

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session  
March 30, 2005**

The Committee on Commerce and Labor was called to order at 1:10 p.m., on Wednesday, March 30, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Ms. Barbara Buckley, Chairwoman  
Mr. John Ocegüera, Vice Chairman  
Ms. Francis Allen  
Mr. Bernie Anderson  
Mr. Morse Arberry Jr.  
Mr. Marcus Conklin  
Mrs. Heidi S. Gansert  
Ms. Chris Giunchigliani  
Mr. Lynn Hettrick  
Ms. Kathy McClain  
Mr. David Parks  
Mr. Richard Perkins  
Mr. Bob Seale  
Mr. Rod Sherer

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Joe Hardy, Assembly District No. 20, Clark County  
Assemblywoman Sheila Leslie, Assembly District No. 27, Washoe County

**STAFF MEMBERS PRESENT:**

Brenda J. Erdoes, Legislative Counsel  
Diane Thornton, Committee Policy Analyst  
Sarah Gibson, Committee Attaché

**OTHERS PRESENT:**

Jason Geddes, Environmental Affairs Manager, University of Nevada, Reno  
Judy Stokey, Legislative Advocate, representing Nevada Power and Sierra Pacific Power  
Jim Morris, Director, Appropriate Energy Inc.  
Dick Burdette, Director, Nevada State Office of Energy, Office of the Governor  
Joe Johnson, Government Affairs Consultant, Independent Power  
Sabra Smith-Newby, Legislative Advocate, representing the City of Las Vegas, Nevada  
Bob Cooper, Regulatory Analyst, Bureau of Consumer Protection  
Pamela Scott, Senior Property Manager, The Howard Hughes Corporation  
Mike Alastuey, Chairman, Technical Work Group of the Study of Health Insurance Expansion Options  
Mike Willden, Director, Department of Human Resources, State of Nevada  
Jack Kim, Director, Legislative Programs, Government Affairs and Special Projects Incorporated, Sierra Health Services  
Peter Burns, Corporate Manager, EP&P Consulting  
Bob Ostrovsky, Legislative Advocate, representing Nevadans for Affordable Health Care  
Christina Dugan, Director, Government Affairs, Las Vegas Chamber of Commerce  
Andrew List, Executive Director, Nevada Association of Counties  
Pilar Weiss, Political Director, Culinary Workers Union, Local 226, Las Vegas and Reno, Nevada  
Michael Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce  
John Sasser, Statewide Advocacy Coordinator, Washoe Legal Services  
Ernie Adler, Legislative Advocate, representing American Massage Therapy Association  
Billie Shea, President, Massage Therapy Association, Nevada Chapter  
Vincent Baum, Director and Owner, Baum Healing Arts, Carson City, Nevada  
George Flint, President, Nevada Brothel Owners' Association

Lloyd Murray, Advanced Certified Licensed Massage Therapist,  
Carson City, Nevada  
Bob Roshak, Sergeant, Las Vegas Metropolitan Police Department  
Cynthia Pyzel, Chief Deputy Attorney General, Human Resources  
Division, State of Nevada

**Vice Chairman Ocegüera:**

[Called meeting to order.] We are going to go ahead and start the meeting as a subcommittee. We will begin with Assembly Bill 236.

**Assembly Bill 236: Makes various changes relating to energy systems that use certain types of renewable energy. (BDR 58-248)**

**Assemblyman Joe Hardy, Assembly District No. 20, Clark County:**

I am going to introduce former Assemblyman Jason Geddes, who will be taking the questions. A.B. 236 addresses wind energy in a renewable way and net metering. Las Vegas and Clark County have both expressed concerns that hopefully we will or have already allayed. We have for you a mock-up with proposed amendments ([Exhibit B](#)). The utilities industry has felt a certain comfort level with being able to amend in the appropriate things that will keep them whole. Section 5 in the bill it seems to preclude a governing body from adopting an ordinance regulation or plan. That is not our intent; our intent is to make sure that Section 5 is read in context with Section 6 which will allow a local entity or governing body to make and adopt the building codes, designs, rules, ordinances, and regulations that would pertain to that. We will be referencing a white paper ([Exhibit C](#)) dated December 16, 2004, entitled "Developing Small and Community-Scale Wind in Nevada." This will be a potential template for the local entities to use as they are adopting and making regulations that will keep their communities looking well and being energetic in a windy way.

**Vice Chairman Ocegüera:**

[Roll called, quorum present.] I will open the hearing on A.B. 236.

**Jason Geddes, Environmental Affairs Manager, University of Nevada, Reno:**

I want to go through briefly through the white paper ([Exhibit C](#)). It gives a lot of the intent and rationale behind the legislation. We are trying to extend the energy regulations and provisions already in place for solar energy to help stimulate wind energy development in Nevada. It was a report that was put together for the Nevada State Energy Office on how to stimulate wind energy

activity in Nevada. Out of this summary on how to stimulate it, there came up a list of legislative recommendations.

[Jason Geddes, continued.] The group that helped put it together are national and wind energy experts from throughout the country as well as wildlife experts, the Governor's Office, and biologists. I and Assemblyman Hardy worked with the State Energy Office, Sierra Pacific Power, and Nevada Power and came up with some recommendations. There were some concerns about local issues. The intent of the legislation is that we want you to not outright prohibit wind energy systems from being installed or unreasonably restrict them; we want you to reasonably permit them. Then the State Energy Office will provide the document ([Exhibit C](#)) to all those cities and counties to put in this legislation. They will give them a basic framework that talks about the size of lots, the height of towers, decibel levels of wind machines, and the generating capacity that these cities and counties can use to come up with their own requirements. They can adjust to meet their own locale so that they are not tied into a big state standard.

The very last section, Section 9, was added very late. This was a comment that came from DeEllen Brasher, the regional and environmental coordinator officer for the Navy, who is responsible for the area and working with the Department of Defense. They came up with a paragraph to cover intent. They want to be involved in the process and dealing with how it might impact them. The language they suggested is reflected there in Section 9.

Wind energy would be very helpful to develop in Nevada. As you all may or may not be aware, we have great wind energy potential in this state, both on a large commercial scale as well as on a small commercial scale. I myself am looking to put a wind turbine in on my house. I currently am installing solar panels through the program created under A.B. 431 of the 72nd Legislative Session and want to make sure that I can install wind panels in my front yard. Currently, I have a 12-foot metal replica windmill that is perfectly allowable through all the statutes, but if I actually had it generate electricity I would run into problems. I would ask that you consider this legislation.

**Assemblyman Seale:**

It does come to mind that perhaps installing a couple of windmills in the Legislature during session could power the building. Take the cost of a windmill versus the potential output. Is it effective financially to do something like this?

**Jason Geddes:**

It depends. All we are really doing is enabling people to put in the towers. All this legislation is doing is saying that if you want to put in a project, you can

put it forward, depending on what you are doing it for. I am putting a small turbine on my house. I live in northwest Reno, where the wind blows constantly. It would generate enough electricity to pay for that small turbine within three years, and then I would get electricity after that. In other cases, it would be up to the person what they negotiate with the power company as far as the rate and the payback. It just all depends on what incentives they get elsewhere and what rates they negotiate with the power company. I know there is one tribe that is installing large 3-megawatt windmills up on the Oregon border; through a combination of grants and the terms that they are negotiating, they are able to make it pay for itself.

**Assemblyman Seale:**

I know that there are a couple of commercial wind farms that I have seen, one in the Palm Springs area and over near San Francisco. Are they profitable?

**Jason Geddes:**

I do not know.

**Assemblywoman Giunchigliani:**

Many of these conservation areas are long overdue. Talk to me a little bit about the 150 kilowatts. I am thrilled to see it on the generation side of it in both your amendment and the current bill. Those individuals who have not been here before may not know why we landed on the 30 kilowatts before, and what we need to change there.

**Jason Geddes:**

I couldn't tell you exactly why we landed on 30, other than I proposed 1,000 and lost.

**Assemblywoman Giunchigliani:**

I am proposing 500 this year.

**Jason Geddes:**

I think the way we arrived on 30 is when you look at net metering, you install a net meter on someone's house, and they generate electricity. If you are in excess, it goes back into the grid and you get credit for it. In installing that, when net metering came into place, Sierra Pacific and Nevada Power put in all the lines and transformers, and they need to be made whole on the cost that they invested. When net metering came in, it had a cap. Last session we raised the cap to 30. The concern is to make sure that they are made whole for all of the investment that they put into the grid and the infrastructure system. The cap is there to make sure it doesn't take off, get out of control, and the power company doesn't get put out of place for too much infrastructure cost.

The cap is at 30. The report that you will read suggests moving it up to 150 for rural and agricultural purchases because that is what the task force came up with over the last year to make some of the projects work. Some of the projects are trying to develop and get on line; 150 kilowatts would work. Under A.B. 431 of the 72nd Legislative Session, there were some commercial applications and municipal applications that would have liked to have gone higher than the 30 cap but stopped there because that was where the net metering program was. We are proposing to move it up to 150. For the number of people that are in there, we are putting a cap at 1 percent of the megawatt load. There are special provisions for the 30 to 150 category to help the power company be made whole for their costs.

**Assemblywoman Giunchigliani:**

That was going to lead to your new language on number 6. So you are requiring that the net metering cannot exceed 1 percent of the peak load of the utility. I know that in A.B. 431 of the 72nd Legislative Session, we were trying to work on some amendments on the Senate side for the photovoltaic, but I can't remember now what we put in those. We will have to coordinate all of these pieces.

**Judy Stokey, Legislative Advocate, representing Nevada Power and Sierra Pacific Power:**

We are in support of this bill as it has been amended by Assemblyman Hardy and Jason Geddes today. We did have some concerns with the original bill, and those concerns have been addressed, particularly with the one percent. One percent in southern Nevada equals about 50 megawatts. One percent in Sierra Pacific territory equals about 18 megawatts. That was one of our concerns; we just wanted to make sure there was a cap.

The other concern was that we were at 10 kilowatts a couple sessions ago, we increased it to 30 last session, and now we are going up to 150, which is a large jump. We wanted to make sure that we didn't go too far because 150 kilowatts would normally service a small strip mall, a gas station, or an elementary school up here in the north, not in the south because of the size. Those applications to me are a large increase from where we were. We would like to see how that runs before we increase it any more. As you are aware, a net-metered customer does not pay for some of the normal charges that some of the other customers do, so we want to make sure that we can control some of those because the other customers are bearing the cost of that.

**Jim Morris, Director, Appropriate Energy Inc.:**

We are a small Nevada company and are attempting to bring our manufacturing to Nevada and produce wind energy. We have been working with the Wind Work Group [of the State Energy Office] and believe that the report that was just distributed ([Exhibit C](#)) was excellent; however, many of the things were excluded from the bill. One of the most important things that need to be added is an incentive program. There was very little wind energy produced in the last couple of years even with net metering. First of all, there is a small wind, which is what we are talking about for residential, small farmers, and agricultural use. It is not as economical as big wind, where you put these big megawatt machines up at 400 feet on the ridges. Then you have to bring in huge power resources to pull the power to the areas where it needs to be distributed. We are looking at what we call distributed energy, where we can put our wind turbines right where the need is so there is no infrastructure. The reason things are not happening is because we do need an incentive like California has for the wind industry. They have almost a 50 percent incentive; if the system would cost \$25,000, the State, through different funds, would contribute about half of that, reducing the cost. That is what is needed if we are going to bring wind to Nevada.

**Vice Chairman Ocegüera:**

Sir, are you proposing an amendment?

**Jim Morris:**

Yes. From the bill that I saw, we would propose that an amendment be put in place like A.B. 431 of the 72nd Legislative Session, which is for solar, and with its incentive for solar, it really shoots the wind energy down because they are unable to compete with that. I have a client in Douglas County and we have a machine that we could put up there, but he is looking at sizeable solar rebates from the provider. We have a hard time competing with that even though we have great wind resources in Nevada.

**Vice Chairman Ocegüera:**

Have you spoken with Dr. Hardy about your proposed amendments?

**Jim Morris:**

Not in specifics. We were a little concerned that the bill as it came out because it did not have many of the recommendations from the report that was just distributed to you. It just took a few of the small ones. The reason they went to 150 kilowatts was an attempt to help the farmer because their pumps use about 150 horsepower and they need those bigger pumps. Without an incentive program, probably nothing will happen. We don't believe that this bill will really do much to help wind in Nevada without the incentive.

**Vice Chairman Ocegüera:**

I would encourage you to contact Dr. Hardy and see if there is something that you can work out.

**Dick Burdette, Director, Nevada State Office of Energy, Office of the Governor:**

I am here to support the bill as amended and I look forward to working with the utilities and the Legislature to provide a bill that is useful and helpful.

**Joe Johnson, Government Affairs Consultant, Independent Power, Minden, Nevada:**

Independent Power is an installer of small renewable energy systems. We support this bill with the amendments. We would also like to work with the prime sponsor in trying to address the issue of providing some limited demonstration project incentives to agricultural or other users.

**Sabra Smith-Newby, Legislative Advocate, representing the City of Las Vegas:**

While we are generally in support of renewable energy, we do have a couple of concerns, which we have already discussed with Assemblyman Hardy. Those concerns consider Section 5 and the provisions that restrict a governing body's ability to make zoning regulations for the placement of these wind turbines. While we want to encourage wind turbines being placed where they are concurrent with the surroundings, we also want the ability to restrict them within highly urbanized and residential areas where they would not flow well with the community that surrounds them; therefore, we would like the ability to govern where they are placed within the city limits. Because of my discussions with Assemblyman Hardy and his willingness to work with us, I think that we have moved to the neutral position on this particular bill.

**Assemblywoman Giunchigliani:**

Do any of the local governments have zoning or special use permits for wind at this point or the construction thereof?

**Sabra Smith-Newby:**

We do have the ability to have an accessory wind turbine where the turbine is not the main structure for generating wind. That is able to be done right now in our statutes, but we do not have anything that governs a turbine constructed for its own sake.

**Assemblywoman Giunchigliani:**

Years ago when we first started moving into solar, we had a lot of homeowners associations that opposed the placement of solar panels, which was ludicrous, in my opinion. You don't have any prohibitions on that, do you?



**Sabra Smith-Newby:**

No, as far as I know, our Planning Department does not have anything that restricts that.

**Assemblywoman Giunchigliani:**

The whole issue of getting the cost on any of these things is critical mass at some point as long as we have barriers. I understand not having a turbine sitting in the middle of somebody's backyard, but in some cases they are probably quieter than the air conditioners we have on our rooftops. We need to make sure that we are balanced, and I am glad that you are working with the Assemblymen to make sure that balance is there.

**Bob Cooper, Regulatory Analyst, Bureau of Consumer Protection, Nevada Department of Justice:**

Our office also supports this bill as amended and explained by Assemblyman Hardy and Mr. Geddes. In response to a question raised by Assemblyman Seale regarding cost effectiveness, wind is the fastest-growing domestic energy resource. For example, from 1998 to 2002, the installed capacity for wind grew from 1,848 megawatts to 4,685 megawatts around the country. In response to Assemblywoman Giunchigliani, I would note that there was a study performed in May of 2003 by the Renewable Energy Policy Project entitled "The Effect of Wind on Local Property Values," which found that there was no correlation between siting wind turbines in a location and any effect on property values. I will provide the Committee with a copy of that.

**Pamela Scott, Senior Property Manager, the Howard Hughes Corporation:**

I am also speaking on behalf of Lake Las Vegas as well. We are neutral on the bill itself, but I do want to speak to Section 4 of the bill, which puts the one-acre size on homeowners associations for these towers. We are highly supportive of wind energy use; we just don't think they are necessarily suitable to urban and suburban areas in master-planned communities. Wind certainly is a lot different than harnessing solar energy because of the size of the towers that are required. I believe that even on home systems, the towers required are 80 to 100 feet tall because the minimum for the lower blade would have to be 30 feet for the obstacle, the home, or the trees on the property. I have a handout ([Exhibit D](#)). I would like you to consider removing the reference to homeowners associations and let us rely on city building codes that will be put into place for these or consider amending it to lots no smaller than 10 acres in size.

**Assemblyman Perkins:**

It is my understanding that a Nevada company is pioneering some of the technology for the wind turbines located in Mr. Hettrick's district. The Bently Company, which was recently acquired by GE [General Electric], provides that kind of equipment for all of the turbines that are in use worldwide, so a bona fide Nevada company is involved in a lot of this technology.

**Vice Chairman Ocegüera:**

I am going to close the hearing on Assembly Bill 236 and open the hearing on Assembly Bill 493, Ms. Buckley's bill.

**Assembly Bill 493: Requires Department of Human Resources to apply for Medicaid waiver pursuant to Health Insurance Flexibility and Accountability demonstration initiative. (BDR 38-736)**

**Assemblywoman Barbara Buckley, Assembly District No. 8, Clark County:**

[Submitted [Exhibit E](#).] I am joined by Mike Alastuey, who was chair of a work group that we had that worked on this bill for many months. I am also joined by Mike Willden from the Department of Human Resources; Jack Kim with Sierra Health; and in Las Vegas we have Peter Burns from EP&P Consulting, who was our consultant during the process of developing this bill. I have a PowerPoint presentation ([Exhibit F](#)), but first I wanted to give you a little bit of background with regard to this bill.

During the Interim, the Health Care Committee created a special committee to study the issue of health insurance expansion. As you all know, we have some of the worst statistics in the country with regard to the number of Nevadans with health insurance. Nationally there are over 43 million people without health insurance. Nevada has ranked fifth across its total population for the number of people without health insurance. We rank number two in the country with regard to the number of uninsured children, and we now have the fourth-highest uninsured rate for adults, 25.6 percent. That is over 354,000 adults, and if you combine this with over 100,000 uninsured children, we have over 450,000 uninsured.

The subcommittee was tasked with what we can do about this in Nevada short of a national solution. The bill that we present to you is the culmination of a year's work to try to reduce the uninsured in Nevada.

We have an opportunity to bring unclaimed federal dollars back to Nevada. We are permitted through a waiver called the HIFA [Health Insurance Flexibility Act]

waiver to return unclaimed dollars back to Nevada. There is approximately \$91 million in unclaimed federal money that we will lose to other states if we don't take advantage of it. What you are going to hear from the folks with me today is a mechanism to return that money to Nevada, match it with existing expenditures at the county level through the use of the Indigent Accident Fund and the Supplemental Fund, take the funds that we are now using for back-end emergency room service, match those with the federal dollars at a 65 percent federal match rate, and use it to provide health insurance from the outset to three groups.

[Assemblywoman Buckley, continued.] The first group is employees of small businesses. When you see this slide show, you will see how small businesses have the absolute most compelling need for affordable health insurance. The second group is pregnant women. That group was selected because pregnant women must have their babies delivered; it is not an option. They are currently having their babies at UMC or Washoe Med, and we can provide up-front prenatal care, leading to healthier babies and lower emergency room costs by providing these pregnant women insurance from the beginning. The third is a catastrophically medically needy population who are currently being served at the county and hospital level.

I am going to turn it over to the other folks to talk a little bit about how the bill works, provisions, what our goals were, and how the Committee process worked.

**Mike Alastuey, Chairman, Technical Work Group of the Study of Health Insurance Expansion Options:**

The bill before you today represents the culmination of a great many hours working with the Legislature's consultant in Medicaid and healthcare matters working with all manner of stakeholders, including counties, labor, health care providers, the insurance community, consumers, and, of course, the State Department of Human Resources with Dr. Willden and his excellent staff.

As Assemblywoman Buckley pointed out, the objective here was to attempt to claim Nevada's share. We pay federal taxes as well, and the question is: Are those federal taxes coming back to Nevada to work for Nevadans? The estimates were somewhere north of \$90 million dollars in federal funding that had gone unclaimed, and there is the prospect in future years that further unclaimed funds would slip out of Nevada's grasp. In order to make an attempt to get these dollars to work for health care for Nevadans, we had to contemplate some retooling, and it wasn't an easy task. Right now, there are several sources—state appropriations, federal sources, property tax at the local

level—that all had to be somewhat retooled in order to enable the introduction of this bill and in order to enable to whole system to pencil out for everybody.

[Mike Alastuey, continued.] The bill combines a couple of funds that are now available to counties to pay for catastrophic care. In that combination, it in effect frees up the equivalent of up to 1 cent ad valorem in property tax to work in partnership with the state. That 1 cent would then be matched with state funds. Together, those funds would enable the capture of federal funds that heretofore had gone lost. There were a number of ideas that were put forth, many of which ran into issues raised by the stakeholders. However, in the process of working through this, we found that if we thought out of the box a little bit, a remedy could in fact be put together and everybody could agree to it. We believe that this concept is a very good one. It is one in which together we all step forward and take some measures that we have not taken in partnership before. The objective here is such an excellent one—to get federal money into Nevada that heretofore had gone lost. I think it is worth everybody's efforts. We stand in support of the bill and would be prepared to answer any questions that you have going forward and to continue to work through the bill with our partners here at the state level.

**Mike Willden, Director, Nevada Department of Human Resources:**

I will quickly over the nine technical amendments ([Exhibit G](#)) that we need to have in the bill. The Department is in support of this legislation, as is the Governor. The Governor included this HIFA Waiver in The Executive Budget. For those of you who serve on money committees, you will know that we have had testimony in the Medicaid budget hearings and in the Welfare Division budget hearings about their roles and the mechanisms to implement this. Mr. Alastuey has talked about those.

I have listed the amendments that we have. On page 2 of the bill in Section 3, Ms. Buckley indicated there are three groups that we would cover: pregnant women, insurance subsidies to employees of small businesses, and catastrophic coverage on line 22 on page 2. There is language that says “pay a \$100 a month subsidy.” We need to add language that says “up to \$100 per month, because some subsidies will be less than \$100 per month. The next one, on page 3 of the bill, in Section 4, subsection 2, there is language about the director needing to adopt regulations in this process for the waiver to ensure that employers cannot discontinue or reduce their contribution to one's health insurance. The intent during the one-year process that we went through was for the employer of one of the small businesses with 2 to 50 employees that we talked about have to contribute at least 50 percent of the cost of the health insurance. We need to make sure that language is in the bill.

**Assemblyman Hettrick:**

I was reading the amendments and I am concerned with the way that language reads. I understand the point and I don't have a problem with the intent, but it says, "...cannot reduce or discontinue." What if they are paying less than 50 percent now? Are they going to be mandated to pay up to?

**Mike Willden:**

I understand that was the intent.

**Assemblyman Hettrick:**

So we are going to mandate that the employer has to pay 50 percent?

**Mike Willden:**

No, they don't have to do it. If they want to participate in this subsidy program then they do.

**Assemblyman Hettrick:**

The employer gets to choose whether or not he goes on the subsidy program? [Mr. Willden answered in the affirmative.] So he would make that choice and then he would have to contribute at least 50 percent.

**Mike Willden:**

I am sure that the Legal Division will clean this up quite a bit from what we are proposing here.

The third suggestion on page 3, subsection 4, there is language that the director shall administer the program through some delegation to the health care financing. We don't think that language is necessary; we already have the power to delegate that and there will be more than one division involved in this. Either we need to list them all or delete that section. On page 4 of the bill, there is language at the bottom of page 4 in Section 9, subsection 3. This language was not agreed to by the Interim Committee process. There are two funds that the county utilizes to pay for indigent costs. One is the Indigent Accident Fund and one is the Supplemental Fund. The intent was to transfer money from the Supplemental Fund, not from the Indigent Accident Fund. This language transfers money from the Indigent Accident Fund and so it needs to be deleted and we would take care of that later on in the bill.

On page 6 of the bill, at Section 13, subsection 2, there is language that the money coming out of the Supplemental Fund administered by the counties would go into the Medicaid budget. We just need a technical amendment there that it is not going into the Medicaid budget; it is going into a special account within the budget process called the HIFA Holding Account. We have also

added some language to ensure that everyone understands it is an equal sharing process between the county funds and the State funds.

[Mike Willden, continued.] On page 7 of the bill, at lines 24 and 25, I indicated before that we won't be transferring money out of the Indigent Accident Fund, so these lines also need to be deleted for the same reason that Section 9 needs to be deleted.

On lines 30 through 34 on page 7, we are recommending deleting that language and including some new language that you will see at the bottom of page 3 of the handout. The intent is that after the close of the fiscal year, after we bring money in and pay our HIFA costs for a year, any money that is leftover from that process will either go back to the county funds from which they came from or back to the General Fund. We are not creating a pool of funds that can be used for other purposes. We bring them in, we make the expenditures, and if they are not needed at the end of the closure they will go back to the county and to the state's General Fund in equal shares.

On the last page of my amendments and page 7 of the bill, Section 17 indicates that any balance in the Supplemental Fund at the close of fiscal year 2005 would be transferred into the Medicaid budget account. Those funds are not needed because it is a start-up year in 2006, so we would suggest that those funds be placed into the Indigent Accident Fund. We suggest that technical amendment.

The last one is in Section 18. The bill drafter language has us not being able to access these funds until we actually get a federal Medicaid waiver. We are fully intending to get that waiver, but there will be start-up costs prior to the waiver: consultant costs, some automated system costs, and some research costs. We just want to make sure that Section 18 doesn't prohibit us from using the state and county dollars on the start-up costs while we are wrapping up in the first year of the biennium, so we have suggested some language changes there. Those are the minor practical amendments, and we are supportive of this legislation. I know the money committees have been waiting for this to come out, so if we could finish up closing the fiscal matters related to the waiver.

**Assemblywoman Buckley:**

One of the primary purposes of this subcommittee was especially to look at any unmatched county or state dollars being used for health care coverage, because that is where we can bring in a 65 percent federal match and return that Nevada money to our state.

[Assemblywoman Buckley, continued.] Our stats compared to the nation are not good. This just charts out where the United States is and shows Nevada almost all the time in the past decade having a higher rate than the national average for the number of uninsured. The subcommittee heard lots of testimony on why the problems are so severe in Nevada. Most people obtain their health care coverage from their employers, but many employers do not offer health insurance. Even if the employer offers insurance, we found that many workers did not qualify, whether it was the number of hours or whether it was the start-up time. There were many factors contributing to it, and many who finally did meet those first two hurdles still could not afford their share of the premiums.

These stats were very interesting. For 82 percent of uninsured Nevadans, at least one person in the family worked either full or part time. Many times we think that the uninsured are not working; that is not the case. The subcommittee found the numbers just did not bear that out. Fifty-seven percent have family members who worked full-time all year, so it is not just a part-time employee issue.

Nevada's uninsured are in every age group, with the exception of over 65, who are covered by Medicare. The largest numbers are those 30 to 49. Again, we hear a lot of anecdotal evidence, such as people without insurance are 19-year-olds who don't want it; those stats were not borne out by our subcommittee. The stats clearly showed that those who worked for small firms are much less likely to be offered health insurance in the first place. At large employers with 1,000 employees or more, universally every employee had health insurance, which begins to drop down the lower you go until you get to 0 to 9 employees. We could not even get to a 40 percent number of those individuals having health insurance. The larger the employer, the more likely the employees were to have health insurance.

Full-time workers had a higher eligibility rate than part-time workers. Low workers often could not afford their share of the premiums, could not afford to purchase it, and were less likely to even be offered the health insurance in the first place. Here is the health insurance offered based on wage scales ([Exhibit F](#)). Compare the stats with regard to how often an employer even offered it and you can see a direct correlation to income. If you are on minimum wage, you are more likely to not even be offered health insurance if you are working for a small employer.

Cost is a significant problem for those small businesses. We heard lots of testimony from small businesses that want to offer health insurance. They were not proud that they did not have health insurance; they wanted to offer it. Many times they are close-knit; there are only a few employees and the boss is friends

with the employees. They want to offer health insurance, but it is cost-prohibitive. Premiums for employee-sponsored health insurance rose about 11.2 percent in 2004, nearly five times the rate of inflation and the rate of growth in workers' earnings. It was the fourth consecutive year of double-digit growth in premiums for employer-sponsored health insurance. Many of the individuals who do not have health insurance do not qualify for any Medicaid or other programs. They have no other options. They cannot afford to go into the private market and they are not eligible for the public market.

[Assemblywoman Buckley, continued.] The HIFA waiver is set forth in my presentation ([Exhibit F](#)). It outlines all of the requirements of the HIFA waiver. HIFA waivers are being used to expand health coverage in at least 10 other states. HIFA's goal is to expand Medicaid coverage to populations with low incomes, primarily as our choices were those working in small businesses and pregnant women. We can cap enrollment and have lots of flexibility from the federal government on cost sharing, coverage groups, and terms of benefits. It is not one of those federal programs that is more trouble than it is worth. It is very flexible and gives states lots of options as to how it works.

The proposal must include expansion of coverage, public/private partnerships, a goal of reducing the uninsured, maintenance of effort, and be budget-neutral. It must not hurt anyone who is currently on Medicaid, and it cannot be provided to anyone over 200 percent of the poverty level. Particular emphasis is placed on statewide approaches that maximize the private health insurance and that are among the Committee's choices. We decided that we were not going to invent a new health insurance product; we were going to use the health insurance that is currently offered in the state as the available coverage.

Advantages are matching federal funds up to 65 percent of the match, and we can cap and control costs. We again worked with EP&P Consulting, who has worked in a number of other states to make it the best program that it could be. It extends coverage of Medicaid to pregnant women from 133 percent to 185 percent of poverty and begins with approximately 2,000 to 2,500 eligible pregnant women each year. The second group is employees of small business by doing a premium subsidy of up to \$100 per person to employees with a cost sharing by the employer and the new funds brought by this program. The medically needy were covered a little bit in my initial outline. The goal is to look at people who spend down their resources and then still can't afford health care.

The recommendation was covered pretty well. These existing county funds, as well as the Governor's funds included in his budget, would be used. In the Interim Committee, we had unanimous support from both Houses and both



parties for reducing our uninsured by using this innovative proposal to bring back funds from the federal government to Nevada, matching funds that are not currently matched, to cover more people with insurance. This is not a cure-all; this will not cover 400,000 people in the next five years. It is, however, a strong step in the right direction to provide more insurance to people who need it today.

[Assemblywoman Buckley, continued.] In the interim process, when we first started, we had many people concerned and opposed. After many hearings and in the end, every group supported the final draft.

**Vice Chairman Ocegüera:**

I would like to thank you for your comprehensive look at this difficult question. It is an innovative program that your group has developed. It looks like you have built a great deal of consensus. Thank you for bringing this to us.

**Assemblyman Seale:**

I want to make sure that I understood what you said. In terms of the federal match, the feds are putting up 65 cents and we are putting up 35 cents, is that correct?

**Mike Willden:**

There are actually two matching rates. Most of it would be funded out of what we call the SCHIP [State Children's Health Insurance Program] or Title XXI Nevada Check Up dollars. It is close to the 65 percent match; some will be funded at as little as a 50 percent match. The majority would be a 65 percent match.

**Assemblyman Seale:**

So there is approximately \$90 million dollars out there that we can claim. Would it be our intent to claim all of that or the vast majority of it?

**Mike Willden:**

Yes, this is a five-year waiver. This is not a one-biennium thing. This a five-year plan, and the goal would be that we would draw in that \$90 million of unclaimed funds now over the five-year period.

**Assemblyman Seale:**

So during that five-year period, we will pick up the other 35 percent, approximately \$50 million. Is that General Fund money?

**Mike Willden:**

It is a combination. The non-federal dollars are a combination of General Fund and the county supplemental funds.

**Assemblyman Seale:**

The Indigent Fund.

**Mike Willden:**

Yes. The goal in this thing was for the non-federal share, the counties and the state would come together and equally provide the non-federal share.

**Assemblyman Seale:**

Mr. Alastuey, you made a comment about the 1 cent ad valorem.

**Mike Alastuey:**

Currently there are statutes creating two separate funds that are administered statewide. One is the Indigent Accident Fund and the other is the Supplemental Fund. Their purposes at the local level would be combined into one. It was felt that of the combined levy of the two, 1 cent could be released into this waiver process to constitute half of the non-federal share.

**Assemblyman Hettrick:**

How does this work at the end of the five years? What is going to happen if we insure all of these folks and five years down the line the federal money stops?

**Assemblywoman Buckley:**

From what I have learned, the federal government is very supportive of the HIFA waiver and the approach because of the capped enrollment, state innovation, and the employer-sponsored piece of this. I think the answer would be the same as if they stopped Medicaid or Medicare. This program is not on a chopping block; it is one of the most popular programs because of flexibility and because we are covering employees of small businesses, which I think is something there is a great deal of bipartisan support for. If the unbelievable does happen, and in five years the feds end the program, at least people will have had five years of insurance that they otherwise wouldn't have. I find it very hard to believe that would happen.

**Assemblyman Hettrick:**

I support where this is going. I think it is a good program, and I commend you for the work that has been done. My only concern is that we are not obligated in some fashion because we are essentially obligating future Legislatures and money that we don't know would exist if we got to there. As long as we are not obligated, I don't think it is a problem. If it ends, it ends, but I don't want us

to feel like this is mandatory as much as it might be a great thing to do. I don't think we can get into that position.

**Assemblywoman Buckley:**

No Legislature can bind the hands of a future Legislature.

**Assemblywoman Gansert:**

The money you are pulling out of the Indigent Accident Fund and the Supplemental Fund used to go for those purposes, so what happens with those accounts?

**Mike Alastuey:**

The two purposes would be combined into the one fund and I think your question bears out some of the financial balance that a number of the stakeholders underwent in finding their support for this concept. The financial balance is yes, those two funds would be reduced in their total amount, possibly placing county indigent dollars at some level of risk and possibly placing some in-patient health care providers at some level of risk. The question is: If these dollars were conceded into this matching process, would that enlarge the pot to a sufficient degree so that other kinds of care, now going completely unfunded, would they be reimbursed to these providers, and would there be a financial balance that would come out to the positive? After a lengthy process, University Medical Center of Southern Nevada felt that with the state matching dollars, there was every prospect that it would be a plus for everybody at the table.

**Assemblywoman Gansert:**

As far as employers using private companies as their insurers, are there enough readily available for something like this at that level of dollars?

**Jack Kim, Director, Legislative Programs, Government Affairs and Special Projects Incorporated, Sierra Health Services:**

I too was a member of this technical working group. This technical working group consisted of almost every stakeholder you can think of. The hospitals and the health plans were involved to bring their expertise, and the counties were involved because there was some concern about the Indigent Accident Fund and the Supplemental Fund. We had members representing advocate groups, the Culinary and Legal Services were all involved also. We didn't want to go into this project and do something that hurt anybody. We are trying to help as many people as possible with the bill and with the funds. We are very supportive of this project and this bill.

[Jack Kim, continued.] From an insurance aspect, we believe this would be positive for Nevada. One of the critical parts of the insurance aspect is the 50 percent that an employer has to provide. In a small group market, that is the minimum standard practice that is going to require the employer to pay at least 50 percent of the premiums to avoid any adverse selection that might occur. We often find that employers pay more than that, so the subsidy may not be 100 percent; it may be less. The fact that we can use what is already available in the private market is also helpful, because then you don't add another level of administrative burden on both the insurer and the employer.

I think one of the very positive aspects of this program is that a number of individuals who currently use the emergency rooms as their primary care will be able to get the preventive care that they need, and then they will not have to use the emergency rooms, the most expensive care. Hopefully getting more preventive care will have some impact on the emergency rooms. The industry is very supportive of this.

**Assemblywoman Gansert:**

Health insurance can provide coverage for this amount, so it is readily available?

**Jack Kim:**

We looked at the various numbers and how much it would cost, and we think this is doable. What is interesting about this program is that if an employer decides to pick a very rich health plan, one is still limited to up to \$100. We think that many employers will be able to get their employees coverage with this amount.

**Assemblywoman Gansert:**

Since you brought up the emergency department, I think I should disclose that my spouse is an emergency physician, but to my knowledge, he would not be affected any more than any other emergency physician. I think most of these funds actually go to the facilities; they do not go the hospital's indigent fund and physicians are not reimbursed, to my knowledge.

**Mike Willden:**

One thing that we may not be picking up on in this legislation is that there are two pots of money, the Indigent Accident Fund and the Supplemental Fund, that now pay for expenses out of all Nevada taxpayers' dollars. This waiver takes \$9 million a year of those current expenses, \$45 million over the waiver, and now pays for them with the federal/state mix. That frees up \$45 million worth of obligations out of the Indigent and Supplemental Funds, and matching the federal dollars creates part of the funding stream to enhance the coverage to pregnant women and to the small business employers. The counties should

not be left holding the bag because we are going to take expenditures out of that obligation pool, pay for them with federal dollars, and free up money to rematch.

**Peter Burns, Corporate Manager, EP&P Consulting:**

I will very briefly give you a flavor for what is involved with getting HIFA approval, but as a prefatory remark, let me just echo the comments of the panel that you have up there. All the states that I have practiced in were happy that this measure was adopted. Basically, in moving forward with this waiver, the State of Nevada will be required to prepare a waiver request which the Department of Health and Human Services (HHS) provides a template for. We will also have to demonstrate budget neutrality, which is a rather esoteric calculation that HHS requires states to show. In the case of Nevada, because you have so many unused SCHIP dollars, that should not be a problem. The waiver would be submitted, HHS will review the waiver documents, and there will be a certain amount of negotiation, I am sure, on several items. Then the agreement will be reached with HHS, they will spell out terms and conditions, and then the State will be free to start their implementation process. I understand from Mr. Willden that HHS has already looked at a concept paper. At this point, it is favorably disposed to that.

**Bob Ostrovsky, Legislative Advocate, representing Nevadans for Affordable Health Care:**

We testified before the Interim Committee. We are very supportive of this bill. Many options were considered in order to take this trail of funds and get it back to the employers or the employees. The best way to do this was not an easy decision. We think the solution that was found to help with the actual premium payment at the individual employee level was the easiest for employers. We think this is a wonderful step forward. It is a small step—it only starts with 2,000 lives and moves up to 8,000—but it is a step that the State has never taken, and it is important.

This encourages employers to do the right thing. It brings new hope to those employees who have been unable to purchase this insurance in the past or can't make their portion of the payment. We support this.

This waiver has other pieces to it that I will not speak to, but as a package we think it is a very good use of the state's ad valorem taxes.

**Assemblyman Conklin:**

Because you are also very familiar with insurance, are 8,000 lives with health care coverage enough to have a positive impact on the overall cost of health insurance over time? The biggest problem we have in health insurance and

driving it up is the fact that we have so many people who have no coverage. That gets recouped by people who do.

**Bob Ostrovsky:**

Out of all the numbers we ran in the Interim, and there were many, most of the measures were probably hospital-based, not doctor reimbursement related, and the hospitals/health care providers will receive better reimbursement and get more dollars into the system under this fund than under the current system. Whether 8,000 lives has a long-term impact on the whole host and world of insurance premiums, will probably be very small, if any. Out of over 400,000 lives, it is just a beginning. It is an encouraging beginning. If it works, I think we would come back to the Legislature and say that we want to put more money into this plan or go to the federal government and say that we would like more funds to try to expand this to pregnant women.

**Christina Dugan, Director, Government Affairs, Las Vegas Chamber of Commerce:**

We are here in support of Assemblywoman Buckley's bill and the interim study. We spend a significant amount of time working with the technical committee throughout the process on this. We shared a number of concerns with them that were very similar to the questions that Assemblyman Hettrick and Assemblywoman Gansert asked about the long-term funding ramifications of this and ensuring that this allowed access to the free market system in terms of how this was going to be applied. It would not become a continued State-funded program, and businesses would not be required to purchase into it. We feel this is a very positive step for the State of Nevada and our ability to leverage some of these federal dollars. The Las Vegas Chamber of Commerce will be affected by this in particular because we have so many small businesses. Roughly 80 percent of our businesses have fewer than 50 employees. As you well know from the explanation of this bill, it is targeted at businesses with between 2 and 50 employees. As a result, we are very supportive of this and feel that is certainly a good step forward for the State.

**Andrew List, Executive Director, Nevada Association of Counties:**

I am here in support of this piece of legislation. We would like to thank Assemblywoman Buckley for bringing it forward. I was initially skeptical because some of the money going towards this program comes out of what we like to term the "county safety net," that being the Supplemental Fund and the Indigent Accident Fund. What we have come up with, though, that we think will be workable for the counties is to keep that safety net solvent moving forward.

We had some issues over the two funds. Claims to the Indigent Accident Fund over the last five or six years have been decreasing, so it seems to be a little bit

overfunded. On the other side, the Supplemental Fund was somewhat underfunded. We were only paying 20 to 30 cents on the dollar for the Supplemental Fund. Part of what this piece of legislation does is to allow us to combine those funds into one. We think that way we can pay the full amount on the Supplemental Fund claims and also the full amount on the Indigent Accident Fund Claims. Those funds will remain solvent.

[Andrew List, continued.] The way that this pencils out for the smaller counties, the reason we couldn't get rid of the safety net entirely, is that the money that you will not receive from the Indigent Accident Fund and from the Supplemental Fund, because there is less money in there, will be recovered from money that you will be compensated for in other ways, such as the uninsured pregnant women in the larger hospitals. The reason we needed to keep these funds intact is because those sorts of instances that will be covered by the HIFA waiver aren't instances that occur in the rural hospitals. Typically, what the group found is that in the smaller rural hospitals, you don't have uninsured pregnant mothers giving birth. In fact, you typically don't have any births at all in the rural hospitals. I read just last week that Pershing County had the first birth in their hospital in seven years. That hospital, for instance, would not be able to recover the money from the HIFA waiver, but by keeping this fund whole, they can still receive dollars in other ways.

In summary, I just want to thank Assemblywoman Buckley for bringing this piece of legislation forward. We think this is a great piece of legislation that is able to expand coverage for Nevadans without raising any additional tax revenue.

**Pilar Weiss, Political Director, Culinary Workers Union, Local 226, Las Vegas and Reno, Nevada:**

I was also a member of the technical working group that met through the Interim and worked with Assemblywoman Buckley and others on the Interim Health Care Committee. We briefly just wanted to voice our support. We think this is a great program. We see so many people coming in and seeking their primary care in the emergency rooms, so we are very supportive of anything that moves people to preventive care. This was a very cooperative process; so many voices were heard. I think everybody is very pleased with the final product.

**Michael Pennington, Public Policy Director, Reno-Sparks Chamber of Commerce:**  
We do support the bill and are happy to see it move forward. We constantly hear from our business members, 83 percent of those surveyed, that health care access and affordability is one of the major issues driving their concerns. We think this is a great first step.

**John Sasser, Statewide Advocacy Coordinator, Washoe Legal Services:**

It is not just 8,000 lives that would be affected by this, but an additional 10,000 lives of pregnant women and the children born to them. In addition, the catastrophic illness piece will take care of folks who find themselves devastated by a large medical bill. To a small degree at least, we would be able to go back to the safety net providers and fill in that gap. I too had the privilege of serving on the technical working group. It was a wonderful group and I ask your support.

**Assemblyman Seale:**

This \$100 that is being used for insurance supplements, who does it go to? Does it go to the employee, the employer, or the insurance company?

**Assemblywoman Buckley:**

It goes to the employee. That point took a lot of work. I think the concern was that the employer might feel that it was theirs or the employee may change jobs. It made more sense in the long run, after a lot of analysis, that it would follow the employee.

**Mike Willden:**

That is absolutely correct. The intent is for the subsidy to go to employee, and it is portable if they change from one business employer to the next. Once they are deemed eligible under the 200 percent of poverty and enrolled in a qualified health plan, then they would be subsidized \$100. For example, the health insurance premium is \$300 a month, the employer puts in \$150, the employee is responsible for \$150, and we would subsidize the \$100 of the employees' \$150. The employee would be out of pocket \$50.

**Assemblyman Seale:**

And if they didn't use it for that purpose, they could only not use it for that purpose for one month.

**Mike Willden:**

That is correct. We will have mechanisms in place to track enrollment and use.

**Assemblyman Hettrick:**

How would that work? If I had 20 members enrolled in my plan, I had to have a minimum of 20 members, so if one member decided not to pay and use the money for something else, you cut off the \$100 and it dropped to 19. What is going to happen then? Will they all lose that ability to have coverage or are those restrictions in place today?



**Jack Kim:**

In most cases, when an employer pays the premium for the employee, he has already taken that amount out of the paycheck of the employee. He is paying that. I don't know the details on how it has been worked out. I suspect what is going to end up happening in many cases is there will be a reimbursement from the Medicaid department for that subsidy payment.

**Assemblyman Hettrick:**

So the employer would withhold \$150 paid by the employer from the employee, he pays the bill, and in theory the employee walks in and hands him \$100, right?

**Mike Willden:**

The employee pockets the \$100 then because they have already had the \$150 withdrawn.

**Assemblyman Hettrick:**

So he doesn't have to do anything so long as it is on a withdrawal.

**Assemblywoman Gansert:**

I still have some concerns about the insurance portion. Insurance is just so expensive, I am concerned that there will be high deductibles and that the premiums will eat up most of the dollars versus getting the reimbursement to the hospitals.

**Jack Kim:**

We had a lot of discussion about that and what types of plans should be allowed to qualify. We had discussions about high-deductible plans and how it was counterintuitive to what this program was trying to do, and that is give preventive health care to the individuals. There are going to be a number of regulations that have to be adopted by Medicaid. We are not talking about high-deductible plans. We are talking about plans that have preventive care as part of their plans. For example, an HMO managed care plan. There are small out-of-pockets; there is not a high deductible. I think that is where we are going with this. We are trying to make sure that people get the preventive care that they need up front so they don't have to go to the emergency room.

**Assemblywoman Gansert:**

Will the Department of Human Resources be working on devising what types of insurance plans do qualify? Is that part of this? Just to make sure the deductibles are low and people can access the care, be covered, and we haven't just paid the premiums.

**Mike Willden:**

I applaud the bill, but there is a section in there that has the Department promulgate regulations as to that process. We will be having workshops and public hearings and promulgating regulations on qualified plans.

**Vice Chairman Oceguela:**

I will close the hearing on Assembly Bill 493.

ASSEMBLYMAN HETTRICK MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 493.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman McClain and  
Assemblyman Perkins were not present for the vote.)

**Chairwoman Buckley:**

I would also like to publicly thank everyone who worked on the technical committee, as well as Peter Burns, who negotiated and refereed, and all the folks who testified today. They did a great job. I get the credit, but they did the work. I really want to thank them all for everything that they did.

We will open the public hearing on Assembly Bill 250.

**Assembly Bill 250: Provides for licensing and regulation of massage therapists.  
(BDR 54-733)**

**Ernie Adler, Legislative Advocate, American Massage Therapy Association:**

We are presenting A.B. 250 today. What is happening with the massage therapists throughout the state of Nevada is that they are subject to paying multiple background check fees, licensing fees, and they are regulated by a plethora of conflicting regulations. One of the therapists that I interviewed recently in Las Vegas commented that she had to pay three separate background check fees of \$300 apiece. This bill transfers that jurisdiction to the state so there is one background check fee, one fee for licensure, and one set of regulations and testing that clearly defines how you practice massage therapy throughout the state of Nevada. It is actually a reduction in bureaucracy bill.

[Ernie Adler, continued.] Some of the things that have happened because of the limited expertise of some of the local entities are almost humorous. One of the therapists related to me that she had to sit through a food handling video for food preparers because that was the only video that they had which remotely related to her profession, and she thought that was a little unusual. That was part of the requirement for her to become licensed by that entity. There are 35 states currently ([Exhibit H](#)) that have a law similar to A.B. 250. The other states that don't have this law are moving rapidly towards passage. It is my belief that pretty soon we will be one of the very few states that has not addressed this topic comprehensively and tried to get a handle on it in terms of establishing a profession which has a statewide following.

The bill doesn't seek to try to regulate the practice of chiropractics or physical therapy; that is on page 3. It doesn't apply to people such as sports trainers, or people who seek to massage family members in their own home. It doesn't have anything to do with people who work in a licensed brothel in Nevada. It establishes a five-person board which functions very much the same way that the other regulating boards function. It establishes educational requirements with a national test that professionals have to pass. It requires continuing education and requires that continuing education instructors be licensed. It has a practical exam and a written exam and employs an executive secretary along with other ancillary staff, such as investigators. It allows for hearing officers to hear licensing charges against an applicant and people who are already licensed but have violated the rules of the board.

It also has a grandfather clause. People who are currently licensed by a county, a city, or another entity would be grandfathered in and would not be required to retest in order to have a license. The board would issue licenses to those individuals. It also allows reciprocity for other states' licenses. The person would have to submit an application and a background check, but if they were in good standing in another state, they could acquire a license in Nevada.

A.B. 250 sets up a schedule of fees for various services provided by the board. It is anticipated that these fees will easily pay for the functions of the board, and there is a provision that the board cannot spend more money than it needs to provide the services required.

Currently, another problem in Nevada is that we have about 2,500 licensed massage therapists; however, we believe there are another 2,500 that are unlicensed within the state. Some counties do not require licensing at all. Because of the multiple problems with getting licensing in the various cities and counties, some people just choose not to become licensed. This bill would get everybody under the licensure system and license those people.

[Ernie Adler, continued.] The people who would be excluded from being massage therapists are people who have committed crimes of violence, prostitution, or sexual offenses. Anyone who solicits sexual activity would be excluded or expelled from the profession. Any unprofessional conduct would be grounds for suspension or termination of the license. This would take the rogue members out of the profession rapidly and they would be dealt with appropriately.

One of the letters you have here is from Dr. Joseph Cracraft, who is the instructor at the Community College of Southern Nevada. I think his comments are good. He states in his conclusion that the adoption of this legislation and the development of strong and effective regulations are crucial if massage therapy is to be effectively regulated throughout the state of Nevada.

We have received some concern from the Las Vegas Metropolitan Police Department (Metro) because currently they conduct background checks of massage therapists and they do a very thorough job. They have had occasion to arrest people for prostitution or for posing as massage therapists. They have some concern about the level of background checks. I think that can be dealt with in the bill, and we can assure that the background checks for people wanting to be massage therapists are as rigorous as those currently required by Clark County.

Metro's other comments had to do with whether or not there would still be multiple background checks by the counties and cities if this bill were to pass. I believe the bill clearly states that the background checks would be done through the board, and the only thing a city or a county would do is issue a business license to persons who require one. However, if that language is a problem, I would be glad to amend it so that it is clear that the only thing the cities and counties would be required to do is issue business licenses, not actual licenses for the profession.

**Assemblyman Seale:**

You mentioned something about a national test. Is that similar to the CPA [certified public accountant] exam that is uniform in all of the states?

**Ernie Adler:**

Yes, it is called the National Certification Exam, and it is used by most of the states. It is uniform throughout the country.

**Assemblyman Seale:**

Is there a fiscal note on this bill? Is there a cost of creating this thing, or is that borne by the dues, et cetera?

**Ernie Adler:**

It would be borne by the dues and fees because this is a fairly large profession now. Even if you charged \$100 per person, you are looking at \$500,000 worth of revenue. I think there would be a substantial amount of revenue to run this board. There would not be any need for money from the State.

**Assemblywoman Giunchigliani:**

We have actually tried to get this done for many years regarding having a standard that is in place and consistent statewide. I am thrilled that you have actually been able to work it out. I know Dr. Cracraft and had worked with him two years ago on this matter. Could you clarify for me what you said about the local government issue in the bill?

**Ernie Adler:**

For this to be an effective workable bill, all of these individual background checks and licensing by all the local entities need to be preempted by the State.

**Assemblywoman Giunchigliani:**

It should be one place, and the licensing board is the proper board to do it.

**Ernie Adler:**

Otherwise, you are going to have the same problem we have now, which is a \$300 background check in North Las Vegas, another for the county, another one for the city, and so forth. There might be another one for Douglas County, Carson, and in Reno. That would defeat the purpose of the bill if we were doing that.

**Billie Shea, President, Massage Therapy Association, Nevada Chapter:**

I took the job of president about two years ago. One of the big concerns and goals of our constituency in the chapter was to move forward towards State licensure. We need one license to give people the freedom to move between jobs, to grow in their careers, and to work in different communities without having to go through the bureaucracy of each different entity. The State board will help to establish guidelines that are more guaranteed to protect the public. We feel that some of the local jurisdictions do not clearly define what the rules of massage should be for the community. A State board allows the members to grow within their skill set by promoting education, new technology, and a higher level of respect from the community that recognizes the commitment to professionalism that the State board provides.

[Billie Shea, continued.] Finally, promoting massage therapy in our state helps to promote fiscal growth in our communities. Eighteen percent of the general public now seeks therapeutic massage on a regular basis. That is more than eight times a year, representing approximately \$1.5 million revenue in the state of Nevada. By promoting the massage industry in the state, we are helping to create new jobs, promote a growing industry, and provide services to people who really need them. Establishing a State board of massage can promote all of this and help to set the standard for the industry that will show concern for the public and a commitment to our citizens.

**Vincent Baum, Director and Owner, Baum Healing Arts, Carson City, Nevada:**

I am here to speak in favor of this bill. It has been a long time coming. I think everything that has been said about the bill has been very positive. I think the consistency factor of having one regulation throughout the state is very critical. Right now there are a number of cities and counties that do not have any legislation whatsoever. Any one of you could go into those and pay your fee, get a business license, and be a massage therapist. If you want a part of that \$1.5 million that Ms. Shea was just talking about, you could do that without any training whatsoever and without any consistency. This is being done by people who are coming in from out of state right now who don't have the amount of education that is required in some of the counties and cities that do provide regulation. They are going into outlying counties and becoming licensed to work on the public. I encourage you to look very hard at this bill and please pass it.

**George Flint, President, Nevada Brothel Owners' Association:**

This bill was first presented in 1987. For 20 years, our particular group has been very reticent to support it simply because the creation of a licensing regulatory board for the massage therapists was widespread enough in its scope that it would have created a licensing and regulatory board for our brothels. For 20 years I have pled with the proponents of this to exempt us out. On page 2, line 40, "A person that performs any activity in licensed brothels is not under this bill." I can support this bill as an outstanding piece of legislation that is overdue.

**Lloyd Murray, Advanced Certified Licensed Massage Therapist, Carson City, Nevada:**

I have done some research recently because a person who hired me to work a convention recently told me that he had called their local state board in Utah and was told that there were no qualified massage therapists in Nevada. He went online and found the AMTA [American Massage Therapy Association] and discovered over 70 AMTA members just in this area alone. He was very

concerned about this. Some states that have state licensing don't always acknowledge therapists from other states who don't have it. He asked me a bunch of questions that the school and the state board gave him to ask. Fortunately, I was able to answer them because I went to a very good school in Carson City. So he hired me and I did the event.

[Lloyd Murray, continued.] I decided to call the state I came from, Washington, and I got the same response from them. They said if you are going to go on vacation, don't get massages in Nevada; there are no qualified people there. I was shocked, so I called Utah and I got the same answer. Then I called a friend of mine in Texas. We actually exceed the requirements here in Carson City that the state requires in Texas. This person said that there were no qualified people in the state of Nevada to do massage.

I want to legitimize message therapy. My clients who live in outlying areas have received massages from people who obviously didn't know what they were doing because they were all bruised up. When I receive people like that in my office, it concerns me that a lot of massage therapists in outlying areas don't know what they are doing. They are hurting their clients. They don't know the complications and when we should not do massage. They don't know when we should do massage what type of massage will benefit the clients the most. For me, that is a great concern. I spend a lot of time and energy and have put forth a lot of effort in my education so that I could be of help to my clients. When I hear stories from people in outlying areas saying that they got bruised or were hurt, that is really scary.

**Billie Shea:**

I would like to read a statement by Pat Patton ([Exhibit I](#)). She is a licensed massage therapist and vice chair of the Reno Massage Board. Her first statement is that she supports the measure. However, she does have a few concerns to address. If we are worried about endangerment, why are we giving temporary licenses? That is in Section 21 of the bill. Section 24 seems to be combining grandfathering and reciprocity. Why do those grandfathered need to produce all these notarized and specially certified documents from their licensure boards? More importantly, what about the people in rural Nevada without licensing boards? Typically, we see language to the effect of showing two or three years of federal tax forms showing income from massages. Section 29, line 4 (c), talks to the need for a doctor's prescription for breast massage. The need for breast massage, most particularly in relation to breast cancer, is proven. I can provide plenty of documentation. In Section 29, line 14, why do we have to maintain national certification? In relation to Section 9, no one affiliated with a massage school should be on the board.

**Vice Chairman Ocegüera:**

Let's go to those speaking against the bill.

**Bob Roshak, Sergeant, Las Vegas Metropolitan Police Department, Las Vegas, Nevada:**

We have some concerns about the way the bill is worded. We have met with Mr. Adler; he is willing to discuss them and to put something together. We can air those concerns to you right now or meet with him and come back.

**Vice Chairman Ocegüera:**

In the interest of brevity, why don't we fix it and then come back? We will close the hearing on Assembly Bill 250.

**Chairwoman Buckley:**

Let's turn to our work session document ([Exhibit J](#)) and begin with S.B. 85.

**Senate Bill 85 (1st Reprint): Revises provisions governing practice of dentistry. (BDR 54-179)**

**Diane Thornton, Committee Policy Analyst:**

S.B. 85 was sponsored by Senator Carlton and heard on March 21. This bill provides that an applicant for a license to practice dentistry must pass an examination administered by the Board of Dental Examiners of Nevada or present the Board with a certificate establishing that the applicant has passed a clinical examination administered by the Western Regional Examining Board. No one testified in opposition to the bill and no amendments have been proposed.

ASSEMBLYMAN SEALE MOVED TO DO PASS SENATE BILL 85.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Assembly Bill 69: Authorizes employer to enter into fair share agreement with labor organization. (BDR 53-956)**



**Diane Thornton, Committee Policy Analyst:**

Assembly Bill 69 was sponsored by Assemblywoman Koivisto. It was heard on March 14. The bill allows an employer to enter into an agreement with a labor organization whereby the employer agrees to require a nonunion employee to pay a service fee to the labor organization as a condition of employment. There was a proposed conceptual amendment to the bill by Thomas Morley with Laborers International Union of North America, Local 872. That amendment would essentially codify the Nevada Supreme Court decision *Cone v. Nevada Service Employees Union* [116 Nev. 473 (2000)]. In that decision, the Supreme Court held that it could impose fees on nonunion members for representation in grievance matters. That was valid under the state labor relations statutes.

**Chairwoman Buckley:**

So this amendment would be conceptual and we would get the language back from Legal and be able to look at it exactly before we brought it to the Floor. I understand Mr. Morley and Assemblywoman Koivisto have requested that we take a different approach and codify the Nevada Supreme Court decision that would allow a labor organization to charge reasonable fees to nonunion members that request and receive services. Mr. Morley, is that correct? [Thomas Morley answered in the affirmative.] Legal would probably try to track the language of the Supreme Court with the reasonable value. I think that was the approach that the Senate indicated that they were more comfortable with instead of getting into all of the issues we discussed at the hearing about who requests it, if there would be monthly fee, and the nexus between the services and the fee.

We are replacing the bill as a whole to codify the Supreme Court decision. I would anticipate that we would bring the language back before we go to the Floor. This would get it moving, and if anyone has a concern at that point, then we can revote it if it doesn't reflect that decision. We will make sure that it comes back and everybody will reserve their right to see the exact language. If there is a problem with it, we will bring it back.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO PASS A.B. 69 BY REMOVING THE CURRENT SECTIONS AND INSERTING THE LANGUAGE AS PROPOSED IN THE WORK SESSION DOCUMENT WITH THE INTENT THAT THE LANGUAGE COME BACK FOR REVIEW.

ASSEMBLYMAN ARBERRY SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Anderson was not present for the vote.)

**Assembly Bill 126: Revises provisions governing provision of care by personal assistant for person with disability. (BDR 54-167)**

**Diane Thornton, Committee Policy Analyst:**

A.B. 126 was sponsored by the Committee on Commerce and Labor on behalf of the Department of Human Resources, Director's Office. It was heard on March 14. The bill authorizes a parent or guardian of a minor with a disability to direct the care given by the personal assistant. This bill also authorizes a parent, spouse, or adult child of a person with a disability who suffers from a cognitive impairment to direct the care given by the personal assistant. This bill prohibits a personal assistant from performing services for a person with a disability in the absence of that person's parent or guardian, if the person with disability is not able to direct his own services. The following amendments have been proposed by Mary Liveratti of the Department of Human Resources. This first amendment is also in conjunction with the Clark County School District.

- Amend subsection 4 (c) of Section 2 in the bill to state that this section does not apply in educational settings.
- Amend the bill by inserting the term "guardian" in subsection 6 of Section 2, line 40 of the bill.

The line would read:

- "A parent, spouse, *guardian*, of adult child of a person with a disability, who suffers from a cognitive impairment..."

**Assemblywoman Giunchigliani:**

On the issue of exempting them from educational settings, what is the actual impact on that?

**Cynthia Pyzel, Chief Deputy Attorney General, Human Resources Division, State of Nevada:**

I helped with the drafting of this. The concern was raised when we came initially with this bill by the Clark County School District that somehow this would impede their ability to provide services to children in special education who are getting the assistive services in that school through their IEP [Individualized Education Plan]. Since minors cannot direct their own care legally

because they are under that disability, they would need a parent or a guardian to provide it for them. The school district didn't want for the parent or guardian to have to come to school in order to authorize the care provided by an assistant. We wanted to make sure that was not an unintended consequence of this bill.

[Cynthia Pyzel, continued.] We met with the Board of Nursing as well on this bill. They have provisions within the Nurse Practice Act for delegation by school nurses to qualified persons. They felt that it would perhaps confuse matters to have this here, but the school district really wanted the language about exempting this from the bill. That is why we proposed language. I don't think realistically in the school setting that it will make a difference because the services provided to children in the educational settings or homebound are done under the supervision of a school nurse, who has limited ability to delegate certain services being performed.

**Assemblywoman Giunchigliani:**

The way it is worded gives me discomfort because I am a special education teacher. I would be worried that we would actually be restricting their being able to get services if this is worded in such a way.

**Cynthia Pyzel:**

The Nursing Board didn't think that personal assistants even apply in an educational setting because theirs is done more under the Nursing Practice Act, and it is not a personal assistant but, rather, a qualified person. We brought it forward to make the school district happy, but I don't think it upset anyone. The intent is to allow for the direction of services that are required for children and for people with cognitive disabilities.

**Assemblywoman Giunchigliani:**

So if I look at subsection 4 (c), Section 2, it says, "...perform services for a person with a disability in the absence of a parent or guardian of or any other person legally responsible for the person with the disability if the person with the disability is not able to direct his own services. This does not apply to educational settings." Is that what we are looking at?

**Cynthia Pyzel:**

Yes. Subsection 4 is a limitation section; it says that a person shall not provide certain services. One of the services is for a person with a disability in the absence of the parent, guardian, or legally responsible person if the person can't direct their own care. The concern was, with respect to minors and people in special education, the requirement that the parent, guardian, or legally responsible person to come in. The intent that we were trying to reach with the

language currently in the bill without the amendment was to make sure that a person is in attendance when someone who is cognitively impaired or legally impaired cannot direct their own care. This is so that someone who is responsible for that person is in the same room with that person, directing their care.

**Assemblywoman Giunchigliani:**

I think they are overthinking it. I just wanted to make sure the drafting doesn't release them from certain areas of that section depending on where the language winds up.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 126.

ASSEMBLYMAN SEALE SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Perkins was not present for the vote.)

**Chairwoman Buckley:**

We reserve our right to look at that language, too.

We will consider Assembly Bill 63.

**Assembly Bill 63: Prohibits certain practices by health insurers with regard to injuries sustained while under influence of alcohol or controlled substance. (BDR 57-207)**

**Diane Thornton, Committee Policy Analyst:**

Assembly Bill 63 was sponsored by Assemblywoman Leslie and was heard on March 2. A.B. 63 repeals a section in the Uniform Health Policy Provision Law that allows certain health insurers to deny claims involving losses sustained by an insured while intoxicated or under the influence of a narcotic. This bill also prohibits certain health insurers from canceling or refusing to issue a policy solely because an insured person or a person eligible to apply for the policy has made such a claim.

Assemblywoman Leslie proposed the following amendments:

- Add a new subsection 4 to Sections 1, 3, 4, 5, 6, 7, 8, and 10 of the bill, which would read:

4. This section does not prohibit an insurer from denying a claim that occurs in connection with an insured's attempt to commit or commission of a felony.
- Change the effective date to July 1, 2006.

Also in your work session document ([Exhibit J](#)) are some answers from Assemblywoman Leslie to the questions that the Committee had last time.

**Assemblywoman Giunchigliani:**

I had talked to Assemblywoman Leslie and was concerned with the issue of confidentiality. I think her attachment outlines what is current law. We chose not to go with the preamble. I just wanted it on the record that people will not be referred and their confidentiality is a concern that I have.

**Chairwoman Buckley:**

We could include that in a Floor statement.

**Assemblywoman Giunchigliani:**

Because they are under HIPAA [Health Insurance Portability Accountability Act of 1996, 42 U.S.C. 201], Ms. Leslie told me, and there is some other language as well that protects them.

**Chairwoman Buckley:**

Assemblywoman Leslie, do you care to address that?

**Assemblywoman Sheila Leslie, Assembly District No. 27, Washoe County:**

The strictest confidentiality laws are in that federal citation that I sent you on substance abuse. Just for my professional work, those are very difficult to get around. I think that provides the greatest protection. HIPAA, of course, also applies to one's private medical records. I am happy with whatever you would like to do, in a Floor statement, or in a preamble just to make it abundantly clear.

**Assemblywoman Giunchigliani:**

That is the HIPAA and the 42 CFR [*Code of Federal Regulations*] part that you are referring to. A Floor statement is fine. We do not need to amend it any further than we already have to do.

**Assemblyman Anderson:**

I have a question relative to the felonious act. I want to make sure that the burden doesn't fall on the State if the person is incarcerated, that they think it is going to be covered by the insurance and therefore treated. They have been captured, obviously. Who is going to eat the bill at the end?

**Chairwoman Buckley:**

If they are in prison, it would be the State. Right?

**Assemblyman Anderson:**

Or it could be the county?

**Chairwoman Buckley:**

If it is jail.

**Assemblyman Anderson:**

I just want to make sure that is clear. That is what is going to end up happening here.

**Chairwoman Buckley:**

I think that is happening now, anyway. It costs more because of the ability to say that if you were drinking, we are not covering it.

**Assemblyman Seale:**

My recollection is that some of the insurers don't have this clause in their policy and some of them do. It is those that do that you want to remove this from, except if there is a felony involved, however that might be defined. That means that with the passage of this bill, the cost is going to be left with the insurance company and not with the hospital. Did I summarize that correctly?

**Assemblywoman Leslie:**

You are very close. Some insurance policies have the felony exclusion already and some do not. As Mr. Anderson stated, the person is treated at the hospital, regardless. If the insurance refuses to pay based on the alcohol/substance abuse clause, then someone has to pick up the bill. The hospital would pick up the bill, and the rest of us will pay for that in higher insurance. Since the trauma doctors are not even screening now, the insurance companies are paying for it anyway. Is there going to be an additional cost? I don't think so, because the person is already getting the treatment. What this bill would do is prohibit those insurance companies from being able to say that they would rather not cover it because of this exclusion clause, not the felony but the non-felony exclusion clause, therefore forcing that cost onto the hospital. The hospitals should come out ahead.

**Assemblyman Seale:**

And the insurance company?

**Assemblywoman Leslie:**

They will actually have to pay for a service that they have been collecting the premium on. They have been paying it anyway because the trauma doctors aren't screening. It is kind of a convoluted circle.

**Assemblyman Seale:**

Then aren't we going to end up paying higher insurance premiums?

**Assemblywoman Leslie:**

No, I don't believe so, because the person is receiving treatment now anyway. What will happen now is that the trauma doctors will have a much better chance of intervening because they will be able to identify the people who have substance abuse problems and provide them with treatment. Insurance costs might actually go down, because the person might be getting the treatment they need the first or second time they are in the emergency room instead of never because they are not currently identified as a person needing that kind of treatment.

**Assemblyman Conklin:**

Immediately following the hearing that we had on this bill I was approached by a couple of insurance companies who indicated that it was fallacious to think that prices would go up as a result of this because they are already doing it in their policies alone. They didn't come up to testify, but I thought that was interesting anecdotally for the Committee to hear.

**Chairwoman Buckley:**

Ms. Leslie, do you recall which insurance companies now have this policy? I think I remember Sierra saying that they did.

**Assemblywoman Leslie:**

Sierra had the felony exclusion, but I don't believe they had the main thing that I am after. St. Mary's is also here, and I think that they have the felony exclusion. I can't get that information from the Insurance Commissioner; that is, which ones have it and which ones don't.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS  
A.B. 63.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblyman Perkins was absent for the vote.)

**Chairwoman Buckley:**

I think that is it. We had A.B. 83, but we are going to do that instead with A.B. 44. I understand that all of the amendments have been worked out and everyone has looked at them. We are preparing them for our next work session. We are adjourned [at 3:27 p.m.].

RESPECTFULLY SUBMITTED:

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James S. Cassimus  
Transcribing Attaché

APPROVED BY:

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Assemblywoman Barbara Buckley, Chairwoman

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



**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** March 30, 2005

**Time of Meeting:** 1:00 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	<b>A</b>		AGENDA
A.B. 236	<b>B</b>	Assemblyman Joe Hardy	Proposed amendments
236	<b>C</b>	Assemblyman Joe Hardy	Developing Small and Community Scale Wind in Nevada
236	<b>D</b>	Pamela Scott, Howard Hughes Corporation	Comments and concerns
493	<b>E</b>	Assemblywoman Barbara Buckley	Study of Health Insurance Expansion Options
493	<b>F</b>	Assemblywoman Barbara Buckley	Power Point Presentation
493	<b>G</b>	Mike Alastuey, Technical Work Group	Amendments to A.B. 493
250	<b>H</b>	Ernie Adler, American Massage Therapy Association	Support letters
250	<b>I</b>	Pat Patton, Reno Massage Board	Concerns
	<b>J</b>	Diane Thornton, Research Division	Work Session Document