

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

**Seventy-fourth Session
May 28, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:23 p.m. on Monday, May 28, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in 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 Joseph J. Heck
Senator Valerie Wiener
Senator Steven A. Horsford
Senator Joyce Woodhouse

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Shauna Kirk, Committee Secretary

OTHERS PRESENT:

Laura Hale, Chief, Grants Management Unit, Department of Health and Human Services
Mary Liveratti, Deputy Director, Department of Health and Human Services

CHAIR WASHINGTON:

We will open the hearing on Assembly Bill (A.B.) 182.

ASSEMBLY BILL 182 (2nd Reprint): Makes various changes concerning the Fund for a Healthy Nevada. (BDR 40-158)

MARSHEILAH D. LYONS (Committee Policy Analyst):

As you may know, I may not advocate or oppose any legislation that comes before this Committee or any other legislative body. At the request of the Chair, I will walk the Committee through A.B. 182 and its proposed amendment 4180 ([Exhibit C](#), original is on file in the Research Library).

CHAIR WASHINGTON:

The two concepts that Assemblywoman McClain has a problem with are the reduction in the allocations, or our restoring the allocations to their current percentages and the involvement of the Legislative Committee on Health Care. After speaking with Assemblywoman McClain, she is willing to adopt the amendment and go to conference committee on those two concepts. Based on the department's e-mail that was sent to me, the reversion money for the disability is a little more than the reversion money for the tobacco. There would not be a cut. They would still be using the same amount of funds.

LAURA HALE (Chief, Grants Management Unit, Department of Health and Human Services):

Looking at the trends over the last several years with our three "pots of money" that we manage under the Grants Management Unit, which are the tobacco control, children's health and disability services, we looked at the reversion of funds. There is some percentage of funds that are unspent each year. The disabilities reversion funds were 7.3 percent at the end of fiscal year 2006 and at the end of 2004 it was 8.1 percent. At the end of 2006, tobacco was 1.7 percent and in 2004 it was 5.1 percent. We are see higher reversion amounts in the "disability pot." The other issue was regarding what would happen with the projected funds in the next cycle. If we go forward with the amount that we are projecting at this point, and we were to fund the "tobacco pot" at 15 percent, then we would be looking at flat funding for the grants under tobacco control. Right now, the only reason you are seeing a higher figure is because of Betel's evaluation which is several hundred thousand dollars over a two-year period. If you remove that funding, you could have flat funding for tobacco and change it to 15 percent.

CHAIR WASHINGTON:

The other question that was addressed by Assemblywoman McClain was the involvement of the Legislative Committee on Health Care and setting the priorities. It is what we do with all of the grants, it is not really changing any procedure or policy or practice that we are currently doing. Is that correct?

MS. HALE:

What we do to look at priorities is get a needs assessment as required by the statute. Historically, that has been reviewed by the Task Force for the Fund for a Healthy Nevada. They set priorities. In the last cycle, we worked through a subcommittee process to set priorities. The priorities went into our request for applications so the priorities are within the statutory requirements; for example, under children's health, that can be a broad range of things.

CHAIR WASHINGTON:

Those are the two concepts on which we disagree. We can go ahead and pass the amendments and go to conference committee on these two concepts.

SENATOR HORSFORD:

Can I get some background on the section 1 provision?

MARY LIVERATTI (Deputy Director, Department of Health and Human Services):

I do not have a copy of the mock-up, but I believe that is the section on the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) drugs. Currently, we have Medicare Part D which covers prescription drugs for people who can qualify for Medicare. Those who are HIV or AIDS dependent can access the enhanced Part D plans. They cover these drugs. Because these drugs are so expensive, the prescription drug plans have discovered that they are not making enough profit. We have been losing the number of enhanced plans that are being offered to us. In 2008, the enhanced plans will not be available. What will happen is we will start paying out of our current program to try to help people during that coverage-gap period. If we pay with nonfederal funds through the current program, it does not count towards what they call the "out-of-pocket expenses." You have to go through a state pharmaceutical assistance program to have that count and for the people to come out of that coverage gap.

I have a diagram of the Medicare Part D coverage periods that will explain it ([Exhibit D](#)). Either the people pay or a program assists them to get to that level. When they get to that level, they have paid \$2,400 in a year. Then they fall into the coverage gap where they do not have the federal government helping them with their assistance. For plans that are enhanced plans, some of them cover that period and will help people pay for it. As I said, we are seeing less and less of the plans being offered. Our concern is that in 2008, people will not have that assistance for HIV and AIDS drugs. If it goes to our Nevada Senior Rx

program and our Nevada Disability Rx program, it will count towards their true out-of-pocket expenses. When they come out of the coverage gap and the federal government starts paying 95 percent and the co-payment is only 5 percent, it goes into almost a catastrophic coverage. What we are proposing is having the flexibility so we can use nonfederal funds, run it through our federally qualified state pharmaceutical assistance program and get people out of that coverage gap and get back to accessing the 95-percent federal dollars. This is really confusing. If you have any questions, I will try to answer them.

SENATOR HECK:

In section 1, it says to the extent that money is available. To the extent money is available from where?

MS. LIVERATTI:

We are talking about the State General Fund that is already given to the Health Division for their program for HIV and AIDS drugs. We would access those General Funds and float it through our State Pharmaceutical Assistance Program. We are not asking for additional funds, and we are not asking to use the tobacco dollars.

CHAIR WASHINGTON:

Those funds will not be commingled and will be walled off.

MS. LIVERATTI:

We will account for those separately.

CHAIR WASHINGTON:

They use these funds to leverage the federal funds and need to shift or move them into certain categories as they move through the process.

SENATOR HORSFORD:

Does this mean that the Department will actually administer this, and who has done it before? Was it put out through grants?

MS. LIVERATTI:

The HIV and AIDS drug program is through our Health Division. It is under the Department of Health and Human Services (DHHS). Our Nevada Senior Rx program and the Nevada Disability Rx is under the director's office of the DHHS. It will all stay within our Department. We do not give it out to other

organizations. We manage and administer it ourselves. For us to be able to do this, we will have to present our plan to the Interim Finance Committee and have them approve it. What we are looking for here is the flexibility to do that. After we see what kind of benefit plans are out there, we would then bring it back in the fall. They are usually announced in September of every year. The Interim Finance Committee would have to agree on what we are proposing to do.

SENATOR HORSFORD:

How are the individuals eligible for this benefit going to be identified, and why is this now coming to us now?

MS. LIVERATTI:

We were alerted that one of the major prescription drug plans wanted to pull out in the spring and not provide benefits for the rest of this benefit year. The federal government said they cannot do that. The federal government alerted us that they expect more of these plans not to go forward and offer an enhanced plan for these drugs. When we first got that information, we sought legal counsel. At first, they thought we could go ahead and do what we are trying to do here without changing the statute. It was in this last month that we got a reading back from the attorneys who said we should get the authority in statute. The eligibility would be controlled by the Health Division in the program that they have now. They have a Ryan White Title II Program and an AIDS Drug Assistance Program (ADAP). They would set it up. We have people with HIV and AIDS on our Nevada Senior Rx and our Nevada Disability Rx program, but they have to meet the requirements for that program. The eligibility requirements for those programs are not the same as Ryan White and the ADAP program. What we are trying to do is provide more flexibility so they are not excluded from the Nevada Senior Rx and the Nevada Disability Rx's ability to access those federal dollars through that system.

SENATOR HORSFORD:

You said there was expanded eligibility under this proposal.

MS. LIVERATTI:

There is expanded eligibility for the Nevada Senior Rx and the Nevada Disability Rx but not expanded eligibility for the Ryan White and ADAP program. We believe there are about 167 people that would qualify. They have to be eligible for Medicare and many of the people under Ryan White and ADAP may or may

not be eligible for Medicare. If they are not eligible for Medicare, we cannot access those federal dollars for them. That is one of the criteria they have to meet. If they pay for their coverage-gap drugs, we will keep putting money into it, and they will never come out of that coverage gap. Although they fall into the hole, they never come back out for us to be able to access the 95-percent federal dollars.

SENATOR HORSFORD:

Currently, under the Nevada Senior Rx or the Nevada Disability Rx, individuals are eligible for this type of prescription drugs.

MS. LIVERATTI:

You must be a resident of Nevada for one year. My understanding of the Ryan White program and the ADAP is that they do not have a residency requirement. That is an example of where our eligibility requirements do not match.

SENATOR HORSFORD:

Is this because some companies have indicated they are no longer going to provide this coverage and the State needs to clarify its authority to do it so that those individuals who are eligible continue to receive the benefit?

MS. LIVERATTI:

If we do not do it, they will continue to provide the coverage. However, if people fall into that donut hole, we could be spending tens of thousands of dollars, because they will not come back out, or the program would have to look at capping how much they would pay for people who fell into it. We have been relying on those prescription drug plans to pick up those dollars.

SENATOR HORSFORD:

Does this expand eligibility in any way?

MS. LIVERATTI:

All it would expand is the ability for people to have eligibility under the Nevada Senior Rx and the Nevada Disability Rx programs.

SENATOR HORSFORD:

Who determines the eligibility in that program, and how are those individuals brought into this?

MS. LIVERATTI:

Eligibility for the Nevada Senior Rx and the Nevada Disability Rx is actually in statute. The only thing that changes from year to year is a cost-of-living percentage that we apply to the income level. Several years ago, we did not increase it and people's income went up. They could no longer access those programs. That is the only change of eligibility that occurs every year. The rest are in statute.

CHAIR WASHINGTON:

We will now review Amendment No. 858 to S.B. 536 ([Exhibit E](#)).

SENATE BILL 536 (2nd Reprint): Makes various changes governing the privacy of certain health information. (BDR 40-305)

MS. LYONS:

Amendment No. 858 to S.B. 536, [Exhibit E](#), adds a provision that allows a person to opt out of having his identifiable health information from being disclosed electronically to other entities. It removes the two provisions in sections 31 and 32 that deal with information solicited by a licensee, insurer, any agent or an employee of an insurer who deals in group health or blanket health insurance in the State.

SENATOR HORSFORD MOVED TO CONCUR WITH AMENDMENT NO. 858 TO S.B. 536.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now hear S.B. 314. The amendment takes out resident facilities. It includes facilities for dependents and medical facilities, homes for individual residents and entities, it also includes provision for health care facilities that are licensed pursuant to this chapter ([Exhibit F](#)). Section 3, subsection 3 deals with those who share common interest, common ownership or common management of any of those facilities that have been defined. It also makes sure that the

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information listed on the pamphlet deals with whether or not they receive Medicaid or Medicare.

SENATE BILL 314 (2nd Reprint): Requires the provision of information concerning services that are provided at certain residential facilities. (BDR 40-1169)

SENATOR CEGAVSKE:

This increases the areas which will now be under this process. It expands what it was before.

SENATOR WOODHOUSE:

That is not my understanding. It was a redrawn definition of independent living facilities and that is all it pertains to.

SENATOR CEGAVSKE:

It was just a residential facility for independent living. The new language adds a facility for the dependent, a medical facility, a home for individual residents and affiliates with such a facility. It was defined to one area. I cannot support this with an expansion.

CHAIR WASHINGTON:

Ms. Partida will get us a definition on that, and we will go to S.B. 5.

SENATE BILL 5 (2nd Reprint): Requires the establishment of the Cancer Drug Donation Program. (BDR 40-19)

SENATOR CEGAVSKE:

I ask that we not concur with their amendments ([Exhibit G](#)). They took out the language at the end. We are working on new language and ask that we not concur on this amendment.

SENATOR HECK MOVED TO NOT CONCUR WITH AMENDMENT NO. 934 TO S.B. 5.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now hear S.B. 171. I understand there is an agreement being worked on between Senator Heck and Assemblywoman Leslie.

[SENATE BILL 171 \(2nd Reprint\)](#): Creates an advisory committee to the Legislative Committee on Health Care. (BDR 40-952)

SENATOR HECK MOVED TO NOT CONCUR WITH AMENDMENT NO. 906 ON S.B. 171.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now hear S.B. 228.

[SENATE BILL 228 \(1st Reprint\)](#): Enacts provisions related to certain medical review committees. (BDR 40-986)

CHAIR WASHINGTON:

I understand that Senator Heck is alright with the amendment ([Exhibit H](#)).

SENATOR HECK MOVED TO CONCUR WITH AMENDMENT NO. 907 TO S.B. 228.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now hear S.B. 289. I understand all parties have agreed on this amendment ([Exhibit I](#)).

SENATE BILL 289 (2nd Reprint): Revises provisions relating to fire protection districts. (BDR 42-471)

SENATOR WIENER MOVED TO CONCUR WITH AMENDMENT NO. 847 TO S.B. 289.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now review S.B. 398.

SENATE BILL 398 (1st Reprint): Provides for a pilot program to study English immersion and English language learner programs in certain public schools. (BDR S-940)

SENATOR CEGAVSKE MOVED TO CONCUR WITH AMENDMENT NO. 824 TO S.B. 398.

SENATOR NOLAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now hear S.B. 529.

SENATE BILL 529 (2nd Reprint): Revises certain provisions relating to Medicaid. (BDR 38-601)

MS. LIVERATTI:

There was an agreement with the Nevada Trial Lawyers Association who wanted some of those changes. Mr. Duarte said he was alright with the changes.

SENATOR CEGAVSKE MOVED TO NOT CONCUR WITH AMENDMENT NO. 985 TO S.B. 529.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now hear S.B. 535.

SENATE BILL 535 (2nd Reprint): Revises provisions governing certain educational programs for pupils in public schools. (BDR 34-581)

SENATOR CEGAVSKE MOVED TO CONCUR WITH AMENDMENT NO. 744 TO S.B. 535.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SARA PARTIDA (Committee Counsel):

It appears that the amendment to S.B. 314 was proposed by the DHHS. They were afraid that by defining residential facility for independent living it appeared that you were creating some new type of facility. This was not an attempt to expand, but to delete that definition so it did not appear that it was creating a new type of facility.

SENATE BILL 314 (2nd Reprint): Requires the provision of information concerning services that are provided at certain residential facilities. (BDR 40-1169)

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SENATOR CEGAVSKE:
Does it expand it?

Ms. PARTIDA:

I do not believe that it will. It is still limited to facilities and homes that do not offer care and are not required to be licensed which is what the previous definition had done.

SENATOR CEGAVSKE MOVED TO CONCUR WITH AMENDMENT
NO. 860 TO S.B. 314.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 182.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will now adjourn the Senate Committee on Human Resources and Education
at 2:05 p.m.

RESPECTFULLY SUBMITTED:

Shauna Kirk,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____