

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

**Seventy-third Session
May 11, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 2:12 p.m. on Wednesday, May 11, 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:

Assemblyman Kelvin D. Atkinson, Assembly District No. 17
Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Dr. Keith Rheault, Superintendent of Public Instruction, Department of Education
Dan Musgrove, Clark County; Southern Nevada Regional Planning Coalition
David S. Ziegler, Truckee Meadows Regional Planning Agency
Kimberly McDonald, City of North Las Vegas

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Cheri L. Edelman, City of Las Vegas
Carla A. Sloan, American Association of Retired Persons Nevada
Jonnie Pullman, Executive Director, Affordable Housing Resources Council
Charles (Chas) L. Horsey III, Administrator, Housing Division, Department of
Business and Industry
Michael G. Alonso, Harrah's Entertainment
John P. Sande, III, Harrah's Entertainment
Deborah Gerard, Circle of Life Hospice
Joseph Galata, Circle of Life Hospice
Charles Duarte, Administrator, Division of Health Care Financing and Policy,
Department of Human Resources
Mary Liveratti, Deputy Director, Department of Human Resources
Tina Gerber-Winn, Social Services Chief, Division of Health Care Financing and
Policy, Department of Human Resources
Robert A. Desruisseaux, Northern Nevada Center for Independent Living
Connie McMullen, Senior Spectrum
Tammy Sisson, Administrator, Lend-A-Hand Senior Services
Debbie Hosselkus, L.S.W., Deputy Administrator, Division of Mental Health and
Developmental Services, Department of Human Resources
Jennie Shipp, R.N., Psychiatric Nurse, Division of Mental Health and
Developmental Services, Department of Human Resources
Linda Suzanne, R.N.

CHAIR WASHINGTON:

We will open the hearing on Assembly Bill (A.B.) 108.

ASSEMBLY BILL 108 (1st Reprint): Revises provisions governing appointment of
hearing officers in certain cases involving licensed educational personnel.
(BDR 34-378)

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

Assembly Bill 108 was submitted on behalf the State Board of Education by the
Department of Education. Under current law, the Department of Education is
required to maintain a list of hearing officers who are practicing lawyers. They
are only used in cases where an appeal has been made against a licensed
employee of a school district. We have had problems maintaining that list. There
have been 40 lawyers on the list, but presently there are only 7. There are a
number of reasons for the abbreviated list. We get one or two requests a year,

and there have been years when we have had no requests for a hearing officer. Two years ago, we wanted to revise the list, and many lawyers removed their names from the list. The law limits the cost that can be charged to \$60 an hour which is a low hourly rate. They are required to attend training for four hours which is unpaid. What is proposed in the bill is that the hearing officer list is replaced with the hearing officers who are maintained by the Hearings Division of the Department of Administration. They have a list of hearing officers who are on call to be used in these instances. The process would still run through the Department of Education. They would supply the hearing-officers list. This would be a statewide process. Currently, we only receive requests from three school districts: White Pine, Mineral and Douglas Counties. The other districts have this process built into their negotiated bargaining-unit agreements.

On page 3, lines 6 through 8, the original bill were amended and we support that amendment. This language would allow the problem to be addressed at the local level before it gets to an appeal. The recommendations of the hearing officer are not binding on a local district.

The Hearings Division put in a \$10,000 fiscal note which is already covered and we are not changing that part. On page 4, lines 3 through 5 there is language which provides for the cost of this process to be split between the school district and the employee. That would not change from the current status. I urge the Committee to approve A.B. 108.

CHAIR WASHINGTON:

Does the bill need to go to the Senate Committee on Finance?

DR. RHEAULT:

There was a short discussion in the Assembly Committee on Ways and Means. When the Hearings Division submitted the fiscal note, they had not seen the statute that split the cost evenly. Whatever the cost will be for the hearing, it will be covered.

CHAIR WASHINGTON:

After we process the bill, I will have staff send a letter to the chair of the Senate Committee on Finance indicating the cost of the hearing is compensated.

SENATOR CEGAVSKE MOVED TO DO PASS A.B. 108.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS NOLAN AND HECK WERE ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:

We will hear testimony on A.B. 231.

ASSEMBLY BILL 231 (1st Reprint): Requires local and regional governmental entities to conduct study of safe walking routes in certain area near schools. (BDR S-262)

KELVIN D. ATKINSON (Assembly District No. 17):

We have new schools being constructed in Las Vegas and the adjacent properties are not constructed with sidewalks. The school district says that if a child lives within two miles of a school, he or she cannot take the bus to school. In my district, there have been three new schools constructed this past school year. District 17 in North Las Vegas is one of the fastest growing areas in the state. Because the schools are being constructed and the adjacent properties do not have sidewalks, the children are literally walking in the streets to go to school.

Property taxes are the number-one issue this Legislative Session and the issue addressed in A.B. 231 is number two. After receiving numerous complaints from concerned parents, I investigated and verified that the situation was critical. I notified the county and the school districts but no one wanted to be responsible because of the cost implications. The concerned citizens and parents in my district proposed A.B. 231.

In the Assembly, concerns were raised by the rural areas that some of the schools in their areas have never had sidewalks. They wanted to be excluded from the bill but voiced their support of A.B. 231. The first reprint of A.B. 231 has been reduced from a bill to a special act. There were people who felt that it was not the appropriate time to introduce a bill to instruct the cities or counties on this issue. We wanted to send them to the Southern Nevada Regional Planning Coalition (SNRPC) because there are 17 counties represented, including the school district, to devise a plan on how to address this issue. Everyone recognizes when we build new schools and do not include sidewalks in the

adjacent properties, but no one wants to bear the cost. The counties' lobbyist suggested that the SNRPC review the issue of building sidewalks in the adjacent properties so that children would have a safe way to school. It was never my plan to have the school districts bear the cost of these sidewalks. Because there are 17 counties represented on the SNRPC and only one school-district representative, the decision might be prejudiced but is not the solution. The answer lies in the adjacent properties which are owned by someone. The solution would be for the counties and cities to put the sidewalks in and then bill the developer. To place the brunt of this situation on the school districts would not be fair. I plan on attending the meeting when the SNRPC has a hearing on this issue.

SENATOR CEGAVSKE:

Where I live in Las Vegas, the majority of the area does not have sidewalks which was a decision made by the homeowners in those sections. Each section voted on whether they wanted those improvements, because the homeowners would be responsible for the cost. The developer of the Lakes Las Vegas did put sidewalks into the development. There are other gated communities where the residents have paid for those improvements. The issue of sidewalks has been brought up on two occasions for the area in which I live and has been rejected each time. The people living in my area do not want the improvements. My constituents have voiced their opinions. Was there a problem that caused the parents in your district to voice their concern?

ASSEMBLYMAN ATKINSON:

It is a choice. The constituents in my district want sidewalks. Your district does not need or want sidewalks. This would be a choice, not a mandate. It should be available to the areas and the districts that want them. The paths in my district are hazardous. Parents volunteered to help the children cross the street, because they were a safety hazard for the children.

SENATOR CEGAVSKE:

We have the paved areas and there are rocks and dirt on the sides where the children walk to school. In my area, the hazard is the speeding teenagers from Bonanza High School. I am concerned that we are sending the message that this would be the responsibility of the taxpayers. In the county, someone must register that they want the improvements; then each household has a vote. I have a problem with this issue, if it is not good for the entire state. I would like

to know the concerns of the parents in your district because I can only reference the conditions in my district.

DAN MUSGROVE (Clark County; Southern Nevada Regional Planning Coalition):

The point Senator Cegavske has expressed is an issue that we discussed with Assemblyman Atkinson. The SNRPC believes in the merits of A.B. 231, the safety of the children and the issues that need to be addressed because of the expanding and growing areas of Clark County. There are issues where the residents want to maintain a rural lifestyle. There are others who want the improvements made to their communities. Local governments and school districts are in a difficult situation, because they need to find a site they can afford, meet their needs and have the school constructed as quickly as possible. There are times where development has not caught up to the school and its location. There are many challenges in making sure there are safe routes for the children to walk to school. The merits of A.B. 231 are important. Because these properties are privately owned, we thought rather than mandating sidewalk installation we would work collaboratively to identify those schools that have immediate issues and consider future school sites. We need to do whatever is necessary to mitigate the hazards for the children.

Assemblyman Atkinson agreed that using the SNRPC made sense and is the right vehicle to address this issue. The population of 100,000 or more was chosen because it includes Clark County and Washoe County where this is the biggest issue. We will report our results to the next Legislature.

DAVID S. ZIEGLER (Truckee Meadows Regional Planning Agency):

The Truckee Meadows Regional Planning Agency met and discussed A.B. 231 before the first reprint. We did not have any concerns with its content. I believe they will have no objection to the revised bill.

SENATOR MATHEWS:

I am for the safety of children.

KIMBERLY McDONALD (City of North Las Vegas):

We are neutral on the study of this critical issue. All the local governments are committed to public safety. We had concerns with the original form of the bill. There was a fiscal impact to implement renovations to sidewalks. The cost would have been \$25 million for 100,000 miles of paved streets. The maintenance of the sidewalks would cost \$1.5 million. We are concerned about

the safety of our children, but we need to balance all the demands for services. We want to accommodate the community. There were other issues raised such as the infrastructure and the rights-of-way that need to be addressed. There may have been jurisdictional issues. One jurisdiction does not have authority over another. We do have county islands in the city of North Las Vegas. At the Eva Wolfe Elementary School, there was an agreement that the Clark County School District would take care of the sidewalks.

SENATOR WIENER:

I do not understand your position of being neutral on the study of providing and maintaining sidewalks for children's safety.

MS. McDONALD:

We support the study. We are not in opposition. We feel we should study this issue. We feel that the burden should not be entirely on the local government or the school district. The parties should come together and decide who will bear the burden of the costs. Instead of neutral, I should have said we supported the bill.

CHERI L. EDELMAN (City of Las Vegas):

The City of Las Vegas is in support of the resolution that is proposed. It did cause concern when the sponsor suggested that the school district should not have a financial responsibility for the sidewalks. The city has a Safe Route to School program which analyzes school locations, existing sidewalks, and new and existing housing locations. The city already causes the construction of temporary sidewalks in the areas where they are needed and we have the legal right to do so. Through negotiations, some of the costs of those sidewalks are borne by the city, some by the developers and some by the school district. If a safe route cannot be made, then we encourage the school district to bus the children to school along that particular route. We do not want to preclude the school district from working out the financial impacts with us. The impact to the city of Las Vegas for the 93 schools within our boundaries is \$35 million. The reason this was converted to a resolution is because many of the issues involved are difficult and need to be discussed. We have a difficult time assessing an adjacent property owner for an improvement. We cannot put permanent sidewalks in without the roadways being in place or extensive design work being done. To do something temporary would be a waste of money. We believe the study is the right way to address the issue and urge you to support the measure as it is written.

CHAIR WASHINGTON:

Are easements and school locations included when a developer is proposing a residential housing plan to the city?

MS. EDELMAN:

Yes. We have the developers do a traffic study when they do their development plans. Included in the study are safe routes to schools. Then it is determined where the rights-of-way are located and where we can put asphalt. We look at the different grade elevations to determine if it is safe for children to walk in that area. If it is not, then we consider busing the children.

CHAIR WASHINGTON:

Do you consider the two-mile route?

MS. EDELMAN:

We cannot force a developer or an adjacent property owner to give us that easement.

CHAIR WASHINGTON:

Is the cost of sidewalks included in the price of the home?

MS. EDELMAN:

Only when a person is going to develop that property can we exact that easement.

CHAIR WASHINGTON:

Would the developer pass on the cost to the price of the home?

MS. EDELMAN:

If we do not have the legal right, then we do not do it. That is when we encourage the school district to bus the children to school. If we cannot buy the right-of-way, which we normally do not do, we encourage the school district to bus the children to school until the right-of-way is dedicated to the city.

SENATOR CEGAVSKE:

When there is a four-corner intersection and part is in the county and part in the city jurisdiction, it is difficult to assess businesses for improvements. It is the business owners who would share in the cost of the improvements. As much as we would all like to assure safety of the children, it is not an easy situation to

overcome. To make improvements in my residential area, it takes everyone to decide on the improvements. Over the years, the land developers in Clark County have not been able to negotiate everything the residents needed with the school district.

SENATOR HORSFORD:

What we have before us is a resolution to study the impact of the public safety of children attending schools and where the financial impact will lie. I view this issue in the same manner as other infrastructures where local agencies invest hundreds of millions of dollars putting infrastructures into new developments, sometimes only connecting one user. As other users come into the area, they also contribute to the cost. This is a local decision.

People should be willing to discuss the issue in the best interest of the children. Often communities are not part of a master-plan development. It is just a tract of houses with a school in the middle with no sidewalks and no streets. The local agencies do need to collectively discuss the issue and the costs involved. The price of \$35 million is a small price to pay to keep children safe on their way to school.

SENATOR MATHEWS:

If the conditions are not safe for children to go to school, then the school districts need to work with the communities to bus the children to school. We need to do what is safe for the children.

Ms. McDONALD:

The city of North Las Vegas is studying safe walking paths for children which were approved as part of our next fiscal year.

SENATOR HORSFORD MOVED TO DO PASS A.B. 231.

SENATOR WIENER SECONDED THE MOTION.

SENATOR HECK:

The bill addresses the need for children who live within a two-mile walking radius to school, but the bill only refers to reviewing existing walking paths and sidewalks within a one-mile radius. Would you clarify that for me?

ASSEMBLYMAN ATKINSON:

We are only addressing a one mile radius, because that is where the problem was occurring in my district. The problem was occurring closer to the schools.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will open the hearing on A.B. 248.

ASSEMBLY BILL 248 (1st Reprint): Makes various changes concerning assisted living facilities. (BDR 40-814)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

In Nevada, persons 85 years of age and older have had the largest increase in population growth of any age group. There has been a 30-percent increase in the last 3 years. By the year 2030, there will be more than 34,000 seniors over the age of 85. Monthly rental rates in Washoe and Clark Counties range from \$800 to \$3,900 a month. In Nevada, over 18 percent of seniors ages 65 to 74 and 27 percent age 75 years and older are heads of households with annual incomes of less than \$15,000 a year. The reality is that there are few places in the market that offer rents for low-income elders. This was the reason to build an affordable assisted-living unit, see what barriers exist in trying to get more affordable assisted-living units and to present legislation to remove the barriers that exist.

We created a Model Assisted Living Advisory Committee (MALAC) in 2002. The persons who co-chaired our executive committee were from Harrah's Entertainment and the American Association of Retired Persons (AARP). The goals of the committee were to examine the need for affordable assisted living, to develop a model project that would reveal barriers to creating another assisted-living unit and to recommend policies that would promote affordable assisted-living facilities.

We created a model assisted-living facility in Clark County that was affordable and nonprofit. There are 90 units adjacent to an 80-unit senior housing group. There will be a continuum of care on one campus to allow people to age in place. This facility is located in Summerlin. We received a parcel of land from

the Bureau of Land Management (BLM) to make this affordable. The facility promotes independent living. People have their own apartments. There is a full range of services. The funding came from an \$800,000 donation from Harrah's Entertainment. The Housing Division within the Department of Business and Industry was a key partner and was given an allocation from the National Housing Trust Fund and the Low-Income Housing Tax Credits. The City of Las Vegas dedicated \$1 million of HOME Investment Partnerships Program grant funds towards the project. The Federal Home Loan Banks Affordable Housing Program gave the project a grant. It is the first project in the country to use the BLM land for affordable assisted living.

The services side of the project was paid for by Medicaid, individual's income, social security and Supplemental Security Income. The investors and Low-Income Housing Tax Credit people had many concerns about the fact that this was the first project in Nevada. The Tobacco Settlement Funds provided a guarantee from the aging services portion of the funds.

CHAIR WASHINGTON:

Is that the part of the bill that states it should not reserve more than \$50,000 for assisted-living services?

ASSEMBLYWOMAN BUCKLEY:

This would allow us to have future guarantees for other projects as well as short falls in the projects.

The policy recommendations are to permanently set aside a portion of the Tobacco Settlement Funds. The reason we settled on \$50,000 of the Tobacco Settlement Funds was because those funds go to a number of good programs and we did not want to negatively impact any of the existing programs. The Department of Human Resources indicated we could safely set aside \$50,000 without impacting any other programs. Assisted living is a high priority for seniors and the Department of Human Resources felt it was appropriate.

CHAIR WASHINGTON:

Is that part of the 30 percent that is reserved out of the Tobacco Settlement Funds?

ASSEMBLYWOMAN BUCKLEY:

Yes. The other suggestions were: to permanently set aside home- and community-based waiver slots or to create a specific Medicare waiver for affordable assisted-living; to continue the dialog between organizations; and to educate assisted-living developers and others about these options.

The bill takes two of these recommendations: setting aside a portion of the Tobacco Settlement Funds and restructuring of the waiver to apply to the federal Secretary of Health and Human Services. This allows us to amend our home- and community-based waiver to be able to certify that when using these affordable housing funds that we are an eligible group in order to qualify for our Medicaid waiver slots. There is speculation as to whether the federal government will approve this, but our partners believe this will not be a problem. There is no skepticism as to whether this is a good idea, and it is time for Nevada to experiment. If we can combine our affordable housing funds to service funds to do assisted living, we can create the capacity in the nonprofit sector to offer choices to people who are on social security. This is all about getting a nonprofit sector involved in providing affordable assisted-living units to improve the options that are available to seniors.

SENATOR WIENER:

Will these funds be in addition to the Community Home-Based Initiatives program?

ASSEMBLYWOMAN BUCKLEY:

There are certain categories that are eligible under the waiver. For example, if a person is in a hospital and needs to be discharged, this will be another waiver category. The waiver slots depend on what the Legislature funds. There are slots that are not being utilized because the waiver is tightly written. The funds for services to assisted living would be another category, it is dependent upon the Legislature funding it. If this project is successful, then the Legislature may decide to add additional waiver slots next Legislative Session.

CHAIR WASHINGTON:

If it is granted, it is optional for the State. It is matching funds for the federal government and optional funds from the State.

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SENATOR HECK:

On page 4, lines 6 and 20 of the bill, the figure of \$50,000 is mentioned. Is it \$50,000 from two different sources for a total of \$100,000?

ASSEMBLYWOMAN BUCKLEY:

There is only one \$50,000 allocation.

CARLA A. SLOAN (American Association of Retired Persons Nevada):

The American Association of Retired Persons (AARP) and the MALAC executive committee is in support of A.B. 248. Assisted living became a desirable long-term-care option of choice during the last decade. Its popularity surged because people in need of supportive and health-related services could receive such services in a residential setting outside of a nursing home. States across the country are debating how assisted living should be defined, paid for and regulated. Throughout the debate one fact has remained clear; affordable assisted living remains out of reach for the vast majority of persons with low incomes. Assembly Bill 248 seeks to address the missing link in the housing and services continuum for low- to moderate-income people who cannot afford to pay the market rates for assisted living. Without this resource, there is no alternative to giving up the independence, dignity and quality of life available in a home-like residential setting.

To meet the housing and supportive service demands of our aging society, private developers, investors and nonprofit organizations must become engaged in the provision of affordable assisted living. The modest reserve of \$50,000 from the Fund for a Healthy Nevada will provide a significant incentive for developers to build and operate affordable assisted-living developments with tax-credit financing. This is consistent with the intent of the Independence for Seniors grant program that places a priority on allowing senior citizens to remain in the community instead of in institutional care.

Potential tax-credit investors for affordable assisted-living projects are unfamiliar with the complexity of how supportive services are funded. Investors are wary of risk factors that they do not understand. Amendment of the Home and Community-Based Services waiver to incorporate an affordable assisted-living category as defined in A.B. 248 and the establishment of an operations reserve from the Fund for a Healthy Nevada will increase investor confidence. It takes time to put together partnerships and secure financing for assisted-living

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projects. Assembly Bill 248 will provide a foundation for such partnerships to grow. We urge the Committee to approve A.B. 248.

CHAIR WASHINGTON:

Are the "Assisted living support services" stated on page 8, line 1 of A.B. 248, the services that will be provided by the \$50,000, or will the services be provided by a waiver?

ASSEMBLYWOMAN BUCKLEY:

The language you are referring to is the definition to make it clear that this is the entity that would be included in the waiver. The Housing Division personnel know what a nonprofit housing project is, because they are the regulatory agency on tax credits. The Aging Services Division personnel know the supportive services piece.

CHAIR WASHINGTON:

Is the waiver for supportive services?

ASSEMBLYWOMAN BUCKLEY:

Yes.

JONNIE PULLMAN (Executive Director, Affordable Housing Resources Council):

I have provided the Committee with my written testimony supporting A.B. 248 ([Exhibit C](#)).

CHARLES (CHAS) L. HORSEY III (Administrator, Housing Division, Department of Business and Industry):

In the last forty years, the financing of assisted-living projects is one of the most difficult to structure. It took a great deal of work to put the financing structure in place for this project, and we hope to replicate it in other parts of the State. Not only is Nevada's population aging but there is an influx of seniors to the State. In Arkansas, there is a similar project. We were fortunate to allocate a sufficient number of tax credits to the project to make it financially viable. Assemblywoman Buckley's efforts enabled the structure component to be built at practically no cost. Assembly Bill 248 addresses the other half of the equation which is the running and operation of the facility. This project was one of the most challenging financing projects in which the Housing Division has participated.

MICHAEL G. ALONSO (Harrah's Entertainment):

We are in support of A.B. 248. Harrah's Entertainment made a substantial contribution to this project. We have provided support through the commitment of efforts and time of our employees as the project moved forward. Harrah's Entertainment recognizes the increased need for affordable housing in Nevada and will continue to be involved in this project.

MR. HORSEY:

The contribution made by Harrah's Entertainment was important not only financially but it gave the signal that the private sector was involved in the project. Their \$800,000 contribution was the justification I needed to make a matching contribution from the State.

JOHN P. SANDE, III (Harrah's Entertainment):

On behalf of Harrah's Entertainment, I reiterate the testimony in support of A.B. 248.

VICE CHAIR CEGAVSKE:

We will close the hearing on A.B. 248. We will hear testimony on A.B. 271.

[ASSEMBLY BILL 271 \(1st Reprint\)](#): Revises provisions relating to hospice care.
(BDR 40-1112)

ASSEMBLYWOMAN PEGGY PIERCE (Assembly District No. 3):

Assembly Bill 271 addresses hospice care. Hospice care is medical care, pain management and emotional and spiritual support expressly tailored to the needs and wishes of the patients facing a life-limiting illness or injury. Support is provided to the patient's loved ones as well. Hospice care is designed so that patients do not die in pain, alone or without personal dignity. There is inpatient and outpatient hospice care. Outpatient hospice care takes place in the home and is the most popular type of hospice care. This bill is an effort to make the benefits of hospice care more accessible to Nevada's terminally ill residents and their families. Many health plans provide coverage for hospice care but experience little use of this benefit. One of the major reasons for this low level of hospice care usage is the association of death, rather than an association with a humane dealing with illness and the support of the family in a difficult time. If patients used hospice care earlier, it would help families support the patient and each other during the entire continuum of illness.

The change this bill suggests is to expand the definition of terminally ill from 6 months to 12 months. Some insurance plans in Nevada allow hospice patients benefits up to a year. With the medical advances available targeting terminal diseases, most terminally ill patients now live with their illness for longer periods of time. Since the definition in the *Nevada Administrative Code* is six months, patients cannot access the many support benefits hospice care provides earlier in their illness.

This bill does not mandate care. Health-care plans can make their own decisions about when patients can access hospice care and what care they would cover under their hospice benefits. This is not a mandate for additional coverage. This bill removes one of the barriers that exist to using hospice more effectively. Using hospice would be more cost-effective than continuing care in a hospital setting. Insurance plans could reap savings from this improved process. An average day of care in a hospital is three times more expensive than inpatient hospice care and many times more expensive than hospice care at home. The goal of this bill is to make hospice care available to more Nevadans.

VICE CHAIR CEGAVSKE:

Hospice workers provide an important service to the terminally ill and their families.

DEBORAH GERARD (Circle of Life Hospice):

I am in favor of A.B. 271. The bill will assist every hospice in Nevada in offering a substantial increase in services to the terminally ill and their caregivers. I have been a part of the hospice movement in our country before the hospice program began. The recommendation to change the language to expand the benefit from 6 months to 12 months will not increase spending. The opposite may be true, because the majority of health-care monies are spent in the last six months of life with the greatest concentration occurring in the last two weeks. This care is often referred to as futile. That would suggest that our medical system and society has the wherewithal to know when further treatment would increase suffering and prolong dying. Statistics show that hospital deaths in Nevada are above the national average. The current lengths of stay in hospice programs are approximately 13 to 18 days which falls below the national average of 28 to 32 days. This explains why Nevada scored poorly in a recent national survey in providing end-of-life care. Surveys and polls show that 90 percent of Americans indicate they would prefer to die at home.

Through a study, it was determined that physicians today are off by a factor of 5.3 in their ability to identify patients who would benefit from hospice care. This means that if a doctor gives a patient five months to live, the patient will be dead tomorrow. The study indicated that it was easier for physicians to think in terms of less than one year compared with less than six months. When the physicians were asked to refer patients to end-of-life care based on this less-than-one-year identifier, the patients who were referred lived less than six months. There was an increase in length of stay in hospice programs.

The average cost of 1 month's hospice care is \$4,000. It is an all-inclusive program. There is also a one-year grievance support to the survivors. This is a cost-effective program and improves patient and family satisfaction. Improving the language in A.B. 271 by increasing the benefit to 12 months would add a necessary improvement to hospice care.

JOSEPH GALATA (Circle of Life Hospice):

There was a study of how states provided care for end-of-life care issues. Nevada was the lowest ranking state in all categories except for hospice care. The hospices in Nevada are working diligently to raise that ranking even higher. This bill will help us to do so.

Most people think hospice is only for the elderly, but there is a large and growing percentage of people 30, 40, or 50 years old who are in need of hospice care. Assembly Bill 271 will help those individuals.

CHAIR WASHINGTON:

Is hospice an optional service? Would the increase in the amount of months for hospice care cause a fiscal impact?

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Human Resources):

This bill does not have a fiscal note. Federal regulations, Medicare and Medicaid require us to define hospice as services available for an individual whose life is not expected to exceed six months. We would not be reimbursing. This is not a mandate; therefore, it does not require us to change our definition from 6 months to 12 months. Hospice is a cost-effective optional service in the Medicaid program. We paid approximately \$5 million last year for inpatient and in-home hospice care because the alternative is to die in a hospital which is

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more expensive. We pay \$100 to \$180 a day for hospice care, whereas hospital service costs approximately \$1,350 per day. Hospice is an excellent service.

ASSEMBLYWOMAN PIERCE:

The language on page 3, lines 24 through 29 was added in the Assembly to clarify that the State would not be providing Medicaid funds for the expanded definition unless the federal government provided matching funds.

SENATOR WIENER MOVED TO DO PASS A.B. 271.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will reopen the hearing on A.B. 248.

SENATOR MATHEWS MOVED TO DO PASS A.B. 248.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will hear testimony on A.B. 337.

ASSEMBLY BILL 337 (1st Reprint): Requires licensure of agencies which provide personal care services in homes of elderly persons and persons with disabilities. (BDR 40-375)

MARY LIVERATTI (Deputy Director, Department of Human Resources):

Assembly Bill 337 is the result of many individuals concerned with the lack of consistency and guidelines for personal care attendants who provide nonmedical services. Currently, home health agencies are required to be licensed, but home care agencies that provide personal care are not required to be licensed.

Consumers are under the false impression that an agency's personal care assistant is required to have a background check and a minimal level of competency before performing tasks for a person with a disability. The intent of this bill is to provide accountability, consistency and guidelines for agencies that employ personal care aides (PCA). There were discussions about certifying PCAs, but it was decided that it was more appropriate to establish licensing for the agencies providing this service.

I have provided the Committee with a copy of an amendment ([Exhibit D](#)). We suggested this in the Assembly, but through an oversight it was not included in the bill before being presented to the Senate.

TINA GERBER-WINN (Social Services Chief, Division of Health Care Financing and Policy, Department of Human Resources):
I will read my written testimony supporting A.B. 337 ([Exhibit E](#)).

SENATOR WIENER:
Did you testify that there are 90 agencies providing service statewide?

MS. GERBER-WINN:
I was noting Medicaid providers.

SENATOR WIENER:
Does this definition and its expansion validate present practice?

MS. GERBER-WINN:
It does address our concern about agencies in our regulations. The work of this group will incorporate what our current policy entails with a greater enforcement authority.

SENATOR WIENER:
Will this be in keeping with a federal standard for the use of these funds?

MS. GERBER-WINN:
There is no federal standard for personal care. There is a description of the service delivery, but the state's discretion as far as the provider model varies from state to state.

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SENATOR WIENER:

Would Nevada be similar to other states?

MS. GERBER-WINN:

Most agency models are available. The regulation of agency models depends on the state.

ROBERT A. DESRUISSEAU (Northern Nevada Center for Independent Living):

As chairman of the Strategic Plan Accountability Committee for People with Disabilities and working with the groups that were involved, our two main concerns were the licensing of independent contractors and microboards. A microboard is a way of providing services. An individual creates their own nonprofit organization and builds a service-delivery model within that nonprofit organization utilizing friends and family members to provide the services directly for that individual. Our concern was to assure that we were not capturing those two groups in this requirement and creating additional barriers in developing those microboards or obtaining independent contractor PCAs. We are comfortable that the language in A.B. 337 does not encompass those individuals. We are in support of A.B. 337.

CONNIE McMULLEN (Senior Spectrum):

Assembly Bill 337 provides a reasonable and legal course of action. It allows for protection of elders who often must rely on strangers for the care they need. This bill will establish an industry standard for all professional providers as required by state law. The background checks will provide much needed safeguards.

TAMMY SISSON (Administrator, Lend-A-Hand Senior Services):

I have provided the Committee with my written testimony in support of A.B. 337 ([Exhibit F](#)) and the need for licensing this industry.

SENATOR WIENER MOVED TO AMEND AND DO PASS A.B. 337.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND NOLAN WERE ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:

We will open the hearing on A.B. 454.

[ASSEMBLY BILL 454 \(1st Reprint\)](#): Makes various changes concerning provision of supported living arrangement services. (BDR 39-236)

DEBBIE HOSSELKUS (L.S.W., Deputy Administrator, Division of Mental Health and Developmental Services, Department of Human Resources):

I will provide an overview of A.B. 454 ([Exhibit G](#)).

JENNIE SHIPP, R.N. (Psychiatric Nurse, Division of Mental Health and Developmental Services, Department of Human Resources):

I have provided the Committee with my written testimony, supportive information and other provider testimony concerning the necessity of A.B. 454 ([Exhibit H](#)).

LINDA SUZANNE, R.N.:

I worked with the Rural Regional Center for 13 years. Based on my experience, A.B. 454 is a cost-effective way to maintain an increased independence and safety for this population especially with the nursing shortage in the rural regions.

CHAIR WASHINGTON:

Can the administering of medications be done by an unregistered nurse?

MS. SHIPP:

If A.B. 454 passes, it would provide exemption for providers of supportive living-arrangement services which are certified under our Division of Mental Health and Developmental Services; this allows us to develop regulation with regard to individuals who are supported and their direct support staff who will be trained specifically for the needs of that individual. These will be routine scheduled medications.

SENATOR HECK:

Recognizing that the language in the bill would be an exception to the nursing practice act with the intent to provide scheduled medication, there is nothing in the language that restricts it to scheduled medications. This would be a blanket exception to the nurse practice act.

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MS. SHIPP:
Correct.

SENATOR HECK:

The initial intent is directed at providing scheduled medications. There is nothing to prevent future expansion of nursing tasks since there would be a blanket exception.

MS. SHIPP:

These concerns were addressed with Nevada Nursing Association (NNA) and the State Board of Nursing. It is not our intent to leave an open blanket exception. The letter of intent that was formulated from our administration to the NNA specifies that we would work on regulation for medication administration only. It is our intention for medication administration at this point.

SENATOR HECK:

There is the catch.

MS. SHIPP:

We would have liked to address tube-feedings for individuals who are in supportive living arrangements. The NNA was not comfortable with that inclusion. Therefore, it was not included in our proposal.

SENATOR HECK:

The NNA is comfortable with allowing scheduled medications to be done through regulation and having it in the statute that it is specifically limited to provision of scheduled medications.

MS. SHIPP:

Yes. There is a letter from Lisa Black, Executive Director of the NNA in [Exhibit H](#) explaining the NNA's position. I will provide the Committee with our letter of intent that we sent to the NNA.

CHAIR WASHINGTON:

We should amend A.B. 454 to assure the regulations come to the Legislative Committee on Health Care.

SENATOR HECK MOVED TO AMEND AND DO PASS A.B. 454.

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SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND NOLAN WERE
ABSENT FOR THE VOTE.)

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There being no other issues before us today, the Senate Committee on Human
Resources and Education will adjourn at 4:11 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____