

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

**Seventy-Fourth Session  
May 9, 2007**

The Committee on Commerce and Labor was called to order by Chair John Ocegüera at 1:37 p.m., on Wednesday, May 9, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman John Ocegüera, Chair  
Assemblyman Marcus Conklin, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman Bernie Anderson  
Assemblyman Morse Arberry, Jr.  
Assemblywoman Barbara E. Buckley  
Assemblywoman Heidi S. Gansert  
Assemblyman William Horne  
Assemblywoman Marilyn Kirkpatrick  
Assemblyman Garn Mabey  
Assemblyman Mark Manendo  
Assemblyman David R. Parks  
Assemblyman James Settelmeyer

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Chad Christensen (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Maggie Carlton, Clark County Senatorial District No. 2

Minutes ID: 1240



Senator Barbara K. Cegavske, Clark County Senatorial  
District No. 8  
Senator Michael (Mike) A. Schneider, Clark County Senatorial  
District No. 11

**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Committee Counsel  
Dave Ziegler, Committee Policy Analyst  
Judith Coolbaugh, Committee Secretary  
Gillis Colgan, Committee Assistant

**OTHERS PRESENT:**

Robert L. Crowell, representing the Nevada State Board of Optometry  
Susan Fisher, representing the Chiropractic Physicians' Board of Nevada  
and the State Board of Podiatric Medical Examiners  
Robert Harman, Private Citizen, Reno, Nevada  
Bruce Layne, Private Citizen, Las Vegas, Nevada  
Russell M. Rowe, representing the Nevada Development Authority  
Lawrence P. Matheis, Executive Director, Nevada State Medical  
Association  
John Ellerson, M.D., Private Citizen, Las Vegas, Nevada  
Dean Friesen, M.D., Private Citizen, Reno, Nevada  
James Jackson, representing the Nevada Homeopathic and Integrative  
Medical Association  
Ed Guthrie, Executive Director, Opportunity Village  
LaVonne Brooks, Chief Executive Officer and Executive Director, High  
Sierra Industries  
Jim Meyer, President, Washoe Arc  
Brian Patchet, President, Easter Seals, Southern Nevada  
Don Stromquist, President, Easter Seals, Sierra Nevada  
Michelle Gerard, Chief Executive Officer, Progressive Choices, Inc.  
Ken Couley, Private Citizen, Sacramento, California

**Chair Ocegueda:**

[Roll called.] I am opening the hearing on Senate Bill 310 (1st Reprint).

**Senate Bill 310 (1st Reprint): Makes various changes relating to professions  
and occupations. (BDR 54-131)**

**Senator Maggie Carlton, Clark County Senatorial District No. 2:**

This is a cleanup bill, for various state boards, that I present every session. It addresses different issues that have arisen during the interim. One item in this bill states if an applicant takes a national test for licensing, the State will accept the national test score. A board cannot instruct an applicant to take a national test, then not accept the test score from that test. If we are going to accept a national test for licensing then we have to accept their grading score in its totality. There are some changes in electronic filing. The Legislative Commission receives quarterly summary disciplinary reports. The quantity of the reports has become overwhelming. We still need the information from the various boards, but there will now be a method for filing the reports electronically.

In a dental bill heard earlier this Session, there was a requested increase for the salary of a board member. The provision was removed from that bill and placed in this bill, so it will apply to all boards. The provision would allow all the boards to vote salary increases at their meetings. The rate of pay for board members has not changed in 20 years. There is also a provision in the bill authorizing the Legislative Committee on Health Care to appoint a subcommittee to deal with health access and regulatory issues. They will review how the State licenses people and determine if those procedures affect health care access. The subcommittee will look at how to streamline the licensing process, so we can compete for the professionals this State needs.

Also, the State Board of Cosmetology had asked for a change in language to make it possible for them to issue licenses on a rolling basis. This Board regulates a lot of professions. They currently bring in temporary staff every other year to complete the licensing process for professions under their purview. It is a large, sophisticated Board, and they do a good job. If a rolling procedure works for them, then we can start looking at having a rolling licensing program for some of the other larger boards. I would be happy to answer any questions.

**Assemblyman Anderson:**

I am concerned about this bill's provisions for national tests. There are several different boards and organizations that do use different kinds of national tests. In newer fields, these national testing boards often compete for professionals to take their tests to increase their membership. Who will determine which national test prospective licensees take?

**Senator Carlton:**

This decision would be made by the regulating board for that profession. The board can evaluate all the different national tests that they might want to accept for licensure. This provision does not mandate that the boards must use

a national test. If they do accept a national test, then the board will be required to accept the test and its score in its entirety.

**Assemblyman Anderson:**

If a board will not accept the passing score on a national test, it will not be able to use that test or make reference to it. Is that correct?

**Senator Carlton:**

If a board has chosen a national test where the passing score was 75 and that state board wanted a higher passing score, that board would not be able to use that national test. Apparently that board is looking for a higher standard, so they should choose another test. If a national testing agency has determined that 75 is a passing grade on their tests, then the board should respect that standard if they choose to use that test.

**Assemblyman Anderson:**

A board could design its own test and administer it. Is that correct?

**Senator Carlton:**

Yes, that is correct and a number of our boards already do that because they want to maintain a higher standard. If a board selects a national test, it will have to accept the passing score on that test. The national tests are expensive to take. It is not fair to have someone take it, and then tell them they did not pass according to the standards the Nevada board is requiring, even though the person passed it according to the national test's accepted passing grade.

**Assemblyman Settelmeyer:**

Who pays for the salary increases for board members? I served on the State Conservation Commission, and those salaries were paid for with taxpayer dollars.

**Senator Carlton:**

The board you served on is a different type of board. The boards in this bill are professional licensing and regulatory boards, and are self-funded. Their fees take care of their budgets. It would be their choice to raise salaries. If they could afford to pay their board members more, then they can vote to do so.

**Assemblyman Settelmeyer:**

They would not have to go to the full \$150 per day amount stated in this bill. Is that correct?

**Senator Carlton:**

Yes, that is correct. Many of the board members serving do not collect any pay.

**Assemblyman Settlemeyer:**

Some board members donate their salary back to the board.

**Senator Carlton:**

Yes, that is correct.

**Assemblyman Mabey:**

How many boards do not accept the national testing agency's passing score on a test? Are there national tests that do not have a passing grade, but leave it up to the state board to determine the passing score?

**Senator Carlton:**

I am not sure. We did not go into that issue in-depth. The provisions in this bill represent a general policy statement to give guidance to the boards. There are some boards that have looked at the national exams section by section, rather than accepting the exam in its totality.

**Assemblywoman Kirkpatrick:**

Ms. Parnell had a similar bill that dealt with this problem. She testified that some Nevada board standards were not as stringent as national standards. Is that correct?

**Senator Carlton:**

I did have a conversation with Ms. Parnell, who voiced her concerns. She was supportive of this bill, and this language would address the problems that she had encountered.

There is a proposed amendment to this bill. We discovered a problem in Senate Bill 19 (1st Reprint), which is for the Chiropractic Physicians' Board of Nevada. This Committee has already heard this bill. There is a line in that bill which says in addition to fees, the Board may charge and collect reasonable and necessary fees for any other service that it provides. Some people believe this language means the board would not have to come to the Legislature to request a license fee increase. I interpreted that language as a way to prevent the State from micromanaging a board. If there was something they needed to take care of, they could do it without coming to the Legislature. It is our job to look at their overall operation and fee structure, not incidental expenses. After some research, I found the minutes of a 1993 hearing that did not clearly address this issue. There was no true legislative intent. The chair of that committee at the

time was Mr. Porter, and he is here today in case you have any questions. We are requesting this Committee clarify this language, so it cannot be interpreted to mean boards can charge whatever fees they want. We would also like this clarification to be made in Senate Bill 19 (R1) and in Senate Bill 312 (2nd Reprint). The amending language would say reasonable and necessary fees for any other "incidental" services the board provides.

**Chair Ocegüera:**

Has a board tried to charge other fees?

**Senator Carlton:**

In discussion with the Governor's Office, they have expressed concern with the language. It is their understanding that the fees in S.B. 19 (R1) did not require legislative approval. This is different from my interpretation of the language. I understand it to mean fees charged for incidental expenses. The amendment would clarify the legislative intent of the language as it was originally proposed in the 67th Session.

**Brenda Erdoes, Committee Counsel:**

There are 14 different boards which have similar provisions in their bills. Are you asking to have this amending language apply to all boards?

**Senator Carlton:**

Yes, we are asking the amending language be applicable to all the boards.

**Brenda Erdoes:**

We do have language that will work if the Committee chooses to make this change.

**Chair Ocegüera:**

Are there any questions? Are there others in support of this bill?

**Robert L. Crowell, representing the Nevada State Board of Optometry:**

We support this bill.

**Susan Fisher, representing the Chiropractic Physicians' Board of Nevada and the State Board of Podiatric Medical Examiners:**

We support this bill with the proposed amendment. Our board has only used this language to cover incidental expenses, such as postage and copying.

**Chair Ocegüera:**

Are there others in support? Is there anyone in opposition to the bill? Does anyone wish to speak from a neutral position? Seeing none, I will accept a motion.

ASSEMBLYMAN ANDERSON MOVED TO AMEND WITH SENATOR CARLTON'S CLARIFICATION LANGUAGE AND DO PASS AS AMENDED SENATE BILL 310 (1ST REPRINT).

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Is there any discussion? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, BUCKLEY, PARKS, AND CHRISTENSEN WERE ABSENT FOR THE VOTE.)

I am opening the hearing on Senate Bill 361.

**Senate Bill 361:** Authorizes the Nevada Institutional Review Board to engage in various activities related to nonembryonic stem cells. (BDR 54-710)

**Senator Michael (Mike) A. Schneider, Clark County Senatorial District No. 11:** Senate Bill 361 and Senate Bill 384 are tied together. We can do both together if you want.

**Chair Ocegüera:**

We are going to wait on S.B. 384.

**Senator Schneider:**

Senate Bill 361 authorizes the State to do nonembryonic stem cell research. The stem cell research proposed in this bill focuses on removing stem cells from fat in the body. Two million stem cells can be extracted from a small vial of fat. The fat is processed; stem cells are extracted, and then reinjected into the donor body. The stem cells are not rejected by the body because they are the body's own stem cells, and no other diseases can be introduced into the body through this procedure. Several large states like New York are appropriating billions of dollars for nonembryonic stem cell research. Nevada cannot financially compete with those states. This bill is a combination of several bills, Senate Bill 432, Senate Bill 413, and Senate Bill 414, that were introduced this Session. This bill will allow Nevada to move to the next step in nonembryonic stem cell research, which is clinical application. It requests a study be made by the Nevada Institutional Review Board (NIRB) to determine the most effective method to move ahead with the implementation of nonembryonic stem cell research. No other state is currently doing this, and no other state has an

existing Institutional Review Board (IRB) that can engage in various activities related to alternative and complementary integrative medicine.

This bill would allow the NIRB to evaluate, determine, and act upon research and clinical applications for nonembryonic stem cell research. Members from each House will oversee the development and implementation of the clinical application of nonembryonic stem cell research. The State can be ready to begin implementation in 18 months.

I requested a delay in hearing these bills because I expected to have people here from Washington, D.C., to testify today. They would have met with the Assembly Caucus, as they did with the Senate Caucus. They chose not to come to Nevada because this Legislature has taken negative actions on the proposed bills. Instead, they are attending an international conference on nonembryonic stem cell research in Boston. Mr. Somer Hollingsworth, President of the Nevada Development Authority, is in Washington, D.C., today trying to recruit biotechnological and life science research companies to establish their operations in Nevada. Passage of this bill would be economically advantageous for these companies and for the State.

**Assemblywoman Kirkpatrick:**

In Section 1, subsection 1, line 30, the NIRB is being assigned another duty. They are currently having a hard time accomplishing the activities they are already authorized to undertake. How is this going to work?

**Senator Schneider:**

When the bill establishing the NIRB was passed in the 73rd Session, it was put in Chapter 630A of the *Nevada Revised Statutes* (NRS), which covers the homeopathic medicine board. After the NIRB was established, the intent was to remove it from the Board of Homeopathic Medical Examiners, and let it stand on its own. All the board members of the NIRB were released from their duties because of internal problems within the Board of Homeopathic Medical Examiners, and other less qualified board members were assigned to the NIRB to take their place. This bill would regenerate the NIRB under the supervision of the interim committee of this Legislature.

**Assemblyman Settlemeyer:**

Why are we taking an important subject like nonembryonic stem cell research, and putting it in the hands of a board that does not have a proven track record? Is there a better board for administering the activities of the NIRB for stem cell research?



**Senator Schneider:**

There may be. The Board of Homeopathic Medical Examiners had the necessary knowledge to handle stem cell research, but there were a couple of "bad actors" on the board. It is important that we move forward with the implementation of nonembryonic stem cell research.

**Assemblyman Settelmeyer:**

You are suggesting a new membership for the NIRB, and I am concerned that a freshman legislator may be in charge of handling this very important issue. I would suggest some other oversight be established.

**Senator Schneider:**

A freshman legislator would probably not be put on the interim NIRB study board. On the Senate side, Senator Carlton and myself from the Senate Committee on Commerce and Labor will serve on the oversight interim committee. Also, Senator Heck will serve representing the Senate Committee on Health and Human Services.

**Assemblyman Mabey:**

There is no need for this Legislature to have an NIRB. An article on the Food and Drug Administration (FDA) website says although institutions engaged in research involving human subjects will usually have their own IRBs to oversee research conducted, it is not necessary. The regulations of the FDA permit an institution without an IRB to arrange for an outside IRB to be responsible for initiating and continuing the review of studies conducted at that institution.

**Senator Schneider:**

It was my understanding that an IRB is needed. A group of NIRB board members went to Washington, D.C., and met with the federal Health and Human Services Committee. They were interested in Nevada's IRB as a relief value for what they could not get done in Washington, D.C., because of negative reactions to stem cell research. The public tends to view stem cell research as embryonic, which is a highly controversial issue.

**Assemblyman Mabey:**

I appreciate what you are saying, but I do not believe there is a need for a state IRB.

**Senator Schneider:**

I will have someone answer that.

**Chair Ocegüera:**

Are there any other questions?

**Robert Harman, Private Citizen, Reno, Nevada:**

I am a veterinarian with 15 years of experience in preclinical and clinical research for both human and veterinary pharmaceuticals and biologics. I have spent a lot of time dealing with the FDA, and I am knowledgeable about their requirements. I also own the first veterinary stem cell company in the United States. We have treated 2,500 horses and dogs for orthopedic problems and other diseases. Human injuries are similar to animal injuries. The stem cells we use in our treatments are extracted from fat cells.

Stem cell therapy for diseases such as Parkinson's and Lou Gehrig's disease (amyotrophic lateral sclerosis), is available offshore. I have been to Costa Rica and countries in the Middle East and Europe to visit some of these treatment facilities. I have taken relatives and friends to these places to decide if they want to have stem cell therapy for their disease. The United States has taken a restrictive approach to stem cell therapy even if the stem cells used are the person's own. Stem cell therapy has more rigorous regulations than prescription drugs. Other countries have taken a more permissive approach, and are moving forward with stem cell research and therapy. If you have a state IRB, then controlled research studies to treat patients can be allowed without coming directly under the auspices of the FDA. This situation is beneficial to biotech companies interested in engaging in stem cell research and treatment therapy. People will come to this State for medical treatment rather than seeking the therapy in other countries. Stem cell therapy is safe. I am taking my daughter to Spain for stem cell treatment for her shoulder, so she does not have to live with chronic arthritis for the rest of her life. I would be happy to answer any questions.

**Chair Ocegüera:**

Are there any questions?

**Assemblyman Mabey:**

Can I get a list of the members currently serving on the NIRB?

**Senator Schneider:**

We can get you a list of the previous board members.

**Chair Ocegüera:**

Are there others wishing to testify in support?

**Bruce Layne, Private Citizen, Las Vegas, Nevada:**

I am a lifelong resident of Las Vegas. I have Parkinson's disease. I have submitted a series of articles on stem cell research and Parkinson's disease ([Exhibit C](#)). There is synergy in combining private enterprise and the

government, which can prove profitable for both. I do support nonembryonic stem cell research. There are 1.5 million people nationwide suffering from Parkinson's disease, and 10,000 of them are Nevadans.

I would like to give you some insights about Parkinson's disease. It is an incurable brain disease and a movement disorder that is not fully understood. It is not immediately terminal, but it worsens through progressive degeneration. Shakes, tremors, weakness, fatigue, balance problems, and slow movements are some of the characteristics of Parkinson's. A person loses dopamine, a neurohormone released by the hypothalamus. Everyone loses dopamine, but when you have an 80 percent loss, a person begins to suffer from Parkinson's disease. After my diagnosis, I went into a state of depression. Other people including Mohammed Ali, the Pope, and Michael J. Fox are afflicted with Parkinson's. It is a tough disease to live with, but I rallied and decided to live my life.

One of the goals for supporters of Parkinson's stem cell therapy is to set up a structure to encourage and empower nonembryonic stem cell research and its clinical application in Nevada. Oversight would be provided by several medical boards. The oversight does not have to be done by the NIRB. A board should be established to set up stem cell banks, to establish procedures for stem cell collection and usage, and to enter into contracts with laboratories to test and oversee the quality of the stem cells. If we can do something faster to find a cure or successful treatment, people with Parkinson's will have renewed hope.

**Chair Ocegüera:**

Thank you for your testimony. Are there any questions?

**Senator Schneider:**

This research would not be confined to nonembryonic stem cells. It would include other modalities, other procedures, and alternative drugs and medications. Currently, our health care industry is allopathic, which means the treatment of a disease by using remedies whose effects differ from those produced by that disease. Allopathic drugs are poisonous. They mask symptoms, and they create other problems. The most recent issue of the Cancer Institute's magazine has an article on cures for cancer. The author talks about chemotherapy and how it affects the body. He states chemotherapy invades all cells and kills them, causing unwanted side effects. Current cancer treatments involve chemotherapy and radiation, which are both poisonous. The hoped-for outcome is that the cancer cells will be killed before the drugs and treatments kill us. Pharmaceutical companies test the drugs they are developing at a facility in Las Vegas. The testing is necessary because they are developing drugs and therapies that can arrest the cancer for a period of time. When the

cancer returns, the same poisonous treatment begins again. The treatments eventually destroy a person's immune system. Do the patients die from the cancer, or do they die from the allopathic treatment of it? We do not know. Nonembryonic stem cell research is an alternative form of treatment that can be financially beneficial to the State, and can save lives. It can also cut health care costs.

**Chair Ocegüera:**

Mr. Schneider, do you have other witnesses to testify on the bill?

**Senator Schneider:**

Mr. Rowe is here from the Nevada Development Authority.

**Russell M. Rowe, representing the Nevada Development Authority:**

Other members of the Nevada Development Authority (NDA) are in Boston at an international biotech conference. Mr. Hollingsworth has been calling me indicating that companies attending the conference are interested in possibly establishing their research operations in Nevada. The NDA wants this Committee to know that opportunities are there for companies to come to Nevada. We do not have any position with respect to the NIRB. If there is a way to set up the mechanism for companies to come to Nevada under another body, we encourage that.

**Chair Ocegüera:**

Are there any questions? Are there others wishing to testify in favor? Is there anyone wishing to testify in opposition to the bill?

**Lawrence P. Matheis, Executive Director, Nevada State Medical Association:**

The State Medical Association thinks this Committee and the Assembly acted appropriately in passing Assembly Bill 234 with its amendments. That bill eliminated the current NIRB. We also think it is appropriate to study, during the interim period, whether or not this State needs an IRB. The previous IRB had not been fully vetted, and it was not well-conceived. There are other IRBs in the State such as the one at the University of Nevada School of Medicine, and anybody who does research has one or has an external IRB. Looking at the pros and cons of establishing a state IRB is something the Legislature should seriously consider. It may not be necessary to have a legislative committee overseeing medical research. That may not be a model that would be successful.

We support nonembryonic stem cell research, and we support and encourage Nevada being on the cutting-edge for this type of research. Over the last several years, we have been building a medical research and clinical

infrastructure in this State at a rapid rate. We need to look at how this type of research is being conducted, not as an alternative, but as a part of medicine. We need to ensure that Nevada is a place where this type of research is going on, and patients can be on the frontline for receiving the benefits from this research. The nonembryonic stem cell research that needs to be done is transitional research, which is having the academic research actually applied to patient care. We do need to move forward on that process. It is not a different world from the world of medicine; it is the world of medicine. There is much that can and should be done, but this bill is not the vehicle for it.

**Chair Ocegura:**

Are there any questions?

**John Ellerson, M.D., Private Citizen, Las Vegas, Nevada:**

I am a medical oncologist in Las Vegas. I am in opposition to this bill. As a recipient and a principal research investigator on a fairly sizeable National Cancer Institute grant, I am familiar with the grant process, federal regulation, and IRBs. It is an important topic, and the State needs to be on the forefront of its development. However, the research should coexist within our established research environments, such as the School of Medicine in our universities. Rather than having a state IRB, a policy or a set of laws or regulations that encourage nonembryonic stem cell research should be established for any group or person who wants to undertake the research. It may be private enterprises, academic institutions, or cooperative ventures among those groups. We do not need to develop a complicated bureaucratic structure.

We do not have a state IRB even though it is called that. It is not a real IRB. It is not certified under the appropriate federal regulations. It does not do what other IRBs do. I do not think you need one in this State. There are several IRBs already functioning to oversee clinical research within the State. Some of them are certified IRBs from outside the State. Encouraging people to come here to conduct nonembryonic stem cell research is a far better approach than having an IRB. Medicine today is in transitional research. It is the understanding of the mechanisms of cell growth and death, and the development and control of that process. It is taking that information into the clinic and applying the knowledge to developing patient care treatments. Many of the research studies we are currently doing are exactly for that purpose. We are trying to improve the quality of patient care. Nonembryonic stem cell research is an important part, but I doubt it will be the whole answer. I urge this Committee to reject this bill. In its place establish a policy that encourages institutions, companies, and individuals to come to the State, and do real research that is regulated and scientifically valid.

**Assemblyman Anderson:**

With your background and expertise in this area, would you be willing to work on developing a policy for nonembryonic stem cell research? Do you see a need for this kind of a program?

**John Ellerson:**

Yes, I do see a need for a program that encourages this type of research in this State. It would put us into the forefront of this research. I would be more than willing to work on developing a policy. It is an opportunity for Nevada, but we can do it in a more coordinated and general fashion to ensure research is encouraged.

**Assemblyman Anderson:**

Some legislation may be needed. Can something be worked out within the next couple of days? Or is this just a bad piece of legislation?

**John Ellerson:**

I think the bill as it is currently written is a terrible piece of legislation and public policy. I have developed an alternative to this bill, although it was not meant to be a formal amendment to this bill. It would establish a general policy of support and provide encouragement. It would remove bureaucratic roadblocks, but establish a system to do the nonembryonic stem cell research. If someone at the University of Nevada School of Medicine wanted to do stem cell research, they could do it today by developing the protocol and going to their IRB for approval. If we want to encourage this type of research, the State needs to have some kind of policy in place.

**Chair Oceguera:**

Are there others in opposition?

**Senator Schneider:**

I am opposed to what Dr. Ellerson has said.

**Chair Oceguera:**

I will give you an opportunity to make a final comment. Is there anyone else wishing to testify on this bill in favor, in opposition, or from a neutral position? Seeing none, Mr. Schneider, do you have any closing comments?

**Senator Schneider:**

If we could just write an easy policy, we probably would have done it. You have to develop an IRB. There are 3,100 federal IRBs out there, but no one is coming into this State to do nonembryonic stem cell research. You have heard the lobbyist for the NDA say companies at the Boston conference are excited

about the feasibility of moving their research facilities to this State. I would like you to hear from Dr. Friesen to explain why a policy is insufficient to attract the companies to Nevada.

**Dean Friesen, M.D., Private Citizen, Reno, Nevada:**

When the world of medicine decides what to keep and what to throw out, it does it through an IRB. The 3,100 established IRBs nationwide are federally governed by the FDA. The NIRB was the only one in the nation that was state mandated. What does that mean and how do we maintain proper safety regulations? When the NIRB was established, it was to be a door opener. It would bring the capacity for high-tech research into the State, and make the homeopathic procedures provable. The members of the NIRB spent many hours over a seven-month period structuring a board with the intent of filling the gap to permit research that did not fall under the regular FDA guidelines. After the original membership of the NIRB changed, everything was totally muddled up. Now the board has homeopathic assistants serving on it. The original board had the key for establishing nonembryonic stem cell research policy.

**Chair Ocegüera:**

Are there any questions? Seeing none, I am closing the hearing on S.B. 361, and opening the hearing on Senate Bill 432 (1st Reprint).

**Senate Bill 432 (1st Reprint): Directs the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board. (BDR S-694)**

**Senator Michael (Mike) A. Schneider, Clark County Senatorial District No. 11:**

In S.B. 432 (R1), we combined two other Senate bills, S.B. 413 and S.B. 414. Senate Bill 414 provided for the operation and authority of the Nevada Institutional Review Board (NIRB) to be removed from the Board of Homeopathic Medical Examiners. This bill requires the Legislative Committee on Health Care to appoint a subcommittee to review issues relating to complementary integrative medicine, homeopathic medicine, and the NIRB. At the end of the subcommittee's review and study, the State would have everything ready for the operation of nonembryonic stem cell research. We cannot delay. We do a lot of studies when a decision cannot be made, but nothing happens as a result. We do not fix anything, and that is what has been done in health care for the last 20 years. With the passage of this bill, the study will be the vehicle for getting the stem cell research program up and running. We will be ready to report on how the program is operating to this Committee by the first week of February 2009.

**Chair Oceguela:**

Are there any questions? Is there anyone else wishing to testify in favor?

**James Jackson, representing the Nevada Homeopathic and Integrative Medical Association:**

We support this bill as it is written, and believe that the proposed study will be beneficial to all parties.

**Lawrence P. Matheis, representing the Nevada State Medical Association:**

We do not oppose this bill. All of the issues presented are worth taking under careful consideration, and it will bring all interested parties to the table. It is not necessary to share Mr. Schneider's premise as to how the process will work, or that nonembryonic stem cell research is an alternative to traditional medicine. The position of the Medical Association has always been if there is complementary and integrative medicine available, it should be discussed. New ideas and new approaches should be reviewed, and it is appropriate to integrate them into medical practice.

On page 2, Section 1, subsection 3, we interpret the language to mean an interim study would be established to look at the way the Board of Homeopathic Medical Examiners has operated, and to look at the need for a NIRB. On closer examination the language could be read that the review is not part of the mission. We would suggest an amendment to the language on line 20 by inserting the words "need for" after the words "A review of the...."

**Chair Oceguela:**

Are there any questions? Are there others in support of this bill? Does anyone wish to speak in opposition or from a neutral position? Seeing none, I am closing the hearing on S.B. 432 (R1), and we will take a brief recess. We are waiting for Senator Cegavske to come testify. I am calling the hearing back to order, and opening the hearing on Senate Bill 384.

**Senate Bill 384: Clarifies that certain relationships between persons with disabilities and training or rehabilitation centers do not constitute employment for the purposes of provisions governing the minimum wage. (BDR 53-1103)**

**Senator Barbara K. Cegavske, Clark County Senatorial District No. 8:**

This bill clarifies the application of the minimum wage requirements between persons with disabilities and training or rehabilitation centers. This bill will add a new section to NRS 608, which addresses compensation, wages, and hours. The new language will specify that certain relationships do not constitute employment since they are established for training or rehabilitation.



Consequently, such relationships are not subject to minimum wage provisions. The relationships that do not constitute employment are those between a handicapped individual and a rehabilitation facility, or a workshop established by the Department of Employment, Training and Rehabilitation (DETR) pursuant to NRS 615.

Further, relationships between an enrollee participating in a community-based training center and the center are not considered employment if the center has been issued a certification of qualification by the Division of Mental Health and Developmental Services (DMHDS) of the Department of Health and Human Services pursuant to NRS 435.130 to 435.320, inclusive.

Following passage last year of the voter-initiated constitutional amendment to raise the minimum wage, Ed Guthrie of Opportunity Village asked me to request this legislation. Opportunity Village is a nonprofit organization that provides vocational training, jobs, and social interaction for people who are mentally disabled. His concern was that his organization and similar organizations, like Easter Seals and High Sierra Industries, would be subject to the requirements of the new minimum wage law. These organizations pay their disabled clients on a pay schedule based on the amount of work they perform in an hour. This method of payment is called piece work. If they had to pay their workers the new hourly minimum wage, they would have to scale back their programs and reduce their enrollment. I am proud of the work these organizations do, and I urge your support of this bill.

**Chair Oceguela:**

Are there any questions? Are there others in support of this bill?

**Ed Guthrie, Executive Director, Opportunity Village:**

I have submitted a position paper for Opportunity Village ([Exhibit D](#)). We serve people with severe intellectual disabilities. In speaking with the people who initiated the petition to raise the minimum wage, I was told the effect on the people served by our organization and others was an unintended consequence of the initiative. They indicated they do not want to decrease the opportunities available for people with severe disabilities, but they would like to see them increased. I asked Ms. Cegavske and Ms. Buckley for their help in developing an alternate solution to the problem. They asked me to enter into discussions with Mr. McCracken, who was one of the developers of the initiative. He suggested 99 percent of the language in this bill.

This bill will ensure that individuals with the most severe disabilities will have continued opportunities for vocational training in this State. The people with less severe disabilities who can be placed in jobs in private industry at the

minimum wage will also continue to have the opportunity to work. Some of the people we serve will never be able to reach the level of productivity necessary to earn the minimum wage. Those people will continue to be paid on a piece work rate for contracts or work they perform. The piece rate will be based on a wage that exceeds the minimum wage in the State, whatever the minimum wage will be. I would be happy to answer any questions.

**Chair Ocegueda:**

Are there any questions?

**Assemblyman Conklin:**

How do you determine the equivalent piece rate wage, and ensure that it will always be higher than the minimum wage? What regulations are there in place to determine that amount?

**Ed Guthrie:**

All the community-based training centers are also governed by Section 14C of the federal Fair Labor Standards Act (FLSA). It will still govern the way we develop the piece rate wage. That law requires the agencies to go out and survey commensurate wages being paid for an experienced individual in the community who is doing similar work. All of those individuals make at least the minimum wage and probably more. We are then required to have nondisabled individuals do the contract work, so a time study can be developed. The piece rate wage is then figured on the average production of those individuals. Does that answer your question?

**Assemblyman Conklin:**

Yes, it does. I have a follow-up question. If the wage paid is covered under the FLSA, do you also report to the State the piece rate wage being paid? [Mr. Guthrie nodded in the affirmative.] Do we have statutory language that says the Labor Commissioner has jurisdiction over complaints brought under the FLSA?

**Ed Guthrie:**

Nationwide about 95 percent of the people who receive a special minimum wage are people with mental retardation and developmental disabilities. Those individuals in Nevada are in community training centers. The centers are regulated by the DMHDS, which is cited in this bill. The DMHDS requires an annual meeting to recertify that an individual is still in need of services through the community training center. At that meeting, the DMHDS can also recertify that the individual requires a special minimum wage. Does that answer your question?

**Assemblyman Conklin:**

It is partly answered. I wanted to ensure if we exempt these people from the minimum wage law that no one will slip through the cracks. I do not want to see some employer taking advantage of the disadvantaged people in our State. We need to be certain the wage they earn is fair and equitable.

**Senator Cegavske:**

Ms. Buckley started to receive a number of emails about this issue. She responded to every one to verify who they were and what their concerns were. We do not see any other amendments because the satisfaction level was there in getting responses, and information was gathered and used to alleviate people's concerns.

**Ed Guthrie:**

Since this bill is restricted to community training centers and to groups that are authorized by the DETR, you will have the ability to ensure that the nonprofit organizations that are servicing these individuals are legitimate nonprofit organizations. The services being provided are overseen by the DMHDS or by the DETR. We do not want to see anyone lining their own pockets by taking advantage of people with severe disabilities.

**Chair Ocegueda:**

Are there further questions?

**Ed Guthrie:**

I assure you that everyone at this table realizes they are being given a special privilege by the State to be able to provide these services to disabled individuals. We want to safeguard the integrity of our ability to provide those services in any way we can. We would be more than happy to work with this Committee and the state agencies to make sure protections are provided.

**LaVonne Brooks, Chief Executive Officer and Executive Director, High Sierra Industries:**

High Sierra Industries operations are located in Reno, Fallon, and Sparks. We support this bill. To further clarify your regulatory concerns, there are a variety of checks and balances in place. Individuals who are served by us come to us through a state agency, and they are given quarterly reviews by that agency. There are also annual evaluations for each individual at the state level through the certification process. Also, we annually provide a mountain of paperwork to the federal government to keep our special minimum wage certificate. It is a rigorous oversight and screening process. Our organization would go out of business without the special minimum wage provisions. We could not continue to train people and provide jobs for them in light production and manufacturing.

**Jim Meyer, President, Washoe Arc:**

We provide work training and opportunities for people with developmental disabilities. We are currently restudying the prevailing wage. We call other commercial companies in our community and ask them what they pay for an introductory job. The current base rate we pay our people employed in sorting and hanging merchandise in our thrift stores is \$7.72 per hour. The commensurate wage for piece work pay is based on this amount. Every time there is a minimum wage increase, we are required to complete another federal government study of the prevailing wage in our community. We will always stay ahead of and above the Nevada minimum wage.

**Chair Ocegüera:**

Are there any questions?

**Brian Patchet, President, Easter Seals, Southern Nevada:**

We also provide services for children and adults who have disabilities. One of those services is a community training center. The people in our programs have a combination of intellectual and psychiatric disabilities. We provide these individuals with a place to go during the day for social interaction, and we give them the opportunity to earn a paycheck. It gives them and their families a great deal of satisfaction to be able to participate in our programs. We support this bill.

**Don Stromquist, President, Easter Seals, Sierra Nevada:**

We provide community training centers in Reno and Elko for disabled individuals. We are in support of this bill. Without the passage of this legislation, there will be a serious interruption in our ability to deliver services to these people.

**Chair Ocegüera:**

Are there any questions? Are there others wishing to testify in support of this bill?

**Michelle Gerard, Chief Executive Officer, Progressive Choices, Inc.:**

This is important legislation, and I urge you to pass it. We have three facilities in the Las Vegas area. One of our centers is located in the City of Pahrump. The people of Pahrump believe our center is important because, before it was established, there were no vocational services available for disabled individuals. I have parents who are deeply concerned that without this legislation their children would lose a valuable opportunity to gain needed skills.

**Chair Ocegüera:**

Is there anyone else wishing to testify in favor of this bill?

**Ken Couley, Private Citizen, Sacramento, California:**

I am here as a lobbyist for an entity on an unrelated issue. A special education child of a friend of mine died at the age of 21. There is a state building in Sacramento with a wing dedicated to this young man. The ability of this young man to attend an Easter Seals workshop in San Mateo where he could work and receive a paycheck allowed him to grow up and see past his troubles. He felt he was on a par with other individuals. It was a deeply important experience in his life. I am in support of this bill.

**Chair Ocegüera:**

Is there anyone else wishing to testify in support? Is there anyone wishing to speak in opposition or from a neutral position on this bill? [There were none.]

**Assemblyman Manendo:**

I want to disclose that I am an unpaid board member of Opportunity Village. All of our board members serve without pay. I appreciate the work of everyone involved with this legislation.

**Chair Oceguela:**

I will entertain a motion.

ASSEMBLYMAN MANENDO MOVED TO AMEND AND DO PASS  
AS AMENDED SENATE BILL 384.

ASSEMBLYMAN SETTELMAYER SECONDED THE MOTION.

Is there any discussion? Seeing none, I will take the vote.

THE MOTION PASSED. (ASSEMBLYMAN CHRISTENSEN WAS  
ABSENT FOR THE VOTE.)

[The meeting was adjourned at 3:26 p.m.]

RESPECTFULLY SUBMITTED:

---

Judith Coolbaugh  
Committee Secretary

APPROVED BY:

---

Assemblyman John Oceguela, Chair

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

**EXHIBITS**

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

**Date:** May 9, 2007

**Time of Meeting:** 1:37 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
SB 361	C	Bruce Layne, Private Citizen	Articles on Stem Cell Research and Parkinson's Disease
SB 384	D	Ed Guthrie, Opportunity Village	Position Paper for Opportunity Village