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LEGISLATIVE BUILDING
401 S. Carson Street
Carson City, Nevada 89701-4747
Office: (775) 684-1488

GARY GHIGGERI
Fiscal Analyst

BOB GUERNSEY
Principal Deputy Fiscal Analyst

Nevada Senate
SEVENTY-SECOND LEGISLATURE
COMMITTEE ON FINANCE
April 9, 2003

Yvonne Sylva, Health Division Administrator
Department of Human Resources
505 East King Street, Room 201
Carson City, NV 89701

Dear Ms. Sylva:

Thank you for the information provided in your memorandum dated February 9, 2003 regarding baggage x-ray machines located in airports in Nevada. The Senate Committee on Finance continues to be concerned about the safety of these machines, particularly as to the operators of these machines. It is the understanding of the Committee that past operators of similar machines in the airports were required to wear badges to monitor exposure levels. Apparently the operators of the machines now under the jurisdiction of the Transportation Security Administration (TSA) are not utilizing these monitoring badges.

While the Committee realizes the limitations of the division's inspection authority pursuant to NRS 459.050, it is the desire of the Committee that your division actively pursue the concurrence of the federal government or its duly designated representative in allowing inspections to determine compliance with NRS Chapter 459. If that concurrence were not obtained, perhaps the federal government would furnish copies of their inspection reports to the Health Division for review. The Committee would receive some comfort from knowing that monitoring badges were made available to the operators by some entity, perhaps TSA, the Airport Authorities, or some other organization that you might identify.

Please keep staff of the Fiscal Analysis Division informed of your correspondence and progress on this situation. Thank you for your efforts.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. J. Raggio".
William J. Raggio, Chairman
Senate Committee on Finance

cc: Senate Finance Committee Members (w/ attachments)
Ms. Krys Bart, Director, Airport Authority of Washoe County (w/o attachments)
Mr. Randall Walker, Director, Clark County Department of Aviation (w/o attachments)

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EXHIBIT D Senate Committee on Finance
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Excerpt from February 9, 2003 memorandum:

Question 6: Thank you for offering to provide a report on the health risks of the new baggage x-ray machines located in the airports and whether these machines will fall within the jurisdiction of the Health Division.

Response: This response is divided into regulatory authority and health risks.

Regulatory Authority: At this time, Congress has not clarified whether the Transportation Security Administration, a new branch of the Federal government will be required to comply with state requirements for registration and radiation control of baggage X-ray scanners in Nevada airports.

Nevada Revised Statute (NRS) 459 provides statutory authority to state programs for control of ionizing radiation sources in Nevada. Specifically,

NRS 459.050.1 provides for entry by the Health Division upon any private or public property for the purposes of making compliance determinations of NRS 459 statutory authority and Nevada Administrative Code (NAC) 459 regulatory requirements. The property of the Reno-Tahoe International Airport is recognized as public property where Health Division has in the past made compliance determinations by inspection, observations of radiation safety practices, interviews of personnel, etc.

NRS 459.050.2, however, limits this entry authority to prohibit inspection activities in "areas under Federal jurisdiction" unless with the concurrence of the Federal Government or its duly designated representative.

If the Congressional intent of TSA control of baggage equipment at international and other airports is determined that such locations are now "areas of Federal jurisdiction", Health Division staff would not be able to require registration of such machines, collect fees, or inspect to determine regulatory compliance on behalf of public health protection.

Health Risks: Health Division program experience indicates that actual worker radiation exposure from past carry-on baggage scanners did not present radiation levels outside of the X-ray equipment structure in excess of the minimum to require monitoring of operator personnel. It is common practice that some registrants including medical facilities, dental offices, baggage scanning companies, etc. have elected to require personnel monitoring of all operator personnel as a conservative measure to calm personnel concerns or otherwise address new employee training/staff turnover issues even when not required by regulation. This was the case with the past company registered with the Health Division and responsible for safe operation of the airport baggage X-ray machines at the Reno airport.

Therefore, if these units are installed and maintained to manufacturer's specifications, their use should not pose any radiation-related health risk to either the operators or the general public.

NRS 459.050 Inspections.

1. Any authorized representative of the health division may enter at any reasonable time upon any private or public property for the purpose of determining whether there is compliance with or violation of the provisions of NRS 459.010 to 459.290, inclusive, or of the rules and regulations promulgated under NRS 459.010 to 459.290, inclusive, and the owner, occupant or person in charge of such property shall permit such entry and inspection.

2. Entry into areas under the jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.

3. Any report of investigation or inspection, or any information concerning trade secrets or secret industrial processes obtained under NRS 459.010 to 459.290, inclusive, shall not be disclosed or opened to public inspection except as may be necessary for the performance of the functions of the state board of health.

(Added to NRS by 1963, 579; A 1975, 1330)