

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

**Seventy-fourth Session
April 11, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:44 p.m. on Wednesday, April 11, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file 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:

Barbara S. Dimmitt, Senior Research Analyst, Constituent Services Unit,
Research Division, Legislative Counsel Bureau
Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Patricia Vardakis, Committee Secretary

OTHERS PRESENT:

David K. Schumann, Vice Chairman, Nevada Committee for Full Statehood
Joseph A. Turco, American Civil Liberties Union of Nevada
Dotty Merrill, Nevada Association of School Boards
Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center
William W. Heavilin, Nevada Disability Advocacy and Law Center
Lynne Bigley, Nevada Disability Advocacy and Law Center

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Carlos Brandenburg, Ph.D., Administrator, Division of Mental Health and
Developmental Services, Department of Health and Human Services
Charles Duarte, Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services
Vanessa Gaston, Assistant Director, Clark County Social Service
Bill Welch, Nevada Hospital Association
Dan Musgrove, University Medical Center of Southern Nevada
Laura Hale, Grants Management Unit, Department of Health and Human
Services
Jack Kim, Sierra Health Services, Incorporated
Van Mouradian, Chief Insurance Examiner, Division of Insurance, Department of
Business and Industry
Bobbette Bond, Hotel Employees and Restaurant Employees International Union
Welfare Fund
Leslie A. Johnstone, Executive Officer, Board of the Public Employees' Benefits
Program
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of
Education
Fernando Serrano, Administrator, Division of Child and Family Services,
Department of Health and Human Services
Frank A. Schnorbus, Nevada Homeschool Network
Barbara Dragon, Nevada Homeschool Network; Parent at Large

CHAIR WASHINGTON:

I will entertain a motion on Senate Bill (S.B.) 158.

SENATE BILL 158: Establishes the Special Needs Scholarship Program.
(BDR 34-10)

SENATOR CEGAVSKE MOVED TO DO PASS S.B. 158.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HORSFORD AND WOODHOUSE
VOTED NO. SENATOR WIENER ABSTAINED FROM THE VOTE.)

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CHAIR WASHINGTON:

We will hear testimony on S.B. 305.

SENATE BILL 305: Revises provisions governing education. (BDR 34-97)

DAVID K. SCHUMANN (Vice Chairman, Nevada Committee for Full Statehood):

I am here to speak in favor of vouchers. Fifteen years ago the following words were written, "Teachers are facilitators of learning rather than imparters of information," *Mathematics Framework for California Public Schools, 1992*. The dictionary defines "teach" as to impart knowledge by lessons." Information is what you find in a bus schedule. No wonder modern American education is rated substandard by the Organisation for Economic Co-operation and Development. In mathematics and science, the top high school students did not rank high. I have given the Committee information ([Exhibit C](#)) including a "Report on Subject A." On page 4, there is a chart depicting students who did not meet the English requirement. Senate Bill 305 will stop the mental abuse going on in governmental schools. What is done to American children in government schools is a crime against nature.

JOSEPH A. TURCO (American Civil Liberties Union of Nevada):

I had eight years of parochial education. I was one of eight children and my father would have appreciated financial assistance. This cannot be justified with the United States and Nevada State Constitution. I will remind you of the establishment clause of the U. S. Constitution and of the education section of the Nevada State Constitution. The American Civil Liberties Union of Nevada (ACLU) takes a neutral position on S.B. 305. The establishment clause restrains government from establishing religion. It also constrains government from restricting the free exercise thereof. The ACLU would take any case where the free exercise of religion is being abridged.

DR. DOTTY MERRILL (Nevada Association of School Boards):

The Nevada Association of School Boards has long opposed vouchers to be used for private schools on the grounds that private schools do not bear the same accountability and other statutory requirements as public schools. The School Boards Association is opposed to having county commissions and city governments given the opportunity to veto or reverse their actions.

CHAIR WASHINGTON:

We will close the hearing on S.B. 305. It is the intent of the Chair to amend S.B. 305 and put the provisions for the funding mechanism in the empowerment bill.

We will open the hearing on S.B. 531.

SENATE BILL 531: Requires the Division of Mental Health and Developmental Services of the Department of Health and Human Services to provide copies of serious incident reports involving clients to certain agencies. (BDR 39-298)

JACK MAYES (Executive Director, Nevada Disability Advocacy and Law Center): I am here to ask for the Committee's support of S.B. 531. The Nevada Disability Advocacy and Law Center (NDALC) is Nevada's federally mandated protection and advocacy system for individuals with mental, developmental and physical disabilities. An important component of the NDALC's mandate is to monitor facilities and their supported-living arrangements to make certain living environments are free from abuse and neglect. The NDALC has previously requested that the Division of Mental Health and Developmental Services voluntarily provide serious incident reports on an ongoing basis for us to review in order to ensure the health and safety of individuals living in community placements. The Division has denied these requests and that is the reason we are here today.

Consumers are moving from regulated entities like nursing homes and intermediate-care facilities for the mentally retarded to supported-living arrangements in the community which are less regulated. Periodic reviewing of serious incident reports will provide the NDALC with the information necessary to monitor Nevada's service delivery system and to ensure quality services are provided. We want to become increasingly proactive, looking for systemic problems that lead to abuse and neglect of consumers. If a systemic issue were to be found, we would bring the matter to the director's attention and work towards a solution.

Other states have adopted the idea of working collaboratively and have agreed to provide incident reports to their protection and advocacy agencies. Because of these reports, they are able to track systemic issues and see patterns with certain staff members or shifts that may otherwise be missed. We have seen

the fiscal note and are willing to work with the Division to develop an efficient and cost-effective process. We have submitted some minor amendments that we would like you to consider. Ultimately the NDALC and the Division share the same goals of providing quality services in an environment that is free of abuse and neglect.

WILLIAM W. HEAVILIN (Nevada Disability Advocacy and Law Center):

The access to these records is a necessity. By obtaining these records it allows us to monitor the situation and have a better oversight and protection of people with disabilities that are residing in community-based placements.

LYNNE BIGLEY (Nevada Disability Advocacy and Law Center):

There was some question as to whether our request is consistent with federal law. It is our opinion it is consistent with federal law. In support of our opinion I cite the case of *Protection & Advocacy Systems, Inc. v. Freudenthal*, 412 F Supp 2d 1211 (D Wyoming 2006). The decision found that providing the serious incident reports was not a violation of Health and Insurance Portability and Accountability Act of 1997 (HIPAA) and was consistent with federal law.

CARLOS BRANDENBURG, Ph.D. (Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services):

I am here today to speak in opposition to S.B. 531. If the bill is passed, it would amend chapters 433 and 433A of the *Nevada Revised Statutes* (NRS) to mandate the Division to provide copies of all serious incident reports of clients to the NDALC. The NDALC access to records is found under federal statute, the Protection and Advocacy for Individuals with Mental Illness (PAIMI) 42 *United States Code* (U.S.C.) section 10801 of the PAIMI Act and 42 U.S.C. section 15043 of the Protection and Advocacy for Individuals with Developmental Disability Act (PADD). These federal statutes are clear and provide NDALC access to all records of: any individual who is a client of the NDALC if the individual, legal guardian or legal representative have authorized the NDALC to have such records; any individual who is unable to authorize access due to mental illness or physical disorder, who does not have a legal guardian or the legal guardian is the state and with respect to whom a complaint has been received by the NDALC or with respect to whom the NDALC has probable cause to believe that such individual has been subject to abuse and neglect; any individual who has mental illness or developmental disabilities who has a legal guardian, with respect to whom a complaint has been received by the NDALC or respect to whom there is probable cause to

believe the health or safety of the individual is in serious or immediate jeopardy and the legal guardian has been contacted by the NDALC and has been offered assistance and has failed to act.

Senate Bill 531 removes the federal requirement for probable cause to believe abuse and neglect has occurred and encompasses events that do not even include abuse and neglect. Senate Bill 531 also permits the NDALC to receive records of clients who would not fit into these categories mentioned in federal statutes who may not want the NDALC to have their records. The bill is more expansive than the federal law and it may violate the HIPAA requirement.

The bill came out of the Legislative Committee on Persons with Disabilities. The recommendation says, "The Division of Mental Health and Developmental Services is to provide designated production and advocacy agency copies of all serious incident reports generated by the Division to the extent authorized by federal law." Senate Bill 531 goes beyond the recommendation and exceeds what the federal law allows.

CHAIR WASHINGTON:

Is S.B. 531 more stringent than the federal law?

DR. BRANDENBURG:

Senate Bill 531 exceeds and is more expansive than federal law.

CHAIR WASHINGTON:

If S.B. 531 is passed, would we be out of compliance with federal law?

DR. BRANDENBURG:

No. Under federal law there are certain HIPAA requirements. Legal counsel would need to investigate this issue. We review approximately 600 to 700 incident reports a month throughout the entire Division. Many of these reports are not about abuse, neglect or death. To what extent will the Division be releasing to the NDALC the records of a client who has not authorized us to release his records?

The Committee needs to be aware that the NDALC and the Division have settled a federal lawsuit which was brought forth in 2005. The NDALC asked the Division to provide records of certain incidents. Our position was that those records were protected because they were performance improvement records

and were confidential. After reviewing the federal statutes, the NDALC had access to those records because they provided us with the specific names of the clients. We released those records to the NDALC. The suit was recently dismissed with the understanding that we would continue to provide those reports if they give us the name of a client.

For us to give them all the reports that have nothing to do with abuse, neglect or death is an expensive procedure.

MR. HEAVILIN:

The lawsuit referred to is ongoing and the issue has not been resolved. We believe S.B. 531 is consistent with what federal law allows in the PAIMI Act and the PADD Act. We do have monitoring authority. In the case cited by Ms. Bigley, it allowed getting copies of serious incident reports. What we are looking for is patterns of staffing where there incidents may be occurring. If S.B. 531 is put into effect, we would like to meet with the Division and develop some type of protocol to determine the type of information needed and how we would obtain that information. The PAIMI and PADD Acts do allow us to monitor, which would include getting serious incidents reports. Our intent is to be proactive and not wait for a staff member or family member to report incidents of abuse and neglect to us. Obtaining those reports would help us carry out that function.

CHAIR WASHINGTON:

Where in the bill does it address monitoring? Is there a problem reporting those serious incidents? Is the language too broad?

DR. BRANDENBURG:

There is no mention in S.B. 531 of monitoring; the issue is of removing the client's name. We track all forms of incidents, not just abuse, neglect and death. We have an extensive policy and do our own monitoring. The problem is the volume of reports we would be required to provide to the NDALC. We agreed in federal court to provide incident reports if the name is provided to us. The federal judge stated that the Division had provided that information. The suit was mute.

CHAIR WASHINGTON:

Are you looking for blanket reporting?

MR. MAYES:

We are speaking for people who are seriously disabled individuals.

CHAIR WASHINGTON:

If you requested the record of "John Doe" from the Division, then the Division could provide you with the information. The language in the bill seems to be a blanket request for all serious incidents that have taken place.

MR. MAYES:

We will get a copy of their records if requested.

MR. HEAVILIN:

The records do not include the serious incident reports.

MR. MAYES:

It is not part of the client record.

CHAIR WASHINGTON:

I understand what you are both trying to do. I suggest you both craft language to accommodate your needs.

We will close the hearing on S.B. 531 and open the hearing on S.B. 532.

SENATE BILL 532: Makes various changes relating to public welfare. (BDR 38-1359)

MARSHEILAH D. LYONS (Committee Policy Analyst):

At the Chair's request, I will be reading from the Legislative Counsel's Digest, on pages 1 and 2, sections 1, 2, 3, 4 and 5 of S.B. 532.

CHAIR WASHINGTON:

This is to provide presumptive eligibility. It presumes a client is going to be eligible for Medicaid or Supplemental Security Income (SSI). It allows the State to take the application and provide for coverage. Once the client becomes eligible, the State would recoup its funds.

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

Your summary is correct. We reviewed the provision in section 1 of S.B. 532. It front-loads the payment of services for individuals many of whom become eligible for Medicaid through SSI.

SENATOR HECK:

What happens if someone gets paid up front, and later we discover they are not eligible?

MR. DUARTE:

The State is not liable to repay the federal funds, however our error rate for disability determinations cannot exceed certain limits imposed by the Centers for Medicare and Medicaid Services. We need to use the SSI criteria for disability determination.

CHAIR WASHINGTON:

The same application form is used at the State level. If the persons are eligible for SSI, they are generally eligible for Medicaid.

MR. DUARTE:

You are correct.

SENATOR HECK:

The bill has an appropriation that is not in the Executive Budget, but there is no government fiscal note posted.

MR. DUARTE:

We are in the process of developing the fiscal note.

CHAIR WASHINGTON:

If S.B. 532 passes out of this Committee, it will be referred to the Senate Committee on Finance.

VANESSA GASTON (Assistant Director, Clark County Social Service):

Clark County Social Service wishes to express support of S.B. 532. With the implementation of this bill it would speed up the process for Clark County. This would also help pay the bills for many of the hospitals with which we are partners.

BILL WELCH (Nevada Hospital Association):

We are in support of S.B. 532. We feel strongly that presumptive eligibility will help patients who do become eligible for Medicaid to receive the appropriate services at the appropriate location. Once the determination is made by SSI, there is a back payment, but there are not many providers who are willing to risk waiting for 18 or 24 months to see if they may or may not be paid by Medicaid. These patients are going to the hospital emergency room and the presumptive eligibility concept of S.B. 532 will allow patients to understand more quickly if they have coverage.

DAN MUSGROVE (University Medical Center of Southern Nevada):

Senate Bill 532 would be a great tool for the University Medical Center (UMC). It addresses getting people in the appropriate setting. We are always cash poor because of the 18 to 24 month turnaround on payment. We accept these patients and put forth the services and responsibility, but do not get paid for a couple of years, which puts UMC in a difficult situation. The UMC supports S.B. 532.

SENATOR WIENER:

In Mr. Welch's testimony, he referenced language of the bill concerning "the appropriate setting." Many of the people who use the emergency room would be able to address their concerns in a more appropriate setting earlier in the medical process.

MR. MUSGROVE:

You are correct. This bill will actually produce dividends in the future. We would be treating these people in a more preventive health care situation so they do not reach the levels of acuity that require longer hospital stays and more severe treatment. The passage of S.B. 532 will enable individuals to see the doctor sooner and more often.

SENATOR HORSFORD:

What does UMC do to ensure that children who are uninsured are eligible for Children's Health Insurance Program?

MR. MUSGROVE:

We have eligibility workers who help to find programs for children.

CHAIR WASHINGTON:

The Chair will entertain a motion on S.B. 532.

SENATOR HECK MOVED TO DO PASS S.B. 532.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HORSFORD AND WOODHOUSE
VOTED NO. SENATOR WIENER ABSTAINED FROM THE VOTE)

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CHAIR WASHINGTON:

Senate Bill 541 was requested by the Task Force for the Fund for a Healthy Nevada. I believe the bill will streamline the process and the application review.

SENATE BILL 541: Makes various changes concerning the policies and procedures of the Task Force for the Fund for a Healthy Nevada. (BDR 40-241)

BARBARA S. DIMMITT (Senior Research Analyst, Constituent Services Unit, Research Division, Legislative Counsel Bureau):

Over the past two-year grant cycle, the task force has been working on new procedures for evaluating grant applications and processing them. When we have repeat grantees, they must do a full competitive application every two years and this makes the process more cumbersome. Senate Bill 541 would change the requirement for one competitive round of requests every biennium to one competitive round every four years. The concept is to stagger these applications so that it will smooth out the process.

If a grantee is already receiving funds, they would have a noncompetitive grant application. They still would need a decision made by the task force to continue their grant, decrease their grant or eliminate them.

The task force has developed some policies which would codify the types of policies that seemed appropriate to the task force to do: for example, establishing priorities for funding up front in each category, which helps the grantees; encouraging grantees and contractors to obtain additional money from other sources, and setting a minimum level of funding for grants or contracts.

The task force would be required to develop policies and procedures if they have a subcommittee process or recommendatory body advising them that would require the policies to be more uniform. This would be applicable to whatever other arrangement the task force determined.

SENATOR WIENER:

How many of the applicants in the last grant cycle were given a reduction in funding and would that leave less for those who have not participated in the program? Does this give the incumbent the edge?

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

Historically, 95 percent of our grantees return and apply in our new cycles. Approximately 80 percent of those who reapply are regranted out. The funds from the tobacco settlement are volatile. The funds are projected to increase, but there is a dispute which may produce lower amounts. This proposal requires the grantees that do a continuing application for the following two years to meet priority areas, submit a budget, and submit a timeline that would have goals and objectives. Each existing grantee would automatically have a decline in their funding. They would need to plan for that reduction and would need to look to leverage funds from other sources.

SENATOR WIENER:

Is there an advantage to be a renewing grantee?

MS. HALE:

When we go through each of the cycles, we have a needs assessment done which looks within our statutory categories for funding of the highest needs in the State. Some types of funding are consistent. We see some of the same faces but there are new ideas and new partners. There are a limited number of providers in any community to develop those services. There are a high number of governmental entities and subdivisions to which we send information when we publish our requests. They are all of the nonprofits in the State. We have approximately four times the dollar amount of applications of what we can fund. There is some natural turnover.

SENATOR WIENER:

Do you promote new programs based on fluctuating needs? Do you change the renewal rates, bringing others onboard so that there will be additional best practices coming into the Nevada health picture?

Ms. HALE:

Yes. That is something we could build into the process. Working with the task force and with our grants management advisory committee, we are looking to shift some of this to the committee. They are always concerned about bringing in new providers that have new ideas. It is a balance between best practices and new ideas.

SENATOR HECK:

There is a core group of people that, no matter what the priority is, tend to change to meet that priority and come back for the funding. There is a core group of entities that carry out the bulk of the work. There was a great emphasis on being able to leverage outside dollars and start to transition the self-sufficiencies which will help free funds for the newcomers on the off year. With S.B. 541, we are doing away with the task force. Are all the parameters inside this bill incumbent upon the Grants Management Advisory Committee (GMAC) to follow what we are passing here?

Ms. HALE:

Currently, there are six bills in the Legislature. Every process the task force performs would go to the GMAC. Everything that goes to the task force for review would go to either the Legislative Committee on Health Care or the Interim Finance Committee.

SENATOR HECK:

Does the GMAC follow a similar process where there is a two year grant plus a renewal? If there are two different grant cycles, will that cause the GMAC a problem?

Ms. HALE:

The GMAC provides oversight to the Department on some competitive sources and some allocated sources. The other competitive funding sources do not have that same statutory requirement, therefore they have the flexibility to move to the four years.

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CHAIR WASHINGTON:

Assembly Bill (A.B.) 182 would divide the tobacco funding, using part for senior citizens.

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

Ms. HALE:

The last amendment I saw for A.B. 182 was to cut tobacco programs from 20 percent to 10 percent. The 10 percent would be split with 2.5 percent used for disability prescriptions; 3.5 percent used for disability services programs and 5 percent used for evaluation of technical assistance and needs assessments.

CHAIR WASHINGTON:

The chair will entertain a motion on S.B. 541.

SENATOR HECK MOVED TO DO PASS S.B. 541.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:

We will hear testimony on S.B. 552. This bill is intended to be consumer oriented and provides information for the consumer to make their medical choices.

SENATE BILL 552: Requires the disclosure of certain information relating to health care and revises provisions governing health maintenance organizations. (BDR 38-1365)

Ms. LYONS:

I will be reading from the Legislative Counsel's Digest on pages 1 and 2, sections 1, 7, 8, 9, 18, 19, 22 and 15 of S.B. 552.

MR. WELCH:

We speak in favor of S.B. 552. The Nevada Hospital Association is in the process of developing a pricing Website that will provide price information on 50 to 100 of the most common admitting diagnoses to a hospital. This will represent approximately 75 percent of all admissions to the hospital. We have entered into a contract with a vendor to provide this service. The information necessary to the objectives has already been facilitated. I will be doing a live presentation to obtain the board of directors' final approval. Our patient safety committee has been developing a quality measurement Website. This program should be effective later this year. We do have a recommendation for this bill. On page 4, lines 43 and 44 and page 5, lines 1 and 2 of S.B. 552, we define how we would measure that criteria to identify the National Quality Forum (NQF) set of safe-practice guidelines. This would give specific definition and there would be clarity on what would be evaluated and measured.

CHAIR WASHINGTON:

The amendment will be distributed to the Committee and, if they agree, we will include your suggestion in the bill.

SENATOR HECK:

On page 4, lines 36 through 42 of S.B. 552, I recommend the Department of Health and Human Services be directed to coordinate with the Centers for Medicare and Medicaid Services (CMS) and the Quality Improvement Organization (QIO) from the State. They look at the data from an impartial standpoint. It is important the CMS and the QIO are involved in the process.

JACK KIM (Sierra Health Services, Incorporated):

We are opposed to sections 1 and 2 of S.B. 552. We do not see that there is an access issue. We have opposed this type of provision in the past. There are additional provisions concerning "transparency" with which we take a neutral position. We will see the impact this bill has on the marketplace.

SENATOR HORSFORD:

You stated concerns with section 1. Is there language that would be agreeable that would resolve your concerns?

MR. DUARTE:

We do have requirements in our contracts with Health Maintenance Organizations (HMO) that provide services to Medicaid and Nevada Check-Up

clients that services are available and appropriate in a timely manner. We have compliance requirements in our contracts and the plans we have been working with have been amenable to working through those issues.

SENATOR HORSFORD:

Ultimately, the State is responsible. The State needs to be informed as to when this is happening.

MR. DUARTE:

There are two procedures in place. Before the Board of Health issues a certificate of insurance, they assure that there is adequate network capacity to serve the HMO members. Not only do we have staff overseeing the availability of services, but we have an external quality review organization that is required under federal regulations to do that type of analysis. We have two areas where we are able to address that concern. We do periodic reviews of the plans to assure that capacity is maintained.

The requirement for any willing provider also has a fiscal note. We are revising it. Instead of paying hospitals the regular Medicaid rate it will require us to pay the HMOs more. Our rates are actuarially determined and if they are required to pay for hospital care, then there will be a fiscal impact because we will be required to pay the HMO more for that service. Often we have difficulties making sure that we provide services in the State, because in northern Nevada where we have contracted HMOs, we are often closer to hospitals in adjoining states. There could be an unintended consequence occurring by creating issues for families in northern Nevada.

MR. KIM:

The only time we send a member out of State is when those services are not available in this State. Typically, it would be a service such as a transplant that is not available in this State.

SENATOR HORSFORD:

I would like to work with the concerned parties to amend the bill. My concern is with the reporting of information and how the State can be assured the requirements are being met.

VAN MOURADIAN (Chief Insurance Examiner, Division of Insurance, Department of Business and Industry):

We take a neutral position on S.B. 552. We have concerns with sections 17 through 22 on the requirements of the Division of Insurance, Department of Business and Industry. We have a number of variables on health claims such as coinsurance deductibles, co-pays and out-of-pocket money. To review all the plans we receive and place them on a Website is a considerable task. Another concern is posting the rates on the Internet. Average rates are not a true indicator to guide consumers. Our concern is in the individual market in the guaranteed issue products. The individual carriers must offer and issue a plan when they apply for it. If we post the rates for those guaranteed issue plans, the carrier with the lowest rate will get the adverse selection. The reason they apply for the HIPAA plan is because they cannot get coverage under a regular individual health plan. Our concern is by posting the rates we would adversely impact a carrier. This has been done in Colorado and the lowest rated carrier was no longer able to participate in the health care market.

The producers know their clients in the small employer market or the individual market as to what they need. They are trained by the carriers to sell their products and market them. They are in the best position to meet the client's need.

CHAIR WASHINGTON:

In section 18 of S.B. 552 the language does not specify posting the rates. Do we need to make the language more permissible? We are looking for information that might be helpful to the consumer.

MR. MOURADIAN:

What I am proposing is not to include any comparison or average rates.

CHAIR WASHINGTON:

If we deleted the language on page 10, starting with "The program" on line 27 and ending with "care plans" on line 30, of S.B. 552 and the language on lines 30 through 40, would that help resolve your concerns? What cause and effect does that have on transparency?

MR. WELCH:

We are trying to provide tools that would be consumer friendly. If there is language that would address providing appropriate information to consumers

without creating the situation Mr. Mouradian has expressed, we would not have a problem with those changes.

CHAIR WASHINGTON:

On page 10, lines 25 through 30 of S.B. 552, is there language that would address Mr. Mouradian's concerns?

BOBBETTE BOND (Hotel Employees and Restaurant Employees International Union Welfare Fund):

I need to confer with our health plans and the coalition. We do have relationships with all the self-funded plans, and I will ask how this would impact them or what they would suggest. I will get that information to the Committee.

CHAIR WASHINGTON:

We will close the hearing on S.B. 552 and open the hearing on Senate Joint Resolution (S.J.R.) 14.

SENATE JOINT RESOLUTION 14: Urges Congress to lower the age of eligibility for Medicare coverage. (BDR R-127)

LESLIE A. JOHNSTONE (Executive Officer, Board of the Public Employees' Benefits Program):

The impact of S.J.R. 14 is wide-spread. The Medicare age would be lowered and this would impact all plans.

VICE CHAIR CEGAVSKE:

Do you support the bill?

Ms. JOHNSTONE:

The Board has technically not taken a position on S.J.R. 14, and we do not have any issues with the measure.

VICE CHAIR CEGAVSKE:

We will close the hearing on S.J.R. 14 and open the hearing on S.J.R. 17.

SENATE JOINT RESOLUTION 17: Urges Congress to enact the Resident Physician Shortage Reduction Act of 2007. (BDR R-1383)

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Assemblywoman Leslie and I sponsored this resolution. Congressman Jon Porter and Senator Harry Reid have this measure in Washington. We wanted to emphasize the need for this legislation. We are looking for 26 additional resident physician slots. This measure is supported by the National Conference of State Legislators.

CHAIR WASHINGTON:

We will reopen the hearings on S.J.R. 14 and S.J.R. 17. The Chair will entertain a motion on S.J.R. 14.

SENATOR HORSFORD MOVED TO DO PASS S.J.R. 14.

SENATOR HECK SECONDED THE MOTION.

SENATOR CEGAVSKE:

I have a problem with telling the federal government to lower the Medicare age to 62. I cannot support S.J.R. 14.

THE MOTION CARRIED. (SENATOR CEGAVSKE VOTED NO.
SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

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CHAIR WASHINGTON:

I will entertain a motion on S.J.R. 17.

SENATOR CEGAVSKE MOVED TO DO PASS S.J.R. 17.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE
VOTE.)

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CHAIR WASHINGTON:

We need to reconsider S.B. 110.

SENATE BILL 110: Revises provisions governing the administration of examinations to pupils enrolled in the public schools. (BDR 34-474)

SENATOR NOLAN MOVED TO RECONSIDER S.B. 110.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

We will recess and reconvene upon adjournment of the Senate Committee on Natural Resources meeting.

CHAIR WASHINGTON:

We will reconvene the meeting of the Senate Committee on Human Resources and Education.

MS. LYONS:

I will be referring to the work session document ([Exhibit D](#), original is on file in the Research Library). Senate Bill 59 is on page 2 of [Exhibit D](#). I will read the amendments proposed by Senator Heck.

SENATE BILL 59: Makes various changes relating to the State Plan for Medicaid. (BDR 38-766)

SENATOR HECK:

Originally, the bill was going to adopt the Family Opportunity Act (FOA) and mandate the Department of Health and Human Services (DHHS) to preemptive eligibility. The bill was going to update the laws required to do third-party liability and was going to have the Attorney General do an audit.

The amended version of the bill adopts the FOA which expands Medicaid up to 300 percent of the poverty level for families with a child with a disability. It allows them to buy in to Medicaid. It takes out the requirement to go to preemptive eligibility and has the DHHS investigate the potential for a program for preemptive eligibility.

CHAIR WASHINGTON:

Is it a study?

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SENATOR HECK:

It is a study or they can look to see what is available because it is a new area.

The amendment takes out the Attorney General audit because retroactive review is being done by the Division of Health Care Financing and Policy. We do have a new fiscal note which is one-third of the previous fiscal note based on new caseload projections. The fiscal note went from \$25 million to \$8 million.

MR. DUARTE:

Last week, we received information from the Boston University School of Public Health, Catalyst Center which is a research center on public benefits. They sent us a caseload estimate for the FOA being implemented in Nevada. We were not able to incorporate it in the fiscal note once it was released. We are in the process of redoing the fiscal note. The caseload went from 4,500 to 1,500 children. That is the fundamental change which resulted in the significant reduction in the estimate of the number of eligible children. For the biennium the fiscal note went down from \$8 million to approximately \$1 million in the General Fund and \$8 million in the future biennium.

CHAIR WASHINGTON:

The Chair will entertain a motion for S.B. 59.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 59.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. LYONS:

I will read the summary of S.B. 245 on page 8, Exhibit D. The bill is sponsored by Senators Nolan and Woodhouse.

SENATE BILL 245: Revises provisions governing pupils. (BDR 34-99)

SENATOR NOLAN:

During the discussion of S.B. 245 there were some verbal amendments offered. The amendments would include taking out those provisions regarding the ten-day limitations on absences. It was proposed to give a student a last chance disciplinary effort. This would be for a student who was on the brink of being expelled.

CHAIR WASHINGTON:

What are you amending out of the bill?

SENATOR NOLAN:

We will delete all provisions related to ten-day absences and amend into the bill a reference that this would be an alternative following all other established punitive assessments against a child prior to expulsion.

CHAIR WASHINGTON:

It would be the last resort which would be implemented by the school district at their purview.

SENATOR NOLAN:

Yes. It will be permissive language.

CHAIR WASHINGTON:

Do the parents pay?

SENATOR NOLAN:

Yes. The cost is to offset someone to "baby-sit" the child in detention.

CHAIR WASHINGTON:

The chair will entertain a motion on S.B. 245.

SENATOR NOLAN MOVED TO AMEND AND DO PASS AS AMENDED
WITH THE AMENDMENTS ARTICULATED S.B. 245.

SENATOR WOODHOUSE SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATORS WIENER AND HORSFORD VOTED NO.)

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SENATOR CEGAVSKE:
I have an amendment to S.B. 264.

SENATE BILL 264: Revises provisions governing the licensure of teachers (BDR 34-910)

It would amend the bill to authorize the Commission on Professional Standards to establish by regulation a cap on the number of teachers allowed to be licensed under the program. It stipulates that the cap sunsets on July 31, 2011. I believe it should sunset later. The amendments proposed by Senator Washington on page 9 of [Exhibit D](#) are more appropriate.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 264.

SENATOR NOLAN SECONDED THE MOTION.

SENATOR WOODHOUSE:
I would be opposed to the amendment on the basis that all alternative routes to licensure need to go through the Commission on Professional Standards. I have submitted an amendment which is on page 10 of [Exhibit D](#). This amendment would require the Passport to Teaching certification from the American Board for Certification of Teacher Excellence to go before the Commission on Professional Standards. Once approved, there would be alternative routes to licensure. They would report back in 2011 as to the success of the program. Teachers who are licensed would not be placed in at-risk schools. There should be an increase of mentoring of the first-year teachers.

CHAIR WASHINGTON:
Does your proposed amendment include the Commission?

SENATOR WOODHOUSE:
Yes.

SENATOR HECK:

The amendment proposed by Senator Woodhouse addresses my concern about the mentoring process. During previous testimony, it was stated that if there was no mentor on site, the teacher would be mentored from a distance and be visited six times a year. This issue is not addressed in the other amendments.

CHAIR WASHINGTON:

Senator Cegavske has stated her opposition to the Commission being involved. The amendment I proposed makes this a four-year program. Then the program will be reviewed by the Legislature and evaluated by the school district. If we excluded the Commission and included the mentoring language, would that resolve your concerns?

SENATOR HECK:

I am neutral on the Commission issue.

SENATOR WOODHOUSE:

It would be difficult to establish the program and put teachers in place in less than four years.

CHAIR WASHINGTON:

Senator Woodhouse, are you firm on the position of approval from the Commission on Professional Standards?

SENATOR WOODHOUSE:

Yes.

SENATOR HORSFORD:

The Legislature created the Commission on Professional Standards. I do not see why we would circumvent the groups that we have created. They have been given this responsibility through statute for alternative licensure.

CHAIR WASHINGTON:

We can keep the pilot to a four-year program, but have the Commission report to the Legislative Committee on Education during the interim. This way the intent of the bill will not be lost.

SENATOR HORSFORD:

Would the intent of the amendment be to have the Commission report on the approval of the applications?

CHAIR WASHINGTON:

We could run it through the Commission following the intent of the legislation by reporting back to the Legislative Committee on Education during the interim. If there is a problem it could be addressed during the 2009 Legislative Session.

SENATOR CEGAVSKE:

The American Board for Certification of Teacher Excellence (ABCTE) is meeting with the Commission on May 11. We do have a deadline to meet. Whatever the Commission does through their process, they could report to us.

SENATOR HORSFORD:

The Commission should report on the status of the application of ABCTE to this Committee.

SENATOR NOLAN:

There should be some oversight or involvement of the Commission and reporting to the Legislative Committee on Education during the interim.

CHAIR WASHINGTON:

Who oversees the Teach for America program?

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

The Teach for America individuals either qualify for a regular license that is already identified or they meet the current alternative route to licensure. The difference I see in the bill is, if it is passed, it says the Commission will approve the group without even reviewing the mentoring. We want to make sure that this program is equivalent to the alternative route. Without a review of the program there is no guarantee. If the program meets the requirements, there is no reason the Commission would not approve it. The Commission has tried to be flexible to get teachers hired.

CHAIR WASHINGTON:

Previously, there had been a problem with the program because they did not meet certain specifications. The Commission was concerned whether they would fulfill their obligations.

DR. RHEAULT:

When this program was originally presented, there was no mentoring requirement. The teachers received their certification by taking a test at the national level. We were not privileged to that information. If they passed the test, they received a license without a check on their coursework or their expertise in the subject area.

SENATOR CEGAVSKE:

How many teacher programs are available in Nevada?

DR. RHEAULT:

There are approximately seven various programs.

SENATOR CEGAVSKE:

What about Teach for America?

DR. RHEAULT:

That program did not go through the regular process.

SENATOR CEGAVSKE:

Not all programs have gone through the process.

DR. RHEAULT:

The difference in this case is the certificate holders could meet one of the regular requirements. They need it approved for what they do.

SENATOR CEGAVSKE:

Has every program gone through the process?

DR. RHEAULT:

All the programs have been presented and approved by the Commission.

SENATOR CEGAVSKE:

It takes programs a long time to get approval. This is one of the obstacles that the Commission poses. If the approval process could be done on a timelier

basis, there would be no objection. The proposed program works in other states. We have a company that everyone who testified supported. That is why I would recommend the amendment proposed by the Chair.

SENATOR HORSFORD:

The bureaucracies are slow but we created them. They were created for a purpose. The policy must be balanced. The commissions that we created need to review these programs to ensure they meet the qualifications of our standards, not another state's standards. This Committee and its members have advocated for high standards for our students. We need to make certain that the students are taught by equally qualified teachers. Not having these programs and companies go through the Commission opens our State to litigation. If students are taught by individuals that are not qualified in the core subjects or if the proper curriculum is not in place, the State could be sued. The ABCTE has stated that they have no problem going before the Commission.

What I have heard about the Teach for America program is different. The individuals under Teach for America were licensed under the Commission rules either by a standard license or the alternative license.

SENATOR CEGAVSKE:

We could be sued in our state for lack of teachers and teacher quality because of the substitute teachers.

CHAIR WASHINGTON:

There is a motion of amend and do pass using my proposed amendment to S.B. 264.

THE MOTION FAILED. (SENATORS WIENER, WOODHOUSE, HORSFORD AND HECK VOTED NO.)

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SENATOR WOODHOUSE:

I would propose to amend S.B. 264 with my amendment and include language to report in the interim regarding the process.

CHAIR WASHINGTON:

In the report, I have some proposed language:

The number of applicants that have applied for licensure under the program; the number of licensed teachers who have sequentially been employed by the school district in this State; the findings and recommendations about the persons licensed under the program by principals in the school who employed them and recommendations concerning changes to the program that may improve its effectiveness in Nevada are to be reported during the biennium to the Legislative Committee on Education in regards to its effectiveness in all programs and ultimate licensures.

Would that be agreeable to you?

...

SENATOR WOODHOUSE:

Yes.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 264 WITH THE AMENDMENT PROPOSED BY SENATOR WOODHOUSE AND THE LANGUAGE PROPOSED CONCERNING REPORTING TO THE LEGISLATIVE COMMITTEE ON EDUCATION.

SENATOR HECK SECONDED THE MOTION.

SENATOR CEGAVSKE:

I would suggest we look at the amendment that was submitted by the ABCTE.

CHAIR WASHINGTON:

That amendment puts a cap on the bill.

SENATOR CEGAVSKE:

The cap can be removed. The wording is not as ambiguous.

SENATOR WOODHOUSE:

One of the problems with the amendment purposed by ABCTE is it does not address the issue of mentoring.

SENATOR CEGAVSKE:

The mentoring language could be added. I agree mentoring is important.

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SENATOR WOODHOUSE:

The other issue not addressed is not placing these teachers in at-risk schools.

SENATOR CEGAVSKE:

Some of the at-risk schools have good mentors. I would not want to prohibit them from being at other schools. We need teachers at the at-risk schools. I want to encourage teachers to stay at the at-risk schools.

SENATOR WOODHOUSE:

I will remove that provision.

SENATOR CEGAVSKE:

Would you be agreeable to rescinding your proposal and going with the ABCTE and adding the mentoring program? I do like those four provisions to the reporting.

SENATOR WOODHOUSE:

The conceptual amendment proposed by the organization is silent about going to the Commission.

SENATOR CEGAVSKE:

They are doing the reporting.

SENATOR WOODHOUSE:

They are reporting after the fact.

SENATOR CEGAVSKE:

On May 11, the ABCTE is going before the Commission.

SENATOR WOODHOUSE:

I would be more comfortable if it was in the amendment.

CHAIR WASHINGTON:

Is the language in the first paragraph of the "conceptual amendment to Senate Bill 264" ([Exhibit E](#)) to authorize the Commission to set a cap or approval?

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SARA PARTIDA (Committee Counsel):

The Commission is establishing a cap and the cap would sunset. It does not refer to the program.

CHAIR WASHINGTON:

We have a motion to amend and do pass S.B. 264 with the amendment submitted by Senator Woodhouse deleting the at-risk provision and accepting the bullet points and the last paragraph of the "conceptual amendments" in [Exhibit E](#).

SENATOR CEGAVSKE:

I will refer to first sentence of the amendment proposed by Senator Woodhouse on page 10 of ([Exhibit D](#), original is on file in the Research Library). Is there language we could substitute which would not require these specified entities because we do not know the outcome of the May 11 meeting with the Commission? Could they go through school boards for approval?

MS. PARTIDA:

The way this reads they would need to go through the Commission. To be licensed in the State you must meet specific criteria established by the Commission in statute. If the individual is going through the Passport to Teaching program, they would either have to meet the standards already set or the program would need to be licensed to issue the certificate to teach.

SENATOR NOLAN:

When the report of how this project is progressing has been reviewed by the Legislative Committee on Education during the interim and if the program is meeting and exceeding all expectations, there is nothing in the amendment that prohibits the next Legislative Session from withdrawing the oversight the Commission has on professional standards.

THE MOTION CARRIED UNANIMOUSLY.

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MS. LYONS:

I will read the summary of S.B. 312 found on page 11 of [Exhibit D](#).

SENATE BILL 312: Revises provisions relating to education. (BDR 34-604)

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 312 WITH THE AMENDMENT TO STRIKE THE GRADE POINT PROVISION.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS WASHINGTON, CEGAVSKE AND NOLAN VOTED NO.)

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SENATOR HORSFORD:

There is a proposed amendment 3631 to S.B. 356 ([Exhibit F](#)) because of concerns raised by law enforcement.

[SENATE BILL 356](#): Revises provisions relating to the protection of children from abuse and neglect. (BDR 38-1059)

We maintain the provision that allows for children to be removed for the first 24 hours based on the existing standard in the NRS 432B.390. After that, a determination must be made as to whether there is imminent danger of serious harm to the child.

CHAIR WASHINGTON:

Is this within a 24-hour period?

SENATOR HORSFORD:

Yes. If the determination is made, the child is taken into temporary custody. If they determine there is no imminent harm, the child is returned and the legal parent or family is referred to services to address the issues that could have been raised in the complaint. It requires the agency which provides child welfare services to create regulations that address the standards that the Division of Child and Family Services and law enforcement would need to use in determining whether there is imminent risk of serious harm to the child. All the provisions have been worked out with the child welfare agencies of the two counties, including rural areas, the State and law enforcement.

CHAIR WASHINGTON:

Would the Committee's counsel please explain the intent of lines 31 and 32 on page 3 of [Exhibit F](#)?

Ms. PARTIDA:

The language means that, as part of their determination, they can consider existing or previous injuries or abuse when making a determination.

CHAIR WASHINGTON:

Would that be previous reports?

Ms. PARTIDA:

It would be any history that is known to them.

SENATOR CEGAVSKE:

Was there any discussion about the increase in services?

SENATOR HORSFORD:

This bill as amended does not do everything I originally intended because the new standard would require many changes within the child welfare system. This bill as amended is an incremental step. In the cases where there is not imminent harm to the child there will be a reduction in the number of children placed in temporary custody which results in foster care. An increase in the number of children placed in Child Haven or Child Welfare would depend on the number of referrals to other agencies for support of the family.

SENATOR CEGAVSKE:

Would there be a fiscal note?

SENATOR HORSFORD:

No.

SENATOR WIENER:

Would there be a check into the child's education or schooling? This could be a determinant.

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FERNANDO SERRANO (Administrator, Division of Child and Family Services,
Department of Health and Human Services):
School attendance or lack thereof could be an indicator of abuse and neglect.
Such a check into a child's education would be essential.

SENATOR WIENER:
Would it be worthwhile for us to indicate that specifically in the bill?

MR. SERRANO:
Checking on a child's educational background is done through the course of a
thorough assessment the social workers should be doing. If you choose to add
specific language, we would certainly adhere to the requirement.

MR. MUSGROVE:
We have the flexibility under the regulations that you will be giving us the
authority and we would include those factors to consider under child neglect or
other mitigating circumstances.

CHAIR WASHINGTON:
I will entertain a motion on S.B. 356.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 356 WITH PROPOSED AMENDMENT 3631.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION WAS CARRIED UNANIMOUSLY.

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MS. LYONS:
I will read the summary of S.B. 404 on page 13, [Exhibit D](#).

SENATE BILL 404: Revises provisions governing homeschooled children.
(BDR 34-738)

FRANK A. SCHNORBUS (Nevada Homeschool Network):
During the original hearing on S.B. 404, there were concerns about sending a
notice of intent to the State superintendent's office and other issues. Currently,

we send our notice of intent to the local district. By continuing this practice there should no fiscal impact. In fact, there should be a savings at the local level and no additional cost at the State level. The proposed amendments pertain to that issue.

If these amendments are adopted and put into the bill, we would be sending our notices to our local district. This would take care of many of the concerns about truancy, records and other issues.

BARBARA DRAGON (Nevada Homeschool Network; Parent at Large):

We also clarified on page 16, [Exhibit D](#), item number 3 of the amendment. Now that we are going to return to notifying the district that issue is clarified for truancy. It will also clarify if a student wants to participate in public school classes. We deleted all of the original number 3 and substituted the language concerning date-stamping "Received" on our notices.

CHAIR WASHINGTON:

Is there a change to ten days?

Ms. DRAGON:

Yes. We also asked for a five-day turnaround if we were requesting a copy of the notification.

DR. RHEAULT:

The amendments alleviate all my concerns and eliminated my fiscal note.

CHAIR WASHINGTON:

I will entertain a motion on S.B. 404.

SENATOR HECK MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 404.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

There being no further issues before us today, I will adjourn the meeting of the Senate Committee on Human Resources and Education at 7:31 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____