

**MINUTES OF THE
SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION**

**Seventy-third Session
May 9, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:38 p.m. on Monday, May 9, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maurice E. Washington, Chair
Senator Barbara K. Cegavske, Vice Chair
Senator Dennis Nolan
Senator Joe Heck
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven Horsford

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblywoman Sheila Leslie, Assembly District No. 27
Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

Leslie K. Hamner, Committee Counsel
Marsheilah D. Lyons, Committee Policy Analyst
Cynthia Cook, Committee Secretary

OTHERS PRESENT:

Michael J. Willden, Director, Department of Human Resources
Robert Desruisseaux, Chair, Governor's Strategic Plan Accountability Committee
for People with Disabilities
Don Henderson, Director, State Department of Agriculture
Laura Hale, Chief, Grants Management Unit, Department of Human Resources
Doug Busselman, Nevada Farm Bureau

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Robert O. Sack, Washoe County District Health Department
Bradford Lee, M.D., J.D., M.B.A., State Health Officer, Health Division,
Department of Human Resources
Trudy A. Larson, University and Community College System of Nevada
Anne K. Loring, Washoe County
Lucille Lusk, Nevada Concerned Citizens

CHAIR WASHINGTON:

We will open the meeting with a hearing on Assembly Bill (A.B.) 495.

ASSEMBLY BILL 495 (1st Reprint): Makes various changes concerning Fund for a Healthy Nevada and provision of prescription drugs and pharmaceutical services by this State. (BDR 40-1031)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

This bill will establish a program to provide prescription drugs and pharmaceutical services for persons with disabilities. The Fund for a Healthy Nevada was created in order to receive funds from the tobacco settlement. One of the categories was to assist individuals with disabilities. The disability community requested a more focused plan for their share of the funds, and they decided they would like the funds to be focused into four areas: prescription drugs, respite care, positive behavioral support training and independent living. Assembly Bill 495 will match the tobacco funds with federal funds to create a prescription-drug assistance program. The program will mirror the Nevada Senior Rx program and will provide wraparound benefits with the benefits of the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA).

MICHAEL J. WILLDEN (Director, Department of Human Resources):

The Department of Human Resources supports A.B. 495. The program is a mirror image of the Nevada Senior Rx program. The difference is this will cover those less than 62 years of age with disabilities. Section 6 outlines what the Department will do to implement the program. There is a 2.5-percent amount set aside each year from the tobacco settlement funds. That generates approximately \$600,000 each year. Beginning July 1, 2005, staff estimates there will be approximately \$1.1 million to begin this program. The bill allows the Department a 5-percent administrative cost to operate the program. It is important to understand, the program will coordinate with the federal MMA, Part D. We will require those who are eligible for Part D to obtain that coverage

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and those who are not eligible will receive a direct subsidy. At this time, we will be able to serve approximately 200 disabled persons each month. We know from experience in the Medicaid Program that pharmaceutical costs for the disabled community are higher than for the aged population. On page 5, lines 19 through 22, there is a requirement to receive approval from the Interim Finance Committee when the wraparound program is designed.

CHAIR WASHINGTON:

We would like to have a report provided to the Interim Finance Committee in order to follow the progress of the program.

ASSEMBLYWOMAN BUCKLEY:

I believe the Fund for a Healthy Nevada compiles a quarterly report which is submitted to the Interim Finance Committee.

SENATOR HECK:

Is the annual maximum benefit to be \$5,000 per individual?

MR. WILLDEN:

That is correct.

ROBERT DESRUISSEAU (Chair, Governor's Strategic Plan Accountability Committee for People with Disabilities):

During the development of the strategic plan there was a great deal of testimony regarding specific needs in the disabled community. Prescription drugs were at the top of the list. An individual receiving \$600 per month in Social Security Disability Insurance would not be eligible for Medicaid coverage. We are here today to express our support for A.B. 495.

CHAIR WASHINGTON:

Based on testimony, we presume the Governor is in favor of this measure.

MR. WILLDEN:

Given the funding mechanism in the bill, the Office of the Governor has expressed approval for this measure.

SENATOR HECK MOVED TO DO PASS A.B. 495.

SENATOR WIENER SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATORS CEGAVSKE, NOLAN AND MATHEWS WERE ABSENT FOR THE VOTE.)

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ACTING CHAIR HECK:

We will open the hearing on A.B. 139.

ASSEMBLY BILL 139 (2nd Reprint): Requires collection and reporting of certain information concerning employers of applicants for Medicaid or Children's Health Insurance Program. (BDR 38-984)

ASSEMBLYWOMAN PEGGY PIERCE (Assembly District No. 3):

The second largest expenditures for the State of Nevada are Medicaid and the Children's Health Insurance Program. Over the years there has been erosion in employer-provided health insurance because of the increasing cost of health care. Nevada ranks number four in the proportion of its population that is uninsured. As we look at innovative ways to improve the health insurance situation, we need to understand more about why employer health insurance has been dropping off and why the number of persons needing Medicaid and the Children's Health Insurance Program has increased. This bill calls for the State to apply for a federal Health Insurance for All Americans (HIFAA) waiver which will use federal funds to help small businesses provide insurance for their employees. This is a first step in solving our growing uninsured problem. The bill asks the Department of Human Resources to compile a biennial report that will highlight the employers whose employees have the highest usage of the State's Medicaid and Children's Health Insurance Program. This information is already required in the application process. Other states have begun to gather this type of information. In some states, Medicaid has surpassed education as the largest part of a state's budget.

ACTING CHAIR HECK:

This information is already being collected. Assembly Bill 139 is a requirement for the Department of Human Resources to report it and the cost to the State.

ASSEMBLYWOMAN PIERCE:

That is correct.

MR. WILLDEN:

There is no requirement in the bill for the Department of Human Resources beyond our current capacity. We are willing to provide the reports, and there is no fiscal note.

ACTING CHAIR HECK:

We will hold A.B. 139 and open the hearing on A.B. 519.

ASSEMBLY BILL 519 (1st Reprint): Requires State Department of Agriculture to, in certain circumstances, revoke registry identification cards issued to participants in medical marijuana program. (BDR 40-273)

DON HENDERSON (Director, State Department of Agriculture):

I am here to introduce A.B. 519 which provides the State Department of Agriculture the limited ability to revoke current registrations to the Nevada medical marijuana program under certain circumstances. Currently, the Department does not have the authority to revoke program registrations, only to deny an annual reapplication into the program. The Nevada medical marijuana program was created by the 2001 Legislature in response to two successful voter initiatives. Modeled after a program in Oregon, the intent was to establish a grow-your-own medicinal-marijuana program to be available to Nevada residents. The administration was assigned to the State Department of Agriculture. It has been successfully implemented with approximately 600 residents currently enrolled. An applicant fills out an application form and submits it to the Department with a completed fingerprint card and a signed physician's statement. Qualifying medical conditions include: acquired immune deficiency syndrome, cancer, glaucoma, cachexia, seizures and severe pain. The Department sends the fingerprint card to the Nevada Highway Patrol (NHP), who conducts a background check to see if the applicant has been convicted of selling a controlled substance. The NHP also checks to determine if the physician is licensed and in good standing with the State. If both conditions are met, the registrant is issued a program identification card by the Department of Motor Vehicles, and their identification is entered into the state enforcement system. Persons registered in the program are exempt from state prosecution. The registration is reviewed annually and registrants have the option of designating a caregiver to assist them in the administration of medicinal marijuana. The 2003 Legislature enacted some minor refinements to improve the overall efficiency. It added the authority for the Department to collect an application fee to recover its administrative costs. One issue that has not been

addressed is providing the Department with the authority to revoke current program registrants when it is discovered that person has falsified information or been convicted of selling a controlled substance. Section 1 of the bill provides that authority.

ACTING CHAIR HECK:

How many registrants are there? How many times have you had occasion to want this authority?

MR. HENDERSON:

There are approximately 600 registrants. The most common situation we encounter is people not reporting where they are growing their medical marijuana, and that has occurred about six times.

SENATOR WIENER:

You stated you have the authority to not renew a registration. Has that happened?

MR. HENDERSON:

We have a few pending cases. The one that comes to mind is a person who has been convicted of selling a controlled substance in another state. The NHP record system is confined to the Great Basin states, not including California. The background check is not a thorough, nationwide one.

SENATOR WIENER:

That sounds as if you are limited in your ability to investigate.

MR. HENDERSON:

The NHP has been doing the checks as a favor. Now that we are able to charge a fee for the program, we are considering running our background checks through the Federal Bureau of Investigation. We will deal with it administratively.

SENATOR WIENER:

If we are going to support the idea of the State Department of Agriculture to investigate in the best possible manner, could we prepare a letter of recommendation?

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LESLIE K. HAMNER (Committee Counsel):

Yes, that could be done. Adding transitory language at the end of the bill would work in the same manner.

ACTING CHAIR HECK:

Are fingerprints provided with the current background check?

MR. HENDERSON:

Fingerprint cards are submitted that are run through the NHP records database.

ACTING CHAIR HECK:

We will close the hearing on A.B. 519 and open the hearing on A.B. 521.

ASSEMBLY BILL 521 (1st Reprint): Revises provisions governing allocation of money from Fund for a Healthy Nevada. (BDR 40-713)

LAURA HALE (Chief, Grants Management Unit, Department of Human Resources): Assembly Bill 521 is presented on behalf of the Task Force for the Fund for a Healthy Nevada. The measure would exclude certain grants from the requirement to submit proposed allocations to the Interim Finance Committee (IFC) for approval before the grants are awarded. The current language has been interpreted differently by the Legal Division's and the Fiscal Analysis Division's staff from the Legislative Counsel Bureau (LCB), resulting in conflicting directions to the Department with regard to whether or not IFC approval is required for particular grants. Because the language refers to proposed allocations that would expand or augment existing state programs, it is not clear if the intent is to include programs that were created by the Fund for a Healthy Nevada. For example, the Fund began allocating grants to the Miles for Smiles program in 2001. If the statute were interpreted to include this type of grant, then the Fund would have to get IFC approval for each 2-year grant cycle that we continue to fund this grant. The program did not exist prior to receiving funds from the Fund for a Healthy Nevada. These continuation grants to State entities have been presented to the IFC in previous cycles, and they are reviewed by the Task Force for the Fund for a Healthy Nevada to evaluate whether or not they should receive continued funding. From the perspective of grants administration, the requirement is redundant because it has been demonstrated that the services provided under such a grant do not supplant existent state-funded services.

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VICE CHAIR CEGAVSKE:

If you increase a current level of service, it must go before IFC. There are programs you do not wish to take to IFC, is that correct?

Ms. HALE:

We do not wish to take the continuing grants to IFC. Basically, this is a language cleanup bill.

VICE CHAIR CEGAVSKE:

We will close the hearing on A.B. 521 and open the hearing on A.B. 523.

ASSEMBLY BILL 523 (1st Reprint): Authorizes local boards of health to investigate complaints concerning agricultural programs of University and Community College System of Nevada. (BDR 40-1123)

DOUG BUSSELMAN (Nevada Farm Bureau):

The Nevada Farm Bureau opposes A.B. 523. The bill originates as a result of newspaper articles about the University's agricultural facilities in Reno. The Bureau believes the bill is not needed, based on the fact a local board of health currently has the authority to investigate complaints relating to agriculture programs. Under state law, agriculture has an exemption for solid-waste management. The Nevada Farm Bureau is working with Washoe County to bring their ordinance on solid waste into compliance with state law. We do not believe legislation is necessary for the local health boards to do what they are already doing.

VICE CHAIR CEGAVSKE:

Is the statement made by Mr. Busselman correct?

Ms. HAMNER:

The current law is broad. This would specifically provide the local health boards with certain authorities and would work with existing law. The local health boards oversee all sanitary conditions and health-related conditions in the county. The statutes are very old and very broad.

SENATOR HECK:

Newspaper articles in the *Reno Gazette-Journal* ([Exhibit C](#)) reported Washoe County Health officials stated that the University of Nevada, Reno is exempt from local health and environmental laws, and they had no jurisdiction.

ROBERT O. SACK (Washoe County District Health Department):

The Washoe County District Health Department received the complaint regarding the University of Nevada, Reno. We do have the authority to investigate complaints if we determine there is a possible health risk. We would not investigate without a complaint. The Bureau of Health Protection Services, Health Division, Department of Human Resources, issues permits for all university properties. However, any complaint received by us would be investigated. We have authority to deal with a problem if we determine there is a health risk, such as a threat to the groundwater or disease potential. We did not determine there was a health risk at the University of Nevada, Reno.

MR. BUSSELMAN:

The agricultural programs that are administered by the University and Community College System of Nevada (UCCSN) occasionally include cooperative-extension courses. There are times when private landowners are participants in that type of program. We would like to know how this bill, which clearly gives the local boards of health the authority for oversight of agricultural programs, would extend to the private property of participants who are working cooperatively with the extension programs.

BRADFORD LEE, M.D., J.D., M.B.A., (State Health Officer, Health Division, Department of Human Resources):

The Health Division has no objection to this bill.

ASSEMBLYWOMAN SHEILA LESLIE (Assembly District No. 27):

This bill was generated by a series of newspaper articles. It was my concern that the statutes are not clear in their authorization of oversight by a local public-health authority. Citizens became upset over the possibility of their water being contaminated. It turned out to not be a health hazard, but it raised the issue in my mind. I wanted to bring this bill forward in order to clarify the statutes. This bill focuses solely on the issue of protecting the public's health. [Exhibit C](#) is a compilation of newspaper articles published by the *Reno Gazette-Journal* concerning the problem.

SENATOR MATHEWS:

How close have homes been built to the ranch near Hidden Valley?

ASSEMBLYWOMAN LESLIE:

The homes are getting closer, but they are beyond 500 feet.

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SENATOR HECK:

The concern of the Farm Bureau is whether this is going to apply to private farms that are a part of the cooperative extension. Is the intent to include all farms administered by UCCSN, regardless of whether it is on UCCSN property?

ASSEMBLYWOMAN LESLIE:

At this time, that is what the bill says.

SENATOR HECK:

Mr. Sack, if there was a complaint filed against a private farm, would you still have the authority to investigate?

MR. SACK:

We investigate any complaint we receive. If a private farm had a solid-waste problem and the farm has an agriculture exemption, we have authority. If we felt there was a serious health hazard, we would refer the complaint to the Division of Environmental Protection. Assembly Bill 523 makes it easier for us if we were denied entry to university properties. This bill would clarify our authority.

SENATOR HECK:

If a complaint is filed against a cooperative-extension private farm and there is a solid-waste issue with animal corpses, what would you be able to do under this measure that you cannot do now?

MR. SACK:

We have not thought about that scenario. The exemptions for solid waste that now exist are on a per-property basis. If the property were administered by the university, I am not sure if they would have that type of exemption. We receive very few complaints regarding farms of the University of Nevada, Reno. Individual farms have not been a real health risk.

SENATOR HECK:

Mr. Busselman, do the private farms that are a part of the cooperative-extension program have exemption permits from the solid-waste statutes?

MR. BUSSELMAN:

I would assume if they met the state definition, they would probably qualify for the agricultural exemption based on the fact they were agricultural producers.

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TRUDY A. LARSON (University and Community College System of Nevada):
The UCCSN is in favor of this bill.

CHAIR WASHINGTON:
We will open the hearing on Assembly Joint Resolution (A.J.R.) 14.

ASSEMBLY JOINT RESOLUTION 14: Urges Nevada Congressional Delegation to introduce and to support federal legislation mandating reporting of results of all clinical trials and collection and analysis of data by appropriate federal agencies. (BDR R-1011)

ASSEMBLYWOMAN LESLIE:
This resolution is the result of requests by constituents of Nevada to look into the results of clinical trials. There is testimony provided by Dr. John Ellerton to be entered into the record ([Exhibit D](#)). It is important to remember that the negative-testing results are as important as the positive-testing results.

SENATOR WIENER:
The resolution states that it is estimated only half of the approximately 1 million trials conducted over the past 56 years have been reported. Has the reporting been improving recently?

ASSEMBLYWOMAN LESLIE:
There has been more public pressure being brought to the forefront. Also, there have been complaints that negative results are not being reported.

CHAIR WASHINGTON:
Staff has informed me that United States 109th Congress Senate Bill 470, The Fair Access to Clinical Trials (FACT) Act has been introduced in Congress.

SENATOR CEGAVSKE:
Will all advertised medicines be included in the reporting?

ASSEMBLYWOMAN LESLIE:
The intent is to track research projects that are being funded with our tax dollars. Areas that fall into that category would be included in the reporting. This is a grassroots resolution about results. We want them to be made public.

SENATOR CEGAVSKE MOVED TO DO PASS A.J.R. 14.

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SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:

We have Amendment No. 704 to A.B. 518 ([Exhibit E](#)).

ASSEMBLY BILL 518 (1st Reprint): Authorizes school districts to prescribe minimum attendance requirements for pupils in kindergarten and first grade and for pupils in certain remedial programs. (BDR 34-606)

ANNE K. LORING (Washoe County School District):

The Washoe County School District supports this amendment.

Ms. HAMNER:

I will review the changes described in [Exhibit E](#).

SENATOR CEGAVSKE:

I want to be assured that all of the excused absences are in this bill.

Ms. LORING:

The intent of the second section on page 4 of [Exhibit E](#) is that a district could extend the attendance policy to kindergarteners and first graders who choose to enroll in the school. The attendance policy is pursuant to the *Nevada Revised Statute* (NRS) 392.122.

SENATOR CEGAVSKE:

If we are saying kindergarten is not mandatory, but the attendance guidelines will be put in policy, how can the parents be held accountable?

CHAIR WASHINGTON:

If a parent decides to enroll their child in kindergarten, they would receive a policy manual. They would sign a document indicating that they understand they are subject to all the attendance requirements.

MS. LORING:

The policy that would apply to a kindergartener or first grader is that if the child does not meet the minimum number of days of attendance, with all of the exceptions that are in statute, the student is not promoted.

LUCILLE LUSK (Nevada Concerned Citizens):

Attendance in kindergarten and first grade is not mandatory and would not be made mandatory by this bill. If a parent did voluntarily enroll their child in kindergarten, the policy for attendance would then be mandatory.

SENATOR HORSFORD:

Ms. Loring, where is the language that indicates if a student is tested for remedial education and if they meet those criteria, they would not be held back or prohibited from graduating?

MS. LORING:

We have lifted the entire section out of the original proposal where the consequence was not being promoted or receiving credit. It is no longer in that section of statute. Instead, it is in the section of statute that deals with 180 days of attendance and free education. Here it says if a student is in need of remediation and if it is approved by the Superintendent of Public Instruction, the board of trustees may adopt a policy prescribing the minimum number of days of attendance for a pupil who is determined to need remedial education. In drafting this legislation, the Legal Division of the Legislative Counsel Bureau (LCB) determined the board could prescribe the minimum days or minutes for a pupil who is determined to need remediation. In that way, we were able to get the flexibility we desired. The key piece is that it no longer is in the section of statute that said the automatic consequence statutorily was not being promoted or receiving credit. We appreciate your bringing this to our attention.

SENATOR HORSFORD:

I would like to know what will be done in practice. If a student is ordered to take additional days of instruction beyond 180 days and the student does not comply, what will the district do to that student for not participating?

MS. LORING:

That would have to be defined in policy. That is why changing the section of statute allows flexibility. For example, there are students who must work and cannot attend class in the summer or after school. This would allow the ability to say a high school student could take a support class. We did not want to put

it in statute because that makes it inflexible. The intent is to help students become proficient.

SENATOR HORSFORD:

I do not mind this being placed in policy if the discretion being given to the school district has some parameters. The subject I would like described is if a child has remedial-education needs and is unable to meet the additional requirement. An example would be if the parent refuses to allow the additional classes. One of the things we cannot do, in policy, is to not promote a child who cannot attend remedial-education courses. I understand if a student does not pass high school proficiency tests, they will not graduate.

Ms. LUSK:

From the way this is written, it is clear that there is a minimum amount of time a student must attend a remedial program in order to receive credit. If they do not attend, they will not receive credit for the program, but it will not automatically result in not being promoted. We need to understand that the lack of the remediation could result in holding back credits or promotion by virtue of nonperformance.

CHAIR WASHINGTON:

We have an Assembly amendment to Senate Bill (S.B.) 286 to consider.

SENATE BILL 286 (3rd Reprint): Encourages Clark County School District to construct career and technical high school within certain area of Clark County. (BDR S-1228)

SENATOR WIENER MOVED TO CONCUR WITH AMENDMENT NO. 682 TO S.B. 286.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR WASHINGTON:

We have an Assembly amendment to S.B. 68 to consider.

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[SENATE BILL 68 \(1st Reprint\)](#): Revises provisions concerning licensure of facilities which provide surgical treatment for refractive errors of eye. (BDR 40-263)

SENATOR WIENER:

This amendment will prevent these provisions from being amended each Legislative Session.

Ms. HAMNER:

The original bill specified "any other available technology, technique or procedure which surgically treats the eye, approved by the Federal Drug Administration (FDA)." This amendment will specify "approved by the Health Division." The concern was that the FDA approves the lasers and devices, but they do not approve procedures and treatment. The intent remains the same.

SENATOR HECK:

It is not in the scope of the Health Division to approve procedures. I do not understand the task being given to the Health Division.

CHAIR WASHINGTON:

I will entertain a motion to concur, and we will hold the bill on the desk of the Secretary of the Senate until you have a chance to discuss this with Dr. Lee.

SENATOR HORSFORD MOVED TO CONCUR WITH AMENDMENT NO. 684 TO S.B. 68.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

There being no other issues before us today, this meeting of the Senate Committee on Human Resources and Education will now adjourn at 3:09 p.m.

RESPECTFULLY SUBMITTED:

Cynthia Cook,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____