

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-third Session
May 24, 2005**

The Senate Committee on Finance was called to order by Acting Chair Bob Beers at 8:09 a.m. on Tuesday, May 24, 2005, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Bob Beers, Acting Chair
Senator Dean A. Rhoads
Senator Barbara Cegavske
Senator Bob Coffin
Senator Dina Titus
Senator Bernice Mathews

COMMITTEE MEMBERS ABSENT:

Senator William J. Raggio, Chair (Excused)

GUEST LEGISLATORS PRESENT:

Ms. Susan Gerhardt, Assembly District No. 29
Mr. John W. Marvel, Assembly District No. 32
Ms. Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Gary L. Ghiggeri, Senate Fiscal Analyst
Bob Guernsey, Principal Deputy Fiscal Analyst
Jo Greenslate, Committee Secretary

OTHERS PRESENT:

Arlan D. Melendez, Reno-Sparks Indian Colony
Ernie Adler, Reno-Sparks Indian Colony
Jackie Crawford, Director, Department of Corrections
Charles Rosenow, AICP, Director, Reno-Sparks Indian Colony
Pamela B. Wilcox, Administrator and State Land Registrar, Division of State Lands
Mary Lau, Retail Association of Nevada
Nicole J. Lamboley, City of Reno
Ken Lange, Executive Director, Nevada State Education Association
James Penrose, Nevada State Education Association
Terry W. Van Noy, Van Noy Consulting Group
Randall C. Robison, Nevada Association of School Boards
Lloyd Barnes, ABD Insurance and Financial Services
Wade Johnson, Comptroller, Lyon County School District
Rick Kester, Douglas County School District
Charles Chinnock, Executive Director, Department of Taxation
Joyce Haldeman, Clark County School District

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Daniel J. Klaich, Vice Chancellor of Legal Affairs, System Administration Office,
University and Community College System of Nevada

Keith Rheault, Ed.D., Superintendent of Public Instruction, Department of
Education

Lucille Lusk, Nevada Concerned Citizens

Raymond Bacon, Nevada Manufacturers Association

Anne K. Loring, Washoe County School District

Craig Kadlub, Clark County School District

Barbara Dragon, Nevada Homeschool Network

Randi Thompson, Nevada Gifted and Talented

Dan Musgrove, Clark County

Stacy M. Jennings, Executive Director, Commission on Ethics

Nancy J. Howard, Nevada League of Cities

Robert Chisel, Assistant Director, Planning Division, Department of
Transportation

ACTING CHAIR BEERS:

The first bill we will address is Assembly Bill (A.B.) 299.

ASSEMBLY BILL 299 (2nd Reprint): Authorizes exchange of land with
Reno-Sparks Indian Colony and construction of new restitution center for
Department of Corrections. (BDR S-820)

ASSEMBLYMAN JOHN W. MARVEL (Assembly District 32):

I am here to speak on behalf of A.B. 299. It is a product of a great deal of
negotiating among several different factions: the Reno-Sparks Indian Colony,
Department of Corrections, Division of State Lands, Washoe County, Washoe
County School District and City of Reno. I will let Mr. Arlan Melendez, Chairman
of the Reno-Sparks Indian Colony, discuss the details.

ARLAN D. MELENDEZ (Reno-Sparks Indian Colony):

I have distributed two handouts. The first is titled Reno-Sparks Indian Colony
([Exhibit C](#)), and the second consists of a cover sheet describing A.B. 299, two
letters addressed to me and an article from the *Reno-Gazette Journal* dated
April 7, 2005, titled Indian Colony's win-win plan ([Exhibit D](#)). I am here in
support of A.B. 299 which is mutually beneficial to the State of Nevada and the
Reno-Sparks Indian Colony. The Reno-Sparks Indian Colony is a tribal
government with the same responsibilities and challenges as state and local
government which includes providing essential government services to our
constituents. Revenue generated from sales and excise taxes has enabled our
tribe to not only provide essential government services, such as law
enforcement, judicial services, education and health care, but to also build
public facilities and essential infrastructure on many Indian reservations
throughout the state.

One of our immediate goals is to build a new outpatient health facility in Reno
which will provide health service to not only our tribal members but also to the
urban Indian population of Washoe County of approximately 8,000 Native
Americans. This health clinic would greatly alleviate the burden of the local
hospitals which currently provide indigent health care to many Native
Americans. Assembly Bill 299 authorizes a land exchange between the
Reno-Sparks Indian Colony and the State of Nevada and the construction of a
new restitution center for the Department of Corrections. The legislation also

provides for a sales tax revenue sharing agreement resulting from a retail project which will locate on tribal land owned by the Colony.

The sales tax revenue will ultimately finance construction of the state restitution center. The Reno-Sparks Tribal Council would like to acquire the current five-acre restitution center site from the state to build a future Native American cultural center. The Colony would offer a three-acre parcel of land at the corner of East Second Street and Kietzke Lane for the new restitution center. The Reno-Sparks Colony would finance the \$8 million project from lease revenue received from the state Department of Corrections which receives a share of the sales tax revenue. It equates to 1.5 percent or \$900,000 a year for 20 years or until the debt is paid. That is 1.5 percent of the gross sales.

In addition, the Washoe County School District would receive 1 percent or \$600,000 a year for 20 years or until the debt is paid. That would be 1 percent of gross sales also. The Reno-Sparks Tribal Council has made education a high priority as we have 228 students in the Washoe County School District. Once the debt is paid, the Washoe County School District's share would increase. Furthermore, Washoe County will collect and distribute property taxes on the 203,000 square foot retail store which equates to approximately \$150,000. This legislation will provide the State of Nevada with a new restitution facility in a relatively short time, and this facility will house women which the current facility does not.

We have received support for this proposal from the Washoe County School District, our Tribal Council, Mayor Robert Cashell, the Reno City Council, the Washoe County Commission, as well as the local citizens advisory board and the Reno Hilton Hotel and Casino which is across the street from the proposed site. We request you support A.B. 299.

ASSEMBLYMAN MARVEL:

I believe this project is in Senator Mathews' district.

SENATOR MATHEWS:

It is right in the heart of my district. I have looked at this project before, and I commend Assemblyman Marvel for bringing this forth. How many prisoners did you say you would have at the restitution center?

ERNIE ADLER (Reno-Sparks Indian Colony):

There will be 200 prisoners. Currently, there are 92 in the existing restitution center. The new center will house 100 women and 100 men.

SENATOR MATHEWS:

How long would the lease to the state last?

MR. ADLER:

The initial lease would be 20 years, but the land exchange would happen immediately. The state would own the land, and as soon as the bonds are paid off, the building would revert to the state. It is a lease-purchase, but the Colony would make all payments on the purchase.

SENATOR COFFIN:

Has a thorough investigation occurred regarding any Native American remains or artifacts in the proposed site area?

MR. MELENDEZ:

Are you talking about the state land, the restitution center site?

SENATOR COFFIN:

I am talking about all the land involved here. You are talking about riverfront land.

MR. MELENDEZ:

We have a cultural committee at the Reno-Sparks Indian Colony which is involved with looking at Native American sacred sites. We were involved with the issue with the train trench in downtown Reno. We had a committee that investigated that site. We surely would look at any land owned by the Reno-Sparks Colony or anything acquired by the Colony. We would have our committee look at it in collaboration with the Washoe Tribe and Pyramid Lake Paiute Tribe. We made a tremendous effort to ensure we do not disturb anything and that we identify those sites under construction.

SENATOR COFFIN:

There are remote sensing techniques that can see well below the surface that should be employed on both parcels, under the proposed Wal-Mart and the proposed restitution center sites.

ACTING CHAIR BEERS:

According to the fiscal note from the Department of Corrections, this is going to be a triple-net lease. We are expecting the Colony will supply all furniture, equipment, furnishings, pay for the moving costs from the existing restitution center and pay any increased utility costs due to the larger facility. Does that sound accurate?

JACKIE CRAWFORD (Director, Department of Corrections):

This is a turnkey project, and it has been agreed that during the transition, as far as the moving, the furniture and the higher utility costs will be paid by the Colony until after the biennium.

ACTING CHAIR BEERS:

Will the state assume those expenses after the end of the biennium?

MS. CRAWFORD:

That is correct. This is a wonderful opportunity for the Department of Corrections to expand and delve into what we call our community corrections concept.

ACTING CHAIR BEERS:

Does the Governor support this bill?

MS. CRAWFORD:

Yes, he does.

ACTING CHAIR BEERS:

Will this increase your halfway house beds by 50 percent?

MS. CRAWFORD:

This will be the northern Nevada facility, and 100 beds will be for women. That is important because our population is escalating quickly. We have had the

restitution center with an average, at any given time, of from 80 to 100 residents. There would probably be 125 today if we had room, but we do not have room. It is going to increase for women but not necessarily for the male population.

ACTING CHAIR BEERS:

Are there still no concerns about keeping the conservation crews full?

MS. CRAWFORD:

I am not worried about the conservation crews. We need them badly. The conservation crews are going to save this Department, as far as I am concerned, with our bed space.

SENATOR MATHEWS:

When is the project going to come online?

CHARLES ROSENOW, AICP (Director, Reno-Sparks Indian Colony):

This project should be complete by January or February 2007. There will be a short period of occupancy when the existing residents will move to the new building. My understanding from the Department of Corrections is they will then scale up the additional personnel that will move in after that.

SENATOR MATHEWS:

Will the prison part of the project be completed first?

MR. ROSENOW:

No, Wal-Mart is moving along quickly. We expect it to start construction this summer, and we would expect to have revenue from the project ahead of borrowing on the project.

MR. ADLER:

One of the components is, currently, if you exit at the Glendale exit, across from the Hilton, that is also performing a major renovation project. The first thing you see is the restitution center which currently looks like a dog pound with a guard tower. They are eager to get rid of the restitution center and build something modern and attractive down the block. This project will clean up that whole corner under the Glendale exit and is downtown renovation without cost to local or state government.

SENATOR MATHEWS:

This will not cut off my fishing path will it?

MR. ADLER:

One of the things extensively discussed by the Tribal Council is that this project will actually open the river to fishing, recreation and potentially, a linear park along the river as well as a bikeway and other things.

PAMELA B. WILCOX (Administrator, Division of State Lands):

I am here if you have any questions about the land aspect of this project.

ACTING CHAIR BEERS:

Are you pleased with the project?

MS. WILCOX:

We constructed this project carefully and I believe it will work. The contract has to be executed before the first step happens.

SENATOR COFFIN:

Is the Division of State Lands responsible for ensuring surveys of the land or would that be the Nevada State Historic Preservation Office (SHiPO)?

MS. WILCOX:

We work with SHiPO. We would be responsible for ensuring everything is done, and SHiPO cooperates with us.

SENATOR COFFIN:

It is important, before that land is paved, to make sure all the land is surveyed.

MARY LAU (Executive Director, Retail Association of Nevada):

I wish to express our association's full support for the proposed plan. After the tribes had negotiated with the state agencies, they were gracious in including us in their early plans. They are a member of the Retail Association of Nevada as is the retail store that will be a part of the project.

NICOLE J. LAMBOLEY (City of Reno):

We also believe this is a good project within the City of Reno and for the Colony and we are supportive of it.

ACTING CHAIR BEERS:

I will close the hearing on A.B. 299 and open the hearing on A.B. 480.

ASSEMBLY BILL 480 (1st Reprint): Establishes requirements for certain plans of group insurance for employees of certain school districts. (BDR 23-950)

KEN LANGE (Executive Director, Nevada State Education Association):

As I visit with our members from the 15 rural counties, one of their chief complaints for years has been both the availability and high cost of health care as well as difficulties with the insurance programs provided as part of collective bargaining agreements with the school districts. As a result, approximately three years ago, Nevada State Education Association (NSEA) invited local affiliate leaders and representatives from the school districts to meet to talk about how to solve the unique problems for rural county health insurance. Through those conversations, there emerged the possibility of a joint management labor health insurance trust that would have provided more buying power to leverage a broader range of services at a lower cost.

The local affiliates and the school districts agreed to financially support the project, and we went through a long and tedious process through which some of the districts ultimately balked at providing the necessary information to make a determination about the cost of the health plans. Once they consulted with their current administrators, we did not have information available in a usable form, and, ultimately, some of the districts decided they did not want to concede control over their individual plans. The plan that was advanced would have created a combined savings for Carson City, Douglas, Elko, Humboldt, Lyon, Nye and Pershing Counties in the range of \$764,000 to over \$1 million, depending on features of the health plan.

Despite those savings, the opportunity was declined. While this project did not culminate as we would have wished, in high-level savings to Nevada citizens, we also discovered there is no real mechanism for the accountability of local school districts relative to their health insurance plans. Administrative costs and payments to agents vary widely, and, in some districts, there is an appearance of close relationships with providers that may skew the decision making of managers and boards. It is difficult to obtain the proper information, and some of the plans are dangerously close to bankruptcy. I have provided, for your information, a letter from the Lander County Superintendent to employees of the school district, dated September 9, 2004 ([Exhibit E](#)). The letter basically states we do not have the money to pay claims.

It is important for the approximately 4,000 public school employees in our rural school districts to be covered by plans that are solvent and trustworthy. We believe A.B. 480 will provide that coverage. While this bill does not recreate our earlier opportunity, nor does it force anyone to create a plan, it will rectify the difficulties we had in putting the plan together, so that, if necessary, we can attempt to complete the process in the future. Most importantly, it ensures that school district health plans have the same level of accountability as the private sector through establishing standards and transparency, not unlike what we have done in the area of academic standards.

JAMES PENROSE (Nevada State Education Association):

As Mr. Lange indicated, so-called governmental plans are exempt from the federal statute that regulates this activity in the private sector. If you provide a health plan to your employees in the private sector, you must have a minimum number of employees and you are subject to a federal statute called Employment Retirement Income Security Act (ERISA). The ERISA imposes certain reporting and disclosure requirements so that your employees and the Department of Labor have some idea of how your plan is operating and whether or not it is operating in a solvent and fiscally prudent way. The necessity of A.B. 480 is to capture plans that currently escape regulation under ERISA.

There are three basic components of A.B. 480. The first is a provision in section 11 that codifies the fiduciary responsibilities the plan administrators have to the plan. The second key component, which is modeled on ERISA, is the disclosure and reporting component, and is found in sections 13 through 15. The bill provides, initially, that the sponsor of the plan be required to provide a summary plan description to plan participants that describes the benefits provided by the plan and information participants can use to find out how to appeal the denial of a claim, for example.

The bill also imposes a reporting requirement, not only to the plan participants, but to the commissioner of insurance, so that both the participants and the commissioner can determine how the plan is operating and whether it is being operated in a fiscally prudent manner. If the commissioner, upon review of the required annual report, determines the plan is operating in a financially hazardous condition, the bill authorizes the commissioner to require the plan take corrective action to alleviate that problem.

Finally, A.B. 480 imposes what I will characterize as certain solvency requirements. Certain requirements must be met, for example, by an insurer with whom the plan places coverage. The insurance company, in such case, must have a certain minimum rating by one of the rating services listed in

section 12 of the bill. Self-funded plans, of which the Lander County School District plan is an example, are required to maintain stop-loss coverage. In the case of a catastrophic claim, you would have an outside party, an insurance company that can absorb that loss for you. There are certain amendments summarized in a handout titled Nevada State Education Association Suggested Amendments to A.B. 480, First Reprint ([Exhibit F](#)). They are mostly of a technical nature.

The first amendment changes the definition of a plan to include plans that provide certain benefits. We have added a requirement that the plan description include a table of contents so that someone who reviews the description can quickly determine what is in the description and locate information in that document. We have amended section 15 of A.B. 480, and that language is set forth as an exhibit on page 2 of [Exhibit F](#). It revises the information required to be included in the annual report to the commissioner for self-funded plans. It is the same information provided in the first reprint of the bill but reorganized as to how the information is to be presented.

Finally, we have proposed an amendment to section 17 of A.B. 480, on page 1 of [Exhibit F](#), that revises the provision dealing with replacement contracts of stop-loss insurance. The language in the first reprint was confusing because it was difficult to tell which contract was being discussed. We have drafted language which clarifies that provision.

ACTING CHAIR BEERS:

I am curious why, in your proposed amendment to section 15 in paragraph (d), subparagraph (1), you do not request an audited financial statement and add on the additional requirements.

MR. PENROSE:

We require submission of a financial statement.

ACTING CHAIR BEERS:

I understand. My concern is the language you are using to specify the opinion you are seeking from a certified public accountant. There is prescribed language to be used in opinions that you would want to give the certified public accountant the flexibility to use. I would think you would want to leave that flexibility in the certified public accountant industry's hands.

MR. PENROSE:

I personally have no problem with doing that.

ACTING CHAIR BEERS:

Is the fiscal note still valid post the amendments?

TERRY W. VAN NOY (Van Noy Consulting Group):

I am a management consultant practicing in the insurance industry. My typical clients are insurance companies, third party administrators and medical group practices that take risks. I have reviewed the fiscal notes to A.B. 480, and I have comments concerning those. A number of the fiscal notes would no longer be applicable given the amendments to the bill. The fiscal note from Carson City talks about the district being split into multiple plans. There is nothing in the current bill that has any implication for setting up separate insurance plans. Therefore, that fiscal note would no longer be applicable.

The Douglas County School District reported a \$5,000 a year increase in cost for reporting. The reporting requirements in the current version of the bill are clear in that they are to be met by the administrator. They should be receiving an audited financial statement. Therefore, the \$5,000 a year increase would no longer be applicable. Lincoln County talked about the expenses of developing the plan. They already have the plan; it simply needs to be distributed. There would be distribution costs only. The other fiscal notes from Humboldt and Elko Counties have to do with stop-loss comments.

During the joint project Mr. Lange spoke about earlier, I was asked to look at the opportunities for consolidating the various counties or for collaboration among the counties. Several areas surfaced that were of great concern as part of that. We found that seven districts were operating self-funded programs. In a self-funded program, the districts act as insurance companies with the same responsibilities assumed by insurance companies. They collect premiums from participants, dependents, and in some cases, retirees and promise to pay an insurance benefit in the event of a health care claim. We also found many districts had serious liquidity problems. Several were solving the problem with their stop-loss insurance by reducing the protection of the stop-loss insurance, thereby reducing their premiums. Many districts were reducing the coverage under the stop-loss insurance, i.e., taking more risks, but doing so at a time when they had less cash.

My comments in looking at these particular districts, is there would be a requirement to buy additional stop-loss insurance which does cost more. However, there is a corresponding reduction in their actual claims. Normally, in stop-loss insurance, 65 to 75 percent of the premium is returned in the form of claims. That adjustment needs to be made to these fiscal notes.

I made a calculation on the Humboldt County district, for instance, looked at the stop-loss insurance, assuming they would be buying \$50,000 of stop-loss insurance, and found that instead of \$297,000 in additional cost, the actual net cost, after an expected reduction in claims, was only \$36,000. I used standard actuarial tables in that evaluation.

ACTING CHAIR BEERS:

We have recently been through a significant exercise with our state health plan and learned that in the private sector, it would be governed by ERISA. However, because it is a government plan, it is governed by the Public Health Services Act. I am curious how self-insured plans of the school districts are operating outside the authority of this federal title.

MR. VAN NOY:

I am not sure how they are operating outside of that title. In conducting my review, I found at least two districts operating outside the *Nevada Revised Statutes* (NRS). They were doing so because they were unaware of the requirement to operate within NRS. Specifically, public entities that are tax supported in the State of Nevada have certain minimum benefits they must provide to their employees. That was not being done. Those districts have corrected their policies when noncompliance was pointed out to them, but initially they were unaware of their error. I can only surmise their outside advisors were not aware of the NRS requirement.

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ACTING CHAIR BEERS:

An ERISA plan is operating outside the scope of NRS. Is it not?

MR. VAN NOY:

The ERISA does not cover public plans.

ACTING CHAIR BEERS:

The Public Health Services Act does.

MR. VAN NOY:

I am not sure how it would be applicable here. That is outside my area of expertise.

SENATOR COFFIN:

Would the Department of Labor have something to do with it?

MR. VAN NOY:

The Department of Labor operates under the ERISA statutes.

SENATOR COFFIN:

Would they have had authority over governance of these insurance plans? The reporting would have gone to them.

MR. VAN NOY:

It is my understanding, because of the general preemption under ERISA, which is where the Department of Labor supervises insurance programs, they do not have jurisdiction in this matter. There may be issues with the Department of Labor for not paying wages, but I have not investigated that.

SENATOR COFFIN:

I did not hear in the presentation where you believe money will be saved in A.B. 480. It would be assumed there would be a savings benefit from aggregation.

MR. VAN NOY:

I see opportunities for saving money. One area I have not spoken about is the professional review and oversight by an independent entity, specifically the Division of Insurance. Once reports are prepared on a consistent and standardized basis and districts understand what their true costs are, opportunities for savings will immediately become apparent. We have seen that in at least one district that has looked at other alternatives due to a careful review of their plan. Savings opportunities have developed. Regarding the stop-loss issue, for instance, I have seen people buying stop-loss insurance that, in its current form, is unlikely ever to result in a payment. I see opportunities for savings even without collaboration among the districts.

MR. LANGE:

The plan we put together not only would allow us to look at those types of savings, but the savings were largely driven by aggregating the pool of participants, reducing adverse selection and allowing us to solicit competitive bids from insurance companies. It was a first-step move to create a bigger pool with a less potent risk.

SENATOR COFFIN:

I would like to see somebody defend aggregation more assiduously, because I am somewhat familiar with the Clark County School District employees' plan. That plan has had many problems and is larger than the other 16 school districts if they were to combine.

MR. LANGE:

There is a point at which you lose your advantage for critical mass. We believe the rural districts are so isolated, unique and difficult to find appropriate health care, that they are in a different world than the two largest districts which are able, due to reserves and flexibility in their funding, to absorb ups and downs over time.

SENATOR COFFIN:

I am concerned about why some of the school districts became self-insured in the first place. They are too small to have been self-insured.

MR. VAN NOY:

I agree that some of these plans are small, and self-insurance is of high risk and questionable value. When you establish a self-insured program, during the first year there is significant cash-flow savings. Savings accrue because claims are delayed in payment, not by mis-processing, but due to the nature of the claim-payment process. For example, if someone was hospitalized today, they have to continue their hospitalization, become discharged and a bill has to be submitted to the payer. This entire process takes from two to three months. For two to three months, a new self-insured plan has no claims which is attractive. The appropriate situation would be to put claims not paid in the first three months into reserve for incurred but unreported claims.

What we found in analyzing the financial statements of the districts for which we have financial statements, is when there was difficulty with funding, they tapped the surplus that was not actually a surplus.

SENATOR COFFIN:

Does the language in section 18 of A.B. 480 apply to other self-insured plans?

MR. PENROSE:

It would apply only to these small school districts. I would be happy to take a look at the issue raised relating to the Public Health Services Act. I can provide a response today.

ACTING CHAIR BEERS:

I would be interested. It is not just for this bill, but it is also the governing authority over our state's plan. It is a tertiary piece of a complex issue we have dealt with over the last month. I am curious whether it is a direct parallel to ERISA or, if not, in what way it is related.

MR. VAN NOY:

I just realized I overlooked an important fiscal note from the Division of Insurance which will have some oversight. In looking at the counties that are currently self-funded, this amounts to seven districts, and the amount of oversight required will depend upon how fiscally sound these districts become. If they become more fiscally sound, I would suspect there would be less oversight from the Division. If they do not, they could need more oversight.

ACTING CHAIR BEERS:

What problem precipitated this bill?

MR. LANGE:

We were frustrated with our ability to gather the necessary data to make the decisions and put together offerings that would reduce the cost of the plans. It took a long time, and it was a significant piece of why the project ultimately ground to a close. By the time we received the information, the synchronization with the potential providers, the coalition that had been built, lost much of its energy. We would like to be in a position, if we rebuild that coalition, to obtain and present the data, receive feedback and move ahead. We need the momentum in the system that creates the type of change that delivers relinquishment to a collaborative model as opposed to a siloed model.

SENATOR COFFIN:

Were the members being denied information about the plan, such as losses, claims, ratios, things a member would need to know to be able to decide whether or not the plan was well administered?

MR. LANGE:

That is correct. I will defer to Mr. Van Noy.

MR. VAN NOY:

We were unable to obtain a variety of information. In some cases, districts were not being given the information from the individuals administering the program and were unaware of the importance of the information. The bill tells the districts they have a certain amount of accountability. In other cases, administrators, after multiple requests, declined to provide the requested information. They perceived a risk of losing business.

SENATOR CEGAVSKE:

I would like to ask Mr. Randy Robison a question. In listening to the testimony, the first thought that occurred to me was could we combine the insurance policies with some of the smaller school districts?

RANDALL C. ROBISON (Nevada Association of School Boards):

That idea has been discussed for a number of years due to the cost savings alluded to earlier by the proponents of this legislation. Several groups have studied the feasibility of combining smaller rural school districts to obtain lower-cost insurance. We have yet to find a way in which to realize the promised cost savings in a consolidated manner. We continue to study the issue. Mr. Van Noy stated cost savings could result even without collaboration which is why we are interested in the reporting pieces of A.B. 480.

SENATOR CEGAVSKE:

In southern Nevada, everything is in Clark County. The real issue is the smaller, rural counties in the north. Is there a possibility of the rural counties in the north combining with Washoe County which is the biggest school district in the north?

MR. ROBISON:

I do not know whether that idea has been discussed, but that is what is being contemplated in A.B. 480. Conceptually, the larger you can grow your group, the greater the insurance savings.

ACTING CHAIR BEERS:

The precipitating factor was the refusal of the districts to provide necessary information. There may or may not be an underlying financial problem. It may be wrong to assume that all 15 smaller counties are having problems.

SENATOR CEGAVSKE:

I was not assuming all of the districts would need help, but perhaps the ones that do could join Washoe County School District's plan.

LLOYD BARNES (ABD Insurance and Financial Services):

Nevada Revised Statutes 287.010 allows for public entities in the State of Nevada to come together for the purpose you are discussing, to purchase insurance programs. I do not know if it has been investigated from a smaller school district viewpoint in northern Nevada.

WADE JOHNSON (Comptroller, Lyon County School District):

I am here to speak in opposition to A.B. 480. Lyon County School District (LCSD) began self-insuring health benefits for employees and retirees on July 1, 1992. During the past 13 years, the plan has grown from covering less than 500 members with \$1.2 million in annual benefits and expenses to well over 800 members with approximately \$5 million in benefits and expenses this year. A committee representing employee bargaining groups, retirees, administrators and management oversees the plan and makes recommendations to the LCSD Board of Trustees regarding both benefits and premiums.

Recently, LCSD solicited proposals for consulting services. A subcommittee, representing all groups, reviewed the proposals and made the recommendation, ultimately ratified by our trustees. This committee has worked hard to provide reasonable benefits, control administrative costs and set premiums to ensure financial stability. The committee has built a reserve over the years that supports a \$125,000 specific stop-loss plan, one greater than allowed under the proposed bill. This reserve also allows the plan to forego the cost of aggregate coverage and cash-flow protection, both which we required when we started.

These savings provide additional dollars for the payment of benefits and demonstrate the effectiveness of the committee in managing the plan. The requirements of A.B. 480 will increase administrative costs by requiring the plan to pay for actuarial and accounting services. The reporting requirements add to the workload of districts' administration or may even add expense if performed by outside sources. Some sections of the bill do not appear to apply to Nevada school districts. Why are investments addressed? We are already statutorily restricted to secure and sound investments.

I am also not clear how the role of a fiduciary fits into plans such as ours. Who are fiduciaries of our plan? It appears each committee member may be a fiduciary and liable under section 11, subsection 4, of the bill. I do not understand why the fiduciary liability issue needs to be placed in law for school districts since we are already liable to provide the benefits in plan documents. In conclusion, I request you allow our insurance committee and district to continue to manage this plan as it sees best and not place unnecessary requirements on our plan. Local boards have been delegated the authority and responsibility to oversee such plans. Please let us continue to do so.

If you are concerned about the financial condition of self-insured plans, consider requiring that we post bonds and submit audited annual reports as we do for our self-insured workers' compensation plans. If you believe non-district-sponsored plans need additional oversight and/or restrictions, please limit those requirements to those plans. Do not place an unnecessary burden on district plans and, ultimately, the districts, the state and taxpayers.

We participated in the study sponsored by the NSEA, and after a meeting, one of the representatives on our insurance committee that represents the Teacher's Association said to me, "We are doing a pretty good job in our committee. We have already done most of the things they were proposing." I thought that was interesting. There was an allusion that there is a close relationship between districts and our consultants. We recently submitted a request for proposal (RFP). We received five proposals. The entire committee, representatives of both bargaining groups, including the NSEA, all reviewed the proposals and unanimously decided on the one we ultimately recommended to our board. The implication we are in bed with the consultant is disturbing to me.

As far as communication of our plan document, we try hard to communicate with our employees. We meet with staff and employees every year, ask for questions, have representatives on our committee from every school who can voice concerns. We listen and try to meet those needs. Regarding your comment earlier, Chair Beers, about audited financial statements, I also have concerns about that. The way I read the bill, I believe testing on that particular fund is different from what we are doing now on the entire financial statements taken as a whole, and again, will require more work by the auditor and more cost.

Mr. Van Noy mentioned that school districts tend to save money when they become self-insured and that is one of the reasons for doing so. We did not do that. We realized we were going to have a gain and took the opportunity to build reserves. We have a substantial reserve, well over 50 percent of an annual claim which some perceive to be high. Our bargaining groups enjoy the fact we are able to use that reserve to reduce other costs and stabilize premiums. We do not understand the reason to ask us to make additional reports at additional cost.

ACTING CHAIR BEERS:

Is your health fund incorporated into your school district's audited financial statements rather than being a separate audit?

MR. JOHNSON:

Yes, it is.

ACTING CHAIR BEERS:

I presume the heavy target of the work of the auditors is verifying the existence of your reserve.

MR. JOHNSON:

Yes, and we report an incurred, but not reported, claims liability, and our reserves far exceed that and have since inception. I admit it is not an actuarially calculated reserve. I personally perform an extensive analysis of our claims and lags for the past couple of years and trend it out. I then submit my results to our third-party administrator and other consultants on our plan for them to

review to determine if it is reasonable. They have always concurred with it, along with our auditors. Our committee does not see the need to pay for an actuarial study when our reserves are far in excess of any estimated liability by any of the parties involved.

ACTING CHAIR BEERS:

It is my impression that an actuarial study becomes more important the longer the term is for the insurance coverage. Workers' compensation is potentially a lifetime coverage on a single claim, whereas, a medical claim typically has few claims that last for more than two years.

MR. JOHNSON:

That is true.

ACTING CHAIR BEERS:

Under what authority is your plan organized? This goes back to my ongoing question about the Public Health Services Act. Do you know anything about the Act?

MR. JOHNSON:

When you mentioned it earlier, that was the first I had heard about it.

ACTING CHAIR BEERS:

To the best of your knowledge, are you loosely organized under NRS?

MR. JOHNSON:

That is correct.

MR. BARNES:

I have entered into the record statements from Humboldt, Elko and Lander County School Districts, on their behalf, and I have been asked to speak for them this morning. We are opposed to A.B. 480 based upon current and potential future impact of this bill on the various plans with which we work. One of the concerns we have is the specific stop-loss requirements for the five self-funded school districts that have less than 2,000 participants. Specific stop-loss is an insurance that is issued by insurers to protect the plan in the event a claim of an individual exceeds a certain threshold.

Each district has its own unique circumstances that require districts to purchase specific stop-loss levels at various numbers depending upon the terms of their plan, their exposure and the size of their plan. Unfortunately, the mandated amounts, as defined by this bill, range from \$25,000 to \$100,000, depending on the size of the plan and the frequent surplus of that plan. Although the intent of ensuring financial stability for self-funded plans is worthwhile, the approach and limits are unreasonable and inflexible. Under the terms of this bill, the self-funded districts would be required to lower their self-funded specific stop-loss levels even though their free surplus is more than adequate to support existing stop-loss levels. This could require increases in their premiums for the stop-loss insurance of up to 20 percent or greater if they were required to move that threshold down.

Assembly Bill 480 would also create a situation where, in future years, premium increases would be driven up by these caps based on the stop-loss limits. These entities would experience significantly higher increases due to those limits

placed on them by statute. Additionally, for plans whose free surplus drops below the required threshold, the added cost of lowering their specific stop-loss levels would set the stage for these plans to be unable to rebuild their free surplus due to the increased cost of the lower specific coverage, and, could by default, perpetuate this financial instability instead of facilitating stabilization of the plan.

Lastly, to provide feedback we received from our clients, they believe this bill usurps the relationship the Senate and the government has deferred to the local districts to manage their employee benefits plan in a financially responsible manner. The bill preempts local districts from working with their normal bargaining agreements with their unions. In NRS 679A.160, there is a provision that allows the commissioner to review health and welfare plans to ensure the benefits are reasonable in relation to the premiums and the fund is financially sound. Therefore, A.B. 480 is unnecessary from the standpoint of fighting the commissioner's oversight on many of these plans. The commissioner has that responsibility and authority if he or she sees fit.

RICK KESTER (Douglas County School District):

Our issues with A.B. 480 are those that revolve around self-insured plans and not the other parts. As an aside, we participated fully in the 15-district effort of NSEA to try to form a consortium of health plan participants, and we provided all the requested information. We are always looking for a better way to provide health insurance and so are our employees. The fact that we chose not to participate, in the end, was more about the governance, the agreement and what we had to give up. Our employees chose not to participate.

Our district bids our reinsurance regularly, and we change agents to save money. Much like Lyon County, Douglas County did not understand, in the first effort to bring about a consortium, why you would leave out districts such as Washoe or Clark Counties. If a consortium truly holds value in terms of reduced cost by volume, creating a 15-county group of only 4,000, where the providers are spread, as hospitals and doctors, throughout the state, will not bring about the kind of savings we would like to see in terms of a consortium. We would consider a state plan for everyone.

We are a district that has over \$2 million in free reserves. We do not live on the edge, and we did not increase our stop-losses in response to not having money; we increased them in response to having significant reserves. Until we became self-insured, our issue was combative in terms of insurance. It was always the insurance company or the district that was at fault. We have an active committee currently, representative of all of our employee groups. We meet monthly. It is advisory to our board, and it has been so successful that our union is proposing the advisory nature of the committee become a permanent part of our negotiated agreement.

It is not an issue about informing our membership or employees about changes in our health benefits or what is in the plan, because we do not make changes without going through our employees and the advisory committee. Some of the conditions this bill is meant to address do not exist in many counties. Our estimate of \$5,000 was not overstated regarding this bill. There are accounting and actuarial services and other issues in the bill I believe will cost us \$5,000. The auditing requirement is an issue, and the actuarial is a problem. As a district

with a well-run, self-insured health plan, we believe the provisions of A.B. 480 are arbitrary and expensive.

SENATOR COFFIN:

I am familiar with the curiosity that occurs among employees. If they do not receive information soon enough, sometimes they think there is a conspiracy afoot. Do you represent a third-party administrator (TPA) or are you a broker?

MR. KESTER:

We are a broker.

SENATOR COFFIN:

I assume an information request comes to you from a district.

MR. KESTER:

In many situations, we provide experience reports on a monthly basis to our clients. That is typically at the request of the district.

SENATOR COFFIN:

Do you also provide your clients the number of catastrophic claims and how you decide what a catastrophic claim is? Between you and your client, you have decided that.

MR. KESTER:

Yes, sir, that is correct.

SENATOR COFFIN:

How far behind are you in providing that information?

MR. KESTER:

We provide information on an approximate 30-day lag schedule. We receive the information from the TPAs in a 30-day lag period and present it within 45 days of that information being current.

SENATOR COFFIN:

Is that on paid claims?

MR. KESTER:

That is correct.

SENATOR COFFIN:

Communication is a big factor. If any of your clients are not providing information as quickly as possible to the people who inquire, it creates an atmosphere of suspicion.

MR. KESTER:

There may have been a couple of instances in which that occurred. I was not involved in any of those discussions at the time, but many smaller school districts are fully insured and not self-funded. Therefore, they do not have ready access to that data. The insurance company that provides their coverage would hold that information. There may be difficulty in gathering information from the insurance companies and turning it around in a timely manner to inquiring organizations.

SENATOR COFFIN:

It can be a helpless feeling if you are dealing with a large insurance company. If the group is large enough, if it is over 100 lines, they should be able to supply information.

MR. KESTER:

It is actually required, under NRS statute, for insurance companies to provide experience reports to groups of a certain size, 100 employees, I believe.

SENATOR COFFIN:

If I were an employee of a group, I would not want them to know of every illness I have.

MR. KESTER:

That information is usually provided in an aggregate format, not at the individual employee level, per the Health Insurance Portability and Accountability Act of 1997 regulations.

MR. ROBISON:

First, I would like to say we are not opposed to cost savings, accountability or sharing more and better information. However, A.B. 480 goes far afield of that. I agree with the comments made by prior testifiers, particularly Mr. Kester, who talked about the governance issues involved. All employee salaries and benefits are subject to collective bargaining, and we put those issues on the table. In maintaining the ability to operate viable health plans, we have to consider such things as the cost of premiums, raising or lowering co-payments and so forth. That is all happening at the collective bargaining table, as required.

We have some issue with the way we interpret A.B. 480. The proponents of the bill talked about the study they conducted for two or three years trying to gather information. We agree there were problems obtaining that information in a timely manner. You also heard them say some of those cost savings could be realized without collaboration, based solely on the fact that information becomes available. That is a prudent observation. As information becomes available to local districts and their advisory committees, I know they watch every penny closely, the incentive is naturally there to try to find ways in which to save money on their premiums.

ACTING CHAIR BEERS:

I will close the hearing on A.B. 480 and open the hearing on Senate Bill (S.B.) 393.

SENATE BILL 393: Provides discount for electronic payment of certain taxes.
(BDR 32-387)

CHARLES CHINNOCK (Executive Director, Department of Taxation):

Senate Bill 393 provides for an incentive for using electronic filing of taxes. It does this by increasing the collection allowance currently in existence. The current collection allowance is 0.5 percent and is provided for sales and use, cigarette and liquor taxes. For information purposes, the collection allowance for 0.5 percent was established by the Legislature in 2003. Prior to that time, the collection allowance for sales and use taxes had been 1.25 percent. For cigarette and liquor taxes, it had been 3 percent. With respect to the bill, if you were to look at the language in section 1, paragraph 4, "If the excise tax

imposed by this chapter is paid on or before the 15th day of the following month, the taxpayer is entitled to a discount against the amount of excise tax otherwise due" Subparagraph (a) reads, "One-half of 1 percent," that is the existing allowance, and (b) "One-half of 1 percent if the taxpayer uses a credit card, debit card or electronic transfer of money to pay the excise tax and submits the accompanying return electronically." That is primarily the new portion, and it is mirrored in other sections.

ACTING CHAIR BEERS:

We have been struggling with a couple of different bills and budgets over the course of the session with the credit card discount issue. On the Committee, we hope the newly negotiated agreement will allow us to put the fee onto the payer. For example, when we collect car registration fees, those monies are fed to many non-state entities. The Governor originally proposed we pass the expense on to those non-state entities, but they complained loudly. This is an odd approach. To encourage credit card use, we are offering additional discounts. Is that correct?

MR. CHINNOCK:

The bill encourages the use of electronic filing for several reasons. The first reason is taxpayer service. Other reasons are to move away from manual processes and to save money. We have an out-of-state lockbox, and, over time, we could move away from using the out-of-state lockbox and no longer incur that expense. A primary reason would be to provide a manner in which to handle the state's growth and businesses in the future. As growth increases, it matches our capability to provide electronic filing. The reason we can provide electronic filing is as we implement our new computer system in phases, we would bring taxes online in phases as well. A final benefit is by moving the time up two weeks to provide this incentive. If interest rates were higher, we would gain an additional float off it. This time that is not a significant amount.

SENATOR TITUS:

Is it true the company you contracted, Accenture, LLP, has moved its headquarters out of the country to avoid paying U.S. taxes and that it outsources many of its jobs?

MR. CHINNOCK:

I do not know how to answer that. I know there was an issue with respect to Accenture being the company with corporate headquarters offshore. However, management of the company is ready to address that issue with respect to their relationship of paying taxes in Nevada versus other companies. I would state this was a concern before we issued an RFP in the State of Nevada with respect to our contract with Accenture. We put a specific clause in the Accenture contract before we signed with them that there could be no offshore work done on this project. Accordingly, we have watched that, and the work for this project has been performed in Arizona, Indiana or Nevada. I am not in a position to talk about their corporate structure because I do not represent the company.

SENATOR TITUS:

Could you look into it and let me know? I know you do not represent the company but surely you can find out where their headquarters are located.

MR. CHINNOCK:

Yes, I will contact the partners of the company. I am sure they would be pleased to answer that question.

GARY L. GHIGGERI (Senate Fiscal Analyst, Fiscal Analyst Division, Legislative Counsel Bureau):

The fiscal note prepared by the Department of Taxation indicates the reduction in General Fund sales tax revenue in fiscal year (FY) 2007 was approximately \$1.4 million for the state portion. The local government portion would be approximately \$3.9 million. There is probably also going to be a reduction in the liquor and cigarette tax collections by the amount the additional discount will be allowed for electronic filing.

ACTING CHAIR BEERS:

If someone pays with Amex, we pay Amex 2.5 percent of the proceeds which is a larger number than the collection allowance we are talking about granting.

MR. CHINNOCK:

The Department prepared that budget for the next biennium for the credit card amounts, and we currently are not offering credit card payment, only because in the planning of our project, we have not planned for that. Currently, our initial entry into the online payment is for ACH debit/ACH credit. With respect to our vendor, we are absorbing the transaction fees which are approximately 20 cents a transaction for any of those card types with respect to ACH.

ACTING CHAIR BEERS:

We are adding a third payment type around July 1, 2005, eCheck, where we print a check on the customer's account with information the customer has given us. That is also a 20- or 25-cent transaction amount.

MR. CHINNOCK:

Yes, and we are also part of that.

ACTING CHAIR BEERS:

Are you saying this would not include the opportunity to pay via credit card?

MR. CHINNOCK:

This fiscal note does not represent credit card payments, and we are not providing that option. Our plan, in the future, is to provide credit card payment opportunities when we are ready to accommodate that option. We are not assuming the cost, at this time, for credit card payments.

ACTING CHAIR BEERS:

How far into the future were you planning to add credit card payments?

We hope to be able to include credit card payments within the next biennium understanding that the first two taxes we are bringing online are business license fee and modified-business tax. It is our hope, when we bring sales and use tax online, to also bring credit card payment online.

ACTING CHAIR BEERS:

Committee members are contemplating \$600 and \$900 Department of Motor Vehicle transactions as huge numbers. The numbers you will be dealing with are exponentially larger, and the discounts will be significant to our budgeting

process. I, for one, would have concerns with running standard credit card transactions through the Department of Taxation on your business tax collections.

MR. CHINNOCK:

Yes, we have those concerns, and we did not budget for that.

ACTING CHAIR BEERS:

Does that mean it will not happen in the next biennium? Would you come to the Interim Finance Committee (IFC)?

MR. CHINNOCK:

We planned, as part of the business process, to work that out and implement it in this next biennium. If there is no cost involved, we will not have to come to the IFC.

ACTING CHAIR BEERS:

Is there additional testimony either for or against S.B. 393?

MS. LAU:

The Retail Association of Nevada fully supports this bill. I serve on the advisory committee for the electronic payment of taxes project, and I compliment the Department on the excellent job they have performed on this project.

ACTING CHAIR BEERS:

I will close the hearing on S.B. 393 and open the hearing on A.B. 184.

ASSEMBLY BILL 184 (2nd Reprint): Requires development and distribution of parental involvement compacts and code of honor relating to cheating by pupils. (BDR 34-921)

ASSEMBLYWOMAN SUSAN GERHARDT (Assembly District No. 29):

I am here to present A.B. 184 which is a measure to encourage and facilitate parental involvement in children's education. Numerous studies have shown that parent participation in education is positively and significantly related to student achievement. According to a publication sponsored by the U.S. Department of Education, students whose parents are actively involved in their education have better grades, test scores and long-term academic achievement. These students also attend school more regularly, complete more homework and demonstrate more positive attitudes and behaviors than those students with less-involved parents. Over 30 years of research has proven, beyond dispute, the positive connection between parent involvement and student success.

Effectively engaging parents and families in education of their children has the potential to be far more transformational than any other type of education reform. Assembly Bill 184 would require the Department of Education to prescribe a form or template for parental involvement compacts. These compacts, which will comply with the federal No Child Left Behind Act provisions and parental involvement policies adopted by the State Board of Education, will help to foster a partnership between the parent, teacher and student. To help ensure effectiveness, these compacts will be required to include: teacher and school administrator contact information; the course curriculum for the grade in which the student is enrolled; classroom and dress code rules and policies; homework and honor code policies; directions for

finding student resource materials appropriate to the grade of the student; suggestions for parents on how they can assist their children with schoolwork at home; expectations for parent-teacher conferences; expectations for pupil progress reports and how to request them; how to find language assistance for parents who have limited proficiency in English; information on free and reduced-cost breakfast and lunch programs; and opportunities to be involved as a volunteer in school activities.

Additionally, A.B. 184 requires that each school district's Board of Trustees shall adopt a policy to develop and distribute this parental involvement compact. This policy will require each classroom teacher to distribute the compact to the parent or guardian of each pupil and make reasonable efforts to collect it once it has been signed. Further, this measure will require that each school district ensure the compact used, or an expanded version of the compact, is the same as that prescribed by the Department.

Finally, the bill will allow for the school districts and the Department to review and amend, as necessary, the compact, at least once every year. In summary, A.B. 184 contains specific provisions designed to enhance the capabilities of the teacher and the parent to communicate and work together effectively to monitor and assist pupils in their academic achievement. Assembly Bill 184 will ensure consistency through the use of a standardized compact on a statewide basis, eliminate variations from school to school and district to district and will reliably inform parents of what will be expected of their children in any given class.

Part of what makes this a workable plan is that many of the items in the compact are already in print and can still be used. Assembly Bill 184 merely ensures that all of these important components are addressed every time and in every school. I appreciate the Committee's consideration of this bill.

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):

I am here on behalf of the Assembly Committee on Education who unanimously supported this bill brought to you by Assemblywoman Gerhardt. Parent involvement is a key component to student achievement and success. We need to continue to stay focused in this Legislature on what we can do to enhance and improve parent involvement. There are many examples from around the country about compacts and the information we provide parents for being a successful model. For your information, tomorrow in the Assembly Committee on Education we will be hearing S.B. 214 sponsored by your Committee, and section 17 deals with educational involvement accords.

SENATE BILL 214 (1st Reprint): Revises provisions governing statewide system of accountability and revises other provisions governing education.
(BDR 34-459)

I would think the language from A.B. 184 and S.B. 214 could complement each other. One is based on information we can provide for parents about the school and the other has language about what parents can do at home to help ensure students' success. I would hope we could merge some language and make sure both components will result from this Legislative Session because it is important to what we are trying to accomplish to assist our students and their parents. Not all parents have the instant knowledge about what they need to do to help their children or how they can be the best advocate at school. Between the

compacts mentioned in A.B. 184 and the information in S.B. 214 we could do a nice job of keeping parents informed and help them be more involved.

ACTING CHAIR BEERS:

Are you aware of any schools that have implemented the compact on their own initiative?

ASSEMBLYWOMAN GERHARDT:

Yes, there are quite a few who have taken that step. What we have found, when looking at the entire state, is that some schools are doing a great job of communicating with their parents; some are not doing quite as good a job. One of the goals of A.B. 184 is to ensure all the schools are brought in line and that everyone is receiving information in which each component is addressed.

ASSEMBLYWOMAN SMITH:

An important point is there was discussion in the Assembly Committee on Education about the fact that much of this information is currently provided by schools, but it would be nice to bring it all together and have it in one document the parent would always receive at the beginning of the school year. This is not a burden on the schools. It is more a matter of compiling the information and requires a form be given that the parent, the student and the teacher all sign. We hope to strengthen the partnership by having the document signed and making an effort to ensure the parent receives the information. In discussions at the Legislature, it was mentioned we may want to include this at the high school level to disseminate information about the Millennium Scholarship early to ensure parents, as well as students, are aware of the possibilities and the eligibility rules.

SENATOR RHOADS:

I have served on the State Board of Education and State Board for Occupational Education (School Board) for 12 years, and I was scolded every time I voted on a bill like this because it interfered with the School Board's jurisdiction. Maybe we do not need school boards if we continually draft legislation that tells them what to do. Is that a problem with you?

ASSEMBLYWOMAN GERHARDT:

I certainly would not advocate getting rid of school boards. I see this as an ongoing process where information from all sources is brought together to find the best ideas, from the rural areas and Clark County, and methods to reach out to parents and students. I believe it is a collaborative effort.

SENATOR RHOADS:

This is a mandate.

ASSEMBLYWOMAN SMITH:

I do not see this as different from any of the other legislation we pass every day. We talk about and pass legislation that tells local school districts what we, as Legislators, would like to see accomplished. The academic standards are a perfect example. What this does, the same as academic standards, is give us consistency across the state so we know parents who live in Elko are receiving the same information as parents who live in Reno or Las Vegas. Again, we are trying to achieve some type of consistency and ensure parents and children have equal access.

ACTING CHAIR BEERS:

Mr. Robison, there have been a number of fine ideas put forth by this Legislature, probably no different than any other session, that get killed for a fear of imposing a mandate and/or a fiscal impact. Do you put together a report at the end of session for School Board members in the state seeking ideas?

MR. ROBISON:

We perform a legislative review of legislation passed throughout the session and update pending legislation. We do not flag anything in particular, but we update our members on a regular basis on pending legislation and what has passed. I know there is a requirement, as well, for the State Superintendent of Public Instruction to do so.

ACTING CHAIR BEERS:

It strikes me that if this does not pass, due to the fiscal impact of approximately \$500,000, the material discussed in the bill could be collected and put onto the school districts' Web site and the Uniform Resource Locator included in existing communications sent home to parents. There are ideas here that may not pass due to their fiscal impact, and some of them are good.

MR. ROBISON:

In other, similar, instances several times during this session and sessions I recall in the past, oftentimes, for the reasons you cited about the fiscal impact or the mandate, a Committee will decide to send a Letter of Intent or a strongly worded Letter of Intent to potentially affected entities to encourage them to do one thing or another. I would hate to undermine the bill, but if that is a concern of the Committee, a Letter of Intent may be a possibility.

ASSEMBLYWOMAN SMITH:

On the issue of the fiscal note, that was an original response when the bill was first introduced, based on the districts' thinking we were asking for every classroom in every school to have its own compact and information to be newly created. Once the districts realized that was not the intent, but that the intent was to have one form to be used statewide and they would be using the information they already produce, that concern went away. I believe you will hear that in testimony from at least one of the districts.

JOYCE HALDEMAN (Clark County School District):

The Clark County School District supports A.B. 184. We do not believe passage of this bill is going to automatically ensure that every parent is involved and that all students will magically perform better in school. However, we believe there is value in having a consistent vehicle across the board that demonstrates our expectation of parents. The expectation of parent involvement and the expectation of an honor code that students will abide by are both statements worth making. As far as the fiscal impact, as Assemblywoman Smith pointed out, those fiscal impacts were submitted when we anticipated a different format of the bill which would have been considerably more expensive to implement. The fiscal impact of this bill will be the cost of one sheet of paper per student which, at 5 cents per copy, equals approximately \$15,000 for the Clark County School District.

As stated earlier, the kinds of things outlined in the bill, the information that needs to be delivered to students, we already perform. However, we did find that I could never say every school did everything Assemblywoman Gerhardt

discussed. There is currently nothing in policy for the Clark County School District stating, "The following information will be given to every parent." We have actually begun the process in the Clark County School District to correct that policy to ensure it includes the things outlined in the bill. Given that, we are supportive of A.B. 184. We believe parent involvement is key, and if we do not make this statement about parent involvement from the district's perspective, we are probably lax in not doing so.

ACTING CHAIR BEERS:

Your fiscal note talks about each school averaging five hours of overtime to collect, sort and file compacts.

MS. HALDEMAN:

That fiscal note was prepared when the bill was in a considerably different form, and there was an expectation there were going to be more things covered with the parental compact. Now that the bill has been amended, we think our responsibility will be that we are sending an additional document home to parents. In talking with Assemblywoman Gerhardt, my one concern about the bill is its timing. It becomes effective July 1, 2005, and anticipates the School Board will develop this compact and have it ready for districts to use. The method we will use in the Clark County School District is the one we use to distribute other information, and that is a packet mailed home the first or second week in August. I am concerned about having the compact ready to include in the packet. If it is not, I would imagine whenever it is ready, we will send that additional piece of paper home via students.

SENATOR CEGAVSKE:

At this time, do school districts not have anything in place to send to students, parents or teachers about rules, regulations, ethics or conduct?

MS. HALDEMAN:

We do all of those things. The difference A.B. 184 makes is that it includes a cover sheet that would include statements about a parent compact. It would state we believe education is a three-way process. Asking the parent to sign and return the compact is an indication they are a part of that process. The comment I was making is that we do all those things, we send out information about schedules, testing, homework policies and dress standards. Every school is allowed to disseminate that information in whatever manner works best for them. This will help the consistency and ensure all those pieces are sent to every student.

SENATOR CEGAVSKE:

As a follow up to Senator Rhoads' statement, your school board has the ability to set policy and regulations at this moment. Why have they not done that before? If we are putting this into law, why would not all 17 school districts be able to include this in their policies and regulations? Do we have to have it in law to put a cover sheet in the packet? My other concern is I heard on the radio this morning about a new way to cheat by using video cellular telephones. Students are able to photocopy answers and go out into the hall and telephone in the answers. From my work with Clark County, I have seen consistency with what the School Board has done in emphasizing parent involvement and the three-way involvement. I am still trying to understand why we need to put it into law. Usually we put things into law if they cannot be done or if we need to be consistent. Is this something we are copying from another state?

ASSEMBLYWOMAN SMITH:

We read a lot about compacts being used across the nation. We did not model this with any given program in mind. I think you made the point in that the reason we are doing this is because it is not being done across the board in every district. We passed legislation in 2001 requiring each district to adopt a parent-involvement policy. We have not seen much come from that and we have not seen implementation. Washoe County School District has adopted a strategic plan for parent involvement and they are being aggressive about trying to move things along. I know Clark County is getting ready to hire a parent involvement coordinator. My comment, after having done this for about 20 years, is the reason we need the law is because we are not seeing it done. There are many variables between schools in what is being done to promote parent involvement. This would provide consistency.

SENATOR CEGAVSKE:

One of the biggest problems is site-based management. I think that should be corrected in the law. We put into law site-based management with a different premise of what it was to accomplish. In the long run, it has caused many problems. Until we correct that, it will be difficult to be consistent throughout the state, because each school has the ability to do what it wants on their site. The other thing lacking in A.B. 184 is consequences to the schools that do not comply.

ASSEMBLYWOMAN SMITH:

We could certainly entertain the idea of a reporting-back mechanism. We had questions in the Assembly Committee on Education about consequences on the other end. As an example, what happens if the parent does not return the signed compact? Our response was we did not intend to call out the parent involvement police. There is not much that can be done. However, by putting the form out, promoting the signature and trying to have the parent, student and teacher sign it, we are sending a strong message. In my mind, if legislation is passed, it is incumbent on the districts to ensure the schools are distributing the compact. All we are asking is the information be provided and that we have the compact to go along with it. I do not believe a reporting-back mechanism would be a big problem.

SENATOR CEGAVSKE:

Again, there is no mechanism in place. Each school has its own decision-making process enabling it to accept or not accept the conditions of the bill.

ASSEMBLYWOMAN SMITH:

I do not perceive site-based management as saying the schools can do whatever they want.

SENATOR CEGAVSKE:

What I have seen, and what we have talked about, is when we made the decision to allow site-based management, school principals have carried it further than the law was intended. The principals are doing what they and their administration think best within the policies and regulations set forth by the school district. We see evidence of this attitude every session when we go through legislation for education. We do not put teeth into our legislation.

MS. HALDEMAN:

Although site-based management allows some flexibility on some issues for principals, it does not give them the flexibility to disregard school district policy and regulation, nor does it give them the ability to disregard the law. Written into the teacher and principal evaluation form has been a line item about parent involvement. It would dovetail nicely if this legislation passes.

SENATOR CEGAVSKE:

My other concern is the pressure that will be put on the student to ensure his or her parent signs the form and returns it to the school. We have had other situations in the past where teachers have put undue pressure and concerns on one individual student because he or she did not return forms or something they needed from the parents. If parents decide not to sign the compact, what kind of retaliation will the teacher take?

ASSEMBLYWOMAN GERHARDT:

In the original hearing, we discussed that. For that reason, we did not want any consequences for the teacher. We wanted to include language, "every reasonable attempt made." To return to the central focus of why I wanted to put forth this bill, as a parent myself, I was often in a situation where I found out too late to be proactive. I was a working parent, and I found it difficult sometimes to arrange conferences and to find out what the expectations were. The reason for this bill is to help parents who want to be involved so they have all the tools. There will always be that group of parents that have the time and will be available to go to the school. There are also many working parents who are also trying to be involved, and they need this information. Parents throughout the state have these needs as well. That is the purpose of the bill.

SENATOR CEGAVSKE:

What about parents who speak languages other than English? Was that addressed? I am talking about the compact itself. Will it be in difference languages?

ASSEMBLYWOMAN GERHARDT:

Yes.

SENATOR CEGAVSKE:

That will be a cost to the districts to have the compact translated into other languages. I believe Kinkos charges only 3 or 4 cents a copy, and the districts charge 5 cents a copy.

MS. HALDEMAN:

Regarding the language issue, as a matter of course, we translate all of our documents into Spanish because we have such a large Spanish-speaking population. That is done in house, and we do not anticipate that being an additional cost. We do not provide documents in other languages besides English and Spanish.

SENATOR CEGAVSKE:

How many languages are spoken in Clark County?

MS. HALDEMAN:

There are 83 languages spoken in Clark County.

SENATOR CEGAVSKE:

I am curious as to how we would broach that.

ASSEMBLYWOMAN GERHARDT:

We are talking about reasonable attempts. One of the things we enumerated was being able to contact someone by telephone. If you have someone who speaks Chinese, the teacher who has the primary responsibility for that student, I am sure, would be willing to step forward and work with that parent.

ACTING CHAIR BEERS:

I will close the hearing on A.B. 184 and open the hearing on A.B. 279.

ASSEMBLY BILL 279 (2nd Reprint): Revises provisions governing education.
(BDR 34-864)

ASSEMBLYWOMAN CHRIS GIUNCHIGLIANI (Assembly District No. 9):

Assembly Bill 279, as you can tell, was severely amended. It started out as a technical education bill. We are changing all the names as well as the old Occupational Educational Board's title and so forth. We made the decision to blend that into an Assembly Committee on Education bill that Assemblywoman Bonnie Parnell and Assemblyman Brooks Holcomb worked on. Key pieces remain in A.B. 279. Section 25 looks at the School Board and the Board of Regents working to develop a mechanism to approve access for dual credit courses. The Board of Regents may authorize a high school teacher to teach an approved career and technical course for academic credit at a high school site in the state. This language was recommended by the University and Community College System of Nevada.

Section 26 deals with clearing up and correcting the current law for community service credits students can earn as an elective. The districts are allowing this in some form, but the hours are not being credited uniformly. None of them match the School Board regulation. This section is clarifying the number of hours students must volunteer in order to count as community service so that all districts are consistent. In addition, it clarifies schools should be including community service volunteer jobs in course catalogs as are other electives.

SENATOR BEERS:

In section 26, you may be hearing from Mr. and Mrs. Davidson who invented *Math Blaster* and *Reading Blaster*.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Yes, I used that in my classroom as a supplemental tool for my special education students.

SENATOR BEERS:

The Davidsons are putting together a profoundly gifted and academically talented program at the University of Nevada, Reno (UNR). An existing law states a student cannot take a dual credit course that satisfies a course required for graduation. They are anticipating they would have students who, at young ages, would be taking advanced mathematics classes at UNR and composition classes that would meet the requirement for graduation.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Current law would not allow for that. Each site, as I recall, has policies on age. They can allow dual credit on a case-by-case basis. If a young person is mature enough and has the academic ability, it is up to the president of that college.

Section 27 allows for an informal process for teachers to evaluate the performance of their school's site administrator. This has been modeled after Washoe County School District's informal process. It is confidential. I have always taught middle school. Teachers' main complaint was that students could fail every class taught in middle school and still be promoted to high school. When guidelines changed, requiring students to pass mathematics and English, the students decided they could fail all their other classes. We had a devaluation of all courses. Section 28 of A.B. 279 states a student must complete the units of credit prescribed by the School Board in order to be promoted to high school.

SENATOR CEGAVSKE:

One of my concerns in middle school is about drop-out numbers. I do not think we realize how many children we lose when they make the decision to go from middle school to high school. Would you be willing to add to this bill something that would mandate our Department of Education supply the drop-out numbers so we can determine why they are leaving school at the middle school level? The numbers nationally are significant, and they probably are in the State of Nevada as well. We are not addressing this issue.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is up to this Committee. The bill is now in your House. Some students drop out because they do not think they will succeed. That is why I never liked the high number of credits, but preferred to look at the subject. We are still tied to grades, grade levels and report cards. We should at least try to determine if there is a problem and where those children are going. I have no objection to putting something into A.B. 279 as long as you do not add a fiscal note since I have removed the fiscal note.

SENATOR CEGAVSKE:

I am looking at it possibly as a study. We do not do a good job of transitioning students from middle school to high school. That is part of the fear factor for students.

ASSEMBLYWOMAN GIUNCHIGLIANI:

We have not gotten better at transitioning students from middle to high school. There is a bill coming from the Assembly that looks at innovation in school programs. One item is for transition from middle to high school. There are good programs starting in Clark County that will take middle school students and mentor them with high school students. The high school students will show the middle school students how to find their rooms and things of that nature.

ACTING CHAIR BEERS:

I do not see a fiscal impact.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is correct. I have removed the fiscal impact.

DANIEL J. KLAICH (Vice Chancellor of Legal Affairs, System Administration Office, University and Community College System of Nevada):

We have worked throughout the session with Assemblywoman Giunchigliani on this legislation and support the legislation entirely.

KEITH RHEAULT, ED.D. (Superintendent of Public Instruction, Department of Education):

We are supportive of the bill with trepidation. Regarding the section on dual credit, the School Board and the Board of Regents will have a Nevada P-16 Council at our June 10, 2005 meeting. The primary topic is dual credit. The one trepidation had to do with section 28 of A.B. 279. Approximately six years ago, the School Board was required to identify required courses, and they chose English and mathematics. A student had to pass 1.5 semesters of each to be promoted to high school. It started out in the regulations that they must have passed three semesters of English and mathematics with a grade of C or better. Once we implemented it, districts reported there were thousands of students that did not achieve that goal. The districts feared students would drop out if they were not promoted.

The good thing is the School Board has until 2008, once new regulations are adopted, to determine indicators, particularly for the required courses at middle school. Those are English, mathematics, science, social studies, technology or computers, health and physical education. We will be working on that, but I know there will be a large number of disqualified students if we add that they must successfully pass those courses to be promoted.

ACTING CHAIR BEERS:

To avoid that problem, have we just been promoting them to high school?

DR. RHEAULT:

That is what has been happening currently.

ACTING CHAIR BEERS:

I will close the hearing on A.B. 279 and open the hearing on A.B. 397.

ASSEMBLY BILL 397 (1st Reprint): Revises provisions governing diplomas and high school proficiency examination. (BDR 34-131)

ASSEMBLYWOMAN GIUNCHIGLIANI:

Assembly Bill 397 is a redo of trying to address the issue of proficiency examinations. It approaches it in a different manner from last session and the previous session. The bill suggests, in section 1, on page 5, we create an additional diploma called an advanced high school diploma. Additionally, we cleaned up the language and made it an adjusted high school diploma. We recommended the certificate of attendance be called a certificate of credit completion because the students did earn their credits, but simply did not make the standard on the proficiency examination.

Section 2 of A.B. 397 contains parallel language on page 11. Section 4 delineates what an advanced diploma is versus a standard diploma. Additionally, section 4 states to receive an advanced high school diploma, a student must pass the proficiency examinations at the state-mandated level. To receive a standard diploma, a student must pass the proficiency examinations, but with a composite score, and, in addition, meet alternative criteria prescribed by the

School Board. Some states are moving to senior projects, portfolios, writing samples or other things that show they passed all their high school classes but are poor test takers. Students would still be required to take the proficiency examination and pass with a composite score.

Section 4, subsection 4, on page 14, ensures that students are allowed to participate in the graduation ceremony. Section 5 is for the homeschool program. If the parent of homeschooled children wished them to receive a high school diploma from the State of Nevada, they would have to pass the proficiency examinations. They could qualify for the advanced or the standard diploma. Many of these students are taking classes through correspondence courses, sometimes in another state. In that case, they would not receive a diploma. Many parents did not care, but for those parents who choose to do so, the children must meet the same standard as those attending school in Nevada. The homeschool representatives asked for an amendment to change the name to a certificate of proficiency. That amendment is fine with me.

Section 5 clarifies that adult high school graduates can continue to try to pass the proficiency examination and obtain a standard high school diploma. Section 6 contains the amendment. The intent is to allow a student to retake the portion of the mathematics proficiency examination they failed the first time rather than having to retake the entire test. Research indicates a person begins to perform less favorably the more times he or she takes a test. We want the Department of Education to negotiate with the testers to ensure they can segregate the various portions of the mathematics examination into algebra, calculus and so forth. If the student only fails the calculus portion, that would be the only portion he or she would have to retake. There is a bill coming from the Assembly that allows the student to get a new mathematics test, so there should be no fiscal impact.

Finally, A.B. 397 establishes the definition for the composite score in the transitory sections in the back of the bill.

ACTING CHAIR BEERS:

It appears the fiscal note originally was substantially about redesigning the proficiency examination.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is correct. That is because it had entertained both mathematics and reading, but after talking to Dr. Rheault, I learned reading is not the problem, only the mathematics portion of the test had a high-failure rate. Since we are moving another piece of legislation that allows the old examinations to be posted for parents to be able to look at, but they also need a new one, they could negotiate with the test maker at that time. I have distributed a copy of a proposed amendment to A.B. 397 that covers this issue ([Exhibit G](#)).

DR. RHEAULT:

When we submitted the fiscal note, we considered we would have to maintain the old test until the new portions of the test were developed in a separate format. Both would have to be administered at the same time, so there would have been fiscal costs. I have not received a cost from the contractor at this point, but we are hoping the new test could be phased in to keep the cost minimal. I know it can be done, but it adds to the logistical problems of distributing and keeping track of which portions students have passed. We have

had trouble with only one portion of the mathematics test. Other states, Virginia, as an example, give end-of-course tests, but they have gone completely online as of this spring. I am waiting to talk to the contractor this summer. The online test means there is no paper, and it cannot be lost in the mail. It is electronically entered once the student depresses the button and it is scored without paper. That is a long-term approach which allows the test to be taken in sections without causing a problem.

ACTING CHAIR BEERS:

It sounds as though there is a fiscal impact, but we do not know how much it will be.

DR. RHEAULT:

If the amendment states we are to enter negotiations, at that point we would come back to either the IFC or the Legislature. Perhaps it could be phased in under the current contract, as we replace tests or another bill may come through adding a new test so that we could release old ones; there are a number of ways we could proceed without a big fiscal cost.

LUCILLE LUSK (Nevada Concerned Citizens):

We are here in support of A.B. 397. The key element to this bill is defining passage of the high school proficiency examination as a composite score. The utilization of a composite score standard far more accurately reflects what it takes for a person to succeed in life than the way it is currently being done. One needs to work hard and develop a skill and ability in something. One does not necessarily need to be good at everything in order to be a success. A composite score reflects a general, broad-based understanding without saying that if there is something you are not good at, we are going to cut you off so that you cannot be successful at anything that goes beyond a high school education.

The other portion of the bill we particularly support is the ability to retake portions of the examination that one did not pass the first time. It is a valuable principle to learn to try and try again. If we do not succeed at what we seek to do the first time, we try and try again. There is no place that exemplifies that more than at this Legislature. The people who come back session after session eventually, almost always, succeed.

SENATOR TITUS:

Dr. Seuss went to 23 different publishers before he finally got his book accepted with 6 million copies now sold.

SENATOR COFFIN:

I think knowing what is going on within each category of the mathematics test is important. My son is a junior who just passed the mathematics portion of the proficiency examination. He missed passing by a point or two the first time when he was a sophomore. I looked at the four or five categories within the test, and there was a wide range of differences in the grades for each category. I am particularly interested in what he does not know. If I just knew he passed, I would not know in which areas he lacked expertise.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That is an excellent point, and it is something we have looked at for a couple of sessions now. For one thing, it is a teaching tool. When I administered Scantron tests to my students for English, I would break the test down into nouns, verbs,

or sentence fragments, and then I knew when I had to reteach certain areas to certain individuals. I could target my remediation dollars into areas that needed more work. This could help with accountability of remediation dollars.

RAYMOND BACON (Nevada Manufacturers Association):

Some of you were on this Committee last session where we had a bill which talked about moving toward electronic scoring. It would give an item analysis to the standard for every student. Taking this step before we take that step has the risk of starting to lower our standards which are probably not as high as they need to be. We are still finding employers unhappy with the quality of students graduating at this stage. From that standpoint, I have serious concerns. The other thing I will point out is section 4, subsection 4 mandates that students be allowed to participate in their graduation ceremony. As you know, there is a substantial difference in the graduation rates at the two or three school districts that hardline that issue and not allow students to participate in the ceremony unless they meet all the requirements.

Carson City and Douglas County run in the 1.5 to 2 percent range for those not meeting graduation requirements, and Clark County does not meet that level. Those districts that have taken the hard-line stance appear to have a different standard of performance and people seem to step up. We expect our children to learn to walk, and they do. When we set that high level of expectation, people meet that high level of expectation. When we lower the level of expectation, people will meet that too. That particular section is a major step in the wrong direction. If we are going to redo the math test, we should bring it into the electronic age up front. What Assemblywoman Giunchigliani is looking for is not only doable, but feasible, and it can actually help because teachers will be getting the information they need to do effective, immediate remediation and we would get test scores back the next day instead of months later.

SENATOR TITUS:

I was listening to you until you mentioned that ridiculous analogy about expecting children to walk. All children cannot walk; some are in wheelchairs, some do not have legs, all children cannot walk. That does not make them any less qualified, any less able to succeed or any less deserving of the resources and the programs we can provide for them.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Regarding the issue of the graduation ceremony, while I believe strongly in setting high standards for all children, this is within the last two weeks of their primary education. They have passed every class, have earned every credit, maybe even earned awards for other types of things in which they have been successful in their school. They do not get the diploma, but at least they get the opportunity, with their peers, to walk up and receive their certificate of credit completion, if we pass that, or their standard diploma or their advanced diploma. There will be another bill that deals with adding endorsements for career technology and other areas.

You are not lowering the standards by allowing students to walk if they have not passed the proficiency examination. I have had this request from parents, teachers, School Board members and the Parent Teacher Association to allow this section to be in the bill. There are only two counties at this point that do not allow students to walk. It will not change their ability to pass the proficiency examination, because they just found out a week before that they

missed passing the examination by another point again. I would strongly argue that the language in section 4, subsection 4 be maintained.

SENATOR COFFIN:

I do not think it would remove an incentive for a student to try harder. After all, they would not know until the end whether or not they have met every requirement. Sometimes students walk and receive an empty diploma. They cannot lie to their next employer. This is the truthful way to handle it. Universities allow students to walk while they are still taking courses on the assumption they will pass. That would be satisfactory to me.

ANNE LORING (Washoe County School District):

We would like to comment on two portions of A.B. 397. The first is in section 6, the part about being able to retake a part of the mathematics test. Conceptually, we are in agreement, and at the point students can take the test electronically, it should be easy to do. We foresee, until that time, it has the potential for being a logistical nightmare. For perhaps 1,000 students retaking the test the second time, you have to have a version for one student that has to have all five sections of the mathematics test, and then a test for another student that has just the numbers and the geometry and for another student, a third variation. Then you would need spare copies in case of an error.

The second section we would like to address is section 4 that deals with letting a student receive a diploma for some kind of composite score on the proficiency examination. Our Board of Trustees has consistently, over the years, had a legislative position that we believe each student to receive a diploma should pass each section of the proficiency examination. Our take on it is that this is a fairly low-level, minimum-competency examination. Certainly the mathematics portion has been increased in difficulty in recent years, but is still at an algebra/geometry level. Our understanding is, based on the work the Standards Council did, this is a reasonable expectation of students to have mastered as they complete high school. Therefore, our board's position is we cannot support a composite score; passage should be on each individual section.

I might add, our district, and all the districts, are working diligently to ensure students do pass each section of the examination.

CRAIG KADLUB (Clark County School District):

Our concerns are similar to those expressed by Ms. Loring. On page 11 of A.B. 397, where it discusses an advanced high school diploma and a few pages afterward, it defines the criteria to be met to achieve that diploma which actually reflects a lowering of standards of all diplomas. There already is an advanced high school diploma. In order to receive the advanced high school diploma, the student has to do more than meet the required number of credits and pass the proficiency examination. The student must take credits above and beyond that. This new advanced high school diploma is a decreased requirement, and subsequently, pushes down the requirements necessary to receive a standard high school diploma which would now just require the composite score and passage of all required credits. We see that as a lowering of standards.

We agree with the policy of a student participating in the graduation ceremony if they only have the certificate of credit completion. I am speaking from page 14, section 4, subsection 5 of A.B. 397. It discusses alternative criteria

for receipt of a standard diploma. I am not sure what that would be, but immediately think of a portfolio or oral examination. If the district has to administer those, even one-half of the students who qualify for graduation would have a potential cost of approximately \$375,000. In the same section, it references the Nevada homeschool diploma. Since there is currently not one, it would have to be created at the state level. At the district level, we would have to proctor the high school proficiency examination for the homeschool students. We estimate that cost at approximately \$70,000, not knowing how many students would seek that.

In regard to dividing the mathematics test into portions, we agree with Washoe County, at this point, it would be logistically extremely difficult and it would double the hours required of counseling staff to bar code the inventory answer sheets to collect materials. All of this is already time intensive and it is not an area, due to test security, in which we can use parent volunteers or student assistants. At this time, we see this as an unknown but definite impact on labor hours required.

BARBARA DRAGON (Nevada Homeschool Network):

We have 600 families who are members of our statewide group. I am here today to address the section of A.B. 397 dealing with the Nevada homeschool diploma. It makes homeschoolers uncomfortable to have a state homeschool diploma because it is an oxymoron. Homeschooling is, by definition, separate from state standards and regulations, except that we meet NRS 392.070 which requires the School Board to set up regulations to regulate homeschooling. At this time, we have rewritten the regulations and worked with the School Board. In October 2004, approval was granted to allow parents to take full responsibility for the education of their children. The regulations reflect current Nevada law and policies across the country regarding homeschooling.

By having a Nevada homeschool diploma, it infers the state has an actual homeschooling program a parent could use at home. Such a program does not exist. We suggested to Assemblywoman Giunchigliani, in lieu of a Nevada homeschool diploma, the document be called a certificate of high school proficiency. We suggested that with hesitancy because we are not committed to this idea. The reason we would like to see "homeschool child" struck and replaced with "a child who passes the high school proficiency examination may receive from the State Board of Education a certificate of high school proficiency," is because there could be, at some time, a high school that is not accredited or a private school that is not state approved, and those students may wish to take the proficiency examination.

There was a comment made by Mr. Kadlub that now districts would have to test all the homeschoolers. By our understanding of this bill, there is no requirement. It states, "if a child desires." Something we stressed to the Assembly Committee on Education was that the homeschool certificate be completely optional or else not be put into law. Currently, homeschool students are required to take the Nevada high school proficiency examination in order to apply for the Millennium Scholarship. Additionally, homeschool students can take the examination in any district. I live in Douglas County, and my son took the examination in Washoe County because he planned to attend UNR.

I do not believe most homeschooling families want a state diploma, but if it is something the Legislature would like to offer, we would like to be part of the process to determine how it is worded and the requirements to obtain it.

RANDI THOMPSON (Nevada Gifted and Talented):

I am in opposition to A.B. 397, primarily for the reasons already stated. These degrees actually lower the standards, and at a time when we are trying to raise our standards, this bill would reward the students who are not meeting the basic requirements. Future employers will not know exactly what education these students have had. If we have five different degrees and certificates offered by the counties, employees will not know what standards these graduates have met in order to look at them as potential employees.

ACTING CHAIR BEERS:

I will close the hearing on A.B. 397 and open the hearing on A.B. 530.

ASSEMBLY BILL 530 (3rd Reprint): Makes various changes regarding ethics in government. (BDR 23-325)

DAN MUSGROVE (Clark County):

This is a Clark County bill. However, the fiscal note was added by the Assembly late in a work session in the Assembly Committee on Elections, Procedures, Ethics and Constitutional Amendments ([Exhibit H](#)). The fiscal note relates to section 1, the requirement for ethics training for all public officials. I know there are people in the audience who may want to suggest an amendment. Ms. Stacy Jennings is here and can respond to the fiscal note as to section 1 in which she could put in place to allow the ethics training to take place. This was not part of our original bill. However, this did put the fiscal note on it, and I assume that is why it is in front of this Committee. I am hoping, at some point, we can get it into the Senate Committee on Legislative Operations and Elections so that we can talk about the policy of the bill.

STACY M. JENNINGS (Executive Director, Commission on Ethics):

The appropriation in the bill was based on the fiscal note I prepared on April 26, 2005. The fiscal note has two components to cover the increased training. One would be an increase in travel funds for training from our existing \$3,000 in the budget, adding another \$3,000 to provide additional one-on-one training sessions. To accommodate people who would be required to take the training but could not make it to one of those sessions, we propose developing an online Web-based training program. The cost of that in the first year of the biennium is \$7,900 for development, and ongoing potential modifications would be \$1,975 a year. The program would be based on a module system the Department of Information Technology (DoIT) has already set up. The DoIT would take the information out of an existing training program and replace it with ethics information. It would also allow us to track who is taking the course. It is my understanding it would not be a violation of law if someone did not take the ethics training course. However, if a complaint were filed against someone who had not taken the course, that could be taken into consideration.

The \$10,900 in the first year would be \$3,000 in travel costs, \$7,900 in information technology costs, and in the second year, \$3,000 in travel costs and \$1,975 in technology costs. It would be estimated that the second year of funding would continue into the future.

ACTING CHAIR BEERS:

The travel costs should decrease as more people use the online course. Is that correct?

MS. JENNINGS:

It could decrease. However, the intent is to still train as many people as possible in the one-on-one, in-person training, because with the online training, there is not as much opportunity to ask questions or enter into dialog that is roughly one-third of every training presentation.

SENATOR TITUS:

This bill would be a good vehicle for amending in the double-dipping provision.

SENATOR CEGAVSKE:

Who asked for the amendment?

MR. MUSGROVE:

The amendment was added by Assemblyman Marcus Conklin.

SENATOR CEGAVSKE:

Who is supposed to prepare the course for the elected officials to take?

MR. MUSGROVE:

As chapter 281 of NRS, cited in section 1 of the bill states, "... attend a course on ethics in government that is taught or approved by the Commission," Commission being the Commission on Ethics. I assume the course would be anything the Commission on Ethics deemed appropriate.

SENATOR COFFIN:

Is Clark County in favor of A.B. 530?

MR. MUSGROVE:

Our county commission has not taken a position on the ethics training portion of the bill. We are in favor of the bill. There were other changes to the bill we feel made the bill stronger. In consultations with the Assembly, there are two additions we wish to make in clarifying what they amended. With those changes, A.B. 530 would be a bill Clark County could support. We have internally already set up ethics training for Clark County officials and did not think it appropriate to speak for the entire state. That is a policy decision for this Legislature.

SENATOR COFFIN:

When did the Clark County Commission begin ethics training?

MR. MUSGROVE:

In May 2003, the Board of County Commissioners convened an ethics task force. The task force submitted recommendations on November 18, 2003, to the Board of County Commissioners. As a part of that, they suggested a cooling off period that would not permit county officials to return and lobby the county when they leave office. Additionally, they suggested that all employees be given ethics training. That has begun. In-house ethics training is given to all Clark County employees and elected officials.

SENATOR COFFIN:

I wanted to hear that you are in favor of the bill as is, and if you could make it stronger, I would support that. I believe if you made changes to the bill at this point, it will be in trouble.

MR. MUSGROVE:

That is why I have been working with the Assembly, especially the Assembly Committee on Elections, Procedures, Ethics and Constitutional Amendments. We actually only had one minor change in terms of abstentions when voting. The voter would be required to put on the record the reason for abstention. Too often, the official says there is a relationship, and he or she is going to abstain, versus defining and giving some narrative reason as to why he or she has abstained. I have not received resistance from the Assembly and I hope to bring the amendment before this body to get the Senate's concurrence as well. That is the only suggested change we are making to the third reprint of A.B. 530.

SENATOR COFFIN:

Is the reason for your amendment because some people do not want an abstention to be construed as a no vote?

MR. MUSGROVE:

That could be part of it. There was a great deal of discussion with our ethics panel as to the ability to control votes through abstentions by hiring this person's law firm and having this person's relative work for them. We want to give the voters the knowledge as to why individuals abstain. We have citizen legislatures and we have part-time city commissioners who have to have jobs to make a living. They do, in fact, have real reasons to abstain. County government takes action on individual parcels or zoning items versus this Legislature who looks at broad policy. We wanted to put the burden on the person who plans to abstain to make public the reason for the abstention.

SENATOR COFFIN:

I thought a person had to disclose that. Early in the process, if a person is planning to abstain, he or she must exclude himself or herself from discussion of the issue.

MS. JENNINGS:

Nevada Revised Statutes 281.501, subsection 4, requires a person to disclose when he or she has a conflict, but subsection 2 says even when you are going to abstain, you are still allowed to otherwise participate. This has been the subject of interpretation by a Commission opinion about the difference between participating versus advocating, and still being able to provide input into the process even when you disclose and abstain which you have to do under statute. Your obligation as a public officer is at the point you know you have a conflict to make that disclosure.

The concept of ethics training is not new. This Legislature put it into statute in 1999 that the Commission provide ethics training upon request of public officers or public employees. It is in my job description to provide that training. The curriculum is developed. It would just be for the purposes of online training to put that into a written format versus the PowerPoint presentations and speaker notes I have it in now. I currently perform approximately 25 ethics training sessions a year.

NANCY J. HOWARD (Nevada League of Cities):

We are not opposed to A.B. 530. I am here to address section 1 of the bill. The Nevada League of Cities, in conjunction with Nevada Association of Counties and Nevada School Boards Association, has had a certified program through UNR for approximately ten years, designed specifically for newly elected and appointed officials. The course addresses ethics training provided by the Commission on Ethics. We have graduated about 120 newly-elected officials through that program. There is currently a program in place, comprised of eight different modules in government training, different aspects that might impact a newly-elected official. The ethics portion can be pulled out and taken separately.

I have been working on this bill with Mr. Musgrove and addressed some of our concerns in the Assembly. We would like to remove the local impact. As it is currently, local governments are assessed 65 percent of the cost. That is addressed in Ms. Jennings' fiscal note. If we can continue to provide the training as we are currently, we do not feel section 1 of the bill is necessary.

ACTING CHAIR BEERS:

I will close the hearing on A.B. 530 and open the hearing on A.B. 533.

ASSEMBLY BILL 533 (1st Reprint): Extends date for reversion of appropriation made by 2003 Legislature for state radio systems. (BDR S-1037)

ROBERT CHISEL (Assistant Director for Administration, Department of Transportation):

The Department of Transportation is requesting the funding for the Department of Public Safety radio transition project be extended from June 30, 2005, to June 30, 2007. I distributed a handout titled State of Nevada DPS Radio Transition – Summary Expenditures As of May 23, 2005 ([Exhibit I](#)). As previously reported, the unauthorized frequencies have been vacated in both the northern and southern areas of Nevada, and the State of Nevada is now in compliance with the Federal Communications Commission regulations statewide. Overall, the project is on schedule with the exception of the mountaintop repeaters being developed by DoIT and the user equipment installations in rural areas. The installation of the user equipment is pending completion of the mountaintop repeaters which will hopefully be completed this summer. Due to difficulties in obtaining the permits for construction of the sites, the sites were unable to be completed last summer, creating the need for the extension of the appropriation.

SENATOR RHOADS:

Is there a fiscal note on A.B. 533?

MR. CHISEL:

Overall, the cost of the project is not increasing; however, I would note the cost of the mountaintop repeaters has increased from the original estimate. We were able to negotiate a fairly good discount from the radio vendor that is being offset by the increased cost of the mountaintop sites.

SENATOR MATHEWS:

By how much has it increased?

MR. CHISEL:

The overall cost of the project is not increasing. The original estimated cost for the 11 mountaintop sites was approximately \$2.6 million. We are currently looking at close to \$3.6 million. Also, of the 11 original sites, 3 have had to be altered or abandoned, and we are looking at plan B for those sites. They range from having problems with the wilderness area to the increased cost for what we were getting. We are going to try to build a future comparable site along our right-of-way instead of building something on the mountaintop.

ACTING CHAIR BEERS:

How does a helicopter hang on to a mountaintop in dropping equipment? Would running the power affect the wilderness nature?

MR. CHISEL:

Yes. Wilderness advocates do not like radio tower operators being there. The road to the site is intrusive. To be honest, the difficulty in obtaining a permit, if we ever obtained it, would be years in the making. We are attempting to identify sites other than on the mountaintops.

ACTING CHAIR BEERS:

There is no fiscal impact other than losing the reversion we may have been planning to receive on June 30, 2005. Is that correct?

MR. CHISEL:

That is correct.

ACTING CHAIR BEERS:

We will recess at 11:37 a.m. pending adjournment of the Assembly.

The meeting is called back to order at 12:18 p.m. There being no further business to come before the Committee, the meeting is adjourned at 12:18 p.m.

RESPECTFULLY SUBMITTED:

Jo Greenslate,
Committee Secretary

APPROVED BY:

Senator Bob Beers, Acting Chair

DATE: _____