Kim, United Healthcare Services, Inc.  
Vincent Jimno, Executive Director, State Board of Cosmetology  
Marjie Christensen, Owner, The Reno Academy Paul Mitchell Partner School  
Bonnie Schultz, Owner, International Academy of Style

CHAIR SCHNEIDER:

The Committee has called Don Jayne to explain Senate Bill (S.B.) 63. We discussed this bill on February 14 and Senator Settlemeyer requested more time to review it, so he has been meeting with Mr. Jayne.

**SENATE BILL 63**: Revises provisions relating to industrial insurance and the Uninsured Employers' Claim Account. (BDR 53-476)

DONALD E. JAYNE (Administrator, Division of Industrial Relations, Department of Business and Industry):

This bill would improve the ability of the Division of Industrial Relations, Department of Business and Industry, to collect receivables and debt from the Uninsured Employers' Claim Account. Two items in this bill are specifically aimed at improving our ability to collect this debt. The first is to allow summary judgment, which would enable us to collect with more speed. The second item allows us to follow individuals closing their businesses for the purpose of avoiding monies they owe the fund. These individuals typically open another business of the exact same nature as the business they left or terminated. The company name is changed, and the individuals involved in the new business are the same. We want to pursue these individuals, but there is some language in the original bill that was confusing. We have fixed that at the request of Senator Settlemeyer. We can still achieve our initial intent of pursuing these individuals who change their businesses to avoid paying the claim dollars,

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interest and fines they owe us. We have submitted proposed amendments ([Exhibit C](#)).

CHAIR SCHNEIDER:

Since there are no more questions on this bill, we will take a vote on it now.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 63.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR SCHNEIDER:

Senator Lee has pulled his bill, S.B. 189, off our agenda to make some improvements to it. I will open the hearing on S.B. 190 and ask Senator Denis to give the Committee background on his bill.

[SENATE BILL 189](#): Revises certain provisions governing real estate transactions. (BDR 54-615)

[SENATE BILL 190](#): Provides for the licensure of music therapists. (BDR 54-377)

SENATOR MO DENIS (Clark County Senatorial District 2):

Senate Bill 190 provides for the licensure and regulation of music therapists. We have included a folder of information on music therapy ([Exhibit D](#)). This bill came up last Session, but I think we have a much better bill this Session. This bill makes it unlawful to practice music therapy or call oneself a music therapist without a license. It also specifies the authorized music therapy services that may be provided by a music therapist.

Music therapy is defined as: "The clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program." The profession of music therapy is separate and distinct from the profession of music education. Music therapy is a health-care therapy performed by a credentialed professional. Research in music therapy supports its

effectiveness in a variety of health-care and educational settings. Music therapy treatments can be designed to promote wellness, manage stress, alleviate pain, express feelings, enhance memory, improve communication and promote physical rehabilitation. Music therapists use music to address many of the goals targeted in individualized programs. These programs include: learning academic concepts; increasing cooperation and appropriate social behavior; providing avenues of communication, increasing self-esteem and self-confidence; improving motor responses and agility; and encouraging exploration and examination of issues that affect the life of the individual.

Under this bill, the State Board of Health (SBH) would be the licensing entity for music therapists and would establish requirements and fees for licensure to practice as a music therapist. A person licensed to practice music therapy would be required to renew his or her license every five years. Section 11 of the bill authorizes SBH to establish a Music Therapy Advisory Group, which would assist SBH without compensation. This bill also includes standard provisions concerning grounds for disciplinary action against a music therapist and the procedures for addressing complaints and taking such disciplinary action.

Section 25, S.B. 190, adds music therapist to the definition of "provider of health care," since that term is used in chapter 629 of *Nevada Revised Statutes* (NRS), Healing Arts Generally.

Several other states have already recognized the need and benefit of regulating music therapy and more states are considering regulations. In 1998, Wisconsin created a state registry which includes music therapists. In 2006, music therapists in New York became eligible for licensure as Creative Arts Therapists under the New York State Board for Mental Health Practitioners. The Commonwealth of Pennsylvania licenses music therapists as professional counselors, and legislators in New Jersey are reviewing options for music therapy licensure, utilizing existing state boards. Hawaii is also considering a bill that would provide for music therapy licensure in that state, as is South Carolina's General Assembly.

SENATOR SETTELMAYER:

What is the training or education requirement to become a music therapist?

JUDITH PINKERTON (Chair, Music Therapy Task Force):

The American Music Therapy Association (AMTA) supports our members and the profession with accredited programs through the National Association of Schools of Music, providing music therapy degrees from bachelor's to doctorate. A bachelor's degree is considered the level of training for music therapy and requires 1,200 supervised clinical hours. To become certified as a music therapist, the graduate then applies to the Certification Board for Music Therapists (CBMT) to take an exam for certification. Those who pass the exam are awarded their Music Therapy-Board Certified (MT-BC) designation. Nevada has about 12 board-certified music therapists working mostly in the populated areas of the State. They are working in the State psychiatric hospital, Washoe County School District, and in nonprofit and private community-based agencies. We have good community and industry support and serve an average of 3,700 clients annually through 7,000 music therapy sessions. We serve clients of all ages, from prenatal to hospice situations.

The music therapy profession is celebrating 60 years. The United States Code lists music therapy as a disease-prevention and health-promotion service, and as a supportive service. We have journals of music therapy which have been reporting on research-based studies since 1964. We are recognized by many insurance carriers, and have worked with the Department of Health and Human Services, Health Division, to see that this State licensure would work. This bill is considered cost-neutral, since fees would be collected to cover the State's administrative costs. The University of Nevada, Las Vegas is interested in having a music therapy degree program. We offered an Introduction to Music Therapy course there. Three of those students interested in pursuing a music therapy degree eventually had to transfer to another state, since Nevada still does not offer a degree program.

Licensure of music therapists establishes recognition of the existing national exam-based board certification credential. Licensure will protect the public from harm, decrease misuse of terms and techniques, ensure competent practice and increase constituent access to music therapy. Licensure does not exclude anyone from practicing music therapy.

SENATOR COPENING:

In section 17 on page 6, S.B. 190 refers to conducting an assessment of a client and mentions evaluating emotional and physical health, social functioning, communication abilities, cognitive skills, all based on observation and

interaction. Subsection 2, lines 34-40, indicates the therapist will develop an individualized treatment plan based on that assessment. Are the musical therapists with bachelor's degrees performing this assessment? People in the therapy world usually have much higher degrees.

MS. PINKERTON:

We have been working with the American Psychological Association addressing those concerns.

SENATOR PARKS:

How many individuals are certified as music therapists in Nevada?

MS. PINKERTON:

We have about a dozen, and there are more than 5,000 in the United States.

SENATOR PARKS:

Are there people who do not have music therapy certification but are performing similar functions?

MS. PINKERTON:

Yes. The licensing we are proposing would help distinguish between music therapists, music practitioners, music thanatologists and other non music therapy musicians who work in health care.

SENATOR PARKS:

What if a person has an advanced degree in music therapy with certifications and no license? Can they be called a music therapist?

MS. PINKERTON:

No, music therapy is a board-certified profession with very strict training, similar to occupational therapy, speech therapy and physical therapy.

SENATOR ROBERSON:

Could there be music therapists licensed by the State who are not board certified?

MS. PINKERTON:

No, this bill does not provide for that.

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SENATOR ROBERSON:

Is this an additional level of licensure and regulation?

MS. PINKERTON:

Correct. This licensure will enable music therapists to have greater access to Nevada residents.

SENATOR ROBERSON:

How?

MS. PINKERTON

Right now, we do not have the same benefit of regulation recognizing music therapy as other states. The State licensing would create across-the-board access, instead of us having to go into every population we serve and create a regulation for it.

SENATOR ROBERSON:

Is board certification not sufficient?

MS. PINKERTON:

No.

SENATOR ROBERSON:

Could someone who is board certified come to Nevada and practice now?

MS. PINKERTON:

Yes.

SENATOR ROBERSON:

If this bill is passed, are you saying they could not do that without also being licensed by the State?

MS. PINKERTON:

Correct.

SENATOR ROBERSON:

That could be problematic from my perspective. I notice there is a fiscal note which will require a two-thirds majority vote. How much money are we talking about to create this licensing structure?

MARY LIVERATTI (Deputy Director, Programs, Department of Health and Human Services):

We based the fiscal note on the assumption that a maximum of 20 people would be licensed. The bill indicates the license fee would be \$200 for a 5-year period, so we just multiplied the 20 times \$200 and came up with \$4,000 for the fiscal note. That money would be used to administer the licenses for these individuals as well as cover the costs of developing regulations. We think costs will be minimal, because there are not that many music therapists. Additionally, the licensing standards are well outlined in the bill because we are going with the already-established CBMT requirements. We do not think we will need money to investigate complaints. The way the bill is written, complaints will be referred to CBMT. They would then send us their findings and the SBH would take over the disciplinary process.

CHAIR SCHNEIDER:

If you had to discipline someone, would you do it through the Office of the Attorney General?

SENATOR DENIS:

We set this up for complaints to go to the SBH which would then refer the complaint to CBMT to investigate, and then the case would come back to the SBH for disciplinary action, if necessary.

CHAIR SCHNEIDER:

Would the national board charge for that?

MS. PINKERTON:

No, the CBMT makes sure everyone is compliant with their certification. They are the referral for any complaint regarding scope of practice, but they would not process anything criminal.

CHAIR SCHNEIDER:

What if a patient filed a grievance over a pay issue? Who would handle that?

MS. LIVERATTI:

The CBMT and SBH would first be utilized. We could also make a referral to the Office for Consumer Health Assistance through the Office of the Governor, since they can mediate billing issues with patients. If the grievance was regarding a criminal issue, we would make a referral to law enforcement for



investigation. If there were allegations of abuse or neglect of children or the elderly, we would make appropriate referrals to those overseeing entities.

CHAIR SCHNEIDER:  
Will this affect insurance reimbursement?

MS. PINKERTON:  
Licensure would enable us potentially to bill for insurance reimbursement.

SENATOR ROBERSON:  
I am trying to determine the benefit of this bill to the Nevada population at large. I understand music therapy might be a great thing. You have a dozen people right now practicing in the State. This bill would force them to pay a license fee to comply with an additional layer of regulation, or they can no longer practice in Nevada. I would be more comfortable if you make this optional for music therapists who are already board certified. If they want to obtain a State license, they could do so and opt to pay the \$200.

MS. PINKERTON:  
We have full support of all board-certified music therapists in Nevada for this bill.

SENATOR ROBERSON:  
That is good to know. I still have concerns but would be happy to work with you on the bill.

MS. PINKERTON:  
We have the support of the AMTA and the CBMT. I would gladly go back to them and get their feedback to answer your concerns.

SENATOR PARKS:  
How many states have this form of regulation? Also, if you have a dozen people certified now, how many other people are out there practicing and claiming to be music therapists? Are there problems with this, and if so, what are they?

MS. PINKERTON:  
I have heard of some musicians in health-care facilities stating they are providing music therapy when they are not trained as music therapists. That presents a legal liability for the hospital if something went awry during the

therapy session(s). Regarding other states, there is one that has licensure, six states, including Nevada, with bills for licensure and many states with regulations recognizing music therapy. Nevada is not one of those states. When New York got their licensure approved by their legislature, they had many music therapists from other states apply just so they could be licensed. We anticipate a similar influx of people could move here to benefit from Nevada licensure.

SENATOR SETTELMAYER:

Where it refers to complaints going to a certified board of music therapists, is that in Nevada?

MS. PINKERTON:

No, CBMT is in Pennsylvania, the referral would go there.

SENATOR SETTELMAYER:

Why would Nevada surrender the due-process rights of its citizens to another state?

MS. LIVERATTI:

The due process would take place here in Nevada. No action would be taken until the investigation report from CBMT came back to the SBH. The disciplinary hearing with the musical therapist in question would take place in Nevada with the SBH who would conduct the hearing.

SENATOR SETTELMAYER:

In the social worker realm, if there is a problem, all discussions, correspondence and issues are dealt with within the State, right? They are not handled in another state, are they?

MS. LIVERATTI:

We are not dealing with the state of Pennsylvania, we are dealing with a national organization that happens to be housed there. If the CBMT was housed in Texas, we would be dealing with them there.

SENATOR SETTELMAYER:

But why would Nevada surrender its sovereignty over its constituency and its citizens to a national organization rather than deal with its own matters internally?

MS. LIVERATTI:

We do routinely deal with outside entities if they have the expertise we may be missing in the State. For example, the Centers for Disease Control and Prevention (CDC) will come here and perform investigations for us when they have more expertise in a certain area. When we had a Hepatitis C outbreak in 2008, we worked closely with the CDC. They sent in experts to help us with that investigation since we did not have the expertise in our State for that.

SENATOR DENIS:

We are using the CBMT as a resource to that end. We are trying to avoid having to create a whole new structure in Nevada that would cost us a lot of money.

MICHELLE CARRO, PH.D. (Nevada Psychological Association):

The Nevada Psychological Association appreciates the contribution music therapy makes to an individual's treatment plan. I have submitted my written testimony ([Exhibit E](#)).

MANAL TOPPOZADA (Music Therapy Task Force):

The Music Therapy Task Force (MTTF) is a community-based music and music therapy program in Reno. We also serve Carson City. I would like to address some of the Committee's questions. Senator Roberson, regarding State licensure, compare music therapists to teachers or social workers. In both educational and many clinical professions such as recreational, speech and occupational therapies, there is usually some licensure tied to a specific state. A teacher can have a degree in education but must also be licensed to teach in the state where they choose to teach. Also, Senator Parks, you asked if other people are practicing music therapy in the State or saying they are. Yes, there are agencies and individuals doing wonderful things, activity-based therapy and music for people with dementia. They are calling what they do music therapy, but they are not what we would recognize as music therapists.

We have a professional group of adults with disabilities, the Note-Ables, who perform several times a year around the State. We performed as one of six diversity groups for the Governor's inaugural arts celebration in January. The Note-Ables is the only nonprofit music therapy organization in the State. The Center for Creative Therapeutic Arts (CCTA), our sister agency in southern Nevada, closed its doors one week ago due, in large part, to budget issues in the State. That organization was 20 years old and served more than 750 individuals of all ages in more than 3,000 sessions annually. There are now

three private agencies in southern Nevada picking up the slack after CCTA's closure.

Here in the north, MTTF provides services to more than 400 individuals with disabilities, including adults with developmental disabilities. Music is a wonderful vehicle for personal communication and empowerment, and also for community inclusion. The physical and social skills we can provide people through music is something that generalizes and transfers to people's lives and into their communities. We often work with disabled people. As a music therapist, I can put 30 disabled people of different backgrounds in a room and get them to unite. Music is an amazing tool; the connection happens instantaneously.

Mark Geeson has been with the Note-Ables since 2006. He was in a car accident years ago, sustaining a traumatic brain injury and some paralysis. Prior to the accident, he was in the U.S. Army, played music and had his whole life ahead of him. After the accident, he had long periods of isolation and depression. When he began as a volunteer with the Note-Ables, Mark discovered his ability to connect with people in a nonverbal way through music.

MARK GEESON (Music Therapy Task Force):

I will sing "Has Anybody Seen my Gal?" and accompany myself on my guitar.

HELEN FOLEY (Marriage & Family Therapist Association of Nevada):

As a representative of the Marriage & Family Therapist Association of Nevada, we have many different types of licensed counselors, from alcohol and drug abuse counselors to gambling counselors. Each time, we face the questions of what board will they be under, how will they be licensed and what types of credentials they should have. Each group brings a valuable tool to the table. We want to make sure when there are problems, Nevadans are able to take care of those issues. I would be happy to help in subcommittee with this issue.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 190 and put it into subcommittee. Senator Roberson has that subcommittee. I would like to open the hearing on S.B. 152.

**SENATE BILL 152:** Revises provisions governing insurance adjusters.  
(BDR 57-939)

ROBERT CROWELL (Asurion Insurance Services, Inc.):

I represent Asurion Insurance Services, Inc., which is a provider of automated claims resolution services for portable consumer equipment. If you buy an iPad or a cell phone, you usually buy insurance at that time. If the device is lost, or there is damage, a claim can be made with Asurion. They have developed an automated claims adjudication system. Consumers can call a customer service representative (CSR) or contact Asurion online and usually have their claim resolved in minutes. This bill clarifies and codifies Nevada law to make that business practice legal within the State.

We have also prepared a proposed amendment ([Exhibit F](#)) in consultation with the Division of Insurance, Department of Business and Industry. Section 1 seeks to define "automated claims adjudication system." The major change as seen in the amendment specifies that this system applies only to portable consumer electronic property, not to property generally. For that system to work and be lawful in Nevada, the amendment also states the transaction can only be utilized by a licensed independent adjuster or licensed agent supervising people using the system. The insurance company using this system must comply with all claims payment requirements of the *Nevada Administrative Code* (NAC) and must be certified as compliant with NAC by a licensed adjuster.

In section 2, S.B. 152, the proposed amendment refers to employees of the company who provide automated claims adjusting system services. We have redrafted subsection 1, paragraph (f) to specify that a company can have 25 CSRs operating out of one call center or out of their homes, but they must be employees of the company and under the supervision of a licensed adjuster or agent. We made changes to sections 3 and 4 in our proposed amendment, and these can be seen in our handout [Exhibit F](#).

Proposed section 5 allows residents of Canada to be issued a resident independent adjuster license in Nevada, provided they successfully complete their adjuster's examination and comply with every requirement in the State. The reason for this addition is a Nevada law requiring licensed adjusters to be Nevada residents and have one or more business premises in the State. There has been litigation regarding the nonresident status, whether a nonresident can be an adjuster in the State. The end result of this litigation, I believe, is that you cannot treat residents and nonresidents differently. This is specific to United States citizens. We propose that Canadian residents be allowed to get licensed as an independent adjuster and declare Nevada their home state. The reason for

this is that Asurion has a call center in Canada and there are often callers who speak French. The Canadian call center has many CSRs who speak French, so this is to accommodate them. This is not an attempt to move business from Nevada to Canada; it is merely to recognize an existing business practice.

Proposed section 6, S.B. 152, defines what a business applicant for an adjuster's license would have to submit to the Commissioner of Insurance for a Nevada license. Currently, business applicants have to supply the firm names of the individual members as well as the officers and directors of their company. Section 6 specifies that if you are a business owned by another entity, you have to disclose who owns your business. If you have stockholders who own more than 10 percent of your business, you have to disclose the names of those stockholders. That 10 percent came from the Commissioner of Insurance who thought it would allow them to screen applicants effectively for independent adjuster's licenses.

SENATOR SETTELMAYER:

I was fine with this bill prior to the amendment. Why is there a change in section 6, wanting to know everyone who owns more than 10 percent of a business, rather than the common rule which was to list all the names of firm members, corporate officers and directors?

JOY MILLER (Chief of Producer Licensing, Division of Insurance, Department of Business and Industry):

Without access to the list of those officers, we cannot do an appropriate background search. There are State and federal laws pertaining to a person's background regarding felony convictions, compliance with the Violent Crime Control and Law Enforcement Act of 1994, etc. Knowing individuals backgrounds, we can go through the national database and verify whether these individuals' have licenses in other states and whether they have any regulatory actions in those states.

JACK KIM (United Healthcare Services, Inc.):

My concerns about this bill are with section 2 regarding the definition of "insurance adjuster." Paragraphs (k) and (l) on page 3, lines 19-25 caught my eye. It appears that as long as you fall within those two provisions, you would not need to be licensed as an adjuster. However, in the managed-care setting, if you do anything with compensability, which means payment of claims, the individuals would have to be adjusters and would thus have to be licensed.

In our system, we price based on a contract, and it looks like now we would require the person doing the pricing be licensed as an adjuster. We have internal appeals and grievance provisions regarding uncovered benefits, and these appeals are often performed by nurses and physicians. Would these individuals now have to be licensed adjusters? Our internal grievance committee is made up of members; will they have to be licensed as adjusters too?

My understanding is that these provisions are not critical to the bill, and they were requested by the Commissioner of Insurance. I have not discussed this with him yet, but know he has his own bill, Assembly Bill 74, which was recently heard by the Assembly Committee on Commerce and Labor. If these are provisions he needs, we will work with him.

**ASSEMBLY BILL 74**: Revises various provisions relating to the regulation of the insurance industry. (BDR 57-472)

MS. MILLER:

There are provisions in NAC for health-care providers to adjust claims. The claims adjusting guidelines for life- and health-insurance carriers are in NAC 683A, "Persons Involved in Sale or Administration of Insurance." This chapter covers producers of insurance and third-party administrators. The provisions referenced in this bill are from the National Association of Insurance Commissioner's adjuster guidelines. We are willing to work with all parties on this bill.

CHAIR SCHNEIDER:

I would suggest that the Commissioner of Insurance work with some of the different entities. United Healthcare Services, Inc. is a sizeable organization, and if it triggered a red flag for them, it would be good to meet with Mr. Kim and Mr. Ostrovsky and review everything with them. Since this is Mr. Crowell's bill, we should meet with him too. Surely he does not want his bill to be anchored by something which will bring all the health-care industry in Nevada to its knees. We will hold this bill for now.

MR. JAYNE:

I am neutral on this bill. There are some references to claims adjusters for workers' comp that I will study. Section 2 refers to their possible exclusion, and in section 3 they are included. I will work with the sponsor of this bill, and probably do not have major objections.

CHAIR SCHNEIDER:

I will close the hearing on S.B. 152 and open the hearing on S.B. 193.

**SENATE BILL 193**: Makes various changes concerning the State Board of Cosmetology and persons and practices regulated by the Board.  
(BDR 54-637)

SENATOR JOSEPH (JOE) HARDY (Clark County Senatorial District No. 12):  
This bill is brought forward in conjunction with members of the State Board of Cosmetology (SBOC).

VINCENT JIMNO (Executive Director, State Board of Cosmetology):  
Section 1 of this bill is a clean-up of A.B. No. 202 of the 75th Session, which was hastily put together. The purpose of the bill was to reinstate a scope of practice, "threading," that had previously been under SBOC's control but removed in previous legislation. The individuals performing the reinstated threading were no longer required to be licensed with SBOC, only to be registered. The SBOC was also authorized to perform unannounced inspections on stand-alone establishments performing the threading procedure. Inadvertently omitted from this bill was SBOC authority to design and implement simple sanitation and infection control practices for the threading procedure.

CHAIR SCHNEIDER:

Could you explain threading?

MR. JIMNO:

Threading is the practice of hair removal using a string which spins at high speed and plucks out the hair. This is a common procedure in India. There were threaders coming from India who wanted to practice without being licensed, which was the impetus of A.B. No. 202 of the 75th Session. I have included a written explanation of the breakdown of this bill, section by section ([Exhibit G](#)).

I do want to talk about section 10, which has been a big problem for our industry. When I came on board with SBOC in 2006, there was a regulation from 2005 that had to do with the required amount of surety bonds. The regulation grandfathered all the existing schools prior to 2005 with a very small \$10,000 surety bond. The new schools were required to secure a \$400,000 surety bond. Today, insurance companies no longer want to issue those bonds because there are too many business failures. The insurance



companies have raised the prices so high no one can afford them. Several cosmetology schools are suffering financially and cannot acquire the surety bond, so SBOC has no alternative but to shut them down. We have determined it is no longer appropriate for us to be in the surety bond business, since the bonds have not served their purpose when a school goes out of business. What we have discovered is that the surety bonds are being allowed to lapse when a business is on its way down. When it closes and the surety bond has lapsed, we have no alternative but to refer students to district court. Each student signs a legal contract with the school on a contract form approved by the Attorney General's Office. There have been a number of cases of failed schools where the student went to court to get a civil court order so they could get their tuition returned to them. Most cases have been found in favor of the students, so we know these forms can withstand scrutiny from the courts.

CHAIR SCHNEIDER:

What if students have to recover, where do they go now?

MR. JIMNO:

If the bond is active, they can go after the bond. If the bond has lapsed, students then have to go against the school. We refer them to small claims court. They will not need an attorney and can handle the claim themselves, and small claims is a fairly inexpensive process. If they are owed a lot of money, it is a different story.

MARJIE CHRISTENSEN (Owner/Director, The Reno Academy Paul Mitchell Partner School):

I am a franchise owner who opened a cosmetology school after 2005 and had to put up the \$400,000 surety bond. I am in business with my family and we spent almost \$3 million starting the school. We had to put more than \$200,000 cash into a special fund to get our surety bond. My surety bond costs \$10,000 per year to maintain. I am for the repeal of this surety bond because we have so many other contractual stipulations that would take care of our students if we did go under. In Nevada, so many schools are grandfathered in with the \$10,000 bond, it is difficult to determine where they got the jump from \$10,000 to \$400,000. It is such an unnecessary hardship right now.

SENATOR COPENING:

You mentioned things in place contractually that will protect students. What are those stipulations?

MS. CHRISTENSEN:

First of all, the contract. When you become federally funded under Title IV of the Higher Education Act of 1968 (Title IV), which I am in the process of doing, there are many requirements we must fulfill in order to get Pell grants, Stafford loans, etc. A school must be open for two years before applying. Many federal regulations cover our students, but if a school goes under, there is probably no money to recoup.

SENATOR COPENING:

That was one of my concerns. If a school goes under, there is no money to recoup, and that is why the surety bond is in place. But if the insurance companies are not issuing the bonds, it is kind of a rock-and-a-hard-place situation.

MS. CHRISTENSEN:

If I did go under and had a \$400,000 surety bond and 150 students, that would not even begin to recoup all the money students were owed.

SENATOR COPENING:

True, but it would take the sting out of a total loss.

MS. CHRISTENSEN:

I agree, it would cover some of the loss. It is just so hard for schools trying to sell their businesses and buyers wanting to buy, but they cannot get a \$400,000 surety bond.

BONNIE SCHULTZ (Owner, International Academy of Style):

I am a school owner who is grandfathered in to the \$10,000 surety bond amount. There are many schools making money and providing for their students that cannot obtain the bonds because the bonds are too expensive. We are governed by our accreditation commission and all the federal funding we use requires our accounting to be exact. The government does keep track of us to make sure we have enough money on our books, so there is really no reason for the bond. The contracts are checked by SBOC and by the Attorney General's Office. Everything Mr. Jimno has presented to you is needed. I support this bill.

CHAIR SCHNEIDER:

How much does your \$10,000 surety bond cost you per year?

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MS. SCHULTZ:  
It costs \$1,000.

CHAIR SCHNEIDER:  
The \$400,000 bond does seem like a stretch in this market. The Committee can discuss whether we want to reduce the bond requirement, reduce the size of the bond or have an owner post a Certificate of Deposit.

SENATOR COPENING:  
I would like to hear from the Commissioner of Insurance about this to understand how much their hands are tied when it comes to providers of insurance. Can an insurance company just say they refuse to sell these bonds?

MS. CHRISTENSEN:  
It was almost impossible to even have \$200,000 set aside for our surety bond. There were so few companies offering bonds, maybe one or two, and even though I had the money set aside, I had to get John Paul Dejoria, the owner of Paul Mitchell Schools, to co-indemnify with me to get this. How many people have that kind of clout behind them?

SENATOR SETTELMAYER:  
If you have the money to get a \$400,000 surety bond, you probably do not need it because you are financially secure. Yet if you have \$10,000, it may not be enough. My wife is a cosmetologist, and it seems like the companies with the \$10,000 surety bonds are the ones going under right now, not the businesses with the \$400,000 surety bonds.

MR. JIMNO:  
The way the insurance companies get around it is they just raise the price so high no one can afford it. They do not refuse to sell the bond, they just stipulate that the buyer of a bond has to have 50 percent of the value of the bond in cash or "negotiable instruments." They are turning down homes and land assets as negotiable instruments right now.

Another factor is the two kinds of students. The federally funded students are required under Title IV, because they are receiving federal loans, to have teach-out agreements if their school fails. They would be transferred from the failing school to another Title IV school that could accept them. So there is no

loss with those students. In schools without federal funding, when they fail, the students are out.

CHAIR SCHNEIDER:  
How much does it cost to go to cosmetology school?

Ms. SCHULTZ:  
Cosmetology is \$20,000, and there are different branches including hair design, manicuring and aesthetics.

Ms. CHRISTENSEN:  
My tuition is \$16,500 because I do not have federal funding.

Ms. SCHULTZ:  
Approximately half of our students are on federal aid, especially with the economy the way it is right now. Self-paying students are making payments.

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CHAIR SCHNEIDER:

Seeing no further business before the Committee, we will close the hearing on S.B. 193 and adjourned at 3:03 p.m.

RESPECTFULLY SUBMITTED:

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Linda Hiller,  
Committee Secretary

APPROVED BY:

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Senator Michael A. Schneider, Chair

DATE: \_\_\_\_\_

<b>EXHIBITS</b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 63	C	Donald E. Jayne	Proposed amendment
S.B. 90	D	Senator Mo Denis	Music Therapy information packet
S.B. 90	E	Dr. Michelle Carro	Testimony
S.B. 152	F	Bob Crowell	Proposed amendment
S.B. 193	G	Vincent Jimno	Testimony