

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

**Seventy-third Session  
April 15, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:01 p.m. on Friday, April 15, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

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

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Dan K. O'Brien, Manager, State Public Works Board, Department of Administration  
Daniel J. Klaich, Vice Chancellor of Legal Affairs, System Administration Office, University and Community College System of Nevada  
Rose E. McKinney-James, Clark County School District  
David C. Broxterman, Administrative Manager, Facilities Division, Clark County School District  
Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education  
Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Human Resources  
Jeanette Belz, Nevada Psychiatric Association

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Craig Kadlub, Clark County School District  
Raymond Bacon, Nevada Manufacturers Association  
Frank Brusa, Clark County Association of School Administrators and  
Professional-technical Employees  
Alfred Alonso, The Davidson Group  
Michael J. Willden, Director, Department of Human Resources

CHAIR WASHINGTON:

We will begin the work session with Senate Bill (S.B.) 280.

[SENATE BILL 280](#): Provides that person alleged to be mentally ill who is being detained under emergency admission must be detained in mental health facility. (BDR 39-1131)

MARSHEILAH D. LYONS (Committee Policy Analyst):

I have provided the Committee with a work session document ([Exhibit C](#), original is on file at the Research Library). We have received one amendment for S.B. 280 from the Regional Emergency Medical Services Authority (REMSA) which can be found under tab B of [Exhibit C](#).

SENATOR HECK:

We have wrestled with this issue. I support the amendment.

SENATOR WIENER MOVED TO AMEND AND DO PASS S.B. 280 WITH THE AMENDMENT IN [EXHIBIT C](#), TAB B.

SENATOR HECK SECONDED THE MOTION.

SENATOR HECK:

If we delete the phrase, "or hospital" in the bill, does that mean if a hospital develops an inpatient psychiatric facility that we cannot take patients to that hospital?

LESLIE K. HAMNER (Committee Counsel):

The bill requires that a person admitted for an emergency admission, an allegedly mentally ill person, would have to be admitted to a facility that follows the definition of a public or private mental-health facility. If it does not fall into that definition the person would not be able to be helped in that facility.

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SENATOR HECK:

That is my concern with this bill. We are trying to encourage private hospitals to open up psychiatric beds. I understand the intent of trying to get someone to a mental-health facility. Even if they open mental-health beds, this would preclude them from accepting mentally ill patients.

SENATOR CEGAVSKE:

This bill was proposed to help one of the problems discussed and the amendments we wanted did not come through. If the Committee needs to gut the bill and use this amendment, I would agree. The reason for this bill is that there were people brought to a facility and should not have been committed. We could not find an amendment that would take care of our issue. We are looking at other avenues.

SENATOR WIENER:

I will withdraw the motion on S.B. 280.

SENATOR HECK:

I will withdraw the second on S.B. 280.

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SENATOR WIENER MOVED TO AMEND S.B. 280 WITH THE AMENDMENT IN [EXHIBIT C](#), TAB B.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will review the amendments for S.B. 292 under tab C of [Exhibit C](#).

**SENATE BILL 292**: Revises provisions relating to construction or renovation of public school buildings. (BDR 34-818)

MS. HAMNER:

The amendment under tab C would amend section 1 of the bill which authorizes the board of trustees of a school district located in a county whose population is 400,000 or more to establish a building department. If that is done, the board of trustees is required to regulate all building matters and adopt building codes. They would be exempt from the local building codes pursuant to this bill. This amendment would provide that the school district is not required to comply with the local building codes if those building codes are less stringent than the school district building codes. If the school district building codes are more stringent, then they would follow those.

This amendment amends section 2 of the bill to provide some oversight by the county building department of a school district building department so that the county would be required to approve any plans for construction or remodeling of school buildings in those school districts, even if there was a building department. If the building department of the county or city did not have adequate staffing to meet the inspection needs of the school district, then the building department could enter into an agreement with the board of trustees delegating its plan review and inspection duties to the board of trustees. If that happened, the building department of the county or city would still be responsible for overseeing the plan review and inspection services and verifying the qualified personnel for performing those duties.

SENATOR MATHEWS:

I am prepared to support this amendment. The State Fire Marshal Division's budget is going to be left with a \$1.1 million deficit. How will that be addressed?

CHAIR WASHINGTON:

This bill needs to be rereferred to the Senate Committee on Finance.

SENATOR NOLAN:

Are we saying that if the local building codes are less stringent than the school district's building codes, then they would use school building codes? Is that on a section-by-section basis or is that on the codes adopted as a whole?

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MS. HAMNER:

We can clarify that concern in the amendment. The intent was for each element of the building code. Each element would need to be as stringent as the code adopted by the city or county.

CHAIR WASHINGTON:

It would need to be at least the minimum code. There is another amendment submitted by the State Public Works Board.

DAN K. O'BRIEN (Manager, State Public Works Board, Department of Administration):

We provided the amendments clarifying that the school districts needed to comply with the Americans with Disabilities Act requirements and the minimum codes as adopted by the State.

The other amendment was to remove the Public Works Board from the process and have the school districts report to the local building departments of the county or city.

SENATOR MATHEWS:

Will the school districts be following the International Building Code?

MR. O'BRIEN:

Yes.

SENATOR MATHEWS:

Will this leave the "fox watching the henhouse?"

MR. O'BRIEN:

If the population is under 400,000, it goes to the local building departments, so you have a local agency looking over the school district's plans and inspecting their projects.

CHAIR WASHINGTON:

The oversight is by the county.

MR. O'BRIEN:

The amendment proposed by Senator Washington gives the responsibility to the county building department to oversee the construction. If the county does not have the staff, they can enter into an agreement with the board of trustees.

This is the first time the school districts have seen this amendment. They may have comments.

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

The amendment I have submitted drops the "me too." The language is permissive language. If we can convince the Interim Finance Committee that we had the appropriate safeguards and building department, then we could be exempted out at that point.

MR. O'BRIEN:

In concept, I do not have a problem with the amendment proposed by the University and Community College System of Nevada (UCCSN) if they come back with a system-wide program.

CHAIR WASHINGTON:

The language is permissible.

MR. O'BRIEN:

I would suggest that in the section addressing the Interim Finance Committee it shall have the authority to exempt the UCCSN from the jurisdiction of the State Public Works Board. The State Public Works Board oversees the capital-improvement program of the State. The intent was not to have UCCSN exempt from everything. I would suggest that UCCSN be exempt from the building officials' jurisdiction.

CHAIR WASHINGTON:

You may not have a current edition of the amendments.

MR. O'BRIEN:

I would support the amendment stating that the jurisdiction of the State Public Works Board for the work that is not funded through the State's Capital Improvement Program.

CHAIR WASHINGTON:

The language states that if the Interim Finance Committee determines that organization and the capabilities of the system-wide department of the University and Community College Systems of Nevada are adequate, upon request of the Board of Regents of the University and Community College System of Nevada, the board shall delegate the systems to have all the authority granted the boards pursuant to the *Nevada Revised Statute* (NRS) 341.141.

MR. O'BRIEN:

Would the building official's responsibilities be between those two subsections?

CHAIR WASHINGTON:

Yes.

ROSE E. MCKINNEY-JAMES (Clark County School District):

I have not had the opportunity to review the amendment in the work session document.

DAVID C. BROXTERMAN (Administrative Manager, Facilities Division, Clark County School District):

After reading [Exhibit C](#), tab C, I do have some concerns. For over 20 years, we have acted and had a staff as an independent building department within the Clark County School District (CCSD). We send plans to the State Public Works Board for review and comment, not for application, inspection or procedures. We follow the strictest codes. We look at six different entities, and if they have a more stringent requirement, we use those. The requirement to send the plans to the State Public Works Board was removed because it would go through the same process. This would be duplicating funds. The local entities have no interest in becoming involved in school business because there would be many different codes involved.

We use the International Building Codes. When construction starts, we have an inspector onsite and the inspector remains until the fire department makes its final check. We have an interlocal agreement through the State Fire Marshal Division to do those procedures. We intend to keep the same practice. We need the local fire departments.

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SENATOR MATHEWS:  
Is that inspector an employee of the CCSD?

MR. BROXTERMAN:  
The inspector is an employee under the building official. In 1993, we briefed the Legislature on the qualifications and criteria under which we operate because that became a question. The inspector is on the site until the project is completed.

SENATOR MATHEWS:  
I question not having an independent inspector.

MR. BROXTERMAN:  
We have the same procedure as the State Public Works Board. They inspect their own work. The county and municipal governments inspect their own work. We have taken all compliance activities into the building department.

SENATOR MATHEWS:  
I have heard of problems with the State Public Works Board.

SENATOR CEGAVSKE:  
How many staff persons are there in the department?

MR. BROXTERMAN:  
There are 42 persons in the department.

SENATOR CEGAVSKE:  
How long have you had that entity?

MR. BROXTERMAN:  
The department has been in existence since 1985.

SENATOR CEGAVSKE:  
How much has it grown since 1985?

MR. BROXTERMAN:  
It has remained constant.



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SENATOR CEGAVSKE:

Are there any plans to increase the staff in the department?

MR. BROXTERMAN:

No. We are three staff persons under the amount authorized.

SENATOR CEGAVSKE:

Can you hire three more staff persons?

MR. BROXTERMAN:

Yes.

SENATOR CEGAVSKE:

Will you be filling those positions?

MR. BROXTERMAN:

No.

SENATOR CEGAVSKE:

You do the contracts; you get the general contractors; they hire subcontractors and then you do the inspections.

MR. BROXTERMAN:

Yes. The construction-management section manages that operation and there is also a compliance section.

SENATOR CEGAVSKE:

Does your group inspect the subcontractors' work?

MR. BROXTERMAN:

Yes.

SENATOR CEGAVSKE:

Does the State Fire Marshal Division finalize the work?

MR. BROXTERMAN:

The State Fire Marshal Division does not have the capacity to support us. All the fire-suppression systems, sprinklers, the underground risers and the risers are done by the local fire departments and we are not able to compensate them

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as we should. Before the amendments in [Exhibit C](#), tab C, we would be able to compensate the fire departments for the work they are doing for us.

SENATOR CEGAVSKE:  
Who was going to offset the monies?

MR. BROXTERMAN:  
We send approximately \$2 million to the State for which functionally we get nothing. We do not believe the CCSD building funds should be financing a state agency.

MS. JAMES:  
The funds that we are currently paying to the State Fire Marshal Division under the provisions of the amendment that was before you prior to [Exhibit C](#), tab C, would now go to the local jurisdictions to compensate them. Currently, we do not compensate them.

SENATOR CEGAVSKE:  
Are you sending the monies to the State Public Works Board?

MS. JAMES:  
We send the monies to the State Fire Marshal Division.

SENATOR CEGAVSKE:  
The State Fire Marshal Division is getting the monies and they do not inspect the buildings. The local fire departments do the work but are not receiving any monies. There are no monies coming back from the Fire Marshal. Is that correct?

MR. BROXTERMAN:  
Yes.

SENATOR CEGAVSKE:  
I have had a problem with the construction part of the school district because taxpayer monies paid double because the jobs were not completed or there were problems. I know the CCSD has been in litigation about this situation. Is this going to help?

MR. BROXTERMAN:

One of our problems is that we have a timeline for planning, construction and for school opening. When the bill goes for a zone change for the different councils and county commissions, they look at it and by the time all the amendments are made to their conditions of approval we are already under contract. We have no choice but to do a change order to do the off-site work as is required by the public entities.

SENATOR CEGAVSKE:

How many of the staff is licensed?

MR. BROXTERMAN:

Everyone is certified.

SENATOR CEGAVSKE:

Are you opposed to the new amendment?

MR. BROXTERMAN:

The new amendment has conflicting authorities having jurisdiction.

CHAIR WASHINGTON:

The amendment puts the CCSD under the county supervision to oversee your projects. It removes the State Public Works Board from the process. Without the amendment, it allows the CCSD to operate without any oversight.

SENATOR MATHEWS:

The CCSD does not want the county to have any part of the process.

MR. BROXTERMAN:

The county does not want to have anything to do with schools.

SENATOR NOLAN:

Last Session, we approved the language concerning the Fire Marshal because there were dual inspections occurring with the State Fire Marshal Division and local fire departments. The municipalities approached the Legislature with this situation. The reason the Fire Marshal retained the collection of fees was because we were making a dramatic adjustment to their budget in the middle of a Legislative Session by requiring them not to do the inspections. The fees paid

for those inspections went to offset other costs for duties the State Fire Marshal did throughout the State.

CHAIR WASHINGTON:

There has been a conversation with the Office of the Governor; they realize the duplication of the work the State Fire Marshal was doing and indicated that they would be willing to work with the Senate Committee on Finance to make sure the deficit is covered. We have a verbal commitment from the Office of the Governor on this issue.

SENATOR HECK:

I want to understand the sequence of the procedure. The local jurisdiction is involved in the planning process and reviews your plans.

MR. BROXTERMAN:

In the site planning, we must go to the local jurisdiction in accordance with the NRS for approval of zoning for that project.

SENATOR HECK:

The local jurisdiction is already involved.

MR. BROXTERMAN:

This is the time when they give us all the requirements that are conditions of approval.

SENATOR HECK:

Then the facility is built. Previously, you would have paid fees to the State Public Works Board and the Fire Marshal. Neither of these entities came and set foot on the site.

MR. BROXTERMAN:

After the local jurisdiction reviewed the plans, the plans have gone through the local fire departments; the final step is the Deputy State Fire Marshal does a walk-through after the Fire Marshal has signed off on the project.

SENATOR HECK:

The local fire department signs off on the life-safety issues. The health department signs off on the health-related issues. This is the way you have been doing business for the past 20 years.

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MR. BROXTERMAN:

We adhere to the highest standard code in the State.

SENATOR HECK:

The original intent was to cut out the middle man and keep the funds locally.

SENATOR MATHEWS:

Can you tell me about the planning process?

MR. BROXTERMAN:

We go to the town boards, the planning commission and then go to the city council. At that time, many questions are asked and the residents come to the meeting with suggestions. As an approval of our public facility zoning, all conditions of the local government are imposed with which we must comply.

SENATOR MATHEWS:

Are you treated the same as other developers? Do the other developers have their own inspectors and building departments? Do the cities and counties have any oversight over them?

MR. BROXTERMAN:

Any project being done in the city of Las Vegas must meet their building codes.

SENATOR MATHEWS:

Some of my concerns are that every major developer has to have someone outside to inspect their project before the building is finished. There is my problem with the whole process. There is no one from outside the CCSD who does a step-by-step inspection of the construction.

MR. BROXTERMAN:

For a high school, I will have between two and three code inspectors. It is like any city or government that is constructing their own building in the city of Las Vegas; they do their own inspections.

SENATOR MATHEWS:

If there is a large developer building a casino, does the city have any oversight in their construction?

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MR. BROXTERMAN:

The developer would pay the county to have full-time inspectors on-site.

CHAIR WASHINGTON:

We can vote on the bill as a whole or on the amendments separately.

SENATOR HORSFORD MOVED TO ACCEPT THE AMENDMENT  
SUBMITTED BY THE UCCSN ON S.B. 292.

SENATOR MATHEWS SECONDED THE MOTION.  
THE MOTION CARRIED. (SENATOR WIENER VOTED NO.)

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SENATOR HECK MOVED TO ACCEPT THE AMENDMENT SUBMITTED BY  
THE STATE PUBLIC WORKS BOARD ON S.B. 292.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR MATHEWS MOVED NOT TO ACCEPT THE AMENDMENT  
SUBMITTED BY SENATOR WASHINGTON ON S.B. 292.

SENATOR HECK SECONDED THE MOTION.

SENATOR HORSFORD:

This is a difficult decision for me. I trust the leadership of the CCSD. I am a product of the CCSD and attended the schools they have built. I feel they have kept up with the tremendous growth in Clark County. I am concerned that there is no third party overseeing projects. I think this is a serious issue and we have not had enough discussion to allow me to be comfortable voting for a long-term policy decision.

CHAIR WASHINGTON:

I share the same sentiments. We would be asking every other school district in the State to fall under the purview of the county or private operator. We have

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excluded Clark County to be independent. I think there should be some oversight given to the CCSD building department. I will not support the motion because there should not be an exclusionary county, it should apply to all.

SENATOR CEGAVSKE:

All 17 school districts should be permitted to make this decision. In the bill there is a population cap of 400,000.

CHAIR WASHINGTON:

Clark County asked to be excluded.

THE MOTION CARRIED. (SENATORS HORSFORD, WIENER AND WASHINGTON VOTED NO.)

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SENATOR MATHEWS:

Even though I made the motion not to accept the amendment, my intent is to assure the children in the Clark County area are safe and the building process is safe. It only takes one time to have a disaster. I hold the school district responsible for the safety of our children.

SENATOR NOLAN MOVED TO AMEND AND DO PASS S.B. 292 WITH THE TWO PREVIOUSLY ACCEPTED AMENDMENTS.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We need to rescind our previous action on S.B. 274, which was an exempt bill. Then, we need a motion to amend and do pass S.B. 274, with the amendments approved on April 13, 2005 and the amended version of S.B. 292, into one bill to enable the bill to go to the Senate Committee on Finance.

**SENATE BILL 274**: Restricts authority of State Fire Marshal in consolidated municipalities and larger counties. (BDR 42-87)

SENATOR HECK MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.B. 274.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 274 WITH THE AMENDMENTS ACCEPTED ON S.B. 292 AND REREFER TO THE SENATE COMMITTEE ON FINANCE.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will review the proposed amendment to S.B. 305 in [Exhibit C](#), tab D.

**SENATE BILL 305**: Limits number of administrators employed by school districts. (BDR 34-941)

Ms. LYONS:

At our previous meeting, Senator Cegavske had asked for some background information from Dr. Rheault which is included in [Exhibit C](#), tab D.

CHAIR WASHINGTON:

There was some question of uniformity.

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

Senate Bill 305 limits one central administrator for every two schools. The very last column on attachment A provides that ratio. If it is 0.5 or over, then that would mean they have more central administrators than schools. I would caution you about using some of the information because it depends on how a



school defines a central administrator. Carson City is a good example. They show ten central administrators. They have one superintendent, two deputy superintendents and seven central administrators. In the case of a school-wide nurse, in some cases they are shown as the central administrator because they oversee more than one school and in other districts they are at a specific school and do not show up on this list. The real key is to look at how many total administrators there are in a district and seeing if that is reasonable.

I attached the second page of [Exhibit C](#), tab D, to give the Committee an example of the National Center for Educational Statistics that does some survey work. It is not totally the same definitions that are on the first chart. On the second page, the states are in alphabetical order. The first column is the enrollments, and the second column titled, Students: School District Staff, Nevada, there are 296.85 students per school district staff. I do not have the definition for the specific titles they used. What is important is that we were ranked sixth. The lower the number the more students per staff you have than the average state in the country. The average for administrative staff per student in the United States is 167.60. In the reviews I have seen, we do not have a high listing. In the column Students: Principals, you could compare the current 2005 numbers to this number. In 2002, we had 367.09 students per principal or assistant principal. That number has risen on our charts; the state average is 432. Looking at the column Students: All Staff, we rank third which means we have the third-highest number of students per licensed staff in the country. [Senate Bill 305](#) is looking at further trying to reduce that number.

CHAIR WASHINGTON:

Hearing no motion from the Committee, there is no action on [S.B. 305](#).

SENATOR NOLAN:

Since [S.B. 364](#) was introduced, there were some isolated issues with a few constituents. I have been contacted by two other Legislators and others who understood we were looking for something to address the Nevada Interscholastic Athletic Association (NIAA). Not all of the issues that people have are because they are disgruntled parents. Some of the issues had to do with the conduct of the board and the way decisions were made. There was an urging by constituents to keep this bill active and to get more involvement. Due to the lack of time and the complexity of the issue, I request [S.B. 364](#) be withdrawn. There are many people who are dissatisfied with the way the NIAA conducts business and it is something I will be watching closely.

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**SENATE BILL 364**: Creates advisory committee to association for interscholastic athletic activities and events. (BDR 34-746)

CHAIR WASHINGTON:  
Committee, let us review S.B. 420 under tab E of [Exhibit C](#).

**SENATE BILL 420**: Authorizes Drug Use Review Board to hold closed meetings for certain purposes. (BDR 19-172)

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Human Resources):  
We have heard a number of concerns and have developed amendment language that we propose.

CHAIR WASHINGTON:  
Is this in addition to what we have already?

MR. DUARTE:  
Yes. We have written copy of two amendments. We have a concept for a third and the fourth amendment that I need to introduce given information that I have received from the federal government. There are three issues that we tried to address. The first are concerns brought by Larry Matheis of the Nevada State Medical Association about policy issues being discussed in an open setting. We do have a proposed amendment for that concern.

The second suggestion came from Senator Heck concerning information be made available to people being discussed in closed session as long as that does not hamper any kind of investigation or referral to a regulatory board later.

The third proposal was that we develop regulations to assure that in closed session peers were evaluating peers. Still within a closed session, they will make a recommendation to a full Drug-Use Review Board for a final consideration and vote in terms of final action.

The fourth amendment addresses some issues from the federal government. We received two e-mails that we could be in noncompliance and could lose financial participation if the Drug Use Review Board (DUR Board) is precluded from doing these kinds of case-level reviews.

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CHAIR WASHINGTON:

Are you saying that if the bill is not amended and passed, the State stands to lose its Medicaid funding?

MR. DUARTE:

We could stand to be found in noncompliance with the regulations of section 1927 of Title 42 U.S. Code of the Social Security Act and we could potentially have an opportunity to correct it. We do not want to be in conflict with federal law.

I have received another e-mail from Christina Lyons who works for the Division of Pharmacy, Centers for Medicare and Medicaid Service, U.S. Department of Health and Human Services. She drafted the rules for the DUR Board and was concerned that we may be precluded if this bill does not pass. In her statement, "If the Nevada DUR Board is not able to perform case-level reviews, they are out of compliance with the retrospective requirements of section 1927 (g)(2)(B) and 1927 (g)(3)(C) of the act." It continues to talk about the act itself. "This level of review must be done in the DUR Board meeting that is closed to the public in order to protect confidentiality of Medicaid patients and providers." We do not believe at this point that the requested amendments conflict with this, but we do want to add a fourth amendment. If there are any conflicts with federal regulation, these would not stand in the way of us having an effective DUR Board operating in compliance with federal law.

SENATOR MATHEWS:

Who proposed this bill? What was the impetus for S.B. 420?

CHAIR WASHINGTON:

The bill was from the Department of Human Resources. It was referred to the Senate Committee on Government Affairs dealing with the Open Meeting Law. After reviewing the bill, the bill was rereferred to this Committee. We had a hearing on the bill.

SENATOR MATHEWS:

I have some concerns. I am always suspicious of things done behind closed doors.

MR. DUARTE:

That was part of the impetus for bringing this forward. We believed that since it was started in the 1990s, the actions of the DUR Board did not fully comply with federal law. In cases where we would be closing a meeting, it would deal specifically with patient-health information, which is confidential and information about specific practitioners or providers in the community. We do not believe it is appropriate for public release either because it could harm their reputations or could result in a referral to a regulatory body who could take action including prosecution for fraud. We do not want to hamper a potential prosecution.

Ms. Lyons was concerned that if we cannot close the record, then we may be in noncompliance with federal regulation.

SENATOR HECK:

The written amendment in [Exhibit C](#), tab E addresses Mr. Matheis' concerns about policy issues not being discussed in private. From a medical standpoint, these reviews do need to take place. I support the concept of the need for peer review to take place behind closed doors. I understand you are going to address the issue of the peer review in regulation. I would like to have in statute that you will promulgate those regulations.

MR. DUARTE:

We are in agreement. We have language concerning this issue that we can submit:

The Department shall develop regulations requiring that the referral from the Drug Use Review Board of any physician to entities other than Nevada Medicaid for review must be based on the recommendation of a subcommittee of the DUR Board comprised solely of physicians. The referral of any pharmacists to entities other than Nevada Medicaid for review must be based on recommendation of a subcommittee of the DUR Board comprised solely of pharmacists.

SENATOR HECK:

The other concern was about the meeting minutes.

MR. DUARTE:

The other amendment has to do with access to the meeting minutes. There are situations where access should not be provided. We have concept language for situations for the DUR Board, where their sole recommendations would be for the education of the provider:

The purpose of the proposed amendment is to allow any physician or pharmacist who has provided education as a result of a closed DUR Board action to request and receive copies of the minutes of the discussion in closed session related to the topic on which the discussion was provided.

The fourth amendment was, "... not withstanding any other conflicts with federal regulation."

SENATOR MATHEWS:

I have concerns about the language on page 2, starting on line 2 of S.B. 420. I do not agree with that language and it will keep me from voting for the bill.

CHAIR WASHINGTON:

This language pertains to federal regulations and the confidentiality of the physicians.

SENATOR MATHEWS:

A lawyer seeking information should not be denied.

CHAIR WASHINGTON:

There are some medical records that are closed.

SENATOR HECK:

The medical records are always discoverable. This holds back the minutes of the meeting where they may have said that someone did something wrong. Under peer review that is the concept, which is already in statute for nongovernmental agencies.

JEANETTE BELZ (Nevada Psychiatric Association):

I have a request. If the proposed fourth amendment to S.B. 420 is invoked and there is something on the federal level, I request, Mr. Duarte notify each member of the Committee and inform them of what it is.

SENATOR HORSFORD:

Mr. Duarte, you said that the correspondence you have received from the federal government indicates that there should be a review. Does the review need to be in accordance with the peer-review standards that are in this bill?

MR. DUARTE:

The information from the Centers for Medicare and Medicaid Services and the federal Department of Health and Human Services do not deal with the peer-review aspect. We are reading some flexibility into that language to allow us to practice in the manner in which Senator Heck and Ms. Belz are requesting, that we have in closed session peer review and peer action. The federal government is concerned with us opening these records to the public. The information I received from Ms. Lyons is that she was shocked that we had open sessions of the DUR Board. I believe we still would be in compliance if we have the capability to close the sessions to review individual practitioners and individual patients.

SENATOR HORSFORD:

In the Senate Committee on Transportation and Homeland Security, we had the same issue as it related to the homeland security. The language we adopted was more narrowly defined for the materials, for that portion of the meeting, for the purposes that you have explained.

MR. DUARTE:

It is the reason we have proposed amendments to clarify when the meeting can be closed, how it will operate, when it is closed and how it will be reviewed by the public after it is closed. The specific section that Senator Mathews and Senator Horsford have concerns about is section 1, subsection 2 of S.B. 420. The language is broad and it deals with the federal regulations associated with the DUR Board as to what those federal regulations entail. The discussion concerning that language was that it was overly broad and we needed to provide amendments to this bill. We have worked out amendments with the parties concerned and with Senator Heck.

CHAIR WASHINGTON:

The amendments narrow the focus and the scope in closed meetings.

SENATOR HORSFORD:

I do not think the amendment does enough. By adding the new language, it does not authorize the DUR Board to hold closed sessions, it is not sufficient to narrowly define it.

CHAIR WASHINGTON:

Staff has indicated to me that there are three other amendments. One, when it comes to policy, it would be an open meeting and it addresses Senator Heck's concern about information that should be in a closed setting; two, regulations for the peer review; three, the full board should be closed and we must comply with any federal requirements. It does narrow the scope.

The federal government did not say they had to have the meetings in this manner. They were shocked the meetings were public.

MR. DUARTE:

The federal government said that these discussions need to occur in a closed session. They said that we are out of compliance with retrospective drug-use review of the Social Security Act which required the state to conduct ongoing and periodic examinations of claims, data and other records in order to identify patterns of fraud, abuse, gross overuse and other inappropriately medically unnecessary care among physicians, pharmacists and Medicaid recipients. The level of review must be done in a DUR Board meeting that is closed to the public in order to protect the confidentiality of Medicaid patients and providers.

SENATOR HECK:

If we did not do these meetings in closed session, we would be in violation of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Personally identifiable health information would be disclosed to the public. The amendments that have been proposed will allow them to do their job in the least-restrictive and least-secretive manner under federal statute.

SENATOR MATHEWS:

Why do you use the language concerning subpoena on page 2, line 2 of S.B. 420?

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MR. DUARTE:

In the bill, we cite the U.S. Code.

SENATOR HECK MOVED TO AMEND AND DO PASS S.B. 420 WITH THE AMENDMENTS PROPOSED BY THE DIVISION OF HEALTH CARE FINANCING AND POLICY.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

SENATOR MATHEWS:

I may change my vote on the Senate floor.

CHAIR WASHINGTON:

Senate Bill 461 is an extensive education package. We will go through the bill section by section, take a vote on each section and the proposed amendments separately and vote on the bill as a whole.

[SENATE BILL 461](#): Revises provisions regarding education. (BDR 34-1323)

MS. LYONS:

I will read the description of each section of S.B. 461 which the Committee can find on the last five pages of tab F, in [Exhibit C](#).

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO SECTIONS 1, 2 AND 3 OF S.B. 461.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HORSFORD VOTED NO.)

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SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO SECTIONS 4, 14 and 15 OF S.B. 461.



SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS MATHEWS, HORSFORD AND WIENER VOTED NO.)

\* \* \* \* \*

SENATOR MATHEWS:

This language would leave it open for paraprofessionals not to be certified. They would just need to pass a proficiency exam. They could be in the schoolroom without being certified.

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO SECTION 5 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

SENATOR HORSFORD:

What was the intent of this section?

CHAIR WASHINGTON:

The intent is if the monies are removed or reduced from the program the program is eliminated. I may not understand your question.

SENATOR HORSFORD:

The law would state to a school district that if any of the funding for a program is supported by a federal appropriation and the program is reduced or eliminated then the program does not have to be continued.

CHAIR WASHINGTON:

Correct. It is not a mandate. It may continue if other funding is found.

SENATOR HORSFORD:

I think the language is very broad. A reduction in federal funding could cause virtually every program to go away based upon the number of reductions that are coming forth.

SENATOR MATHEWS:

I am a product of a program that was taken away.

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THE MOTION CARRIED. (SENATORS HORSFORD AND WIENER  
VOTED NO.)

\* \* \* \* \*

CHAIR WASHINGTON:

There may be problems with section 6 of S.B. 461. It may cost more to educate a high school student than one in elementary school.

DR. RHEAULT:

Educating a high school student is more expensive mainly due to elective courses. I do not have that information with me but I do know that if the standard amount was given to every school it would harm high schools.

SENATOR HECK:

There should be some flexibility in the funding.

CHAIR WASHINGTON:

Are you seeking to amend this section?

SENATOR HECK MOVED TO DELETE THE AMENDMENT TO SECTION 6  
OF S.B. 461.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR WASHINGTON:

Sections 7 and 35 are already included in S.B. 223.

**SENATE BILL 223**: Revises provisions regarding education. (BDR 34-73)

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO  
SECTIONS 8, 9, 11 AND 13 OF S.B. 461.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENT TO SECTION 10 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MATHEWS VOTED NO.)

\*\*\*\*\*

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO SECTIONS 13 and 38 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

DR. RHEULT:

We do have concern with section 14 of S.B. 461. I am sure the U.S. Department of Education will not allow the use of the high school proficiency exam for certification of a paraprofessional.

CHAIR WASHINGTON:

We will wait to vote on section 14 until Dr. Rheault informs us of the decision from the U.S. Department of Education.

SENATOR NOLAN MOVED TO ACCEPT THE AMENDMENTS TO SECTION 16 OF S.B. 461.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS MATHEWS, HORSFORD, WIENER AND HECK VOTED NO.)

\* \* \* \* \*

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS OF S.B. 461.

SENATOR NOLAN SECONDED THE MOTION.

SENATOR HECK:

What is the difference between sections 16 and 17?

Ms. LYONS:

Both sections accomplish the same purpose, but one deals with the board of trustees and how they will interact with the principals; and the other is specific to the principals.

THE MOTION FAILED. (SENATORS HECK, MATHEWS, HORSFORD AND WIENER VOTED NO.)

\* \* \* \* \*

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO SECTION 18 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS TO SECTIONS 21 THROUGH 30 OF S.B. 461.

SENATOR NOLAN SECONDED THE MOTION.

SENATOR HORSFORD:

The principal initiates some of the discipline process now because they are site administrators. Could someone explain the process that we have now and the proposed changes?

CRAIG KADLUB (Clark County School District):

Currently, decisions of discipline are initiated at the school level, but the difference is, it then goes to the district level. That is the level at which we ensure there is some continuity in the application of statute, the application or interpretation of contract and board policy. In my original testimony, the CCSD was the reason we objected to that section because there are 300 schools in the CCSD and this would open the door for 300 different decisions on terminations, suspensions and other actions that, without the uniform approach that we now have, would open us to many litigations.

CHAIR WASHINGTON:

Is a principal a part of the process?

MR. KADLUB:

Yes.

CHAIR WASHINGTON:

How would the principal initiate the process?

MR. KADLUB:

The process would start with a meeting with an employee. It progresses through documentation. If there is no improvement or corrected behavior, then it could move to suspension or termination. At this point, the legal office gets involved.

CHAIR WASHINGTON:

How long does the process take?

MR. KADLUB:

It depends upon the offense.

CHAIR WASHINGTON:

What is the average?

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MR. KADLUB:

It could be a lengthy process if it were a termination.

CHAIR WASHINGTON:

There could be many students affected by a bad employee.

MR. KADLUB:

If it is a serious offense, they often are on suspension pending termination.

CHAIR WASHINGTON:

How long does that take for a suspension pending termination process?

MR. KADLUB:

I do not have a specific number of days.

SENATOR HORSFORD:

Does the language on lines 4 through 9 on page 26 of S.B. 461 exist now?

MR. KADLUB:

Yes. There is no one else who would be in a better position to initiate the termination of an employee of a school.

SENATOR HORSFORD:

Can a teacher or any other licensed personnel who does something that is not in the best interest of a child be put on suspension pending an investigation?

MR. KADLUB:

Yes.

SENATOR NOLAN:

Based on this discussion, I can no longer support the amendment.

THE MOTION FAILED. (SENATORS HECK, NOLAN, CEGAVSKE, WIENER,  
HORSFORD AND MATHEWS VOTED NO.)

\* \* \* \* \*

SENATOR HECK:

If we did not pass the previous sections, then the principal no longer has the authority to do what is in sections 31 and 32.

MS. HAMNER:

Sections 31 and 32 are drafted differently. These sections have the principal providing information to the board and the board still carrying out its same duties. It just gives the principal some input.

CHAIR WASHINGTON:

The concept was based on those schools that were succeeding and removed from the needs-improvement list and now are successful. They are giving the principal the opportunity to retain his staff, or if there were certain members who were not performing up to the school plan, giving the principal the opportunity to hire different staff to achieve those goals.

SENATOR HORSFORD:

I can understand the reason for making a recommendation for individuals to remain because there is a district policy that allows people to be rotated. I can understand requesting these individuals remain so that if they are part of the rotation, it would be taken into consideration. To require the board only to accept those recommendations made by a principal is beyond what I can support.

CHAIR WASHINGTON:

Who would give the request if it were not the principal?

SENATOR HORSFORD:

The way the language reads, "The principal of each school shall notify the board ... intends to reemploy ... ." It is stating that the principal has full autonomy to say yes, I want these employees or no, I do not. I can understand if a principal would like to retain these individuals based on the principal's reasoning, particularly because of the policy of rotating teachers.

CHAIR WASHINGTON:

I do not interpret the language in that manner. I do not feel it is a mandate but a request.

SENATOR CEGAVSKE:

I interpret this language to mean the principal gives the board the names, not any other school official; ultimately the school board makes the determination.

MS. HAMNER:

The language could be clarified, if it is the desire of the Committee to change the verbiage from "intends to reemploy," to "the principal recommends to be employed."

SENATOR HORSFORD:

What concerns me is not that the principal is the designated person. The employee works for the district. They would be transferred into whatever open position exists at another school. The language "... intends to reemploy ..." is my concern. If I am a principal and I say I do not want this teacher for whatever reason that should not cause the teacher to lose their job with the district.

CHAIR WASHINGTON:

It is not the intent of the language to have them lose their job with the district. It just says that individual will not be reemployed at that particular location.

RAYMOND BACON (Nevada Manufacturers Association):

For the multi-school districts, your interpretation would be correct, but for some of the smaller districts where there may be no other school that individual would be terminated.

SENATOR WIENER:

Technically, the principal is not the employer.

CHAIR WASHINGTON:

Based on testimony we received during the interim, the schools that had fallen short of their adequate yearly progress (AYP) and were listed as needing improvement had difficulty retaining their staff due to rotation, once the school was removed from the needing-improvement status.

SENATOR HORSFORD:

When a new school is opened, there is an initial process of review by the school district and then names of teachers are provided to the principal and the administration of that school, then offers are made by the district. Once the personnel are working for that school, a principal does not have the ability to



maintain that staff or recommend that certain members of the staff not be maintained at the school.

MR. KADLUB:

That is correct. The district may offer contracts without having a specific school in mind. We do have employees under contract. Then the principals have access to this pool of contracted employees and they select their employees from that pool. This process already exists because the principal does notify the board when an employee has had a series of poor evaluations or if they recommend the employee does not receive post-probationary status. If they do not do well during their probationary period, the principal can recommend nonrenewal of their contract. This process is in place. The confusing part is that the principal is not the employer.

CHAIR WASHINGTON:

The board has more control and the principal is a site manager.

MR. KADLUB:

The principal selects the employees to work at the school. If the principal believes that an employee should be terminated, that does require board action.

CHAIR WASHINGTON:

He is a site manger.

MR. KADLUB:

Yes.

CHAIR WASHINGTON:

The principal does not have much control.

MR. KADLUB:

The principal can recommend suspension, termination or nonrenewal.

MR. BACON:

A positive approach might be that a principal could protect a teacher from being transferred. If the principal is trying to build a core team because they have been successful, the principal may not need the entire team but there were certain persons who were essential in making that school succeed. Successful schools function as a team.

FRANK BRUSA, (Clark County Association of School Administrators and Professional-technical Employees):

All the employees are covered by a negotiated agreement. We are all employees of the school district and hired by the school board. Principals make recommendations through the disciplinary process to their supervisors if there are problems in the school district. The principal makes the recommendation through the disciplinary process and the negotiated agreement. This process is in place and is practiced.

MR. KADLUB:

Teachers decide whether they want to be at a certain school.

CHAIR WASHINGTON:

Are they rotated automatically?

MR. KADLUB:

No. Whenever there is an open position in another school, teachers have the prerogative to apply for that position. Many teachers spend their entire careers at the same school.

CHAIR WASHINGTON:

Principals are on a rotation schedule.

MR. KADLUB:

I am not familiar as to the reason for the rotation. In recent years, there is a constant movement of personnel because there have been so many new schools opening.

CHAIR WASHINGTON:

My concern is that there are ineffective principals or schools that have undisciplined and hard-to-teach students where the principals are rotating to other schools. This would result in a lack of resources, financial and personnel, which is unfair to impoverished schools that need the best resources.

MR. KADLUB:

In the CCSD, we did restructure the pay scale to attract principals to the at-risk schools. Within the framework of our existing system, we are trying to get good people to apply to some of the more challenging schools.

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CHAIR WASHINGTON:

Is the rotation done district wide or per request of the principal?

MR. KADLUB:

Most times it is at the principal's request.

SENATOR MATHEWS MOVED NOT TO ACCEPT THE AMENDMENTS TO  
SECTIONS 31 AND 32 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (CHAIR WASHINGTON VOTED NO.)

\* \* \* \* \*

CHAIR WASHINGTON:

The amendment for section 34 of S.B. 461 is already part of federal regulations.

SENATOR HECK MOVED TO ACCEPT THE AMENDMENT TO  
SECTION 34 OF S.B. 461.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR MATHEWS VOTED NO.)

\* \* \* \* \*

CHAIR WASHINGTON:

The amendment to section 37 was made by Senator Amodei.

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENT TO  
SECTION 37 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

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

\* \* \* \* \*

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CHAIR WASHINGTON:

There are three additional amendments to S.B. 461 under tab F of [Exhibit C](#). The first amendment allows the conversion of public schools to charter schools by a majority vote of parents of the current student population.

Ms. LYONS:

This amendment removes the provisions that are in section 3 of S.B. 461 that prohibit a public school from converting to a charter school. One of the possibilities in the No Child Left Behind Act (NCLB) is for a public school to convert to a charter school if they fail to make AYP after the fourth year.

SENATOR MATHEWS:

Could there be another word substituted for "takeover?"

CHAIR WASHINGTON:

The NCLB uses that language. The word "conversion" might be a substitute.

Ms. LYONS:

The word "conversion" may not be applicable to the intent of the language.

Ms. HAMNER:

We might use the language "assume the responsibilities of" replacing the word "takeover."

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENT TO  
SECTION 3, SUBSECTION 2 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

SENATOR HORSFORD:

In the proposed amendment under section 3, subsection 6, the word "conversion" is used. There was an amendment proposed in an earlier hearing that had allowed for a homeschool to become a charter school.

SENATOR CEGAVSKE:

I believe it was a private school that can become a charter school.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR WASHINGTON:

The next amendment was proposed by Senator Cegavske.

MS. LYONS:

Committee members will find under tab F of [Exhibit C](#) the proposed amendment by Senator Cegavske.

SENATOR CEGAVSKE:

I am bringing this amendment on behalf of a school which has many concerns. This is a private school called New Horizons. They are looking for assistance. They take students that the school district cannot accommodate. They are doing an excellent job of helping these students. This amendment would help them.

CHAIR WASHINGTON:

This amendment narrowly defines the scope of the scholarship to those children who have disabilities.

SENATOR MATHEWS:

Are these children with disabilities not part of the public school system?

MR. KADLUB:

You are correct. There are provisions for all the students. There are provisions that would allow for a student to get treated in whatever the best venue happens to be.

SENATOR MATHEWS:

Do the monies follow that student?

MR. KADLUB:

I do not think an actual per-pupil allowance is given to the school.

DR. RHEAULT:

I do not believe that the Individual Education Plan could dictate that funding go to a private school.

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SENATOR MATHEWS:

There are special programs in schools that are in the public domain.

DR. RHEAULT:

If they are not in place, then it is up to the district to find them or we send them out of state to get those services.

SENATOR MATHEWS:

Could they be sent to a school such as New Horizons?

DR. RHEAULT:

The amendment addresses private schools. These children could be sent there. I am not aware of any school.

SENATOR MATHEWS:

My concern is setting precedence by funding private schools. People choose to send their children to such a school.

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENT TO  
S.B. 461.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS WIENER, HORSFORD AND  
MATHEWS VOTED NO.)

\* \* \* \* \*

CHAIR WASHINGTON:

The last amendment for S.B. 461 is proposed by Assemblywoman Bonnie Parnell.

ALFRED ALONSO (The Davidson Group):

I will review the amendment under tab F in [Exhibit C](#) which addresses the profoundly gifted pupils. We believe these children have fallen through the cracks. Over the years they have an extraordinarily high drop-out rate, they get into trouble and their suicide rate is above the national average. When these children are cultivated, their abilities are astounding. The attempt is to create a school for these children from kindergarten through Grade 12. They would be

under the supervision of the superintendent of schools. After their graduation, the university system would try to cultivate their minds. The amendment is intended not to have these children just going to classes. They would be with their peers. They would learn at their own pace. It would be an extraordinary gift to the State.

It is important to remember that the Davidson family has been involved in education for many years. They want to fund, outside of the per-pupil allowance, a school for these gifted children.

Most of the amendments mirror the charter schools. The reason is to be afforded the same rights and privileges as charter schools. The goal is to create a public school that anyone can attend for free. The Davidson family wants to be the benefactors for these children. There will be a classroom of 30 to 40 children. The long-term goal is to have children from neighboring states attend this school and have their families move to Nevada. This will help keep this brain power in the State.

SENATOR MATHEWS:

Could this be patterned after the Truckee Meadows Community College High School?

MR. ALONZO:

It is one way of doing this. What the Davidson family wants to do is inflexible. We looked at all types of models. The charter-school model does not work. In our view, there are constitutional issues with this type of school being a charter school because you have the university-system aspect to consider. That is also the concern with the Truckee Meadows Community College (TMCC) High School.

SENATOR MATHEWS:

I meant to model this school after the TMCC High School.

MR. ALONZO:

We want to take care of not only the children in Nevada, but be a hub for this part of the country.

SENATOR MATHEWS:

What is the Davidson's financial commitment?

MR. ALONZO:

The Davidson's commitment starts at \$10 million and is a long-term commitment.

SENATOR WIENER:

There is some question as to constitutionality because it is an exclusionary school. Those students that are not in the top 1 percent would be excluded. This school would be excluded from any requirements other public schools must perform. The accountability factor would differ.

MR. ALONZO:

These children are special-needs children therefore the constitutionality issues are moot. There is a precedent set by other types of special-needs children. I can provide the Committee with information of legal research and cases that will bolster our position.

We can see there are some disagreements over the accountability issue. We are in discussions with several groups on resolving that issue. The Davidson family is committed to make this project work.

SENATOR HORSFORD:

I cannot find in your proposal where it states that the school for profoundly gifted pupils is a public university.

MR. ALONZO:

It would not be a public university. There is no intent to create a university. We are not asking for any funds to go to the university. This would be a public school no different than any school from kindergarten through Grade 12. The only difference is the children would have an opportunity to attend classes through the university. It would be a stand-alone school.

SENATOR HORSFORD:

On page 15 of your proposal, under tab F, section 24, it addresses a report being prepared by the University of Nevada, Reno. Would that be for the courses the student would be taking?

MR. ALONZO:

The goal is to place young children in an environment that is beyond their years in the hope that the president of the university would then be able to report on



how the school is doing, how the children are interacting within this environment. Reporting will be important because it is a public school.

SENATOR HORSFORD:

If it is not a public university, what is it?

MR. ALONZO:

It will be considered a hybrid school. These children do not fall into any other category. This will be the best method for these children to attend both types of schools. There will be some children doing calculus at 10 years of age but cannot read as well. This situation would be perfect for this type of student because they would only take math classes at the university level and the regular class requirements at the school.

SENATOR HORSFORD:

When they take a university course, will they be taking it in the UCCSN?

MR. ALONZO:

Yes. It would be at the University of Nevada, Reno.

SENATOR HORSFORD:

That is a public university.

SENATOR MATHEWS:

Would there need to be a building on the university campus? The students would have to be separate from the regular university students.

MR. ALONZO:

The university has designated space for these special students. This would be a small group of children.

SENATOR MATHEWS:

Is there a model for this type of school?

MR. ALONZO:

The state of Washington created a school similar to the TMCC High School. The goal was to expand on what had been done in Washington and to make this school a hub rather than a limited school within one area.

SENATOR WIENER:

Based on the document provided by Washoe County, the monies would follow these students. Would you address this statement? In Nevada, the State Constitution vests the Board of Regents with authority to control the university system. The Board of Regents is not vested with authority to control precollege students because the Board of Regents would have some measure of control over the Davidson School. The Legislature would be unconstitutionally granting powers to the Board that it does not have.

MR. ALONZO:

We believe that these children would be receiving Distributive School Account monies until they are 18 years of age. They would be under the control of the superintendent of schools but the regents would control any auxiliary issues that pertain to the classrooms or the teachers who would be brought in to teach these children. We still need to determine whether those children will ever enter into a university class.

SENATOR MATHEWS:

Normally, a school is not started with an amendment to a bill. We need a chance to review all the issues. How urgent is this for you?

MR. ALONZO:

It is urgent in the sense that we need to resolve some issues in the next few weeks. If these issues cannot be resolved, then Chair Washington has my commitment that we will remove the language. It is not often a family wants to donate a school to the State of Nevada.

CHAIR WASHINGTON:

This amendment came from Assemblywoman Bonnie Parnell.

SENATOR CEGAVSKE MOVED TO ACCEPT THE AMENDMENTS  
PROVIDED BY ASSEMBLYWOMAN PARNELL TO S.B. 461.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

Mr. Bacon has submitted an amendment to section 9 of S.B. 461 ([Exhibit D](#)).

SENATOR NOLAN MOVED TO ACCEPT THE AMENDMENT TO  
SECTION 9 OF S.B. 461.

SENATOR HECK SECONDED THE MOTION.

SENATOR HECK:

I would like to know what the Superintendent of Public Instruction thinks of this amendment.

SENATOR MATHEWS:

Would you give the Committee your opinion of the school for gifted pupils?

DR. RHEAULT:

If this is the group that made a presentation to the Commission on Professional Standards in Education, they did not like the program. There are certain requirements; they take a test and because they have a bachelor's degree, they are issued a license. It was funded by the U.S. Department of Education and promoted as a universal license for the United States but there have not been many states that have adopted this procedure.

I find that the school for gifted children is an interesting concept. There are many details that need to be resolved.

THE MOTION CARRIED. (SENATORS WIENER, HORSFORD AND  
MATHEWS VOTED NO.)

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SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 461  
WITH THE ACCEPTED AMENDMENTS.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS WIENER, HORSFORD AND MATHEWS VOTED NO.)

\* \* \* \* \*

CHAIR WASHINGTON:

We will consider the proposed amendments to S.B. 462.

SENATE BILL 462: Repeals, reenacts, reorganizes and revises provisions relating to Department of Human Resources. (BDR 38-178)

SENATOR HORSFORD MOVED TO RECONSIDER THE ACTION WHEREBY S.B. 462 WAS AMENDED TO PLACE THE BUREAU OF ALCOHOL AND DRUG ABUSE UNDER THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL SERVICES OF THE DEPARTMENT OF HUMAN RESOURCES.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HECK AND NOLAN VOTED NO.)

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SENATOR HECK:

The amendment that caused the reconsideration was the moving of the Bureau of Alcohol and Drug Abuse (BADA) under the Division of Mental Health and Developmental Services (DMHDS) and the moving of the licensing board for the Board of Examiners for Alcohol, Drug Abuse, and Gambling Counselors to the same Division. I believe that the BADA program should still move under the Division of Mental Health and Developmental Services. There was testimony in the Senate Committee of Commerce and Labor that this program would be better served if it were incorporated in the DMHDS and because of its restructuring. This would be the most appropriate time to make the move.

SENATOR HECK MOVED TO WITHDRAW THE PROVISION OF SECTION 190.1 UNDER THE AMENDMENT TO S.B. 462 OF TAB G OF THE WORK SESSION DOCUMENT.

This would leave the licensing board as a freestanding regular entity.

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CHAIR WASHINGTON:  
Is that the BADA Licensing Board?

SENATOR HECK:  
No, that would be the Board of Examiners for Alcohol, Drug and Gambling Counselors. The licensing board would remain the same. The reason we considered moving the licensing board was based on testimony heard in the Senate Committee on Commerce and Labor about difficulties the board was having and some of their activities. I would be willing to withdraw the movement of the licensing board to the DMHDS with the admonition to the Board that they need to concentrate and focus on regulating certified counselors. It is not a policy board because policy is set by the Division of Mental Health.

CHAIR WASHINGTON:  
What cause and effect does it have on S.B. 282?

**SENATE BILL 282**: Makes various changes concerning certain halfway houses.  
(BDR 16-622)

SENATOR HECK:  
It has no effect.

MICHAEL J. WILLDEN (Director, Department of Human Resources):  
It will not impact S.B. 282.

SENATOR WIENER:  
Would you comment on what Senator Heck is suggesting?

MR. WILLDEN:  
The addiction board is a seven-member board appointed by the Governor. This Board does not report to me or interface with me. They license drug and alcohol counselors and problem-gambling counselors. We are aware of their activities but they regulate the counselors. My testimony remains that the DMHDS has too many responsibilities to deal with this addition. Across the nation there are 24 states where the BADA is within the division of mental health. There are many reasons why the BADA should associate with mental health and reasons to the contrary.

SENATOR MATHEWS:

Have you had problems with the BADA being within the total program?

MR. WILLDEN:

I have received comments of how happy people are with the BADA being in the DHR compared to where it was before. It is not a large program. I do not hear complaints about the BADA staff or the distribution, prevention and treatment funds.

SENATOR CEGAVSKE:

I have received e-mails with complaints about how the DMHDS and Developmental Services and the BADA do not work together. I would support Senator Heck's suggestion to keep the licensing board a separate entity. With some of the concerns we have about the Board and their responsibilities, I saw nothing that gave them the opportunity to be lobbyists. They are called to discuss issues or give information. If we remove the licensing board that would give the DHR more comfort. I would like to see them under your guidance.

SENATOR CEGAVSKE SECONDED THE MOTION.

MR. WILLDEN:

It would make me feel more comfortable if the licensing board was not part of the amendment. Our association with the various boards is necessary, but I do not oversee them. There are times when the DHR is at odds with them.

SENATOR CEGAVSKE:

Part of the problem is that they are not conferring with the DHR.

MR. WILLDEN:

There are times when we refer individuals who are licensed by them for sanctioning because we are not pleased with that individual's performance. They have a regulatory role that we do not take on in the Department. The Department has not had an in-depth discussion within the Department about where is the best place for the BADA. There are opinions on both sides. I do not want to reorganize on the basis of personalities. Reorganization should be on the basis of what is best for the people who we service.

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SENATOR WIENER:

My concern is that if we open the door for the licensing board, are we also opening the door for all the other licensing boards? There needs to be a way to address the addictive behaviors. I have received e-mails against this move. My concern is that we are doing major policy shifting and moving too fast on something that was shifted a few years ago. The service provided by the BADA is in jeopardy so that in 18 months we could be looking at this issue again.

SENATOR HECK:

The motion was to move the BADA to the DMHDS but leaving the licensing board as a freestanding entity.

CHAIR WASHINGTON:

The Committee should take under consideration that we just passed S.B. 405, which has an ongoing study to look at ancillary issues surrounding mental health. The issue of moving the BADA to the DMHDS could be part of the study.

[SENATE BILL 405](#): Makes various changes concerning mental health.  
(BDR 38-1322)

SENATOR HORSFORD:

This scenario took place in the Senate Committee on Legislative Operations and Elections. The member was out of committee when the vote was taken.

SENATOR WIENER:

I would move that the amendment concerning moving the BADA to the DMHDS be included in the study.

SENATOR WIENER MOVED TO INCLUDE THE AMENDMENT TO S.B. 405 AND MOVE THE BADA TO THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL SERVICES IN THE SENATE COMMITTEE ON FINANCE'S STUDY OF MENTAL HEALTH ISSUES.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS NOLAN, HECK, CEGAVSKE AND WASHINGTON VOTED NO.)

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SENATOR HORSFORD MOVED TO ACCEPT THE AMENDMENT SUBMITTED BY THE DEPARTMENT OF HUMAN RESOURCES TO S.B. 462.

SENATOR WIENER SECONDED THE MOTION.

SENATOR HORSFORD:

In this Legislative Session, we have been dealing with mental health. The issues of substance abuse and other addictions are ongoing. There is some disagreement from the community as to where these issues should be contained. I understand the effect that rehabilitation has on the individual who is recovering from substance abuse. I appreciate Senator Heck's suggestion that because of the reorganization in mental health this is an opportune time to move the BADA to the DMHDS. We may be doing this without having a full perspective of what this might mean to the treatment of individuals who have substance-abuse problems. We should look at other measures during this Legislative Session and have a hearing on the other issues.

THE MOTION FAILED. (SENATORS HECK, NOLAN, CEGAVSKE AND WASHINGTON VOTED NO.)

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SENATOR NOLAN:

Senator Horsford raised legitimate issues. All members of the Committee have good intentions but we just have different ways to approach the issue. This is an important issue and should not be rushed. The suggestion to put this issue in a study might be the best way to address this issue.

SENATOR WIENER MOVED TO REQUEST THE SENATE COMMITTEE ON FINANCE INCLUDE MOVING THE BADA TO THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL SERVICES IN THEIR STUDY OF MENTAL HEALTH ISSUES.



SENATOR MATHEWS SECONDED THE MOTION.

CHAIR WASHINGTON:

The motion should be changed. Senate Bill 462 needs to be amended to include a study placing the BADA under the Health Division in order to coincide with Senate Bill 405.

SENATOR WIENER:

We should request that the BADA be placed in the proper location so that the proper functions and work with mental health will be studied.

MS. LYONS:

The Chair is referring to S.B. 405 which contains a request for the Legislative Committee on Health Care to study the issue of mental health. The Chair could formally request the Chair of the Senate Committee on Finance to consider this issue. The bill could be amended to allow the Legislative Committee on Health Care study the issue in S.B. 405.

CHAIR WASHINGTON:

We will request that the Legislative Committee on Health Care study placing the BADA under the DMHDS.

Senators Wiener and Cegavske will work with Ms. Hamner on the proper language.

THE MOTION CARRIED UNANIMOUSLY.

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MS. LYONS:

Senator Horsford had requested information on chapter 281 of the NRS relating to public officers ([Exhibit D](#)). Senate Bill 56 requires them to comply with the provisions of chapter 281 of the NRS. The bill has been amended and was passed out of the Senate Committee on Human Resources and Education on April 13.

**SENATE BILL 56**: Makes various changes concerning charter schools and distance education programs. (BDR 34-18)

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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 4:07 p.m.

RESPECTFULLY SUBMITTED:

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Patricia Vardakis,  
Committee Secretary

APPROVED BY:

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Senator Maurice E. Washington, Chair

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