

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

**Seventy-fourth Session
June 2, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:52 p.m. on Saturday, June 2, 2007, in Room 2149 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

GUEST LEGISLATORS PRESENT:

Assemblyman David Bobzien, Assembly District No. 24
Assemblywoman Sheila Leslie, Assembly District No. 27
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Patricia Vardakis, Committee Secretary

OTHERS PRESENT:

Nicole Lamboley, Chief Deputy, Office of the Secretary of State
Elizabeth MacMenamin, Retail Association of Nevada
Michael D. Pennington, Reno-Sparks Chamber of Commerce
Veronica Meter, Las Vegas Chamber of Commerce
Randy Robison, Nevada Association of School Superintendents

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Dotty Merrill, Ed.D., Executive Director, Nevada Association of School Boards
Anne Loring, Washoe County School District
Joyce Haldeman, Clark County School District
Julie Whitacre, Nevada State Education Association

CHAIR WASHINGTON:

Staff will explain the amendments on Assembly Bill (A.B.) 591.

ASSEMBLY BILL 591 (2nd Reprint): Revises provisions governing charter schools.

JOE MCCOY (Committee Policy Analyst):

There are three proposed amendments ([Exhibit C](#)) to A.B. 591. The first proposed amendment would allow a charter school to apply for funding for facilities if the school has either demonstrated improvement in pupil achievement as indicated by annual measurable objectives or has met annual yearly progress.

The second proposed amendment requires the school district that sponsors the charter school to provide in-home educational services to a charter school pupil who is on an extended leave of absence due to a physical condition or illness.

The third proposed amendment requires that a charter school's governing body must consist of two teachers and one person who previously held a teacher's license in good standing. The bill requires the charter schools that are sponsored by a college or university in the Nevada System of Higher Education be designated as part of the newly created charter school district.

CHAIR WASHINGTON:

The Chair will entertain a motion on A.B. 591.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 591.

SENATOR NOLAN SECONDED THE MOTION.

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

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CHAIR WASHINGTON:

We will open the hearing on A.B. 158.

ASSEMBLY BILL 158 (2nd Reprint): Requires the secretary of State to establish and maintain the Registry of Advance Directives for Health Care on his Internet website. (BDR 40-927)

ASSEMBLYMAN DAVID BOBZIEN (Assembly District No. 24):

The Committee has been given four documents concerning A.B. 158. There is *The New York Times* article ([Exhibit D](#)) which discusses the Terri Schiavo incident. It is an editorial in favor of the use of advance directives in living wills. It makes sense to have a living will and have it accessible so problems can be avoided.

Assembly Bill 158 proposes an advance directive repository; a secure online repository be set up at the Office of the Secretary of State. I have given the Committee some research ([Exhibit E](#)) concerning what other states have done in this regard.

The Committee is viewing A.B. 158 with the money removed from the bill. This bill is enabling legislation which will allow the Office of the Secretary of State to pursue grant funding to move forward with this concept.

This concept generated from the Nevada Center for Ethics and Health Policy at the University of Nevada, Reno. They are willing to assist with the securing of grant funds.

CHAIR WASHINGTON:

The Office of the Secretary of State of Nevada will maintain and keep the Website based on grant funding and any participant must comply with the forms to register on the Website. Am I correct?

ASSEMBLYMAN BOBZIEN:

Yes.

SENATOR HECK:

Is this voluntary?

ASSEMBLYMAN BOBZIEN:

It is voluntary. The concept was to be value neutral in the discussions regardless of views; liability neutral is dependent on a properly executed advance directive that someone could voluntarily submit to the registry. It would only be accessible to the person who submitted it as well as health care professionals.

SENATOR HECK:

This is a good concept. There are occasions when a person has a living will but it is not readily available to the family. Would there be a way a physician could access the record and verify the person is in the registry?

ASSEMBLYMAN BOBZIEN:

Yes. This is the intent of the legislation.

CHAIR WASHINGTON:

If the information is accessed and the wishes of the individual are complied with, would this be upheld in a court of law?

ASSEMBLYMAN BOBZIEN:

We have tried to separate the repository from advance directives as they exist. The legal issues regarding compliance remain with the advance directive itself rather than putting the Office of the Secretary of State in a position of having involvement. The repository is a separate and voluntary vehicle.

NICOLE LAMBOLEY (Chief Deputy, Office of the Secretary of State):

The Secretary of State is in support of A.B. 158. We view this as an electronic lockbox; a secure and accessible place where individuals can access the advance directive 24 hours a day from wherever they are in the world.

CHAIR WASHINGTON:

Are there any grants available for this initiative?

MS. LAMBOLEY:

We have done preliminary research and believe that in working with health foundations and other institutes there would be funding available. The biggest

component would be to make certain there is the correct technology to make the documents secure and accessible.

CHAIR WASHINGTON:
There needs to be a reporting mechanism.

ASSEMBLYMAN BOBZIEN:
In the bill there is mention of a study that would be done and would report back to the Legislature. There are issues related to security and the performance of the registry.

CHAIR WASHINGTON:
It would be better if there is a way the Office of the Secretary of State can report back to the Legislature without the use of a study.

Ms. LAMBOLEY:
It is a requirement of the Secretary of State to conduct and report back to the Legislature. It would be our commitment.

SARA PARTIDA (Committee Counsel):
Section 16 of the bill does require the Secretary of State to conduct a study.

CHAIR WASHINGTON:
I will entertain a motion on A.B. 158.

SENATOR HORSFORD MOVED TO DO PASS A.B. 158.

SENATOR HECK SECONDED THE MOTION.

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

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ASSEMBLYWOMAN SHEILA LESLIE (Assembly District No. 27):
Assembly Bill 232 is the prescription drug Website bill.

ASSEMBLY BILL 232 (2nd Reprint): Requires the Department of Health and Human Services to make available to consumers certain information

relating to pharmacies and the prices of commonly prescribed prescription drugs. (BDR 40-856)

The bill establishes a way for consumers to comparison shop. We found that 13 or 14 states have established this program. We have modeled our program after a successful program in Florida. There has been testimony from Florida about how their program works. We have worked with the retailers and have a way to streamline the information. Pharmacies already report their drug prices to Medicaid so there is no need for extra reporting because the data can be obtained from Medicaid.

ELIZABETH MACMENAMIN (Retail Association of Nevada):

We are in support of the language in proposed amendment 4314 ([Exhibit F](#)) and Assembly Amendment No. 1104 ([Exhibit G](#)) to Assembly Bill 232. This bill will be consumer friendly.

SENATOR HECK:

In section 3, by removing the Retail Association of Nevada and making it generic, would that still refer to your organization or another organization?

MS. MACMENAMIN:

At this time, it would still be our Association. We have agreed there is a compilation that we are able to draw from, a national compilation that gives us the information needed.

SENATOR WIENER:

Assembly Bill 232 is a fine example of collaboration between the public and private sector to do something right for the people of Nevada. It is an important consumer issue that information is made available to people so they can make appropriate choices with limited resources.

ASSEMBLYWOMAN LESLIE:

Section 9 gives the Department of Health and Human Services the opportunity to implement the program if an appropriation or grants and gifts are available. In section 13, the original appropriation was stricken. The appropriation will be approximately \$70,000 a year during the first 2 years. The funds will be less after the data software and process is working.

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CHAIR WASHINGTON:
Is the amount \$70,000 a year?

ASSEMBLYWOMAN LESLIE:
Yes. The Assembly is committed to funding the bill.

CHAIR WASHINGTON:
The Department will maintain the program?

ASSEMBLYWOMAN LESLIE:
Yes.

CHAIR WASHINGTON:
Will there be a need for extra personnel?

ASSEMBLYWOMAN LESLIE:
Only to get the program started. It will be funded on a "one-shot basis" and then the program will be evaluated in two years. The testimony from the people in Florida made it clear there would be a nominal cost to maintain the program after the initial setup.

MS. MACMENAMIN:
I have extracted a commitment from the State of Florida to give Nevada their prototype for their Website. This will bring down the cost. With the implementation of the software that we will receive from Florida, there will be a reduction in the \$70,000 cost.

SENATOR HECK:
What sections are we adding to the bill?

ASSEMBLYWOMAN LESLIE:
The additions are in section 9. We are deleting the appropriations in section 13.

MS. MACMENAMIN:
Staff will take section 9 in [Exhibit G](#) and place it appropriately in the proposed amendment 4314.

CHAIR WASHINGTON:
We need to amend this language into the bill. Is this correct?

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ASSEMBLYWOMAN LESLIE:

We will confer with legal counsel and the Committee's staff to make certain it is correct by the time the bill gets to the Senate Floor.

CHAIR WASHINGTON:

The chair will entertain a motion on A.B. 232.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 232.

SENATOR HECK SECONDED THE MOTION.

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

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CHAIR WASHINGTON:

We will now hear testimony on A.B. 280.

ASSEMBLY BILL 280 (1st Reprint): Revises provisions governing licensed
educational personnel. (BDR 34-1051)

MICHAEL D. PENNINGTON (Reno-Sparks Chamber of Commerce):

The Reno-Sparks Chamber of Commerce supports A.B. 280 which establishes a pay-for-performance system for Nevada and allocates appropriations from the budget. In section 2, subsection 2 of A.B. 280, an advisory board is set forth to review and implement the policies and provisions for the establishment of the program which includes representatives of business, parents and pupils enrolled in school districts, licensed educational personnel, and other persons and representatives as the board of trustees determines appropriate.

VERONICA METER (Las Vegas Chamber of Commerce):

The Las Vegas Chamber of Commerce supports A.B. 280. It is one of the most important educational reform bills passed in the Legislature in years. The bill has the potential to change the culture and equality of education in our State.

We are pleased that business representatives have been included in the advisory board. We pledge to actively participate in that council. Pay for performance

should be an incentive to retain the best teachers in our State. This bill is part of a work in progress and is a move in the right direction.

RANDY ROBISON (Nevada Association of School Superintendents):

The Nevada Association of School Superintendents is in support of A.B. 280. It started as a pilot program last Legislative Session and it is encouraging to see the program move forward.

DOTTY MERRILL, Ed.D. (Executive Director, Nevada Association of School Boards):

The Nevada Association of School Boards supports involvement of representatives from business, parents, educators and others in developing these programs. This will be a recipe for success.

ANNE LORING (Washoe County School District):

Our board of trustees has long held a legislative position in support of a pay-for-performance program. Our superintendent is pleased to be included in participating in this pilot and making this program successful.

CHAIR WASHINGTON:

Does the pilot program consist of Clark County, Washoe County and Lyon County?

MS. LORING:

Yes.

JOYCE HALDEMAN (Clark County School District):

The Clark County School District supports A.B. 280. We are pleased with the language that includes, "The pilot program must include a component that is based upon the achievement of pupils."

CHAIR WASHINGTON:

Is the Pay-for-Performance Fund a part of the pilot program that has been specified by the Department? Is it "walled-off money?"

MS. HALDEMAN:

Yes and no. The performance model will be a negotiated model with the local unions in those three counties.

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CHAIR WASHINGTON:
What do you mean by negotiated model?

Ms. HALDEMAN:
We will meet with the representatives of the teachers' union and work out an agreement for that "pot of money" that is available for pay-for-performance funding.

CHAIR WASHINGTON:
Is there a set amount?

Ms. HALDEMAN:
The amount is based on the number of pupils in the district.

Ms. LORING:
The language is on page 3, lines 11 through 14 of A.B. 280.

CHAIR WASHINGTON:
Is it based on the students in the district or in each school?

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):
I have provided the Committee with a handout which addresses A.B. 280 ([Exhibit H](#)). We have worked with interested groups to develop an additional system to reward teachers.

This is a new concept and there are new programs throughout the country. After reviewing what is taking place in other states, it was clear that having the decision making at the local level will be the only way this program will work. In every other way the districts' needs are unique. Assembly Bill 280 is a pilot program. The money we were able to get in the budget for the pay-for-performance program is \$5 million for each year of the biennium. It was not enough money to do the program statewide. The funding would be appropriate to use as a pilot program in the two large districts and Lyon County. We picked Lyon County because they had put in place a type of pay-for-performance program.

The concept is the money would be apportioned to those districts by student enrollment. In negotiations, those districts would develop their own pay-for-performance program. The money would be apportioned to those

districts by student enrollment. The districts would be able to develop their own program and reward teachers with a one-time bonus for their successes based on a system they develop.

There is an advisory committee made up of business, parents and educators who would meet to discuss this issue and make recommendations to the bargaining team before they negotiate the issue. There will be as many people as possible involved in this program because it is a new concept and there are many issues to be resolved. One piece that needed to be included in this program was student achievement. There is broad-based support for this bill.

SENATOR HORSFORD:

Are the provisions in the bill going to benefit charter or empowerment schools?

ASSEMBLYWOMAN SMITH:

We discussed whether we should identify empowerment schools, but we realized they will be getting additional funding. They could put into place a similar program if they wanted. Assembly Bill 280 will provide an additional "pot of money" so more schools could avail themselves of the pilot program. The autonomy-zoned schools have been working on pay-for-performance systems. This is a chance to expand the opportunities for the districts. Charter schools have the ability to do this at present.

JULIE WHITACRE (Nevada State Education Association):

The Nevada State Education Association supports A.B. 280. We have a history of being able to successfully bargain these pay-for-performance programs through the State. We welcome the opportunity to expand some of the existing programs.

SENATOR WIENER:

One of my concerns was the nontraditional teacher who did not have a class to follow throughout the day. How many teachers would qualify if they are not part of the typical classroom route?

MS. WHITACRE:

There are many varieties of nontraditional teachers. I do not have a specific number but will provide it to you.

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ASSEMBLYWOMAN SMITH:

The reason we went to local decision making is we needed to make certain no one is left out. The money has been appropriated for the pay-for-performance program.

CHAIR WASHINGTON:

We need to rerefer A.B. 280 to the Senate Committee on Finance.

SENATOR WIENER MOVED TO REREFER A.B. 280 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR WOODHOUSE SECONDED THE MOTION.

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

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CHAIR WASHINGTON:

I will open the hearing on A.B. 565.

ASSEMBLY BILL 565 (2nd Reprint): Revises provisions governing educational finance. (BDR 34-1371)

ASSEMBLYWOMAN SMITH:

The bill provides an opportunity for a more accurate budget process. We are allowing for the most up-to-date costs and expenditures so that we can appropriately build our budgets. There is a provision in A.B. 565 that would change the current program for the teacher incentive known as the "one-fifth credit issue."

Assembly Bill 565 keeps the one-fifth provision for those teachers who are currently in that process. It is a grandfather clause so that none of the teachers lose what they are working toward. Currently, the teacher can get one-fifth of a credit for each year they work in a needs-improvement school. This will allow those teachers to complete their five years.

For the last two Legislative Sessions, we have heard numerous testimonies regarding the need to be able to recruit and retain teachers, particularly in at-risk schools and hard-to-fill positions. It has been determined that the

one-fifth program has not been doing what was originally determined it would do.

Assembly Bill 565 would create an incentive fund allowing each district to develop its own incentive program to get teachers into at-risk schools and hard-to-fill positions. Teachers may need help in various ways financially to be attracted to these teaching positions. This bill will allow this type of incentive program to be developed. The needs are variable and it is necessary to give flexibility to this program.

The original focus was on experienced teachers. There is agreement that funding could be used for teachers in an at-risk school to require a teacher to be there for five years before they would receive the stipend. This would attract experienced teachers and not attract someone right out of school because they would feel overwhelmed and this would not serve the students or the teacher. The hard-to-fill positions could be filled with new teachers.

The other part of the bill is changing from "needs improvement" to "at risk" because the number of needs-improvement schools is growing and shortly will be the majority of our schools. The at-risk schools are a better definition for what we are trying to achieve.

CHAIR WASHINGTON:

What was the reason this bill was delayed?

ASSEMBLYWOMAN SMITH:

It was waiting for the budget and whether the funding would stay intact. The Governor was going to move the funding and put it in with empowerment funding.

SENATOR HECK:

Would you explain the language in section 3 of the bill? Is this tied directly to performance?

MR. ROBISON:

Section 3 is expanding on a current method by which the Superintendent of Public Instruction develops the budget. This would allow for districts to present to the Department the most current and up-to-date information for their preparation of the budget earlier in the cycle. The current process puts us

two years behind. This bill will allow us to calculate forward and shrink the process so that the information brought to the Legislature when budget discussions start will only be one year behind. This will help in giving a better look at current expenditures as well as forecasting future expenditures. This is augmenting the current process, not an entirely new process or new information.

ASSEMBLYWOMAN SMITH:

With utility costs rising, we end up with inaccurate information when we get the budget. We anticipate this provision would allow for more current and information and to have less need for revision on the budget.

SENATOR HORSFORD:

Is it possible for the biennial budget request report on the Distributive School Account be directly reported to the Legislature in addition to the Department? Many of these departments prepare a recommended budget, but the Legislature only receives what the Governor decides to show us.

MR. ROBISON:

The point of the new language is so that it can be transmitted earlier to the Legislature. In the second reprint of A.B. 565 on page 4, lines 15 through 22, the language designates it goes to the Legislative Committee on Education or you could direct them otherwise. Due to the time constraints, a letter of intent or intent on the record would help.

SENATOR HORSFORD:

I have questions on the implementation of this bill. I direct your attention to the language on page 4, lines 29 through 41 of A.B. 565. Assemblywoman Smith indicated the suggestion was to move to at-risk schools from schools that are in need of improvement. We have had discussions about this issue and our staff and the Department have provided us with the information that shows "at-risk" schools is used in various ways in the statutes depending on the programs. I need a better understanding of what pupils who are at risk means in this bill compared to others.

The bill states, "... with a specified percentage of pupils who are at risk." Who determines that specified percentage? What is the methodology for doing so? It also provides for other needs within the school district to be added. How does

the Superintendent of Public Instruction determine the other areas of need? Who conducts the evaluation?

ASSEMBLYWOMAN SMITH:

The Superintendent of Public Instruction was added because he has an existing process in place. Teachers were allowed to return from retirement to hard-to-fill positions and the superintendent has a process established. To allow any flexibility, we should stay with the same type of categorization.

SENATOR HORSFORD:

I would like a copy of that information for the record.

MS. HALDEMAN:

The way the Clark County School District defines an at-risk school is by a precise calculated formula. It is based on schools that have a number of Free and Reduced Lunch children; the transiency rate; the number of students who do not speak English as a first language and the percentage of absences. Those are the types of indicators we put into a formula and determine the ranking of our schools in terms of being at risk.

SENATOR HORSFORD:

I am supportive of expanding the flexibility on the one-fifth credit. I also recognize the history on why this was brought forward. One of my concerns is that this does not get watered down to a point that many schools end up qualifying because the incentives are so little that it does not have an impact on the schools where the one-fifth credit served before. I will be watching to see if the schools that benefited before suffer because of some new methodology.

MS. HALDEMAN:

We agree. The reason for this language is due to the districts bringing forth this problem. We recognize there are schools that need experienced teachers. We need an incentive to bring those teachers to those schools.

When we go through our hiring process and we recognize there is a shortage in a particular area, the shortage is documented and submitted to the Superintendent of Public Instruction and then it is declared an area of need so that the retired teachers can be hired. It is a process that is established and in place.

In answer to your question on the evaluation process; this will be an objective piece. Either we retain teachers or we do not. If we are not able to retain teachers and the test scores do not improve as a result of those teachers, then obviously what has been established has not had the success that was needed.

SENATOR HORSFORD:

Will that be a self-evaluation of your own members? If the teachers do not stay, will someone be following up to determine the reason? In some of the professional practice schools they have delved deeper to understand the issue as to why the teachers left. There may be other factors in addition to the incentive plan that we need to know about.

MS. HALDEMAN:

We have the same objective. We are interested in assisting the schools that need the help the most. We are open to any suggestions you have about how the evaluations should be performed or who should perform those evaluations.

CHAIR WASHINGTON:

There is some language that should be amended. The at-risk language is problematic. There are concerns with language in section 4 of A.B. 565. Concern has been expressed about the evaluation process and the language on page 4, lines 35 through 40 of A.B. 565. Senator Horsford voiced concern regarding the impact of the program. There should be a mechanism concerning the reporting requirements of the evaluation to be reported to the Legislature or the Legislative Committee on Education or Interim Finance Committee (IFC).

ASSEMBLYWOMAN SMITH:

Along with those changes, please include the language concerning teachers with five years of experience in lines 35 and 36 on page 4 of A.B. 565. The five years of experience could be in or out of the State.

SENATOR WOODHOUSE:

I am supportive of A.B. 565. The one-fifth credit is one of the good avenues for the retention of teachers. I would encourage the retention of the one-fifth credit.

SENATOR HORSFORD:

Would you explain the five-year requirement? Would a teacher with less than five years of experience who desires to work in an at-risk school benefit from the credit?

MR. ROBISON:

The additional flexibility provided by the provisions of this bill could give those teachers incentives through other means. The five-year incentive would not necessarily be the only way. We want every good teacher to work in those schools but there is a limit to what is available. There is a limit to the appeal of the one-fifth incentive. We need to find another way of attracting teachers to those schools. This is what we are trying to do with the additional flexibility.

SENATOR HORSFORD:

I do not see that language spelled out. This is an important issue and needs a letter of intent. There are schools in my district that are deemed at-risk schools or needs-improvement schools and they have good teachers. I would not like to see teachers who are not as experienced pushed out. There is one school where 75 percent of the teachers are going to retire soon which creates a serious problem.

CHAIR WASHINGTON:

We would like something in writing pertaining to this issue. Section 5 of the bill has been deleted. Has that been moved elsewhere in A.B. 565?

ASSEMBLYWOMAN SMITH:

It was a different issue covered in the budget. The fiscal consideration is covered beginning on page 6, line 29 of A.B. 565 and refers back to the section covering where the money is appropriated.

CHAIR WASHINGTON:

There was also a request for language indicating that on December 1 of each year the Superintendent should compile a list of the financial incentives recommended for the program to be paid pursuant to subsection 3 and submit the list to the IFC for review and approval prior to the distribution of funds.

The amount of the incentive per teacher or the school psychologist shall not be greater than the amount of one-fifth of the year of service for the employee.

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ASSEMBLYWOMAN SMITH:

There have been many discussions concerning keeping the stipend the same.

CHAIR WASHINGTON:

We will get a copy of the mock-up of A.B. 565 to you.

CHAIR WASHINGTON:

I wanted to ensure the content of section 10 of A.B. 565 is subject to the approval of the IFC.

Ms. PARTIDA:

What you are looking for is not clear.

CHAIR WASHINGTON:

The money that is specifically designated for expenditures during the interim years would be subject to approval by the IFC.

There being no further issues before us today, I will adjourn the meeting of the Senate Committee on Human Resources and Education at 3:14 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____