

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fourth Session  
May 4, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 8:17 a.m., on Friday, May 4, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Bernie Anderson, Chairman  
Assemblyman William Horne, Vice Chairman  
Assemblyman John C. Carpenter  
Assemblyman Ty Cobb  
Assemblyman Marcus Conklin  
Assemblywoman Susan Gerhardt  
Assemblyman Ed Goedhart  
Assemblyman Garn Mabey  
Assemblyman Mark Manendo  
Assemblyman Harry Mortenson  
Assemblyman John Ocegüera  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Francis Allen (Excused)



**STAFF MEMBERS PRESENT:**

Jennifer M. Chisel, Committee Policy Analyst  
Risa Lang, Committee Counsel  
Janie Novi, Committee Secretary  
Matt Mowbray, Committee Assistant

**OTHERS PRESENT:**

Renee Parker, Chief of Staff, Office of the Treasurer, State of Nevada

**Chairman Anderson:**

[Meeting called to order. Roll called.] We have one bill to discuss before we move to our work session document ([Exhibit C](#)), which is rather extensive. We are going to remove Senate Bill 35 (R1) from the document.

**Senate Bill 35 (1st Reprint): Revises certain provisions relating to the admissibility of certain affidavits and declarations in certain proceedings. (BDR 4-507)**

We will now turn our attention to Senate Bill 519 (R1).

**Senate Bill 519 (1st Reprint): Makes various changes relating to abandoned property. (BDR 10-496)**

**Renee Parker, Chief of Staff, Office of the Treasurer, State of Nevada:**

I am here to encourage your support in passage of S.B. 519 (R1), which is one of our clean-up bills. The most important section of S.B. 519 (R1) is in Section 2, which allows us to move money from the Abandoned Property Trust Fund into the Millennium Scholarship Trust Fund by the end of each fiscal year. We currently, by statute, are required to move the money at the end of each fiscal year, causing cash flow problems and late payments to the university because the \$7.6 million that comes from unclaimed property to the Millennium Scholarship Trust Fund comes after the spring tuition payments are due.

The first part of the bill has to do with some clean-up language concerning reporting by holders. Currently, there is a provision requiring them to report 15 or more items on diskette. We are changing that to electronic reporting which is easier for the holders, as well as our office in processing that information. They are also allowed to report items with a collective value of less than \$50. This was a problem because it was an exception to requiring reporting of identifying numbers, and it is more difficult to find the claimants that way. We

have run into problems with reporting them in the aggregate and not giving sufficient descriptions to identify the appropriate claimants.

The remainder of the bill brings the statute in compliance with the Governmental Accounting Standards Board (GASB) 34. We brought the State accounting system into compliance in fiscal year (FY) 2003 because, under GASB 34, the description of the unclaimed property fund should not have been its own separate account. It has now been brought into the State General Fund. You will notice the change that deletes the requirement that we start the year and the fund with \$105,000 each year. That is no longer necessary because it is part of the State General Fund. The money, after we transfer Millennium Scholarship Trust Fund payments and payments to claimants, automatically reverts into the State General Fund each year.

**Chairman Anderson:**

Will the potential interest generated for the unused monies in the Millennium Scholarship Trust Fund still accrue in that fund or will the accounting process require it to go to the State General Fund?

**Renee Parker:**

No, the Abandoned Property Trust Fund reverts to the State General Fund at the end of the year, after we make the transfer to the Millennium Scholarship Trust Fund. We transfer our \$7.6 million prior to the reversion of remaining unclaimed monies to the General Fund. The interest would still accrue on that money in the Millennium Scholarship Trust Fund, if there is any left after the tuition payments are made.

**Chairman Anderson:**

Does this make any additional monies available to the Millennium Scholarship Trust Fund that would not otherwise be available?

**Renee Parker:**

Yes, with the change of "by the end of the fiscal year" it allows us to transfer the money at the time tuition payments are due, then if there is any money left at that point, that interest would accrue in the Millennium Scholarship Trust Fund, where, prior to that, it sat in the Abandoned Property Trust Fund. It is probably a negligible amount but it increased the cash flow solvency of the Millennium Scholarship Trust Fund. In FY 2008 we run out of money making the spring payments, but with this change we do not have that problem any longer.

**Chairman Anderson:**

Is that because those monies will be coming out of the Abandoned Property Trust Fund that has not been allocated by any claimants?

**Renee Parker:**

Correct.

**Chairman Anderson:**

This does not harm the claimant and protects the Millennium Scholarship Trust Fund so that the claimants are complying with GASB34.

**Renee Parker:**

It does not harm the claimants. With our latest projections, we anticipate that after the transfer to the Millennium Scholarship Trust Fund of \$7.6 million, we will still be reverting \$18 million from Abandoned Property Trust Fund to the General Fund at the end of FY 2007. That is anticipating a 35 percent payback to the claimants, we run anywhere from 25–30 percent in payments to claimants. We have identified and instituted procedures to identify claimants and inform them of unclaimed property. Now we are looking at giving back 35-40 percent, still reverting \$18 million, and still transferring the \$7.6 million to the Millennium Scholarship Trust Fund.

**Assemblyman Carpenter:**

What is the total amount that you have in that fund?

**Renee Parker:**

As of the receipts for FY 2007, we have about \$37.9 million and we anticipate reverting \$18 million, paying out claims in the amount of \$15 million, program expenditures of \$2 million, and then the \$7.6 million transfer to the Millennium Scholarship Trust Fund. At the end of each fiscal year, any money remaining in the fund after the transfer and all payments revert to the General Fund. In the next couple of months, we anticipate additional payments to claimants so our payments will probably be about \$43 million this year. That is the total amount anticipated to end up in the fund at the end of the year and about \$18 million of that will be additional.

**Assemblyman Carpenter:**

I was wondering about the total amount of money that you receive interest on.

**Renee Parker:**

Right now there is about \$25 million in there. We have the liability for the fund and the total amount of unclaimed property that is out there that people could claim is about \$200 million in assets. That is the liability. Each year the monies

that are coming in from additional holders are sometimes in the form of jewelry, stock certificates, et cetera.

**Assemblyman Mortenson:**

You do have this huge liability and of course you have good statistics on how much is claimed every year and how much comes in every year. If you should have a big claim come in, are you keeping a big fund available to pay the claims or do you take it from the General Fund?

**Renee Parker:**

The General Fund would be responsible because all the money in that account reverts. Some of the claims may be against some jewelry or stock certificates. The asset may be there to sell or to provide back to the claimant.

**Chairman Anderson:**

I will close the hearing S.B. 519 (R1). I see no issues with this bill.

ASSEMBLYMAN OCEGUERA MOVED TO DO PASS  
SENATE BILL 519 (R1).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

Assemblyman Manendo will speak to this bill on the Floor. We will now turn our attention to the work session document.

**Jennifer Chisel, Committee Policy Analyst:**

The first bill that you have in the document is Senate Bill 9.

**Senate Bill 9: Provides that the provisions related to obtaining the informed consent of patients apply to osteopathic physicians. (BDR 3-728)**

Senate Bill 9 was presented on March 16 by Senator Heck ([Exhibit C](#)). Currently, physicians and dentists are subject to laws regarding obtaining a patient's informed consent for medical, surgical, or dental procedures. This measure would apply the same informed consent provisions to osteopathic physicians. During the hearing, there were no amendments presented and no opposition to the bill.

ASSEMBLYMAN MABEY MOVED TO DO PASS SENATE BILL 9.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

**Chairman Anderson:**

Assemblyman Mabey will take the Floor assignment, and we will move on to Senate Bill 31 (R1).

**Senate Bill 31 (1st Reprint): Makes various changes to provisions governing records of criminal history. (BDR 14-595)**

**Jennifer Chisel:**

Senate Bill 31 was presented on April 25 by the administrator for Aging Services ([Exhibit C](#)). The bill would allow the Division to be designated as a governmental entity that may receive records of criminal history from law enforcement agencies on potential suspects of elder abuse. Division employees investigate reports of elder abuse and would benefit from having criminal history information for their safety during those investigations. There were no amendments presented and no opposition to this bill.

ASSEMBLYMAN CONKLIN MOVED TO DO PASS  
SENATE BILL 31 (R1).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

**Chairman Anderson:**

Assemblyman Mortenson will take this bill to the Floor. Let us now turn our attention to Senate Bill 44.

**Senate Bill 44: Enacts the Uniform Disclaimer of Property Interests Act. (BDR 10-754)**

**Jennifer Chisel:**

The Committee heard S.B. 44, which was presented by Senator Care, on March 16 ([Exhibit C](#)). This measure enacts the Uniform Disclaimer of Property Interests Act. It repeals the existing property disclaimer statutes. This Act

provides the opportunity for someone to disclaim his interest in property received as an inheritance. This situation may be desirable for a variety of reasons. There were no amendments and no opposition.

**Chairman Anderson:**

This Act brings us into some new opportunities for a tax advantage regarding inheritance.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 44.

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

**Chairman Anderson:**

Assemblyman Horne will have the Floor assignment, and we will move to Senate Bill 46.

**Senate Bill 46: Enacts the Uniform Custodial Trust Act. (BDR 13-753)**

**Jennifer Chisel:**

Senate Bill 46 was presented by Senator Care on March 16 ([Exhibit C](#)). This bill enacts the Uniform Custodial Trust Act, which provides procedures to establish a simplified custodial trust for people who do not have extensive financial assets. There was no opposition testimony and no amendments were presented. When people get older in age, they still want to have control over their assets, but in case of incapacitation, this would allow them to be the beneficiary of their own assets and the appointed trustee to take care of those assets.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 46.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

**Chairman Anderson:**

Mr. Ohrenschall will present this bill on the Floor. We will now look at Senate Bill 129 (R1).

**Senate Bill 129 (1st Reprint): Makes various changes to provisions relating to guardianships. (BDR 13-1109)**

**Jennifer Chisel:**

Senate Bill 129 (R1) heard by the Committee on April 27 and was presented by Kim Spoon on behalf of the Nevada Guardianship Association ([Exhibit C](#)). This measure makes various changes to existing guardianship law, including the length of time and criteria necessary for the appointment of a temporary guardian, and the limited circumstance when a guardian may use an asset of the ward for the benefit of the ward without obtaining a court order. Additionally, there is a procedure for the guardian to seek authorization from a court to perform certain activities on behalf of the ward.

The proposed amendment on this bill would provide additional discretion to a court regarding the extension of a temporary guardianship for extraordinary circumstances. You may recall that Ms. Spoon indicated that she believed the Senate had approved this provision and is asking for it to be included as an additional amendment here. I have attached her testimony from the hearing. The only amendment that this Committee needs to consider is to add the sentence: "The court may extend the temporary guardianship beyond the first seven months only upon the showing of extraordinary circumstances."

**Chairman Anderson:**

It was the contention that the Senate amendment did not quite meet what was agreed upon. Ms. Spoon did not feel the Senate would be concerned if we added this sentence to the bill. In their haste to move the bill, all needs were not communicated. I am of the opinion that, by extending the deadlines, we will have a more realistic opportunity for the courts to do their job and for guardians to get the resources to do theirs.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS  
SENATE BILL 129.

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

**Chairman Anderson:**

Assemblywoman Gerhardt will take the Floor assignment. Now let us look at Senate Bill 168.

**Senate Bill 168: Enacts the Uniform Assignment of Rents Act. (BDR 9-972)**

**Jennifer Chisel:**

Senate Bill 168 was presented by Senator Care on April 26 ([Exhibit C](#)). This measure enacts the Uniform Assignment of Rents Act. This will address rental income on a property in the event of a default on a loan for that property. There was no opposition testimony, and no amendments were presented.

ASSEMBLYMAN COBB MOVED TO DO PASS SENATE BILL 168.

ASSEMBLYMAN MABEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.  
(ASSEMBLYWOMAN ALLEN WAS ABSENT FOR THE VOTE.)

**Chairman Anderson:**

Assemblyman Cobb will have S.B. 168 on the Floor. Now we will come back to Senate Bill 132.

**Senate Bill 132: Makes various changes concerning the liability of trail-building organizations and landowners, lessees and occupants of land to persons using premises for recreational activities. (BDR 3-212)**

**Jennifer Chisel:**

As we heard in yesterday's testimony, a compromise was reached by all of the interested parties in the form of the amendment, presented for the Committee's consideration today ([Exhibit C](#)). Essentially, the amendment removes the references to recreational trails and trail building. The remaining portion of the bill adds cross country skiing, snowshoeing, and road and mountain biking to the list of recreational activities that are in the existing recreational use immunity statute. With this compromise, there was no opposition to the bill. Also, in Section 1, subsections 2 and 3 would be removed and the only remaining language would be in subsection 6, subparagraph (a), which is the definition of recreational activity. The amendment would also remove the definitions of recreational trail and trail-building organization which were part of subsection 6. Additionally, the amendment would take out all of the "whereas" clauses that were in the beginning of the bill.

**Assemblyman Cobb:**

I know that this was agreed to by the bill sponsors although reluctantly. I want to say that it is a shame that they gutted this bill. I know that there are issues where people get injured in certain activities. However, when there is the situation of people trying to provide an outdoor activity to other people at no cost, they should not be liable for situations that are not intentional. There is a certain amount of responsibility assumed by all people in our society. This

would have done a lot of good to help create outdoor areas for activities for Nevadans as well as visitors.

ASSEMBLYMAN CARPENTER MOVED TO AMEND AND DO PASS  
SENATE BILL 132.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ALLEN AND CONKLIN  
WERE ABSENT FOR THE VOTE.)

**Chairman Anderson:**

I understand your concerns Assemblyman Cobb. I will take care of this bill on the Floor because I, too, am passionate about this.

Meeting adjourned [at 9:13 a.m.].

RESPECTFULLY SUBMITTED:

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Janie Novi  
Committee Secretary

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

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

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** May 4, 2007

**Time of Meeting:** 8:17 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	Assembly Committee on Judiciary	Agenda
	B	Assembly Committee on Judiciary	Attendance Roster
	C	Jennifer Chisel, LCB Research Division	Work Session Document