

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Fifth Session
April 22, 2009**

The Committee on Health and Human Services was called to order by Chair Debbie Smith at 1:42 p.m. on Wednesday, April 22, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Ty Cobb
Assemblyman Mo Denis
Assemblyman John Hambrick
Assemblyman Joseph (Joe) P. Hardy
Assemblywoman Sheila Leslie
Assemblywoman April Mastroluca
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblywoman Bonnie Parnell (excused)

GUEST LEGISLATORS PRESENT:

Senator Barbara Cegavske, Clark County Senatorial District No. 8

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Darlene Rubin, Committee Secretary
Chris Kanowitz, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Fred Hillerby, Reno, Nevada, representing the State Board of Pharmacy,
Reno, Nevada
Rocky Finseth, Las Vegas, Nevada, representing Pharmaceutical Research
and Manufacturers of America, Sacramento, California
Julianna Ormsby, Carson City, Nevada, representing National Multiple
Sclerosis Society, Reno, Nevada
Victoria Coolbaugh, Deputy Executive Director, Nevada Justice
Association, Carson City, Nevada
Gary Vause, Founder, Lit'l Scholar Academy, Las Vegas, Nevada

Chairwoman Smith:

[Roll was called and a quorum was present.] Assemblywoman Parnell is
excused. We have two bills to hear today. First is Senate Bill 159
(1st Reprint) sponsored by Senator Cegavske.

**Senate Bill 159 (1st Reprint): Requires the establishment of the Cancer Drug
Donation Program. (BDR 40-14)**

We passed a similar bill this morning in the Committee on Ways and Means.
We invite Senator Cegavske to the table to present her bill, and she can let the
Committee know what we have discussed.

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

Senator Raggio, who coauthored this bill, was here earlier, and I hope he returns
before I am finished. I am really excited about this bill.

Senate Bill 159 (1st Reprint) is the Cancer Drug Program, and the bill that
Assemblyman Anderson passed out was amended, and the amendment is
something that I agree with and totally support. I would like to fold that
amended language into this bill and make it the same as the one that is out
there. Assemblywoman Smith and I decided that we would then let those who
know better, merge those two together into one bill. I am very thankful and
appreciative to this Committee for working on the resolution to S.B. 159 (R1).

I think everyone realized what an important program it is, and I am very thankful we were able to come to an agreement to make this work.

Assemblyman Stewart:

I became interested in this issue some time ago when I received many letters from Mrs. Iyalla's class at Taylor Elementary School, and I had introduced a bill draft request (BDR). However, I learned a long time ago that to this company there is a crowd, so I dropped my bill and lent my support to Assemblyman Anderson's bill and to Senator Cegavske's bill. I would like to acknowledge those students who I hope are watching this on the Internet today. Mrs. Iyalla's father passed away from cancer, and she had a lot of cancer drugs left over and tried to donate them, but was unable to do so. She teaches a gifted and talented class and used this as a project for these young people, and they have written dozens of letters. I brought just a small portion with me encouraging me to support this bill. On their behalf and on behalf of Mrs. Iyalla, I am here to lend my support to this bill.

Senator Cegavske:

When we do the merge, I know that I am the prime sponsor in the Senate and Assemblyman Anderson is the prime sponsor in the Assembly, but can we please have Assemblyman Stewart's name as second on this bill when that occurs? I would greatly appreciate that.

Chairwoman Smith:

Thank you for presenting the bill, and we will let you know what we can do with both bills.

Fred Hillerby, Reno, Nevada, representing State Board of Pharmacy, Reno, Nevada:

I am here in support of this bill. We appreciate the first amendment that was done because initially the bill had so many drugs involved it created a huge fiscal issue for the Board. That has been resolved, so we withdrew the fiscal note, and we stand ready to work on the regulatory matters that this bill or Assemblyman Anderson's bill will require.

Rocky Finseth, Las Vegas, Nevada, representing Pharmaceutical Research and Manufacturers of America, Sacramento, California:

We want to go on record as supporting S.B. 159 (R1), and if it is the intent of this Committee to merge the liability language from the Assembly's bill we support that also.

Julianna Ormsby, Carson City, Nevada, representing the National Multiple Sclerosis Society, Reno, Nevada:

First, we would like to thank Senator Cegavske for bringing this bill forward. We know she has worked a long time on this. We supported Assembly Bill 213, and we wholeheartedly support S.B. 159 (R1) and the concept behind it.

Chairwoman Smith:

I have Bill Bradley signed in against this bill; however, he is not here. I am assuming that you want to testify, Ms. Coolbaugh?

Victoria Coolbaugh, Carson City, Nevada, representing Nevada Justice Association, Carson City, Nevada:

Yes. If the intent is to merge that other language into this one, we would be completely supportive of that and of the bill as a whole.

Chairwoman Smith:

I do not have anyone else signed in to speak on this bill. If anyone in Las Vegas or Carson City would like to do so, please come forward. Committee, any other questions? [No speakers or questions.] I will close the hearing on S.B. 159 (R1) and open the hearing on Senate Bill 231. That is also Senator Cegavske's bill.

Senate Bill 231: Makes various changes concerning food establishments connected with a child care facility. (BDR 40-975)

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

I also have Gary Vause, in Las Vegas, who will be testifying. Senate Bill 231 relates to food establishments connected with a child care facility and an existing law. It exempts licensed child care facilities from certain regulations that are adopted by the State Board of Health or local boards of health governing standards for the construction of food establishments and equipment required in food establishments. However, such facilities that are also included in a kindergarten program are not currently exempt.

You will hear from Gary Vause that this was the language we believe should have been exempted in the original language. It is now time for us to make sure we remove that so we are not putting a hardship on these small facilities. For a smaller child care facility that also includes a kindergarten program, the additional requirements to meet the standards established for food establishments can be quite onerous. However, exempting these facilities from this requirement does not mean that these facilities are not required to meet safe and sanitary food handling and preparation requirements. In Nevada, the Board for Child Care, *Nevada Revised Statutes* (NRS) 432A.077, is responsible

for establishing state standards and regulations for licensed child care facilities according to the existing laws. In addition, child care facilities are regulated at the local level. These local agencies must have regulations that are at least as restrictive as the state regulations, but may be more restrictive. Regulations related to safety and sanitation are put forth by the Board for Child Care with specific regulations regarding snacks and meals. Senate Bill 231 provides that a licensed child care facility is exempt from such regulations regardless of whether the child care facility includes a kindergarten.

Assemblywoman Mastroluca:

Can you please tell me where the need for this change came from?

Senator Cegavske:

I think Gary Vause has the history of this issue.

Gary Vause, Founder, Lit'l Scholar Academy, Las Vegas, Nevada:

We have child care facilities, we operate programs for infants and toddlers, before and after school programs, child care preschool, and we have private kindergartens. To give you some background, we provide nutritious lunches, hot lunches, and snacks for our students and the children in our care. We follow and are required to follow all the protocols, sanitary food preparation procedures, hand-washing, rubber gloves, and so on, all that is required if we were a commercial kitchen. Prior to a few sessions ago, the Clark County Health District had been operating, they said, under temporary regulations and they felt like it was time for them to promulgate permanent regulations. According to that agency, because of the way we are licensed—we are called commercial child care facilities—they said their hands were tied. They had to require us to have a commercial kitchen. Effectively, they told our operators that they could not cut an apple unless they had a commercial kitchen. Again, we are not talking about unsanitary, unsafe practices. We have immaculate kitchens, surfaces like stainless steel and other surfaces that are not permeable and are easily cleaned, just like a commercial kitchen, but we do not have one of the vents required in restaurants that put out grease fires, as a result of cooking French fries, for example. Those are prohibitively expensive, and, in addition, someone must be hired to maintain the vent. That is something that does not apply to our operation. We only reheat already cooked foods.

At that point we said to the local health district, we do not think that was what our State Legislators meant when they said we had to have commercial kitchens. The health district said that was the way they looked at it, and they passed a regulation that required us to have commercial kitchens. Subsequent to that, we came to the State Legislature and a bill was passed that, in effect, said we were not required, in conjunction with our preparing hot lunches for

students, to have a commercial kitchen. This gave relief to large and small child care facilities, and even some that might have an in-home operation that cares for 12 children. We thought everything was fine; however, a year ago, the health department came to us and said we had to have a commercial kitchen. Keep in mind that this is the same facility and the same kitchen that provides food and hot lunches to our preschool population. I told them we had taken care of that with the statute that had been passed that said we did not have to have commercial kitchens. The health department disagreed. If you all read the existing language, I think you would agree with me. However, so that it is clear to the local health department that we can continue doing what we have always done, we ask for relief from you.

Chairwoman Smith:

Are you aware if this issue has come up in any other county, or is it only enforced that way in Clark County?

Gary Vause:

Only Clark County, to my knowledge.

Chairwoman Smith:

I notice the kindergarten language. Is it specifically because you have kindergarten and so the health department connects you to the same provisions of a school kitchen?

Gary Vause:

The way they explained it to me, what the Legislature accomplished previously was to exempt child care facilities from commercial kitchen requirements, but not if the facility was a private kindergarten. The same kids who were in our preschool class go into our kindergarten class a year later. And the same kitchen serves not just the preschool and the two- and three-year-olds and so on, but also our kindergarten. What I said to them was, as far as we are concerned, we can say we close kindergarten at noon, so then those same children would be in child care when we feed them lunch. Then we would open kindergarten back up at 1 o'clock. They said we could not do that.

Chairwoman Smith:

I see the disconnect.

Gary Vause:

I must emphasize that we serve wholesome, nutritious food, we follow all the procedures to eliminate food-borne pathogens: hand-washing, gloves, clean surfaces, and so on.

Chairwoman Smith:

So it is not as if you are not regulated; you are just not regulated to have a commercial kitchen in your preschool environment. But you certainly have other regulations.

Gary Vause:

They have a stranglehold on us as to what we can serve. They decide what those foods are. For instance, they came to us and said we could not serve cantaloupe. We buy fresh cantaloupe and pride ourselves on serving fresh fruits and vegetables. They said that somewhere in the world there was some disease that was spread through cantaloupe. We can go buy already cut cantaloupe packaged in containers, we just cannot cut it in our facility. We explained how we washed the skin very carefully, and so on, but that is another battle. But this is where they originally said we could not cut an apple if we did not have a commercial kitchen.

Assemblyman Hardy:

This is a confession. I was intimately involved in this apple-cutting issue where someone's bill was designed so that the operators of preschools could give nutrition to the children, but then the discussion turned to cutting apples. My thought was, people are changing diapers and cutting apples, and that raised it to an interesting level. So the questions about E-coli and salmonella outbreaks around the world came to the forefront. Thus, the preparation of fresh produce by people who also, in their job capacity, change diapers became the issue.

When there is an overlap between the preschool and the kindergarten, that is where the problems develop. Kindergartners attend the same facility as preschoolers, juxtaposed with food preparation regulations. It comes down to exactly what Mr. Vause says.

Assemblywoman Pierce:

Is the biggest part of the problem not having the vent fans?

Gary Vause:

Our kitchens probably would pass muster except they do not have those vent fans. Our floors have to be either ceramic tile or similar easily cleanable surface, our food prep surfaces have to be stainless steel or hard nonporous material. If we use cutting boards we have to replace them regularly. But we are lacking the vent fans.

Chairwoman Smith:

Are the inspections different if you are a commercial kitchen?

Gary Vause:

No. We have the same requirements. I could make the argument that someone could change a diaper and not wash their hands and that will spread disease. I am completely opposed to that.

Chairwoman Smith:

It is more about equipment than procedures, right?

Gary Vause:

Yes, it is.

Assemblyman Hardy:

Are you able to talk with the health district and indicate who is preparing the food, and what their qualifications are? For example, who changes diapers? Because I do not think it is the stainless steel that is the issue at this point, as much as the procedure. So I am looking at it from a procedural standpoint. Can we do something with the procedures to sign off on a regulation, so you can prevent someone from changing diapers and preparing food?

Assemblywoman Mastroluca:

In the law as it now stands, you can serve food to children, just not kindergartners?

Gary Vause:

Correct.

Assemblyman Hardy:

So part of that discussion included prepacked foods. The challenge is who is preparing the food, and what have they done before and after preparing the food that would create a health issue?

Chairwoman Smith:

I will close the hearing on S.B. 231. As we only have one person left in the audience there are probably no public comments. Are there any comments from Committee members? [There were none.] We have a very intense schedule coming up and less time to process.

I would like to take a moment to thank our staff. We have a Staff Appreciation Day tomorrow, but since we will not meeting before that time I want to acknowledge the hard work they do helping us get through first

committee passage. You make us look good every day, and I am speaking of the entire Committee when I say thank you for what you do for us every day.

Meeting adjourned [at 2:10 p.m.].

RESPECTFULLY SUBMITTED:

Darlene Rubin
Committee Secretary

APPROVED BY:

Assemblywoman Debbie Smith, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 22, 2009

Time of Meeting: 1:42 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster