

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

**Seventy-third Session
March 28, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:41 p.m. on Monday, March 28, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

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

GUEST LEGISLATORS PRESENT:

Senator Mike McGinness, Central Nevada Senatorial District
Senator Michael A. Schneider, Clark County Senatorial District No. 11

STAFF MEMBERS PRESENT:

Leslie K. Hamner, Committee Counsel
Marshellah D. Lyons, Committee Policy Analyst
Patricia Vardakis, Committee Secretary

OTHERS PRESENT:

Carrie Henderson, Legislative Intern
Daniel J. Klaich, Chief Counsel, System Administration Office, University and
Community College System of Nevada
Richard Morgan, Dean, William S. Boyd School of Law, University of Nevada,
Las Vegas

Daniel L. Papez, Chief Judge, Department 2, Seventh Judicial District
Steven Dobrescu, Judge, Department 1, Seventh Judicial District
Karen Baggett, Deputy Director, Administration, Office of Court Administrator,
Nevada Supreme Court
Ray Rodriguez, Nevada Legal Services
Wayne Pressel, Nevada Legal Services
Ken Richardson, Executive Director, Nevada Donor Network, Incorporated
Trudy A. Larson, Assistant Chancellor, System Administration Office, University
and Community College System of Nevada
Bradford Lee, M.D., J.D., M.B.A., State Health Officer, Health Division,
Department of Human Resources
Mitchell Forman, D.O., Dean, Touro University-Nevada
Weldon (Don) Havins, M.D., J.D., Chief Executive Officer and Special Counsel,
Clark County Medical Society
Kevin Carter
Alexander Haartz, M.P.H., Administrator, Administration, Health Division,
Department of Human Resources
Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education
Monica Lounsbury, Ph.D., Department of Sports Education Leadership,
University of Nevada, Las Vegas
Susan Meacham, Registered Dietician, Nevada Dietetic Association; American
Dietetic Association
Nicole Bungum, Clark County Health District
Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County District
Health Department
Buffy G. Martin, American Cancer Society
Deborah Klein, Registered Dietician, American Dietetic Association

CHAIR WASHINGTON:

The Chair will entertain one motion for the introduction of the following bill draft requests (BDRs).

BILL DRAFT REQUEST 34-1307: Requires State Board for Occupational Education to prescribe program of career and technical education. (Later introduced as [Senate Bill 406.](#))

BILL DRAFT REQUEST 38-1322: Makes various changes concerning mental health. (Later introduced as [Senate Bill 405.](#))

BILL DRAFT REQUEST R-1396: Urges congress to preserve Community Services Block Grant program as independent federal program. (Later introduced as [Senate Joint Resolution 13](#).)

BILL DRAFT REQUEST 38-1395: Makes various changes concerning provision of certain transportation services to recipients of Medicaid. (Later introduced as [Senate Bill 401](#).)

BILL DRAFT REQUEST 38-1306: Makes various changes concerning protection of children from abuse and neglect. (Later introduced as [Senate Bill 402](#).)

BILL DRAFT REQUEST 34-415: Requires board of trustees of school district to report certain disciplinary information regarding teachers and school administrators to Department of Education. (Later introduced as [Senate Bill 403](#).)

BILL DRAFT REQUEST 34-1365: Creates Commission on Educational Excellence. (Later introduced as [Senate Bill 404](#).)

SENATOR CEGAVSKE MOVED TO INTRODUCE BDR 34-1307, BDR 38-1322, BDR R-1396, BDR 38-1395, BDR 38-1306, BDR 34-415 AND BDR 34-1365.

SENATOR WIENER SECONDED THE MOTION.

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

CHAIR WASHINGTON:

I will open the hearing on [Senate Bill \(S.B.\) 57](#).

SENATE BILL 57: Authorizes creation of Rural Nevada Legal Services Corps within William S. Boyd School of Law. (BDR 34-184)

SENATOR MIKE MCGINNESS (Central Nevada Senatorial District):

During the interim, I chaired a subcommittee to study the criminal justice system in rural Nevada and transitional housing for released offenders. We had an advisory group of judges from the Seventh Judicial District Court. One of the

recommendations from the subcommittee was to improve the availability of legal services. Our recommendation was to establish a program of tuition reimbursement for law students at the William S. Boyd School of Law who agreed to provide legal services in legally underserved areas of the State. The subcommittee agreed to send a letter to the Dean of the Boyd School of Law urging him to continue to expand the externship program in rural communities. I urge your consideration of S.B. 57.

SENATOR MATHEWS:

How do you enforce the externship in rural communities?

SENATOR MCGINNESS:

They are not enforced, but are enticed by financial means.

CHAIR WASHINGTON:

We will hear further testimony on S.B. 57 after we hear Senator Schneider's testimony on S.B. 232.

SENATE BILL 232: Revises provisions governing issuance of diploma of graduation from University and Community College System of Nevada. (BDR 34-91)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):
My intern will introduce S.B. 232.

CARRIE HENDERSON (Legislative Intern):

Senate Bill 232 seeks to ensure that the graduation requirements for degree programs are not changed for students in the middle of their academic career. While this requirement is currently part of University and Community College System of Nevada (UCCSN) policy, qualifying it in state law would allow students another avenue to air their grievances should the policy not be followed. This consistency is essential to the successful academic careers of students.

SENATOR SCHNEIDER:

Senate Bill 232 originated because of problems some students were having at the University of Nevada, Las Vegas (UNLV). The junior students entered into the university under one catalog and planned their career based on that catalog. The department changed the catalog. Now, they are upperclass students and

cannot get the classes they need. Some students have had to wait for a year until these classes were available. These are older students who work full time and attend college full time as well. Several students have approached me with this problem and I have referred them to Steve Sisolak on the Board of Regents. Mr. Sisolak has tried to assist them to get the professors and department heads to allow them to stay under the same catalog. Mr. Sisolak has not been able to resolve this problem. Mr. Sisolak was unable to testify today but supports S.B. 232.

SENATOR MATHEWS:

I understood it was a requirement of the UCCSN that a student could graduate under the catalog by which they entered.

MS. HENDERSON:

It is part of the requirements, but it is not being enforced.

SENATOR MATHEWS:

There are people attending this hearing that could address this issue.

SENATOR SCHNEIDER:

The reason we have brought S.B. 232 to this Committee is because it is not being enforced.

SENATOR WIENER:

At what point in a student's academic career does the student make a selection as to which curriculum to follow?

DANIEL J. KLAICH (Chief Counsel, System Administration Office, University and Community College System of Nevada):

When a student applies for graduation, they must submit a specific application. At that time, the student must choose the first catalog, last catalog or the catalog upon transferring. The Board of Regents' policy provides when a student changes majors their first catalog becomes the catalog in effect when the student changed majors. For example, if the student was an accounting major and changes to rocket science, the student must pick the catalog in effect when the major was changed.

I spoke to Senator Schneider prior to this meeting, and I am concerned about this issue. The last thing UCCSN wishes to see is students who are progressing

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towards graduation being impeded by bureaucratic nonsense. The incidents that have been relayed to me are in direct violation of the Board of Regents' policy. I need to investigate as to who was involved and make sure this does not continue. It is the Committee's discretion as to whether there is a necessity for S.B. 232, but that will not change my follow-up on this matter.

SENATOR WIENER:

Who has the authority to interfere with a student's academic progression?

SENATOR SCHNEIDER:

It appears department heads and professors have taken upon themselves to make these changes. Regent Sisolak has intervened for some students, but the agreement that was made was not fulfilled. As a regent, he was not able to enforce UCCSN regulations. It is for that reason I have proposed S.B. 232.

MR. KLAICH:

I would like to hear more about the cases that have moved Senator Schneider to address the issue for these students. The UCCSN understands that advising students as they progress from entering the system until they graduate is a significant issue. There is no one from UCCSN who would state that the system is doing a good job of advising students. We do not have professional advisors. Advising students is a faculty duty and the type of decisions that Senator Schneider is referring to does occur throughout the system. This has been the rule since 1968. We cannot allow ad hoc decisions to impede students' progress. I commit to this Committee that I will investigate and find the breakdown in the system. I will report back to Senator Schneider and this Committee.

SENATOR WIENER:

Would you give the Committee an update on whether students who transfer from community college to the university are having an easier transition concerning their course credits?

MR. KLAICH:

I will provide the committee with a report. We were tasked by the Legislature to develop new-and common-course numbering that was cost-neutral. We have accomplished everything without a price tag.

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CHAIR WASHINGTON:

We will hold S.B. 232 until Mr. Klaich reports to the Committee. We will close the hearing on S.B. 232.

We will now hear further testimony on S.B. 57.

RICHARD MORGAN (Dean, William S. Boyd School of Law, University of Nevada, Las Vegas):

We support S.B. 57. It is a good concept to provide incentives for law graduates to go into rural areas. Law students are graduating with a considerable amount of debt. At the University of Nevada, Las Vegas (UNLV), the median debt for a student graduating law school is approximately \$50,000. At other law schools, the amount may be \$80,000 to \$100,000. There is an incentive on the part of these students to take high-paying jobs. Jobs in rural areas tend to be lower paying than jobs in urban areas. Senate Bill 57 would provide a financial incentive to law students to go to rural areas by providing some relief from their debt. In return, they would provide legal services for rural communities.

I have provided amendments ([Exhibit C](#)) to make the bill more expansive. The same concept of heavy indebtedness drawing law students to high-paying jobs also affects public-interest law firms such as the Nevada Legal Services that provide essential legal services to the poor because they pay modest salaries. One of our suggestions is that S.B. 57 not only provide loan forgiveness for lawyers who are willing to go to the rural areas, but also to those who are willing to work in public-interest law firms. Another suggestion is to change the titles and nomenclature of S.B. 57 to make it clear that this is a bill that applies to rural-and public-interest law offices. We suggest amending the bill to make it clear that the debt to be relieved is educational debt. In addition, we suggest placing a 20-percent limitation on the loan forgiveness and a 5-year requirement in the rural area or public-interest law office. Also, there is a suggestion to add a state appropriation to fund this program.

The American Bar Association (ABA) has a model bill concerning loan forgiveness for law students. We favor S.B. 57 with the amendments proposed or would consider the ABA-model bill.

SENATOR NOLAN:

What is the definition of legally underserved?

DEAN MORGAN:

There is no definition. The rural- and public-interest core would develop the definition. It would involve the size of the area and the need for legal services versus the number of attorneys who are in the area. The bill purposely does not define that term. It is left up to the core within the law school to make that definition. The bill also requires reporting to the Legislature on the work of the core. We would develop a methodology and reach conclusions on the areas that are legally underserved. We would report the conclusions and the methodology to the Legislature in a subsequent report.

SENATOR NOLAN:

Will public prosecutors as well as public defenders be considered in this program?

DEAN MORGAN:

Yes. We would try to recruit and encourage lawyers of all types to go to the rural areas. Presently, there are attorneys from Reno who commute to public law offices in rural counties. There have also been accounts in the newspapers where rural counties have been unable to fill district-attorney or public-defender positions. We would encourage not only a large number, but a variety of lawyers to go to the rural areas.

SENATOR WIENER:

What level of participation was anticipated by the \$250,000 appropriation?

DEAN MORGAN:

The figure was arbitrarily chosen. We do not know what the response will be to this program. We do know how many participants \$250,000 will cover. If our recruitment efforts yield a small number of students, then the amount remaining in the fund would carry over into subsequent years. We have examined the medical-school program in the rural areas that has received funding from the State, and we will try to learn from that program as we go forward.

SENATOR HORSFORD:

Would the \$250,000 replace educational expenditures? Is it a forgiveness program? What procedure does the medical school program use?

DEAN MORGAN:

We are in conversation with the medical school to discover how they conduct their program. The \$250,000, plus monies raised privately, from federal grants or other sources would go toward educational debt of eligible participants.

CHAIR WASHINGTON:

Senator Mathews and I are familiar with the Western Interstate Commission for Higher Education (WICHE) program. They use part of their appropriations for the debt of those students who participate in program. The Senate Committee on Finance and the Assembly Committee on Ways and Means would model the appropriation in S.B. 57 after the medical and WICHE programs.

DEAN MORGAN:

We aspired to have a funded program. There are a number of states that adopted educational-loan-forgiveness programs for lawyers. Several are not effective programs because they are not funded. We would like to have seed funds to start the program to provide incentives and we will try to gather funds from other sources. Most of the programs at the Boyd School of Law are public-private partnerships with the State providing part of the funding.

CHAIR WASHINGTON:

The only concern with your amendments is the amount of the appropriation. I would not want the bill to be bogged down because of the appropriation.

DEAN MORGAN:

The amendments have been proposed for consideration. The Boyd School of Law supports S.B. 57 without the amendments, but the bill would be enhanced by the suggested amendments. If the funding will be a problem, then it could be eliminated and addressed in another way.

SENATOR NOLAN:

As a member of the Senate Committee on Judiciary, I have heard of the hardships in obtaining legal counsel in the rural counties. There is data available substantiating this fact. This information might help with the justification of the appropriation aspect of the bill.

DEAN MORGAN:

We will need justification for financing the appropriation and will start collecting that data.

DANIEL L. PAPEZ (Chief Judge, Department 2, Seventh Judicial District):

One of the areas identified as being deficient in the rural communities is the lack of attorneys. It is lacking in the public interest and in private practice. I am in support of S.B. 57. I have had several discussions about how a program can be designed to meet this problem. There have been many child-protection cases recently because of drug use by parents. The child is removed from the household for abuse or neglect by a social worker from the Division of Child and Family Services (DCFS). A hearing is required within 72 hours of the removal. At the first hearing, the law requires the court to advise parents of their rights, including their right to counsel and participation in the proceedings. The DCFS social worker is represented at the initial hearing and throughout the proceedings by the district attorney or a deputy from the office of the district attorney. The parents may have interests that are adverse to each other which require separate attorneys. The court appoints a deputy from the Office of the State Public Defender to represent the interests of one of the parents. The court must find counsel for the other parent at taxpayers' expense. The law requires a guardian for the child which is usually an attorney to represent the interest of the child. Most times, there are not sufficient attorneys to fill all the requirements, which forces the court to use attorneys from other communities. It is costly and time-consuming for travel.

The Office of the State Public Defender in our judicial district represents indigent-criminal defendants. There are three deputy public defenders for our judicial district which encompasses 23,000 square miles. There is a great turnover and difficulty in filling these positions. One such vacancy occurred and was ultimately filled by an attorney from Wisconsin who was not licensed in the State of Nevada. Under the Nevada Supreme Court Rule 49, the attorney is able to get permission by order of the Nevada Supreme Court to practice under the supervision of a licensed Nevada attorney until he can pass the bar examination. The starting salary for a State Public Defender's position is \$50,000 to \$60,000 a year, which is a good salary for lawyers starting practice, but there is still difficulty filling those positions. I believe S.B. 57 will be helpful in filling the void that exists in rural Nevada.

SENATOR WIENER:

Would you support S.B. 57 as amended with the public-interest language included, but the appropriation removed?

JUDGE PAPEZ:

Yes. I would not like this bill to be hung up by the appropriation request.

STEVEN DOBRESCU (Judge, Department 1, Seventh Judicial District):

The intent of S.B. 57 is not to entice attorneys to the rural areas and then not be able to earn a living. There are people who can afford lawyers but cannot pay additional monies for an attorney to come to the rural areas and take the case. There is plenty of work for private attorneys in the rural communities. I support S.B. 57 because this will allow attorneys to discover the rural communities and the quality of life that can be attained; they can make a good living and provide service to the community. I agree that the bill should proceed without an appropriation.

KAREN BAGGETT (Deputy Director, Administration, Office of Court Administrator, Nevada Supreme Court):

The Judicial Council of the State of Nevada and the Commission on Rural Courts which comprises all levels of judges, district attorneys, sheriffs, county clerks, county commissioners and court clerks support S.B. 57.

CHAIR WASHINGTON:

Do you support the amendments?

MS. BAGGETT:

I support the inclusion of public-interest attorneys, and an appropriation to get the program started would be beneficial.

RAY RODRIGUEZ (Nevada Legal Services):

I am the directing attorney of the rural office of Nevada Legal Services. We provide free civil legal assistance to people with low incomes throughout the State. The Carson City office provides legal service to the rural communities of the State. A statistical analysis of the poverty in Nevada has been provided to the Committee ([Exhibit D](#), original is on file at the Reference Library) and ([Exhibit E](#)). There has been a 132-percent growth in the poverty population in Nye County, 32 percent in Lyon County and 24 percent in Churchill County. I speak to both needs. There is a need to provide legal services for people in rural counties through a nonprofit organization or private attorneys who donate their time to do pro bono work. I have been with Nevada Legal Services for 17 years. I have seen positions go unfilled, because attorneys cannot work for a legal-services program with the educational debts they incurred. There are many

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bright and talented people who cannot work for a nonprofit corporation to provide legal services to low-income people. I support S.B. 57.

WAYNE PRESSEL (Nevada Legal Services):

We support the inclusion of language concerning public-interest lawyers in S.B. 57. Loan indebtedness is the number-one reason we cannot recruit effectively in the rural and urban areas of the State. Please include the language in the bill.

CHAIR WASHINGTON:

We will note your request for the record. What is the pleasure of the Committee?

SENATOR WIENER MOVED TO AMEND AND DO PASS S.B. 57 WITH LANGUAGE REGARDING PUBLIC INTEREST AND OTHERS.

SENATOR HORSFORD SECONDED THE MOTION.

CHAIR WASHINGTON:

Senator Wiener, would you accept language such as, "that if appropriate and funds are available they report to the Interim Finance Committee (IFC)"?

SENATOR WIENER:

Does the IFC address appropriations that are already part of the appropriation funding stream?

LESLIE K. HAMNER (Committee Counsel):

It is not the role of the IFC. Language such as, "to the extent money is available," could be added to the bill.

CHAIR WASHINGTON:

Dean Morgan, would you have a problem with that language?

DEAN MORGAN:

No. Use your best efforts to find funding for the program, but do not imperil the bill.

SENATOR WIENER:

I do not have a problem amending S.B. 57 to include, "as funds are available."

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CHAIR WASHINGTON:

Senator Horsford, do you agree with the change in the motion?

SENATOR HORSFORD:

Yes.

CHAIR WASHINGTON:

The motion has been amended to include," funds that become available."

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

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CHAIR WASHINGTON:

We will open the hearing on S.B. 193.

SENATE BILL 193: Requires licensure by Health Division of Department of Human Resources of facilities which procure, perform tests on, store or distribute human tissues or organs for medical or dental education, medical or dental research or advancement of medical or dental science. (BDR 40-51)

KEN RICHARDSON (Executive Director, Nevada Donor Network, Incorporated):

The Nevada Donor Network (NDN) is a not-for-profit Nevada corporation. We are the federally designated organ, tissue and eye bank serving southern Nevada. We are a Medicare provider accredited by the American Association of Tissue Banks, the Eye Association of America and the Association of Organ Procurement Organizations. We are inspected by each of those organizations every three years. We are inspected every four years by the U.S. Department of Health and Human Services. We are subject to unannounced inspections by Medicare and the U.S. Food and Drug Administration. We file annual costs and activity reports with Medicare, and our financial operations are audited every year by an independent firm. We are one of the most heavily regulated areas in health care.

Our ability to help patients in need of transplantation depends on the public's trust in what we do. Organizations involved in the use of human cadavers or tissue for medical education and research are not subject to the same oversight

and regulatory structure, particularly those that are outside of a recognized medical or dental school. Such programs have fallen through the cracks and this is the reason S.B. 193 is so important. The public must be able to trust their decisions to donate organs, tissues and whole bodies for transplantation, medical education and research; otherwise, lives will be lost. It is important to have cadavers available for training physicians, surgeons and other health-care providers. The use of human tissue in medical research is critical for the advancement of health care; however, there must be appropriate oversight.

In 1999, the director of the Willd Body Program at the Osteopathic Medical School in Pomona, California, was arrested for allegedly selling a corpse. He was charged with three counts of embezzlement. He plead guilty to one count of embezzlement making him a de facto convicted felon. This individual moved to Las Vegas in September 2003 and set up a business called Donor Referral Services in order to obtain whole body and human tissue donations for medical education and research. The person listed as his medical director had previously had his medical license revoked. In November 2003, the company was in the news when they shipped human limbs to St. Louis, Missouri, for a medical-training program. The shipping containers leaked and were opened by FedEx Corporation employees. When the contents of the containers were known, the police were called and an investigation ensued. It was concluded that no laws had been broken in either state.

I notified the U.S. Food and Drug Administration believing they would have jurisdiction over the operation of this organization. I was told they did not have jurisdiction because it did not involve transplantable tissue. I researched to see if any state laws or regulations governed the operation of this company. The only thing I found was the routine business-licensure requirements. This type of program has a negative impact on the public's trust in all types of human-organ and tissue donation.

Since 1999, there have been numerous stories involving the improper sale of human cadavers or postmortem tissue. Last year, the director of the Willd Body Program at the University of Southern California was charged with improper handling and selling of a corpse.

Stories such as these prompted me to seek support for the development of a regulatory structure in Nevada. The goal is to protect the public trust in the donation process. Senate Bill 193 will place Nevada on the cutting edge in

developing an expanding medical field. It will ensure appropriate oversight of Willard Body Programs that the public can rely upon. I have recently learned the bill needs refinement to avoid unintended fiscal burdens on the University of Nevada School of Medicine and the Health Division of the Department of Human Resources.

SENATOR WIENER:

Would you give the legal status of your organization?

MR. RICHARDSON:

The Nevada Donor Network is a not-for-profit organization.

SENATOR HECK:

Are there similar organizations in effect in other states?

MR. RICHARDSON:

I am aware that the states of New York, Maine and Maryland are working on legislation. I am not sure of the proposed legislation in California.

TRUDY A. LARSON (Assistant Chancellor, System Administration Office, University and Community College System of Nevada):

Senate Bill 193 will affect the University of Nevada School of Medicine. *Nevada Revised Statute* (NRS) 451 addresses donors. This is for transplantation and whole-body donations. The statute creates a committee for anatomical dissection which sits in the School of Medicine and is responsible for acquiring and distributing cadavers for all educational needs. We are growing. There are issues with the capacity of that committee to maintain the program. Currently, it is the only program authorized through the NRS to distribute bodies for educational purposes.

I researched the NRS to see if there were any penalties for those who might attempt to do this process and I found none. There is a need to tighten the regulations so fraudulent behavior can be punished. There is one committee by statute that is permitted to deal with acquisition and distribution of bodies for educational purposes. There would be an undue financial burden to go through licensure. The committee has various representatives and operates through the School of Medicine. They have set up the network for whole-body donation.

CHAIR WASHINGTON:

Would the regulations come from the Health Division?

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

I am here to provide information about S.B. 193 which would require licensure by the Health Division for facilities which procure, perform tests on, store or distribute human tissues or organs for medical or dental education, medical or dental research and the advancement of medical or dental science. My understanding of the intent of this bill is to ensure that there are sufficient controls to prevent the misuse of dead bodies and the parts therein. The bill is expansive and may effect organizations for which it was not intended such as hospitals or medical laboratories. Senate Bill 193 is vague in that it indicates that the Health Division may license out-of-state entities which are procuring parts within Nevada. There is a fiscal note attached to this bill as there is a need to increase the capabilities of the Health Division. The bill could best be addressed by amending existing statutes. The NRS 460 addresses anatomical gifts. These gifts are under the purview of the Bureau of Consumer Protection. Assembly Bill 234 amends NRS 460 to move responsibility for the statute to the Medical School. We support this move. The NRS 451 concerns dead bodies. Amending language in this statute would strengthen the penalties for misuse of body parts.

[Assembly Bill 234](#): Revises various provisions relating to anatomical gifts.
(BDR 40-860)

MITCHELL FORMAN (D.O., Dean, Touro University, Nevada):

I am in favor of S.B. 193. Touro University houses the College of Osteopathic Medicine and Masters Level Physician Assistant Study Program. The medical school admitted its inaugural class of 78 students in August 2004 and 35 physician-assistant students in October 2004. We are opening a College of Health and Human Services that will consist of an occupational therapy program, a masters level nursing program and three educational programs. Our nursing program is the first private-nursing program approved in the State.

As the second medical school, the first osteopathic medical school and the first masters-level, physician-assistant studies program in Nevada, we are in a position to have an impact on the health care of our community. We are approved for 100 medical students in our second year and 125 students in our

third year. The success of our program can be measured by the number of physicians who remain in Nevada for their postgraduate training and ultimately practice medicine in Nevada.

Touro University's Medical, Physician Assistant, and Occupational Therapy programs require cadavers to teach our students gross anatomy, neuroscience and the important anatomic relationships necessary to become competent health-care providers. Our anatomy lab is a state-of-the-art facility created to provide our students and collaborative partners in health-care education with the best and safest environment to carry out their missions.

I fully support the intent of S.B. 193. It will be a model for other states. On page 3, line 26 of S.B. 193, I suggest amending the language to define medical schools as osteopathic and allopathic colleges of medicine. The language on page 3, line 33 of S.B. 193 limits one category of medical director of non-transplant anatomic banks to persons with a doctoral degree in clinical anatomy. This degree is available in Europe and in one or two programs in the United States. I suggest changing the language to: "individual with a doctoral degree who serves as the primary clinical anatomist at an accredited doctoral program granting health care-related degrees" or remove the term "clinical" from the definition. Despite these concerns, I believe S.B. 193 is an important step in regulating non-transplant anatomic banks.

CHAIR WASHINGTON:

Please submit all amendments to the Committee for review.

WELDON (DON) HAVINS (M.D., J.D., Chief Executive Officer and Special Counsel, Clark County Medical Society):

The Clark County Medical Society supports S.B. 193. We support the Osteopathic School of Medicine in southern Nevada. We recommend two amendments. On page 3, after line 8, insert the following language: "Medical school means allopathic or osteopathic schools or colleges of medicine." On page 3, line 33, remove the word "clinical." Clinical anatomy is a relatively unknown field.

CHAIR WASHINGTON:

There seems to be a need for the bill. Before the Committee can process the bill, those who have amendments should meet. I would suggest the fiscal note

be minimized to speed the bill's passage. The deadline for Committee passage of bills is April 15.

Senator Wiener will present S.B. 197.

SENATE BILL 197: Provides for establishment of State Program for Fitness and Wellness and Advisory Council on State Program for Fitness and Wellness. (BDR 40-36)

SENATOR WIENER:

I urge your support of S.B. 197, which provides for the establishment of a statewide program and advisory council on fitness and wellness. This statewide program and its advisory council will focus on increasing public knowledge and raising public awareness about physical fitness and wellness. This will involve educating the public about physical fitness, nutrition and the prevention of obesity, chronic diseases and other diseases. The need for this program and council is preeminent.

According to the Centers for Disease Control and Prevention in its publication, "Healthy People 2010," only 15 percent of adults in our country engage in regular physical activity and 40 percent of adults participate in no leisure-time activity.

It is not just adults. In the April 2005 issue in *Child* magazine, Nevada is ranked 48th as the state with the least-fit children. The magazine's research indicates that among children between the age of 5 and 18, only 1 in 15 participated in a softball or baseball league and 1 in 29 played youth soccer. In healthier states, one in eight children played baseball and one in six played soccer.

According to the National Conference on State Legislatures (NCSL), about half of obese children in our country become obese adults. The children of today are likely to be the first generation in American history to live sicker lives and die before their parents.

Last interim, our Legislature took a serious look at the problem of obesity. The Interim Study on the Medical and Societal Costs and Impacts of Obesity included Senator Cegavske, Assemblyman Atkinson, Assemblyman Mabey and me, as chair. Our work helped us learn that a person's life can be significantly

compromised or even shortened by as much as 30 years because of obesity and obesity-related disorders.

The current impact on federal and state budgets is staggering. According to the NCSL, in 2003 obesity cost this country \$75 billion. Taxpayers carried half of that burden through Medicare, which helps older Americans with chronic conditions, many of which are related to obesity.

SENATOR WIENER:

California spent \$7.7 billion on obesity-related conditions; \$3.4 billion of that were Medicare and Medicaid costs.

In an effort to address obesity, it is estimated that Americans spend \$33 billion each year on weight-reduction products and services. More than 40 percent of American women and nearly 30 percent of American men are trying to lose weight at any given time. The average American gains one pound a year. After 20 years there is a substantial weight gain. This equates to only ten unneeded or unburned calories a day.

The work of the Interim Study on Obesity was a start to inspiring a healthier Nevada. We did produce some positive effects. There is a regularly updated Web site in the Health Division that provides information about health and fitness programs and resources in Nevada. A significant impact was made on the Clark County School District's decision to improve its school-nutrition standards for meals and snacks. A series of meetings was held across the State by public-health educators and the Health Division to determine the impact of obesity in our State. The Health Division is willing to create a statewide plan to address obesity.

Legislators and staff are currently participating in the Nevada 100 Challenge. This is an eight-week fitness and wellness program offered by the UNLV. Assemblyman Ocegüera and I have entered the program as a team.

The commitment to fitness and wellness pays dividends. In addition to feeling better and stronger, physical fitness can also improve our cognitive skills. In a recent study of school-aged children in Illinois, researchers determined that physical fitness contributes directly to intellectual development.

Nevada is one of four states that does not have a statewide council to promote physical fitness and wellness among its residents. The passage of S.B. 197 would help us accomplish this mission.

Senate Bill 197 will establish a state fitness and wellness program in the Health Division. The Division will establish the advisory council on the state program for fitness and wellness. The Division, with the advice of the advisory council, and working strategically with the Department of Education, will address 12 specific activities involving improvement of fitness and wellness in our State. The extent of the responsibilities of the Division and its advisory council will be tied to the availability of financial resources.

I do not have a problem with an amendment that is being suggested for S.B. 197. There is a seven-member advisory council with two members addressing chronic-disease prevention. We have two options: either expand the council to nine members or fill one of the slots with a licensed dietician. If the council is expanded, then more funds would be needed. There are resources that might be available for this cause if there is a statutory commitment to the program.

CHAIR WASHINGTON:

Have the schools deviated from teaching health education and physical education?

SENATOR WIENER:

There are state requirements, but they may not be as strict as necessary. If a child is not nutritionally and physically sound, their abilities to learn and progress will be limited. In addressing this need, it should be for children and adults. The strongest antidepressant for senior citizens is physical activity, not medication. The advisory council could bring some direction to the program. The composition of the council is diverse, and they can make the proper changes and statewide commitment.

CHAIR WASHINGTON:

Would this be an informational council?

SENATOR WIENER:

There are several opportunities for involvement. They could establish model programs, take recommendations and implement them, create educational programs and work with the public.

CHAIR WASHINGTON:

My concern is that the advisory council not be punitive, rather it should be for educational purposes.

SENATOR WIENER:

There is nothing punitive in the bill. People would participate at will.

KEVIN CARTER:

I am here to testify in support of S.B. 197. I am in favor of the establishment of a state program for fitness and wellness, with an advisory council. I support this bill because of the unique perspective I have as a Reed High School student and the appreciation I have gained for living a healthy lifestyle since I became involved in interscholastic athletics.

I began wrestling as a freshman. I became aware of the importance of healthy-eating habits as well as keeping myself conditioned through proper physical fitness. Unfortunately, lacking the type of program proposed in S.B. 197, many of my fellow students have not realized the importance of fitness and wellness. I remember in 9th grade physical-education class, students were required to run 1 mile in 13 minutes. Even with such a generous time limit, many students not involved in athletics failed to accomplish this task. These students were not severely obese; they were all body types. However, they did not understand the importance of physical fitness. There are students who go to fast-food restaurants every day for lunch without considering the long-term effects their eating habits will have as they get older.

Teaching our youth the importance of developing healthy choices now will lead to healthier adults with fewer obesity-related problems in the future.

ALEXANDER HAARTZ (M.P.H., Administrator, Administration, Health Division, Department of Human Resources):

The Health Division does not have a problem with S.B. 197. The bill fits in with our mission in terms of overall wellness and chronic-disease prevention. The

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passage of this bill would put a state commitment on the record and should assist us in obtaining federal funding or private, nonprofit funding.

CHAIR WASHINGTON:

Is the bill going after federal funding?

MR. HAARTZ:

It would provide a vehicle to accomplish several mechanisms including awareness, education and fund solicitation. As drafted, the bill creates no fiscal impact.

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

I am here in support of S.B. 197. This is a bigger issue than the Department of Education. It goes from birth through adulthood. I believe the bill is timely. The Department of Education has been working on a statewide school-wellness policy which will soon be presented to the State Board of Education. This policy was started before the federal requirement that every school district have a school-wellness policy adopted by June 30, 2006. It will be timely for us to get input from the advisory council, and the Academics Standards Council has a review of standards scheduled for the schools. In 2006, there will be a review of the physical-education standards and the health standards that were adopted in 2001.

SENATOR MATHEWS:

What is the meaning of, "One provider of health care" on page 2, line 31 of S.B. 197?

SENATOR WIENER:

The language is broad enough to give discretion to the Health Division and the State Health Officer.

SENATOR MATHEWS:

On page 2, line 28 of S.B. 197, does the reference to "his" include "her" as well?

SENATOR WIENER:

In drafting language we use he and his.

SENATOR MATHEWS:

I recommend the amendment include a registered dietician. Why would someone in dance come before a nutritionist?

SENATOR WIENER:

The Nevada Association for Health, Physical Education, Recreation and Dance represents the fitness professionals. Dieticians have requested the bill be amended to include them. The two options would be to expand the membership to a nine-member advisory council or reduce the slot for prevention of chronic diseases to one member. I would be reluctant to increase the committee because of the funding required. I would entertain that the dieticians be represented.

SENATOR MATHEWS:

Where would the dietician position be inserted?

SENATOR WIENER:

The requirement on page 3, lines 1 and 2 would be reduced to one representative of organizations committed to the prevention of chronic diseases and add one representative of licensed or registered dieticians. It is one of the two proposals offered by the amendment.

SENATOR CEGAVSKE:

I received a request that S.B. 197 have a representative who advocates physical activity throughout the life span.

Are there any policies in the schools to prohibit the dieting and dehydration of athletes to maintain their weight?

DR. RHEAULT:

There are no education-related regulations that would address that situation. The Nevada Interscholastic Activities Association (NIAA) has regulations regarding wrestling-weight management.

CHAIR WASHINGTON:

I participated in wrestling. There are certain weight classes that a wrestler must maintain. I believe there is a five-pound leeway. If a wrestler is over the weight class, then he would not be able to wrestle in the match. Wrestlers are

cognizant of their weight. It is not uncommon for wrestlers to do whatever is required to maintain their weight.

SENATOR CEGAVSKE:

The practice is very unhealthy. These young people are endangering their health to meet the goals and objectives of their coaches. It is an appalling practice. I am disheartened to hear that the Department of Education does not have a policy.

CHAIR WASHINGTON:

The NIAA does have regulations. Another reason for the strict adherence to weight class is to avoid injury to one's opponent. Another option is that a wrestler could move into the next weight class.

SENATOR MATHEWS:

A dietician would be beneficial on the advisory council to regulate this type of situation.

SENATOR NOLAN:

THE NIAA has adopted regulations because of unregulated dieting. They have adopted preseason testing. They will do a urine and fat analysis then average the amount into their weight. They determine the wrestler's weight class and how much weight fluctuation there should be to maintain that weight class. How long have these regulations been in place?

MR. CARTER:

This is the second year the regulations have been in place. They do a body test at the beginning of season. They check hydration and body fat. A wrestler is not permitted to go under 7-percent body fat unless they have their parents' and a doctor's signature; then, they can go to 5-percent body fat, which is the limit. There is also a weight-loss program which gives nutritional information.

CHAIR WASHINGTON:

It is not uncommon to find weight classes in other sports and age groups.

SENATOR WIENER:

I compete in the Senior Olympics each year and there are weight, age and gender divisions in weight lifting and fitness. Weight class applies to all ages in athletics.

The representative for the advisory council that is noted on lines 32 to 34 on page 2 of S.B. 197 is not age-specific.

MONICA LOUNSBERY (Ph.D., Department of Sports Education Leadership, University of Nevada, Las Vegas):

I am in support of S.B. 197. I am cochair of Action for Healthy Kids and have been a member for ten years of the American Alliance for Health, Physical Education, Recreation and Dance. I have provided a handout for the Committee ([Exhibit F](#)) which highlights the issues pertinent to S.B. 197.

Chronic diseases account for 70 percent of all deaths in Nevada. Chronic diseases account for 60 percent of the total medical-care expenditures. It is estimated that greater than 37 percent of adults in Nevada are overweight. On page 2 of [Exhibit F](#), there is data on racial and ethnicity guidelines. You will see a disparity and a problem that needs to be addressed in terms of prevention. Also depicted is tobacco use in Nevada. All of these issues speak to developing fitness and wellness programs. We need to provide some opportunity during the workday or school day for everyone to learn about and engage in wellness programs and have access to materials that are accurate and appropriate for them in their lifestyle. On page 2 of [Exhibit F](#), there is also data about alcohol use, physical inactivity and nutrition.

On page 3 of [Exhibit F](#), there is data about physical-activity opportunity for Nevada kindergarten through Grade 12 students. There is a pivotal change occurring in childhood during the school-age years. Only high school physical education is mandated by the State of Nevada. The State recommends elementary students be provided with 90 minutes of physical education per week. In Nevada, the physical-education requirements are minimal. The National Association for Sport and Physical Education's position statement recommends that elementary school students have a minimum of 150 minutes of physical activity per week and secondary school students have 225 minutes per week.

Elementary school students are not being afforded enough opportunity to be active. Recess time has been cut in many schools in Clark County. Washoe County School District does not require elementary physical education. There are over 16 schools in Nevada where the students do not have access to physical education. Over 23 percent of schools reported physical education was offered less than twice per week. Not all students in Nevada have access to physical education. Therefore, physical education cannot adequately provide physical activity, cannot teach knowledge skills or shape disposition that will

lead to life-long engagement in physical activity. We need to develop programs that will provide more opportunity for children to be active over the course of the school day.

Most of the physical activity programs emphasize competition or sport. Students who are not interested in sports will not seek those opportunities even if they are available to them in their school. We need to look for other ways to involve those students in school activities. Prevention is vital. The prevalence of chronic disease is severe. Health-care expenditures related to chronic disease are exorbitant. Nevada must do more in the way of prevention by educating people about the benefits of healthy eating, physical activity, strengthening school physical education and physical-activity opportunity. There should be a group to develop a comprehensive, statewide nutrition and physical-activity plan to address chronic diseases and obesity.

SUSAN MEACHAM (Registered Dietician, Nevada Dietetic Association; and American Dietetic Association):

I have provided my written testimony to the Committee in support of S.B. 197 ([Exhibit G](#)). Our goal is to provide height and weight measurements in the Clark County and other schools in Nevada.

CHAIR WASHINGTON:

We have your written testimony for the record.

NICOLE BUNGUM (Clark County Health District):

I have prepared written testimony ([Exhibit H](#)) for the Committee voicing the Clark County Health District's support of S.B. 197.

JENNIFER STOLL-HADAYIA (Public Health Program Manager, Washoe County District Health Department):

I am here to express the Washoe County District Health Department's support for S.B. 197. The Committee has a copy of my testimony ([Exhibit I](#)). I draw your attention to the issue of resources. There is an opportunity in the Legislature to assign resources to chronic-disease prevention in the form of Health Aide to Counties. I would suggest that S.B. 197, combined with Health Aide to Counties, represents a powerful and coordinated response to chronic-disease prevention that would facilitate statewide leadership and local implementation of programs.

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BUFFY G. MARTIN (American Cancer Society):

Today, I am speaking on behalf of the American Cancer Society and the American Heart Association. I want to reiterate the American Cancer Society cannot provide any monies for this advisory council, but we are committed to the assistance of sharing our programs and educational opportunities in the areas of physical fitness and wellness. The American Cancer Society was the creators of the "5 a day." We will commit to bringing together other nonprofit organizations that have resources to aid this council.

DEBORAH KLEIN (Registered Dietician, American Dietetic Association):

I am here representing the American Dietetic Association. I provided the Committee with my written testimony and proposed amendments to S.B. 197 ([Exhibit J](#)). We appreciate your consideration of adding a dietician to this bill.

CHAIR WASHINGTON:

Has the food-guide pyramid changed?

MS. KLEIN:

There is something new which is similar to the food-guide pyramid, but it has not been released.

CHAIR WASHINGTON:

We will close the hearing on S.B. 197.

SENATOR WIENER MOVED TO AMEND AND DO PASS S.B. 197.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

There being no other issues before us today, the Senate Committee on Human Resources and Education will adjourn at 3:52 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____