

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

**Seventy-Fifth Session  
April 1, 2009**

The Committee on Health and Human Services was called to order by Chair Debbie Smith at 1:08 p.m. on Wednesday, April 1, 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/](http://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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Debbie Smith, Chairwoman  
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 Bonnie Parnell  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Bernie Anderson, Washoe County Assembly District No. 31  
Senator Barbara Cegavske, Clark County Senatorial District No. 8  
Assemblyman Tick Segerblom, Clark County Assembly District No. 9  
Assemblywoman Kathy McClain, Clark County Assembly District No. 15

**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Bill Bradley, Reno, Nevada, representing Nevada Justice Association,  
Carson City, Nevada  
Carolyn J. Cramer, General Counsel, State Board of Pharmacy and the  
Prescription Controlled Substance Abuse Prevention Task Force  
Lawrence P. Matheis, Executive Director, Nevada State Medical  
Association, Las Vegas, Nevada  
Julianna Ormsby, Carson City, Nevada, representing National  
Multiple Sclerosis Society, Nevada Chapters, Reno, Nevada;  
Nevada Women's Lobby, Reno, Nevada; and League of Women  
Voters of Nevada, Carson City, Nevada  
Tom McCoy, Nevada Government Relations Director, American Cancer  
Society, Cancer Action Network, Reno, Nevada  
Liz MacMenamin, Director of Government Affairs, Pharmacy and  
Health Care, Retail Association of Nevada, Carson City, Nevada  
Sheila Baez, R.N., Chair, Steering Committee, Nevada Cancer Council,  
Reno, Nevada  
Rocky Finseth, Las Vegas, Nevada, representing Pharmaceutical Research  
and Manufacturers of America, Sacramento, California  
Derek Naten, Director, State Government Affairs, Bayer Health Care, LLC,  
Sacramento, California  
Jessica E. Ferrato, Reno, Nevada, representing Pfizer, Inc., Sacramento,  
California  
Joanee Quirk, Program Administrator, Nevada State Board of Pharmacy  
Mary Liveratti, Deputy Director, Programs, Department of Health and  
Human Services  
Jodi Stephens, Legislative Director, Office of the Governor

George W. Stevens, Chief Financial Officer, Department of Finance,  
Clark County, Las Vegas, Nevada

Bill Welch, President/CEO, Nevada Hospital Association, Reno, Nevada

Bobbette Bond, M.P.H., Executive Director, Nevada Health Care Policy  
Group, LLC, North Las Vegas, Nevada

Gary Stagliano, Deputy Administrator, Program and Field Operations,  
Division of Welfare and Supportive Services, Department of Health  
and Human Services

Romaine Gilliland, Administrator, Division of Welfare and Supportive  
Services, Department of Health and Human Services

Jon Sasser, Esq., Statewide Advocacy Coordinator, Washoe Legal  
Services, Reno, Nevada

Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance  
of Nevada, Carson City, Nevada

Elisa Maser, President/CEO, Nevada Advocates for Planned Parenthood  
Affiliates, Reno, Nevada

Paula Berkley, Reno, Nevada, representing Nevada Network Against  
Domestic Violence, Reno, Nevada

David Reyes, M.A., Principal, Altitude Edge Consultants, Longmont,  
Colorado

James F. Pezzuti, Director, Bureau of Community Development, Office of  
Long Term Living, Departments of Public Welfare/Aging,  
Commonwealth of Pennsylvania

Carol Sala, Administrator, Aging Services Division, Department of Health  
and Human Services

Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing  
and Policy, Department of Health and Human Services

Bruce Arkell, Reno, Nevada, representing Nevada Senior Corps  
Association, Carson City, Nevada

**Chairwoman Smith:**

[Roll was called and a quorum was present.] We have six bills to hear and hopefully a work session. Our first bill is Assembly Bill 213. I will open the hearing on A.B. 213 and welcome Assemblyman Anderson to present his bill.

**Assembly Bill 213:** Requires the establishment of the Cancer Drug Donation Program. (BDR 40-39)

**Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:**

I am the primary sponsor of A.B. 213. [Assemblyman Anderson read from his prepared testimony ([Exhibit C](#)).]

Several people have stepped up to support this legislation. Tom McCoy, of the American Cancer Society's Cancer Action Network, has been very important, as have members of the State Board of Pharmacy, who have requested some minor changes in order to meet their requirements. Those changes would be acceptable to me.

**Chairwoman Smith:**

I am wondering about the definition of "cancer drug" in section 3, subsection 2, and "the side effects of a prescription drug that is used to treat cancer." Would that include pain medication?

**Assemblyman Anderson:**

It probably would. I think that may be one of the areas that the State Board of Pharmacy wants to address in their amendment. There is a wide range of medications, which may be broader than originally intended and would include some pain medication.

**Chairwoman Smith:**

I appreciate your bringing this bill forward. We cared for both my father and father-in-law in our home before they passed from cancer. Last year, when my father-in-law passed away, I called a local pharmacy to ask if we could do anything with the bottles of unopened drugs and medications and was told there was nothing to be done but discard them. It broke my heart to have to destroy them with all the people in dire need of those expensive medications.

**Assemblyman Anderson:**

The reality of disposing of the medications may be adding to the health problems of other people in our communities in terms of the water supply. That unseen consequence is one people do not want to talk about. Nevertheless, it is something we should think about. It is time for Nevada to take this first step, and perhaps if it works out well, future sessions may be able to expand it into other areas of medication. I do think, however, that we should make sure the program is operating effectively before we try to broaden it.

**Assemblyman Denis:**

In a conversation about my bill on prescription narcotics, coming up next, someone mentioned that every time he got sick he had so many pills left over that he did not know what to do with them. It is something that a great many people think about. I appreciate your bringing this forward.

**Bill Bradley, Reno, Nevada, representing Nevada Justice Association, Carson City, Nevada:**

I am here to support A.B. 213 on behalf of the Nevada Justice Association. In looking at this bill, there is one underlying social policy and that is to encourage family members who have had to go through the unfortunate experiences that the Chair, Assemblyman Anderson, me, and several others have, to donate unused, unopened drugs to others who could benefit from them. We believe that social policy is very important and is carried out in A.B. 213. The critics of this bill oppose it based on the responsibility of the professional distributors. The professional distributors start with the manufacturer of the drug and then work with the entire distribution chain that moves the drug to the new recipient. It is our position to encourage the social responsibility of donating drugs, but we are also aware that errors can still occur in that distribution system. To make sure that errors are avoided, immunity should not be given to those who move the drug into that second cancer victim's home. If an error is made, there must be accountability. We are all aware that prescription errors are on the rise, and manufacturers are no longer held to the high standards they once were by the Food and Drug Administration (FDA). The only way to achieve accountability is to make sure that people who make errors are held responsible. The bill strikes a very good balance between encouraging the donation by people who have the drugs, and holding those professional distributors accountable if there is an error.

**Chairwoman Smith:**

I think it would be helpful for the Committee, since we have several new members, to have someone talk a bit more about how this would work. Perhaps you, or someone from the State Board of Pharmacy, could do that.

**Carolyn J. Cramer, General Counsel, State Board of Pharmacy:**

You had a very good question about why we are changing the definition of a cancer drug. The reason is that we wanted to make sure we had a program that was underway and was specific to cancer drugs. Cancer drugs tend to be expensive, and the most expensive are the ones that people will most benefit from. If a person had cancer or its side effects, those drugs could vary widely. A person could get an infection and be prescribed amoxicillin. We did not want a program that was burdened with too many drugs, nor did we want to have controlled substances be a part of the program. When I reviewed the legislation in other states, while working with Senator Cegavske on the same issue, the information revealed that all of these types of drug donation programs excluded controlled substances. The amendment that we have proposed allows the most expensive cancer drugs to be eligible for the program, but excludes the less-expensive drugs or controlled substances. That mirrors the language that

we proposed to Senator Cegavske in her bill and that we also spoke to Assemblyman Anderson about.

As far as how the actual program will work, in discussions with various legislators we have developed a somewhat modest approach. The entities will be able to participate in the program and they will be responsible for getting the drug, making sure it is not adulterated, and, if the rulemaking goes as I hope it does, we would have the ability to establish eligibility and a list. I am hoping we can do this through our website so that everyone will have access to the information.

**Chairwoman Smith:**

But I still would like a description of the steps. For example, my family member dies, and I have this drug in my home. What do I do? What are the steps? I realize you have to adopt regulations.

**Carolyn Cramer:**

A pharmacy, medical facility, health clinic, or provider has to decide whether they want to participate in the program; they cannot be forced to do so. We would put their name and location on our website, and the family member could take the unused drugs to them. The provider/facility would inspect the drug and determine whether it met the program criteria. There would also be a list of potential recipients who met the eligibility requirements. Policy decisions would have to be made on such things as income level and ranking.

**Chairwoman Smith:**

Will you establish that in the regulations?

**Carolyn Cramer:**

Yes. We will be relying on a good many people with great ideas.

**Chairwoman Smith:**

But there are many other states, 37 I believe, that have adopted similar programs and you can review those programs as well.

**Carolyn Cramer:**

There are several other states that have adopted programs over time. Wisconsin is the one I looked at most closely; they started out with a program that was limited to donation inside a closed facility, similar to what we have. Then they adopted a cancer program, and later expanded it to include chronic illnesses.

The first step is getting a program in place. We think this is a good first step and we support the bill.

**Chairwoman Smith:**

The amendment you offered substantially changes the fiscal note that was originally attached?

**Carolyn Cramer:**

Yes it does. We dropped the fiscal note with Senator Cegavske, so I am comfortable with dropping the fiscal note here, based on the amendment.

**Chairwoman Smith:**

Hypothetically, then, I take my medication to a participating pharmacy that I have found online. They check out the drug, and then they call someone on the list and inform him that they have a drug available. Is that what you envision?

**Carolyn Cramer:**

What I envision is that there would be a list of people who are in the program and we would know what type of drugs they were looking for.

**Chairwoman Smith:**

How does the match get made? That is what I want to know.

**Bill Bradley:**

According to both the original bill and the amendment, the pharmacist would contact the provider and indicate a specific drug was available. As I understand section 8, that drug would be dispensed by the pharmacist pursuant to a prescription written by an authorized person to the eligible person. Chairwoman Smith, you bring in the drug, it is registered into the program, there is a willing recipient whose provider will be contacted, and a discussion will be had that in essence says, "We think there is a match. Will you give us a prescription?" Thereafter the drug is redispensed to the new patient.

**Chairwoman Smith:**

I am still trying to understand section 11, why the manufacturer—if they are not involved in that process—is still held accountable.

**Bill Bradley:**

The person receiving the drug still has the right to hold that drug company responsible if there was an inherent problem with the drug when it left the manufacturer's hands—if there were side effects; if there were problems known within the pharmaceutical company but not to the public until after the drug

was redistributed through the system and the public became aware of a problem; and if the person is adversely affected by the drug.

**Chairwoman Smith:**

But is there a way to differentiate in this legislation? We are dealing with two different issues, and I know this is not a new issue for this bill.

**Bill Bradley:**

There are really two issues of liability going on in this bill. If the drug is defective, either in its manufacture or in its marketing, there is the potential for a product liability claim. A patient adversely affected has the right to pursue that type of claim against the pharmaceutical manufacturer. The other people in the chain of distribution are held to a negligence standard. They have to make sure there are no contrary reasons the patient should not get the drug, and they want to make sure the right drug is moved through the dispensing system; those are all negligence principles. We believe that the language should clearly state that none of those people were given immunity in the presence of gross negligence. Therefore, without getting more technical in the bill by trying to differentiate between product liability and negligence claims, this was the best language the Legislative Counsel Bureau (LCB) could come up with to address both concerns.

**Chairwoman Smith:**

Have we looked at how the other states have addressed this?

**Bill Bradley:**

We have looked at several other states, and Florida and Colorado have similar language. There are slight differences, but the similarities are that each extends the protections but accomplishes the social policy.

**Assemblyman Stewart:**

If I am a pharmacist and I set up this program in an effort to do the right thing, then I am going to open myself to a lawsuit. I think I would back out very quickly.

**Assemblywoman Spiegel:**

Certain medications require refrigeration or must be maintained within specific temperature ranges. If someone gets a drug through this program, how can they be certain the drug was kept at the proper temperature? Also, if the drug lost its efficacy, or worse, caused harm, would the liability fall on the manufacturer, the pharmacist, or the doctor for something over which they had no control?



**Bill Bradley:**

No. That is going to be part of the responsibility of the distribution system to make inquiries as to whether the drug was stored properly. The manufacturer is responsible only if the drug is defective. If the other distributors are not satisfied that the drug was stored properly in its pristine condition, then they should not let that drug enter into the system.

**Assemblywoman Spiegel:**

How would they know? If one has a home health care attendant, for example, who may not follow the instructions for properly maintaining the drug, the family may not know and would have answered the question that the drug had been maintained properly.

**Bill Bradley:**

The responsibility belongs with the pharmacist and the person prescribing the drug to the secondary cancer patient. But I assume there will be regulations that require the person donating the drugs to say they kept it properly stored according to the manufacturer's warnings on the label. If that is conveyed to the pharmacist, then it will be virtually impossible to hold that pharmacist responsible for relying on the representations of the donors. However, there will have to be meticulous scrutiny over that donation. We are dealing with substances that could be highly toxic, so a great deal of care on the part of all those involved is mandatory in order for this program to work.

**Assemblyman Hambrick:**

I do not see where the primary care physician, or oncologist, is involved. Should this legislation pass, can the manufacturer opt out and then direct his distributors not to participate?

**Bill Bradley:**

As I read this bill, I do not see the manufacturers doing the donating. I see the families donating, so I do not perceive that specific instance coming up in this bill. This bill is about people who have leftover drugs being able to donate them. My position is that the drug manufacturer has already put the drug into the marketplace and received compensation for that drug and, therefore, should be held accountable if there is a problem with the manufacturing or labeling process.

**Assemblyman Hambrick:**

Then you are telling me that someone who believes in the program, but because of the potential liability factor, either through handling or what you euphemistically refer to as the "distribution chain," does not want to open themselves up to liability. I do not buy your argument that because they have

put the drug on the market and been paid for it, that makes them an automatic liability candidate. A drug does not leave the confines of the clinic, hospital, or pharmacy without the primary care physician or oncologist giving a prescription that in effect says this particular drug is right for you. Nowhere in this bill do I see where another primary care physician or oncologist says, "This drug was not good for my patient." There are two disconnects here: If there is a potential liability for the manufacturer and the distribution chain, to minimize that there should be an oncologist or primary care physician that figures into this equation to have oversight of their patient. There is a multitude of drugs; not every one is good for everybody. There needs to be someone to say, I want this, or I do not want this, for my patient.

**Chairwoman Smith:**

I think you made the point that the provider is the critical link here. The provider is the one who is going to make the decision that indeed this medication is appropriate for this recipient.

**Bill Bradley:**

That is correct. Section 8 dictates what has to happen when that drug comes back into the pharmacy, and that is where that primary care provider is the one who is authorized to make the decision as to whether the drug will be prescribed to an eligible patient. I think that is what you are talking about, Assemblyman Hambrick. That person is in the chain of distribution, and they have the same responsibility to that second patient as the first physician did to his patient.

**Assemblyman Hardy:**

We are looking at chemotherapeutic agents, and bad things happen to people's cells and organs and bodies when they take chemotherapy; that is the intent. Sometimes it is hard to tell the effect versus the side effect of a given medicine, or poison, or whether it is working against the body's out-of-control cells. Looking at the manufacturing issue, with the manufacturer buying liability insurance like a provider does, the liability insurance is based on an actuarial assessment of how many people are treated and the risk of liability. I think Assemblyman Hambrick brings up a good point. We seem to be multiplying the risk without the coverage of the insurance; that is the way I would look at it. When I see the words "gross negligence," I am going to do what attorneys tell us never to do—ask a question I do not know the answer to. Do we ever sue someone for minor negligence? It seems to me that it is always gross negligence.

**Bill Bradley:**

Dr. Hardy, I am happy to have this discussion with you because I think there is a misconception. Negligence, whether it involves a physician, an automobile driver, or a property owner, is the same, and that is doing something that a reasonable person would not do, or, conversely, fail to do something that a reasonable person would have done. Gross negligence is when there is a conscious indifference to the results of an action, so it raises the burden of proof that it was not a mere mistake but was done with recklessness. A good example of reckless conduct, of which you are acutely aware, is the conduct of the Endoscopy Centers of Southern Nevada. That was not a mere mistake. When we raise this burden to gross negligence, it is showing something other than a mere mistake. Technically, in our system, a person may try to hold another person accountable for negligence, what in your view might be "minor negligence." Legally, however, there is only negligence and gross negligence. In today's environment, a patient who has received the wrong drug, or a drug that he has an allergic reaction to on which the label warnings were ignored, are examples of negligence for which the physician or provider may be held liable.

**Assemblyman Hardy:**

I have spoken with the Ethics Commission, and they define "reasonable person" the same way. I asked them, how is it that I have seven people on the Ethics Commission and I get a four-to-three vote? Which one of you is the unreasonable one? This "reasonable person" is nebulous even for us. But to follow up on the "reckless" aspect, although you have explained it well, you have not said how often suits are filed for negligence or gross negligence. Can you help me out on that?

**Bill Bradley:**

I will try. A 17-year-old is driving and runs a red light because he was distracted by talking on his cell phone. The young driver hits someone who was lawfully in that intersection. Would you define that as negligence or gross negligence? This is where we differ, and this is why I believe so strongly in the jury system. It brings eight adults, ages 21 through 75, with many years of experience, together. They have to define whether or not the charge met the reasonable standard. Depending upon our upbringing, education, and experience, we may have different feelings; however, most of the time, those 8 or 12 people get it right.

**Assemblywoman Mastroluca:**

Would you not do a random sample of the medication that you received to test the effectiveness of it because you do not know the conditions under which it was stored?

**Carolyn Cramer:**

If you are talking about medications that must be stored at specific temperatures, most likely those would not be recycled under this program and would be discarded. Pharmacists are very careful; the last thing they want to do is pass on a drug that might be adulterated. They would not take that chance.

**Assemblywoman Mastroluca:**

But with any medication that you are going to recycle, would a random sample be wise to help prevent the issue of liability?

**Carolyn Cramer:**

Not necessarily, because as I understand this bill, we are talking about drugs in the original manufacturer's packaging, so there is no reason to think they have been adulterated. We are cognizant that this is an issue. One of the things we are going to put in the regulation is that the drug has to originate from a Nevada pharmacy. The reason is that we do not want something from the Internet; we want to know the drug came through the normal distribution chain. That is why we do not feel we need to assay the drug. We are confident that if it came through our normal distribution chain, the drug's efficacy should be guaranteed. It is not a perfect system, we know, but we are doing the best we can under the limited circumstances.

If we had to assay the drug, it would increase the expense and turn people away from the program. When I reviewed the Wisconsin program I learned they charged between \$13 and \$15 per prescription to recoup costs. I do not know what we would charge; however, when you are trying to attract participants to the program, the charge should be as low as possible. We are trying to balance what we can to make sure that the program will work for the largest number of people, keep the cost low, and keep it safe.

**Lawrence P. Matheis, Executive Director, Nevada State Medical Association, Las Vegas, Nevada:**

We support this bill. It is important to keep our focus on who we are trying to help. We are trying to help a person with cancer who has difficulty being able to afford the drugs they need. With the changes that Nevada's State Board of Pharmacy has suggested, it should be workable, and we should move forward and find out what does or does not work over the next two years. I feel we will probably revisit this in statute down the road.

The standards on the health professionals are the same under this program no matter what the patient is suffering from. Therefore, I do not see it as increasing liability. If there are cancer specialists who see it differently, they

simply would not participate. This is a good step in dealing with a very real problem, which is the cost of drugs.

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

We thank Assemblyman Anderson for sponsoring this bill and also Assemblyman Stewart and Senator Cegavske for their advocacy on this issue. We know that the bill as written refers to the donation of cancer drugs; however, cancer drugs are also used in the treatment of autoimmune diseases like multiple sclerosis (MS) and other diseases. If passed, this bill has the potential to impact a great many more people. These drugs can be very expensive; some insurance does not cover them at all, or, if they do, the co-pay may be so large it is not affordable.

With an unpredictable disease like MS that varies widely from person to person, the impact of this bill means getting needed drugs to people who could not otherwise afford them, and getting it to them quickly before the disease progresses. We urge your support of this bill.

**Chairwoman Smith:**

That was a good reminder about the drugs being used for diseases other than cancer. I have a couple of friends who take a cancer drug for rheumatoid arthritis.

**Tom McCoy, Nevada Government Relations Director, American Cancer Society, Cancer Action Network, Reno, Nevada:**

I appreciate this Committee giving us the opportunity to have an important discussion on cancer this past Monday. I want to take a different approach than what has been presented so far in this hearing. A couple of things happened recently that I want to share with you. I spoke to a lady who was a cancer survivor but was also dealing with an ongoing cancer. She is very advocate-oriented and she asked me about this bill. I explained there were a couple of issues with liability. She said that if she needed a drug and there was a choice between getting that drug or worrying about the risk, the choice would be clear. "I've got cancer!" she exclaimed to me. Another person said to me that he did not know if there was any value in this bill; it did not involve a lot of money. I did some investigating in my home state of Iowa, where this bill was passed a few years ago, and I think in the first few months they had \$300,000 in actual value. You may feel this is or is not worthwhile; however, I want to go behind the bill's words and leave you something to think about.

We are dealing with a cancer community here in Nevada—people who have never known each other before, but who come together because they have

a common interest in either providing care or providing advocacy or funds. There are two examples. One I gave in support of Senate Bill 159. A gentleman came into our office with a wig that his wife had worn before she died, and he said she had asked him to donate it. Another example is Susan Rowe, a nurse at Sunrise Hospital in Las Vegas, who had intended to testify as to her experience with these drugs. She lost her 16-year-old son on his birthday, and a lot of medication was left behind. She felt it was a horrendous issue for her to throw it away. It does not rise to the level of an organ donation, but to be able to provide assistance, perhaps life-saving medication, to another is a very special opportunity. Susan Rowe wanted to be able to do that, but under our state law she could not. In summation, there is a human side to this legislation, Nevadans trying to help Nevadans, and I feel this is a good bill.

**Chairwoman Smith:**

Thank you, Mr. McCoy. It is a reality check, when you talk about going behind the words of the bill. We often need that.

**Liz MacMenamin, Director of Government Affairs, Pharmacy and Health Care, Retail Association of Nevada, Carson City, Nevada:**

I am also representing the chain drug stores within the Association. When I first read this bill, I worked with the group—the industry, the pharmacies, the State Board of Pharmacy, the manufacturers—and we all agreed that we needed to come together to see if we could implement something that would help these people.

Although I totally support this bill, I do have an exception ([Exhibit D](#)). I now see, in section 11, a very vital part of this industry is being exempted—the manufacturer. I do not represent the manufacturers, but they are a part of this chain. I have some problems with exempting them from the liability because they sat at the table with everyone else and they already have some programs, on their own, that help individuals, without having this implemented. I hope that as you determine the policy, you will take that into consideration.

**Sheila Baez, R.N., Chair, Steering Committee, Nevada Cancer Council, Reno, Nevada:**

I have been a clinical nurse specialist and oncology nurse for the past 30 years. [Ms. Baez spoke from prepared testimony ([Exhibit E](#)) excerpted here.] I most recently worked as the Oncology Programs Manager and Nursing Manager for the Outpatient Radiation Therapy Department at Renown Institute for Cancer in Reno. Renown serves the northern Nevada region as an oncology treatment center.

In working there, I have witnessed the burden that cancer treatments place on many Nevadans. The physical, emotional, and financial costs of treatment are astronomical. Many struggle to handle the costs associated with treatment while they are unable to work. Those forced to travel to Reno from rural Nevada face the additional burden of living expenses while undergoing treatments for an extended period of time. Daily radiation therapy treatments, for example, can last up to six weeks. Many foundations, such as the Reno Cancer Foundation, exist to help finance room, board, and transportation needs for those traveling outside of Reno, or those who cannot afford their rent in the City of Reno while they are under treatment. However, little or no money is available to assist the uninsured or underinsured pay for expensive medications associated with treatments. Most cancer treatment today is done in an ambulatory setting. Medications can now be administered in outpatient settings that formerly required an inpatient stay for observation and for care.

Assembly Bill 213 would allow unused, unopened chemotherapies and symptom management medications to be donated back to any pharmacy, medical facility, clinic, or provider that participates in the program. The family members of patients recently passed frequently return to visit with the medical and support teams who cared for their loved one during treatment. Donating back medications to help others will be a great relief to family members who currently are told to dispose of all medications. The Nevada Cancer Council supports A.B. 213.

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

As you recall, Clement Cypra, of the Pharmaceutical Research and Manufacturers of America (PhRMA), voiced our concerns at your Monday, March 30, hearing. I listened with interest to Mr. Bradley's testimony, and we do agree that the Florida language works from PhRMA's perspective because it recognizes the need for immunity at both levels of implementation.

**Derek Naten, Director, State Government Affairs, Bayer Health Care, LLC, Sacramento, California:**

We appreciate Assemblyman Anderson's goal with this bill. It is long overdue. Our concern is solely with section 11. We are not asking for any more immunity than we would have otherwise had without the existence of this program, nor are we asking for any additional liability as a result of participation in this program. We have provided that language for several other states that have successfully enacted this program and it is working very well for cancer patients. Florida is one of those states where the language works, and we respectfully ask your consideration on that.

**Jessica E. Ferrato, Reno, Nevada, representing Pfizer, Inc., Sacramento, California:**

I echo the comments of the two gentlemen at the table. We look forward to participating in such a program and think it is great for the state. But we, too, would not like to be singled out in the liability. We are completely comfortable with what has already been stated.

**Chairwoman Smith:**

I would imagine it was not easy to come to the table in opposition of this bill. I ask you to continue working with the sponsor of the bill and try to come to a resolution.

**Assemblyman Stewart:**

If section 11 is not removed, would you be reluctant to participate?

**Jessica Ferrato:**

I would have to talk to my client about that. We really want to participate in this program, but we are concerned about the risk it poses because we do not have control of what happens with the drugs once they leave us.

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

I support most of this Assembly bill. Section 2, about the manufacturers being held liable, is not in the Senate bill. Assemblyman Anderson and I have talked about this, and we knew this was the only area where our bills differed. I do not support that portion of A.B. 213 that states that the manufacturers should be held liable.

**Chairwoman Smith:**

I do not have anyone else who wants to testify, so I will close the hearing on A.B. 213. I will open the hearing on Assembly Bill 326.

**Assembly Bill 326:** Revises provisions governing controlled substances.  
(BDR 40-558)

This is the bill sponsored by Assemblyman Denis that we heard on Monday. You have a mock-up of an amendment on your desk. It sounds as if this can be a short hearing, if Mr. Denis would like to bring us up to date on the latest developments.

**Assemblyman Mo Denis, Clark County Assembly District No. 28:**

We got together yesterday and came up with a few amendments, which I believe you have. One of the concerns was the section on the purchasing, and



the other concern was the mandatory Internet access. We can have the parties walk through the proposed amendments.

**Chairwoman Smith:**

Let me clarify, we have one amendment that was already at our desk from the State Board of Pharmacy on behalf of the Prescription Controlled Substance Abuse Prevention Task Force ([Exhibit F](#)), and we have another one from the Retail Association of Nevada (RAN) ([Exhibit G](#)).

**Assemblyman Denis:**

Yes. I have not seen the amendment from RAN. We met yesterday and this is what we came up with.

**Carolyn J. Cramer, General Counsel, State Board of Pharmacy and the Prescription Controlled Substance Abuse Prevention Task Force:**

The proposed amendment ([Exhibit F](#)) that you have before you was the subject of negotiation yesterday. We met with the National Association of Chain Drug Stores' (NACDS) representatives as well as the RAN representatives and we agreed upon this proposal. In section 1, we removed lines 3 through 8; it was the position of NACDS and RAN that it was too broad. We changed the language on page 4, line 19, for the reason that the Prescription Controlled Substance Abuse Prevention Task Force has the ability to accept grants; that was in the original enabling language and has been there for many years. We are asking that the expenditure of those grants are to be exempt from *Nevada Revised Statutes* (NRS) Chapter 333, which is the purchasing laws, so that will enable the Task Force to expend federal funds without having to go through the purchasing requirement. Those funds are audited and monitored by the federal government. No one else can use those funds for any other purpose.

**Chairwoman Smith:**

Let me get everyone on the same page: page 4, line 19, of the State Board of Pharmacy amendment. The concern I have is that you are talking about this exemption only for this particular use. I am not sure that says that to me. I could read this to mean that any of your expenditure of grants could be exempted. I think you need to be more specific for this program only.

**Carolyn Cramer:**

This particular portion, NRS 453.1545, applies only to the Task Force.

**Chairwoman Smith:**

Do they get any other grants?

**Carolyn Cramer:**

I will let Joannee Quirk explain the type of grants she receives.

**Chairwoman Smith:**

My point is, if you receive more than one grant and you use it for more than this particular program, I do not know that we want to go with an exemption on more than this one item. Does that make sense, Ms. Quirk?

**Joannee Quirk, Program Administrator, State Board of Pharmacy:**

I receive only federal grants, and they are very specific.

**Chairwoman Smith:**

We are talking about you receiving a grant for this one item in the bill.

**Joannee Quirk:**

Yes, the Prescription Monitoring Program.

**Chairwoman Smith:**

I do not think that is what this says. I think this says that any of the grants you receive would be exempt from NRS Chapter 333, and I do not think we want to go there.

**Joannee Quirk:**

The only grants that I perceive ever getting are for the software.

**Chairwoman Smith:**

Okay, we will talk about this offline and just make sure you get my point.

**Carolyn Cramer:**

The other negotiated amendment ([Exhibit F](#)) is on page 3, line 24, section 7, subsection 1, paragraph (d): "Include in the contact information of each person who has voluntarily elected to provide Internet access to pharmacists to whom...." The additional language was offered by RAN and NACDS yesterday. That was inserted as a compromise.

**Chairwoman Smith:**

Remind me who the person is in paragraph (d)? Who is the "person"?

**Carolyn Cramer:**

That would be the pharmacist or the provider. We have doctors who also participate in the program.

**Chairwoman Smith:**

So the State Board of Pharmacy supports the bill with the amendment?

**Carolyn Cramer:**

Correct.

**Assemblyman Hardy:**

I just need to put something on the record regarding the question of "a person" and the provision for training in the use of the Internet database, as described in section 7 of the bill. Many times the person who gets the training is the person who uses the database, whereas other providers are relying on that trained person to make the access, so I would think this "person" would be a royal person instead of an individual.

**Chairwoman Smith:**

I do not see any other questions, so Ms. MacMenamin, you can come to the table. We have your original amendment from the other day, so you need to tell this Committee what your intention is with that one, as well.

**Liz MacMenamin, Director of Government Affairs, Pharmacy and Health Care, Retail Association of Nevada, Carson City, Nevada:**

I am representing the chain drugstores here in Nevada. The original amendment that we brought forward was for clarification and to once again look at the Prescription Monitoring Program (PMP). We had spoken to Assemblyman Denis but, unfortunately, we had not worked with Ms. Quirk or the State Board of Pharmacy at that time. We were not aware of what was going on in their bill language.

After our conversations yesterday, we did come to some agreements. We support this program. We were instrumental in implementing this program in 1997; we felt it was a good program and something that was needed. We asked the Board to consider making this voluntary for the pharmacy at this point. Many pharmacies, on which Ms. Quirk has information, already participate on a voluntary basis. Our larger chains are very concerned about technology; however, after considerable discussion, we came up with some language on which we agreed ([Exhibit G](#)). Unfortunately, I did not get that language until a short time ago and we scrambled to get it together. I spoke to Ms. Quirk, and she may wish to comment on this.

On page 2, in section 1, lines 1 through 8 of the original bill, the State Board of Pharmacy and Assemblyman Denis agreed to take out that section on the grants. We had an issue with that because we feel an oversight was needed. However, Ms. Quirk informed us that it was federal grant money, and

we understand more federal grant money will soon be available, so we wanted to have the opportunity to act on that grant money and spend it in a timely manner for the program.

The next amendment is on page 4, under section 7, lines 24 through 26. We took out "person" and probably need to put that back in. After listening to the Committee's discussion, I believe this should include the pharmacists, providers, and so on. We again brought in the language about voluntarily electing to participate in this program. The next amendment is on page 4, section 7, subsection 2, lines 32 through 36, which is about voluntarily electing to participate in the program. And, finally, section 7, subsection 7, lines 17 through 19, where we brought in Ms. Quirk's request that the grants are exempt from NRS Chapter 333, so basically, she can take the federal grant money and spend it in a timely manner. Based upon Chairwoman Smith's comment in this regard, I am sure that some adjustment in the language can be made to satisfy those concerns.

**Assemblywoman Pierce:**

Regarding section 1, are you satisfied with that?

**Liz MacMenamin:**

We agreed with the deletion in section 1.

**Assemblyman Hardy:**

This does not preclude a pharmacist from calling a doctor. This does not give a pharmacist carte blanche to say, "I checked the database and it was not there." This does not allow the pharmacist to eliminate the responsibility of talking to the prescriber in some way. I am seeing all the heads nod affirmatively.

**Chairwoman Smith:**

Would you like to say that on the record, please?

**Liz MacMenamin:**

This does not preclude that. It is one of the first things a pharmacist does. If they have a customer whom they recognize may have a problem, they call the prescribing doctor. What we want to avoid is having the pharmacist practicing medicine. There may be some changes coming through from the PMP work, and we are hoping to see that happen, where we can get to the doctors who are prescribing too many controlled substances.

**Lawrence P. Matheis, Executive Director, Nevada State Medical Association, Las Vegas, Nevada:**

I was not available to testify the other day in favor of this bill. As the issues surrounding misuse of prescription drugs increase, especially the high-end pain medications, more practitioners are going to have to use this information available due to new technology. This bill does move us further, and I congratulate Assemblyman Denis on pursuing this issue now for two sessions in order to improve the system and encourage physicians to make use of this information. We do support this bill and the amendments.

**Chairwoman Smith:**

There is no one else coming forward to testify in support of or in opposition to this bill, so I will close the hearing on A.B. 326. Assemblyman Denis, please keep us informed on the amendments and how you wish to proceed so we can present this in work session next week.

I want to note for the Committee and the audience, the bills were taken in order based on the bills we had to roll from Monday. We really need to hear this next bill when Assemblyman Segerblom arrives because it is referred concurrently to another committee with a deadline looming. Meanwhile I will open the hearing on Assembly Bill 62, which is sponsored on behalf of Governor Gibbons.

**Assembly Bill 62:** Requires the State Board of Health and the district board of health in certain counties to prescribe the form and content of do-not-resuscitate orders. (BDR 40-442)

**Mary Liveratti, Deputy Director, Programs, Department of Health and Human Services:**

This bill was brought forward on behalf of the Governor's Office and the intent was to improve the do-not-resuscitate (DNR) protocols and process. Unfortunately, the bill, as written, does not really achieve that purpose and it would require extensive amendments at this point. What we would like to do is recommend that we convene a work group of stakeholders who will work on this during the interim and bring another bill forward in the next legislative session. We feel that the stakeholders and the health care community need to be involved in this process if we are going to improve the system and make sure that end-of-life decisions are honored across medical settings. We do have statutes and regulations in place for DNR orders.

**Chairwoman Smith:**

I appreciate that, and I know that we accomplished a lot last session with Assemblyman Bobzien's living will provision, so we want to make sure that we coordinate all that. I would rather we not have testimony on the various

regulations if we are not going to move the bill due to our lack of time. However, Ms. Stephens, I would like to have you address the Committee regarding your position on whether this is acceptable to the Governor.

**Jodi Stephens, Legislative Director, Office of the Governor:**

The catalyst behind this bill was Dr. Frey, who had concerns that we were resuscitating people who had DNR orders in place. The Governor agrees with Ms. Liveratti's recommendation, as long as we make sure the stakeholders and the doctors are involved ([Exhibit H](#)).

**Chairwoman Smith:**

Based on that comment, we will not proceed with the bill. We acknowledge that you are going to put a working group together and work on it during the interim, and will include the previous work that has been done. We look forward to seeing you back with this issue next session. Thank you, Ms. Stephens.

I will close the hearing on A.B. 62. I will open the hearing on Assembly Bill 379 and welcome Mr. Segerblom to the Committee. We have the PowerPoint presentation and chart ([Exhibit I](#)) and the amendment mock-up ([Exhibit J](#)).

**Assembly Bill 379:** Revises provisions relating to the care of indigent patients by certain hospitals. (BDR 40-1066)

**Assemblyman Tick Segerblom, Clark County Assembly District No. 9:**

This bill simply changes the percentage currently under law that private hospitals have to contribute toward indigent care. Page 2 ([Exhibit I](#)) states that private hospitals contribute 0.6 percent of their net revenues for indigent care. They can do that by providing indigent care equal to that amount of money, or they can give that amount of money to the county to use for indigent care.

This bill was originally passed to make up for the fact that private hospitals were sending indigent patients to the county hospitals, which were picking up the tab. Due to the increasing uninsured population, we have proposed to increase that 0.6 percent to 2 percent. The figures illustrated in the PowerPoint are for southern Nevada and for Washoe County. The loss experienced by our hospitals is dramatic, and attributable, in large part, to the increased care for the indigent population. Mr. Stevens, from Clark County, will shortly discuss the chart included in the mock-up ([Exhibit J](#)).

The indigent care currently being provided is the equivalent of approximately \$10 million a year. If this bill passes, it would increase that amount to around \$30 million per year. That is not a lot of money, but it would be of great

benefit to Clark County and to University Medical Center (UMC) to cover the shortfall we are experiencing there. Furthermore, it would provide incentive to the private hospitals to increase the amount of indigent care. On the chart included in ([Exhibit J](#)), each hospital in Clark County is listed along with the amount of indigent care being provided. In column 8 of the chart, it shows the month in which they reached their quota for indigent care. Desert Springs, for example, achieved the \$962,000 worth of care they were required to provide in the first six months. Many of these hospitals, even under the new formula, would not have to pay any more money.

Regarding the mock-up of the bill ([Exhibit K](#)), the current law just covered inpatient care. The original bill added outpatient care to that, but it was not clear how that would work out. Therefore, the amendment deletes outpatient care and goes back to existing law for inpatient care only.

**Chairwoman Smith:**

I am going to turn the gavel over to Vice Chair Pierce for a while, and at other times when necessary during this meeting, so she will follow up.

**Vice Chair Pierce:**

Are there any questions for Assemblyman Segerblom? [None.]

**George W. Stevens, Chief Financial Officer, Department of Finance,  
Clark County, Las Vegas, Nevada:**

I provided this chart ([Exhibit J](#)) to Assemblyman Segerblom, and I will walk the Committee through how the process works in Clark County. In column 1 is the 0.6 percent uncompensated care requirements that each hospital had to meet in Fiscal Year 2008; the total for the private hospitals is \$9.8 million. The UMC had its own uncompensated care requirement of \$2.2 million. Through the course of that fiscal year, the private hospitals provided a total of about \$22 million in uncompensated care, and of that amount they were reimbursed by Clark County Social Services in the amount of \$12.3 million.

The process is that as they are treating indigent inpatients, they send us the bills and application for eligibility packages. Once those people are certified, we count that towards our uncompensated care requirement, and once they pass the required cap, they send additional eligible bills to us, and those are paid. As Assemblyman Segerblom mentioned, if you increase the amount from 0.6 percent to 2 percent, that essentially triples the amount to around \$32 million in Fiscal Year 2008. The number for Fiscal Year 2009 is slightly higher; I believe the uncompensated care requirement is about \$11 million, or an increase to about \$35 million.

The way it works now is that, at the beginning of the year, each hospital is given a number. The state gives their net revenue figure to the county, and the county calculates what that 0.6 percent would be. When the indigents come in for care, the value of that care is determined, and the hospital treats them and sends the paperwork to the county. Thereafter, the county gives the hospital credit, and once the number of patients reaches the uncompensated care requirement, the hospitals can bill the county for any indigent patient care above that number. The care is paid at the Medicaid rate. One of the benefits of raising the initial figure from 0.6 percent to 2 percent would be to discourage the private hospitals from sending patients to the county hospital, and that benefits the taxpayers.

**Assemblyman Hardy:**

Would this be a tax increase?

**George Stevens:**

That is a good question. We did not think it was, but the bill has been referred, so if this Committee does anything with it, I believe it then goes to Taxation.

**Vice Chair Pierce:**

It does not have a two-thirds on it, so it goes to Taxation.

**Assemblyman Stewart:**

After each hospital reaches their allotted amount and goes beyond that, with the tightness of the budget, is there a guarantee they will get their money? What if a county reimbursement is already gone?

**George Stevens:**

There is a limit on the amount of money that is available; in fact, the amount that we can spend is capped by statute. We have not, in at least the last 15 years, run out of money. We have been able to pay all the bills presented.

**Assemblyman Stewart:**

So they would know the amount beyond which they could not go?

**George Stevens:**

That is correct. Once we hit the limit of the indigent tax, then we stop paying.

**Assemblyman Stewart:**

But would they know that beforehand?



**George Stevens:**

I suppose they would. Since it has not happened, we have not been faced with that.

**Assemblyman Segerblom:**

That ends my presentation. It is a very simple concept.

**Vice Chair Pierce:**

Is there anyone else in support of this bill? [None.] Anyone in opposition?

**Bill Welch, President/CEO, Nevada Hospital Association, Reno, Nevada:**

I am here to speak in opposition to A.B. 379. This is clearly a tax being imposed on the hospitals. I am not going to go through all the data that I presented to this Committee when I was asked to do a presentation on hospitals in the State of Nevada, but I would encourage you to go back and review the report that I previously submitted to you.

I would like to remind the Committee of a few numbers showing where we are today. In 2008 we will exceed \$758 million in the cost of uncompensated care that our hospitals are providing. Today, 67 percent of our patients do not pay the cost of health care services; only one-third of the patients pay that cost, and hospitals are already trying to shift those costs to that one-third of the patients. The hospitals in this state are operating on average at a net negative operating margin of 1.75 percent. Currently, some hospitals are already closing services, predominantly UMC, although there are other hospitals that have also closed services.

Although we are considering severe budget cuts, I know this Legislature has tried to be supportive to the best of its ability under the current economic environment. We are looking at July 2008 levels of reimbursement going down 10 percent. We have taken away the Indigent Accident Fund (IAF) and the Supplemental Fund (SF) of approximately \$25 million annually from the hospitals for caring for people who have catastrophic illnesses or injuries. And now we have a bill before us that would more than double the indigent tax obligation statewide—not only Clark County, but for any hospital in the state with 100 beds or more. This would increase our indigent tax obligation by \$25 million annually. My question to this Committee is, who will pay this cost?

We have limited options; we can shift that cost to the insured population, the few who do pay, or those who are self-pay and pay their bills in full. But that cost will be shifted, and to the extent that we cannot shift that cost, we will have to close services. This is clearly a sick tax. This is an increase in the tax on the hospitals, and we are absolutely opposed to this legislation.

**Assemblywoman Smith:**

Mr. Welch, when you made the presentation on the hospitals and provided that information regarding their financial status, I think you were also going to get us a breakdown by hospital. I do not think we have received that.

**Bill Welch:**

You are right, but I have asked my staff and fiscal officer to provide that data. I will follow up with him today to ensure that it is provided to you.

**Assemblywoman Smith:**

What would your reaction be to just section 1 of the amendment?

**Bill Welch:**

This is the first opportunity I have had to see that amendment. As I read it, it provides for an annual report. Philosophically, I suppose that we would be good with that, but I would like more time to review it. In Clark County, there are five or six hospitals that are operating at a negative margin based on the data that I have. We have only one public hospital in Clark County. The Nevada Hospital Quarterly Reports (NHQR) run somewhat behind, so we had to solicit the additional data from the hospitals. We had 22 hospitals that responded and provided us the data, in advance, in the same format as required by the NHQR; 11 of those 22 were losing money.

**Vice Chair Pierce:**

Is there anyone else who would like to speak in opposition to A.B. 379 or who is neutral on this bill?

**Bobbette Bond, M.P.H., Executive Director, Nevada Health Care Policy Group, LLC, North Las Vegas, Nevada:**

I just want to comment on Mr. Welch's comment that the NHQRs lag, so the data is not current. On the NHQRs that I saw, and those we have been using in some of our testimony, of the six hospitals in Clark County, the three losing money besides UMC are brand-new hospitals. As hospitals come on board, they lose money for two or three years. In Las Vegas they are lucky because they have sister hospitals that can support and subsidize them until they get up and running. It is one of the benefits of having a hospital system instead of a single hospital, and it means that they do not do badly for a long time. Having those current numbers would be helpful for many people. I would appreciate any way this Committee feels it could distribute that information once available.

**Vice Chair Pierce:**

I will close the hearing on A.B. 379. I will open the hearing on Assembly Bill 157, sponsored by Assemblyman Cobb.

**Assembly Bill 157:** Provides that the head of a household which receives Temporary Assistance for Needy Families must accept certain employment. (BDR 38-137)

**Assemblyman Ty Cobb, Washoe County Assembly District No. 26:**

With me today is Gary Stagliano, from the Welfare Division. I have handed out a mock-up of a replacement amendment ([Exhibit L](#)) for Assembly Bill 157, and that is mainly what we will be referencing. The bill introduction is not very well written in meeting the actual requirements and different aspects of the Temporary Assistance to Needy Families (TANF) Program.

After discussions with Romaine Gilliland and his staff at the Division of Welfare and Supportive Services, I think this amendment provides a feasible way to empower people by helping them move away from dependence on welfare funds and into the workforce more quickly. The intent of this legislation is to place additional emphasis on the expectation for each Nevadan to be employed and reach self-sufficiency as soon as possible. One way we can measure the success of Nevada's assistance program is to consider the number of households that become self-sufficient by obtaining employment and leaving the program. The more quickly a participant finds a job and moves out of the program, the more funds will be available for others who need assistance rejoining the workforce.

First, I would like to provide some background about the TANF Program and what the current work requirements are for a person who enters the program. As you may know, the TANF Program is a time-limited cash assistance program. Federal law limits a person's assistance to five years. In Nevada, recipients may receive 24 months of assistance, they must remain off the program for 12 consecutive months, and then they can receive benefits again until the lifetime limit of 5 years is met.

As a condition of receiving cash assistance in Nevada, work-eligible individuals must participate in the New Employees of Nevada (NEON) Program. The purpose of NEON is to promote family stabilization, job preparation, and work. This is accomplished by assisting clients in gaining basic and vocational skills that will help them overcome barriers and become self-sufficient through employment. The NEON Program provides employment, education, training, and supportive services. When participants enter the NEON Program, they participate in an orientation, assessment, and appraisal process where it is

determined what personal issues they may have and what services are needed to facilitate a rapid transition into the workforce. These needs might include substance abuse treatment, domestic violence intervention, child care referral and subsidy, transportation services, or vouchers to obtain work tools or professional clothing. Next, participants develop a plan for personal responsibility with the Division of Welfare and Supportive Services that identifies the services participants will receive and what they agree to do to achieve their goals. During this process, appropriate careers for their skill set are identified. Participants have the opportunity to participate in job readiness workshops, educational development, and vocational training to prepare for work.

Nevada and federal laws require a work-eligible individual to perform work within a reasonable time. After the Division determines he or she is capable of finding and performing work, one problem is that it is possible for NEON participants to be offered a job and turn it down. If participants turn down job after job, they can delay working for up to 24 months. As you can tell from this description of the NEON Program, when people become eligible for TANF funds, they are not expected to just go to work right away without the skills to do so. The Division works to stabilize their family and ensure that work-eligible individuals are trained, if needed. They are assisted on a path to obtain employment that will sustain their family and remove their dependence on public assistance. After NEON participants have received the help and support of the Division and are declared ready to work, there is no reason why they should be allowed to turn down a legitimate job. It is for this reason that I am proposing A.B. 157.

I will go through the amendment ([Exhibit L](#)) and explain what it does. The two main sections in this measure are section 1 and section 5. For clarification, section 1 was mainly at the request of the Welfare Division so that they could change the language that they needed in *Nevada Revised Statutes* (NRS) Chapter 422A.

Section 1 adds the definition of "work-eligible person" to the *Nevada Revised Statutes*. According to this definition, a "'work-eligible' person means an adult member of a household or a minor child head of household who receives benefits or other public assistance or a parent who is not receiving benefits who resides with a child who receives benefits." There is also a list of who is not included. The current Nevada law does not contain a definition of "work-eligible individual," only a definition of "head of household." By adding this definition, it helps clarify that the head of household and the work-eligible individual may be two different people.

Section 5 requires that if the Division of Welfare and Supportive Services determines that a work-eligible person is capable of finding and performing work, that person must submit proof to the Division that he or she has attempted to find work within 10 days of that determination. Current law requires that "a head of household shall accept work offered to him, unless he has good cause for refusing the work." This amendment would remove that provision and make a much stronger statement. It requires that if a work-eligible person is offered work and does not accept it, he or she must accept alternative work within 10 days or face sanctions. If a person turns down a job and does not find another one within 10 days, it will be considered a failure to comply with the terms of the plan for personal responsibility, and the penalty for that can be a reduction or termination of benefits.

Other sections in the amendment replace the term "head of household" with "work-eligible person" to be consistent with the definition change made in section 1.

**Assemblywoman Spiegel:**

Can you tell me how prevalent this problem is? For instance, how many people in the past year or two have turned down work and gone for this 24-month period without working and keep turning down jobs they have been offered?

**Assemblyman Cobb:**

I defer to Mr. Stagliano to give you specific numbers. But, in terms of turning down work, you are presenting a scenario that is to the extreme, which is, someone turns down work and then goes another 24 months without working. I said they were able to do that, but it is not prevalent. Turning down work is something they are able to do at the present time. Turning down work and waiting 24 months without accepting a job would, I assume, be fairly uncommon.

**Assemblywoman Spiegel:**

I am confused. If you could clarify, I thought that you were saying the reason you brought this forward was because of that possibility. Did I mishear?

**Assemblyman Cobb:**

It is in the law right now; they are allowed to do that.

**Assemblywoman Spiegel:**

And my question is, is the abuse going on what this legislation is intended to quell?

**Vice Chair Pierce:**

Does Mr. Stagliano have testimony on this? Let us hear from him and then go to questions.

**Gary Stagliano, Deputy Administrator, Program and Field Operations, Division of Welfare and Supportive Services, Department of Health and Human Services:**

The current practice by the Division is that when families present at our office and are determined to be work-eligible, we go through a full family assessment to determine what skills and abilities that family has. We develop a customized plan of personal responsibility for each individual and monitor their adherence to that plan. If they fail to comply with the terms of the plan, we have statutory authority to impose sanctions, which would be termination of eligibility for that family. The family is, of course, given prior notice and an opportunity to remedy that situation. If work was a requirement, if they had a job opportunity and they failed to avail themselves of that, we would have the opportunity to exercise a personal responsibility plan sanction.

**Assemblywoman Spiegel:**

Just to rephrase, to the best of your knowledge, how often is it that people fail to live up to their personal responsibility plan, and how extensive is the problem that this legislation is designed to remedy?

**Gary Stagliano:**

Out of a gross population of about 4,000 to 5,000 cases, approximately 200 cases a month experience a closure because of failure to meet the personal responsibility plan. But the closures are not only for a denial to perform work activities. There is a range of reasons—failure to attend classes, failure to attend orientation, failure to do the drug and alcohol abuse counseling—whatever the personal responsibility plan might require.

**Assemblywoman Spiegel:**

Would it be possible to get that data to me?

**Gary Stagliano:**

I do not know if the Division captures the actual performance requirement on the personal responsibility plan that is not accomplished. I can certainly get you the data on the number of sanctions we impose.

**Assemblywoman Mastroluca:**

Are you aware of the unemployment numbers in Nevada currently?

**Assemblyman Cobb:**

The last I checked it was somewhere around 10.2 percent.

**Assemblywoman Mastroluca:**

I think that unemployment rate means that it is a little difficult to find a job. To then punish people who do not take a job that is deemed acceptable seems unfair. If I am a single mother with young children and the only job I can find is graveyard, I think it would be hard for me to take that job. I understand what you are trying to do and I applaud that, because I know there is a perception that there are people on welfare who take advantage of the system, and those people should be stopped. But I also believe that it is incumbent on us as human beings to help one another, and this is a way to help one another. The fact that people have to leave the program for a period of time because they have not completed what they need to do to get on their feet—I do not want to say it is punishment, but I think that it is severe.

**Assemblyman Cobb:**

I did not quite understand the assumption that you put on the table first, that we have a high unemployment rate and therefore, if you are offered a job, that might somehow correlate. If there are no jobs out there, this does not come into play; it is only if you are offered a job. So, regardless of the unemployment rate, if you are offered a job, what this bill says is that we as a state expect you to become gainfully employed after you have followed the three steps that I outlined in preparing your personal responsibility plan. The Division already takes into account your personal circumstances, whether it is domestic violence, children, and so on; they do not force you into graveyard jobs. It is already written into the NRS and accompanying regulations.

**Vice Chair Pierce:**

How much does someone get on TANF?

**Gary Stagliano:**

A family of three gets approximately \$378 per month. I can get that written information to you.

**Assemblyman Cobb:**

I have requested that Mr. Stagliano include in the information to you any other benefits available to families who qualify for the TANF Program, such as vouchers, child care, and so on; it is an extensive list of benefits.

**Assemblywoman Smith:**

Section 1, I believe, changes the bill substantially from the original bill. Would you, Mr. Cobb, or Mr. Stagliano, walk us through each one of these subsections and explain them because I am not really sure what the intent is.

**Gary Stagliano:**

What we attempted to do here was to bring some consistency between federal language and state language. Under the Deficit Reduction Act (DRA) there was a new publication that identified who had to participate in work activities in the TANF Program and the terminology "work-eligible individual" was developed. In our statutes prior to that, you may remember the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), which brought about the requirement to work in the TANF Program. It was specifically aimed at the head of household, and the statutory language is reflective of that. What we are trying now to do is amend the head of household, which implies a single individual, to work-eligible individual, which implies anybody who meets the definition of work eligibility. As an example, in a two-parent family, both adults might be required to work. So the work-eligible definition mirrors federal language and provides specific exemptions. Some people are not work-mandatory; you will see some exemptions for Social Security recipients, for noncitizens, and for tribal individuals.

**Assemblywoman Smith:**

So we are already using these definitions when we apply the test for TANF, and this just codifies the federal regulation? We received an email from Carolyn Wilson, Executive Director, JOIN, Inc. ([Exhibit M](#)). They are one of the contractors for NEON; is that correct?

**Gary Stagliano:**

Right. They provide NEON services in the Reno area.

**Assemblywoman Smith:**

Ms. Wilson had indicated that she was not sure of the necessity of this and what we would accomplish, because when she talked to her case managers, they said they had only two clients in the last year who had turned down jobs. She gave an example of one woman who takes public transportation but could not get it in her neighborhood, drop her child at childcare, and get to work by 8:00 a.m. Another one accepted a sales job but then found out she had to pay \$400 for a sales kit and she would only be working on commission. Those were the only two people they had who turned down jobs, but I heard you say 200 people had done that. Could you clarify for the Committee exactly what we are talking about?



**Gary Stagliano:**

What we are talking about is failure to comply with any of the terms and conditions of the personal responsibility plan, not just a refusal to work. There are many elements. The Division works through a three-phase program for work participation. We first try to stabilize the family; we try to overcome any issues before we start making any real demands on them. Then, depending upon the family's capabilities, we start asking them to participate in either training or work readiness or work activities, and progress that family along until we have a high level of confidence in them. Finally, we move to a third phase where we start to consider career pathways in the hope that we can get that family gainfully employed or engaged in an occupational class that allows them to be self-sufficient throughout the life cycle of the TANF Program.

**Assemblywoman Smith:**

So you are saying that we have 200 people who are excluded for a variety of reasons, but it could be 2 people, or 8, or some other number who were denied because they refused work?

**Gary Stagliano:**

That is correct.

**Assemblywoman Smith:**

Mr. Cobb, I am looking at the bill and trying to figure out if we are codifying the federal statute, it is not a big change. Then, the description of "head of household" to a "work-eligible person" seems also to put us in line with federal statute. In section 5, subsection 2, line 12 on page 3 of the mock-up, "If the Division determines that a work-eligible person is capable of finding..." seems to be the substance of the change, where they have 10 days to submit proof that they have attempted to find work. Is that right?

**Assemblyman Cobb:**

That is going to be the substance of what we are looking to do. The earlier part, the section 5 change, was requested by the Division. Mainly what that does is to show the intent of the Legislature to be that we want the Division to be putting people back to work as quickly as possible. In addition to providing a concrete time frame for seeking and accepting employment, it also requires that individuals report back to the Division with concrete proof that they are seeking jobs and considering their options. Right now there is no such requirement in law or regulation.

**Assemblywoman Smith:**

I just want to make sure I am reading this correctly. In place of what was in the original bill, this is the section that really makes the major change.

**Assemblyman Hardy:**

Assemblyman Cobb, is there some other state that is using that 10-day period of time, and how is that working?

**Assemblyman Cobb**

That is a good point. This has been enacted in Oregon, and there is an interesting story in that regard. A fellow legislator's relative heard that in Oregon one could collect benefits without having to go to work. She moved there but, unfortunately, the new law had just been passed and she was required to go to work almost immediately. She took a job as a candy striper in a hospital and now, many years later, she is the chief in charge of that division of the hospital. Obviously, the intent of this legislation is to help people get back to work quickly. Sometimes it takes a little nudging, and sometimes it takes the clear intent of the Legislature in telling the Welfare Division—which really does do a great job—here is a hard-and-fast time frame to get people back to work. That is what this bill says to the Division. If there are no jobs out there, there is no punishment. But if there are jobs available, it is the intent of the Legislature that people get back to work.

**Assemblywoman Leslie:**

What is the magic formula about 10 days?

**Assemblyman Cobb:**

That was decided in discussions with the Welfare Division.

**Assemblywoman Leslie:**

Then let me ask Gary Stagliano about the 10 days.

**Gary Stagliano:**

We do not have an opinion about that.

**Assemblywoman Leslie:**

Why the 10 days then, Mr. Cobb?

**Assemblyman Cobb:**

The reason for the 10 days is that it allows an individual an opportunity to go out and find another position if they had turned down a position that the Welfare Division had suggested was a good one for them to take and was career-appropriate.

**Assemblywoman Leslie:**

But, why 10 and not 14 or 30?

**Assemblyman Cobb:**

It is certainly up to the discretion of the Committee if they would like to change it to 14 or 30. Ten days was considered to be an appropriate amount of time to find alternative employment.

**Assemblywoman Leslie:**

So you picked the 10 days?

**Assemblyman Cobb:**

Yes.

**Assemblywoman Leslie:**

Mr. Stagliano, would this also apply to the hard-to-serve who have a very difficult time finding employment?

**Gary Stagliano:**

If the Legislature decides to pass this bill, it would apply to that population, to anyone who was eligible.

**Assemblywoman Leslie:**

It would apply to the mentally ill and those folks?

**Gary Stagliano:**

There are no exclusions for those folks right now. There are some alternative programs, but if they elect to participate in the TANF and NEON Programs, the requirements would be applicable to them.

**Assemblywoman Leslie:**

Are you aware that people are moving to Nevada because it is easy to get welfare?

**Gary Stagliano:**

No, I am not.

**Vice Chair Pierce:**

What qualifies as proof that one has looked for work?

**Gary Stagliano:**

The practice of the Division is that we ask for collateral documentation from the employer. Currently, we use a self-declaration process because it is extremely difficult to get employers to provide documentation that someone has applied for or refused a job.

**Vice Chair Pierce:**

So, now you accept self-declaration, but this bill would change it to...?

**Gary Stagliano:**

Mandatory verification.

**Vice Chair Pierce:**

If the potential employer does not want to give you that, then what?

**Gary Stagliano:**

Because of the way the statute is written, we would have to deny eligibility because we did not have documentary evidence in the case.

**Assemblyman Hambrick:**

Do you need hard proof? I am thinking of something like a job fair where such documentation might not be available. In southern Nevada, there is a job fair about every 10 days. What would you consider as proof?

**Gary Stagliano:**

The way the statute is currently composed, we would require documentary evidence if someone was offered a job and refused that job, or refused to apply for the job. Unemployment benefits are more in line with people who have lost employment.

**Vice Chair Pierce:**

For someone who does not have much in the way of job history, it is difficult to require that they demand a potential employer to furnish documentation. That seems a pretty high hurdle for someone without much in the way of job skills.

**Assemblyman Cobb:**

We are the policymakers, so we can determine what is considered proof of seeking employment. It could be a flyer from a job fair, or a copy of a completed application. Or we could require that the Welfare Division follow up with a phone call to the employer asking if the individual sought employment with them.

**Assemblyman Stewart:**

At the present time, do you take into consideration the capabilities of a person when a job is offered? For example, if a person is a paraplegic, you would not require him to apply for something that was beyond his ability?

**Gary Stagliano:**

Our current practice is to assess the family initially and determine what their capabilities are and to try to engage them in activities consistent with that.

**Assemblyman Stewart:**

Would this bill, if passed, continue in that same vein?

**Gary Stagliano:**

That is correct.

**Assemblyman Denis:**

When one is looking for work, would that include the ability to volunteer and get documentation that way, or does it have to be paid employment? For some people, doing something is better than doing nothing. In some programs people can do community service and get documentation that way.

**Assemblyman Cobb:**

Right now certain practices are in place, through the regulations established by the Welfare Division, where individuals can get training, go to job fairs, do volunteer work, and so on, in preparation for taking on an actual paid position. This is the final step. The Welfare Division has worked with the individual through all three exhaustive phases to get him into the work field for a career appropriate to that individual. What you are describing would probably fall within those three phases of preparation, and the final step would be to gain the job.

**Romaine Gilliland, Administrator, Division of Welfare and Supportive Services,  
Department of Health and Human Services:**

To address some of the questions previously asked, and also to provide a little more perspective on this, section 6 and section 8, subsection 7, provide the definition of exemption and hardship. In response to Assemblywoman Spiegel's question about a circumstance where someone might be prevented from taking a job at night because she would not have anyone to care for her child, I believe that, and other extenuating circumstances, are clearly exemptions and hardships the Division would take into consideration in determining whether a person is work-eligible.

As we talk about submitting proof of job seeking, sometimes it can be quite difficult. Recognizing that there are several different circumstances in submitting proof, we would have to look seriously at a self-declaration methodology in many cases. In today's environment, especially with the high level of unemployment, we need to have latitude in providing proof and not overly penalize anyone.

**Vice Chair Pierce:**

I appreciate that. It seems to me if you have an individual with low job skills who applies for a job and is turned down, for them to have to ask for a note or a copy of their application for TANF seems unreasonable or at least embarrassing.

**Assemblywoman Spiegel:**

I notice there is no fiscal note on this bill, yet it seems to be adding steps and procedures that mean an additional workload on the Division. Do you have the resources to accommodate that added work?

**Romaine Gilliland:**

Currently, individuals do return periodically to review their status with their eligibility worker. On the surface, I do not believe this would create any additional work because it would be part of the normal process. However, back to the question of the 10 days in which to find employment if a job is refused, I can see that could be problematic. Due to the present unemployment rates, the economic downturn, and so on, the time limit should be consistent with the circumstances, and perhaps there should be more latitude in that area as well.

**Assemblyman Cobb:**

If it is the will of the Committee to change that number, I am certainly amenable to that. However, I do think the point here is that the person was already offered a job. If he turns it down, the Division would need to remind him of the consequences of turning down a job when there was a 10 percent unemployment rate. After all, the Division would have already invested time, effort, and money in preparing the individual and finding him an appropriate job. In strongly recommending that he take the job, the Division is fulfilling the intent of the Legislature to help people get off the welfare rolls and back to work. The impetus for him to take the job would be a reminder that if another job was not found in the 10 days, then penalties would begin. That is not to say that all benefits would be cut, but the penalization process would begin.

**Assemblywoman Leslie:**

Mr. Gilliland, do you feel that your workers are not performing this function adequately now? Do you think there is a need for this bill?

**Romaine Gilliland:**

This is clearly part of the personal responsibility plan, and while I believe it is the intent of the Legislature, and I believe it is the intent of all of us, to make sure that people seek work and reach their highest level of self-sufficiency, this is something that we stress. It is part of our mission statement. It is our

objective to allow a person the opportunity to seek and find employment. That is the objective of each and every eligibility worker. That is what we do.

**Assemblywoman Leslie:**

That has been my experience. I work daily with low-income and mentally ill people who are out searching for work. Sometimes we come to a point where we tell them they are going to do community service for the judge, or they are going to find a job. There are laggards, some on welfare, but very few. My experience with the people who are involved in your system is that they are getting plenty of encouragement about finding a job and they understand that it is their responsibility. They cannot stay on welfare forever. I just question the need for this bill, but I will wait until our work session.

**Vice Chair Pierce:**

Is there anyone who would like to speak in support of this bill? Anyone in opposition?

**Jon Sasser, Esq., Statewide Advocacy Coordinator, Washoe Legal Services, Reno, Nevada:**

Working on what is now the TANF Program, formerly the Aid to Dependent Children Program, is something that I have done for many years. When people apply for or are denied these programs, they come to Legal Services and we get involved in their representation. I have been involved in at least two governor's task forces on reforming the welfare system and one in looking at an alternative to welfare.

I think several Committee members' questions have been right on target. I think this is basically a solution in search of a problem. There is nothing put forward that the current system is not working today. The main change in the bill is to say, "You have to take a job unless you have good cause." We are taking out "good cause." In essence, we are saying, "You have to take a job that is offered to you whether you have good cause to turn it down or not, or you have to find another job within ten days or you are sanctioned." In our current economy, we know what the likelihood of doing that would be.

The idea that people on welfare are sitting at home, eating bon-bons, collecting money for two years is an old stereotype that I hope no one still holds on to. To get the \$384 a month for a family of three, one has to engage in 30 hours of work participation activities each week. That can take the form of seeking a job, finding a job, going to training, going to other types of approved activities, as defined by the federal government; so people are not sitting idle while drawing welfare. If you divide that \$384 by 30 hours, they are getting far below minimum wage for the time they are putting in, so there is

no disincentive for people not to go out and get work. For that reason, I think the system is currently working.

I am not impugning any motive Assemblyman Cobb might have—I have no way of knowing what his motivation is—but this is part of a long line of things we have seen over time that demonize people who are on public assistance, and it is already a very tough life for them. Everything from the vision of the welfare Cadillac to someone standing in line buying beer on food stamps, to the old song that was popular about ten years ago, "It's those teenage, immigrant, welfare mothers on drugs that are bringing us all down." To pass this bill, to me, basically says that there is a problem to be fixed, that people are turning down jobs, and they are taking advantage of the system. With absolutely no proof of that, and with no proof that the system is broken, I ask you not to fix it.

**Jan Gilbert, Northern Nevada Coordinator, Progressive Leadership Alliance of Nevada, Carson City, Nevada:**

Like Jon Sasser, I have been working on this issue for way too many years. The Welfare Division, in 1997, implemented TANF. We are reminded every year that this is a work program, not an assistance program. Over and over, Mr. Stagliano reminds us that this is all about work. The Division is required to get people to work. We are penalized as a state if we do not get people to work. The Welfare Division works so hard trying to get people ready for work and out in the workforce. So a bill like this is unneeded. I tried to figure out why someone would present this bill, and it brings to my mind what happened about 20 years ago when a sheet called "The Myths of Welfare" was passed around. Jon and I created it, I still have it, and, unfortunately, people still have this image of this lazy bum on welfare. Ninety-eight percent of the people on welfare are women, head of household; it is consistent year after year, women and children. There are occasional single fathers. One year we went to the orientation to see how the Welfare Division was doing on getting people to work. Jon and I attended a work participation meeting when people first applied. It was a real eye-opener, and I recommend it to others to see what people have to do for \$384 a month. It breaks my heart. What they are required to do is so tedious, so difficult, that I would not be surprised that many do not bother to apply.

I once sat in a welfare office interviewing people, asking why they were there. About 60 percent said they did not get child support; that is the only reason. These women want to work, they want their child support payments, and they just want to take care of their children. It is not something they do to avoid work. I hope you will not pass this bill.



**Vice Chair Pierce:**

Am I correct that we are 54th in the nation behind Guam and Puerto Rico in collecting child support payments? It seems that is a bigger problem.

**Assemblyman Hardy:**

I am looking at the bill from several perspectives: a stimulus to get people back to work, but also the work-eligible issue to put this in line with federal regulations. So when you say you are opposed to the bill, are you opposed to putting us in conformance with federal regulations? It is not limited to one section.

**Jan Gilbert:**

I think it is in the state welfare plan. They update the state welfare plan whenever they have to make changes. I believe this is already in our plan. It does not seem to do anything, except in section 2 with the 10-day requirement to find another job if one was refused.

**Assemblyman Hardy:**

I may have misunderstood the testimony.

**Romaine Gilliland:**

If you go back to the exemption and hardship, what that does is bring the language of head of household into alignment with work-eligible individual. It is really a technical correction. If we are going to make adjustments to the bill to implement the requirement to both seek employment and obtain employment, at that time it would make sense to bring it into alignment with the technical use of head of household or work-eligible individual. Or we do not make that change, and personally, and as the administrator, I do not believe that it would be necessary, because as Ms. Gilbert stated, it is part of our state welfare plan to define a work-eligible individual, and through the plan we are adequately in alignment with the federal requirements.

**Julianna Ormsby, Carson City, Nevada representing Nevada Women's Lobby, Reno, Nevada, and League of Women Voters of Nevada, Carson City, Nevada:**

To follow the line of what Ms. Gilbert was speaking about, I want to step outside the policy discussion for a moment and think about the people, 98 percent of whom are women who are out there at this moment and cannot be here because they are looking for gainful employment and meeting all sorts of obstacles and barriers, such as safe and affordable child care, access to health care, living wages, et cetera. I want to think about them. We are here today opposed to this bill for reasons enumerated. We do believe it is unnecessary with or without the change in wording, although we would not

have a problem with that. Women, in particular, are affected by this as primary caregivers and caretakers of children, so they are out there right now, the majority seeking employment. Instead of focusing on this bill, we need to look at more progressive moves toward establishing child care, access to health care for families, and a living wage.

**Elisa Maser, President/CEO, Nevada Advocates for Planned Parenthood Affiliates, Reno, Nevada:**

Some of you have heard us talk about the five clinics that we have offering health care. Today, I want to talk about the other aspect of our program, which is education. We have an extremely successful program called Teen Success, and its mission is to help teen mothers maintain their current family size while they set personal goals, complete their education, and set future goals for themselves and for their children. We use their concern for setting a good example for their kids to help them complete their education. Then, if they go on to some other higher education or vocational training, we are able, in partnership with the Morgan Family Foundation, to offer them a scholarship. As many as 96 percent of the girls who go through our program are able to successfully complete that additional training process and break the cycle. That is what we are all working toward here.

I would have to raise a question about the language in the first section. We are very concerned about minor children head of household being defined as work-eligible persons. The reason we have such a concern is, unfortunately, we have several young women who became teen mothers at 14 and 15. If they get two years of benefits, they are within a year of graduating from high school, which is one of our major goals for these young girls. If they are somehow managing to hold it all together, running their households, not living with parents, they run out of benefits at that point. The hardship that is listed in this section of the law is that they have to have a child under one year of age. So, if they have a child at age 14 or 15, they no longer qualify after they are 15 or 16. Actually, there might be a problem in this section of the law that we would have you reconsider specifically for those teen mothers, because our goal is to get them out of high school or get their GED and, again, break a cycle and set a good example for their children. I hope you will look at that area of this law.

**Assemblywoman Smith:**

In section 1, does it not say that group is listed in the term that does not include work-eligible? And did we not hear also that this is already the way we function, that this just puts what we are doing in the statute? Mr. Gilliland, please?

**Romaine Gilliland:**

This would be accommodated in the personal responsibility plan. The first objective of the plan is to stabilize the family, and the second objective is to provide the skills necessary to seek work. In the particular case given as an example, I believe that the personal responsibility plan would encourage someone to continue their primary and secondary education as part of their plan, and would recognize the need for that individual to complete their high school education as a requirement to continue to receive TANF benefits, and not encourage them to seek full-time employment.

**Assemblywoman Smith:**

To clarify my question, in this definition of what a "work-eligible" person is, is it not saying that the term does not include a minor child head of household?

**Romaine Gilliland:**

Yes, you are correct. I misunderstood the question.

**Assemblyman Hardy:**

Ms. Maser, what you are saying is that you are willing to work with the bill's sponsor and get an amendment that would cover the teenage situation that you described?

**Elisa Maser:**

We would certainly be willing to seek clarification, because as I read section 1, it says "minor child head of household" is defined as "work-eligible person"; a minor parent who is not the head of household is not included. It sounds like this actually is covered under the work program, and we would certainly be willing to work with the Division if there is no bill, or with the bill's sponsor to clarify. But we want to make sure they get out of high school. That is our main goal.

**Gary Stagliano:**

Section 1 really deals with a minor parent being part of an adult's household. If you look on page 2 of the amendment, it deals with a minor mom being the person receiving benefits. In either occurrence, Mr. Gilliland was correct; we encourage completion of the high school education as a primary activity.

**Paula Berkley, Reno, Nevada, representing Nevada Network Against Domestic Violence, Reno, Nevada:**

We are here mostly to just listen to the hearing, but I wanted to note that Mr. Cobb has pointed out that with the domestic violence option, it acknowledges domestic violence victims are often not required to take a job if it is unsafe for the family or children. Unfortunately, a lot of the ladies who

go through welfare are also not safe to declare that they are a victim of domestic violence, so it gets very complicated. I think that is why the personal responsibility plan is written in such a way that they have to check in with their eligibility worker to make sure there is enough communication occurring, so eventually that would be identified as the issue that is preventing her from taking that job. It might take more than ten days for her to reveal that information.

**Vice Chair Pierce:**

Is there anyone neutral on this bill? [None.] I will close the hearing on A.B. 157.

**Chairwoman Smith:**

We are going to run a little late. I need to raise the issue of Assemblyman Segerblom's bill, Assembly Bill 379, which was presented earlier. You heard the discussion that the bill was concurrently referred to Taxation. It is not an exempt bill. My preference would be to move that bill out of this Committee to Taxation with no recommendation, and then it can go up or down there. Otherwise, there is no opportunity for Mrs. McClain to hear the bill. I will take a motion.

ASSEMBLYWOMAN SPIEGEL MOVED TO REFER  
ASSEMBLY BILL 379 WITHOUT RECOMMENDATION TO THE  
ASSEMBLY COMMITTEE ON TAXATION.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

I would like to begin a work session on a couple of bills, and I want Ms. Leslie to present her bill.

**Amber Joiner, Committee Policy Analyst:**

The first bill is Assembly Bill 249, sponsored by Assemblyman Hardy, heard on March 23, 2009. [Work session document ([Exhibit N](#)).]

**Assembly Bill 249:** Revises provisions governing the abatement of certain nuisances. (BDR 40-1043)

It provides that in Clark County, a district health officer who orders the extermination or abatement of mosquitoes, flies, or other insects, rats, or any breeding place, may authorize and take certain actions to abate the nuisance and prevent its recurrence. It also authorizes the district health officer to order

the owner of property to abate and prevent the recurrence of nuisances, authorizes the Health District to abate and prevent such nuisances if the owner does not comply with the order, and authorizes the recovery of money expended by the Health District in carrying out such actions.

There are two amendments proposed. The first is by the Southern Nevada Health District. They propose that you add to the powers of the District Board of Health the adoption of regulations for health hazards on rental property. A mock-up is included in the work session document ([Exhibit N](#)). On page 2, a section regarding rental properties is presented, and was also presented during the initial hearing.

The second amendment is proposed by Assemblywoman Debbie Smith and proposes that all of the provisions of A.B. 249 also apply to Washoe County. There was no testimony in opposition to this measure.

**Assemblyman Hardy:**

I noticed that your amendment included Washoe County, but I did not see your name as sponsor.

**Chairwoman Smith:**

We can amend my name onto the sponsorship. You will notice there is no actual language for the addition of Washoe County; that is a conceptual idea, so that would be added to the amendment. I will entertain a motion to amend and do pass.

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 249.

**Assemblyman Cobb:**

Since any county over 400,000 in population is a fiction of law right now, and technically Washoe County is over 400,000, when exactly does that take effect, if we were not at this provision?

**Chairwoman Smith:**

I will have to have Amber answer that because we explored that question for another bill.

**Amber Joiner:**

My understanding is you are asking when Washoe County is considered 400,000. Only the decennial federal census is counted, so this should come up in 2011. Usually what happens is that after the census is completed, the following session there will be one large bill that takes all the sections in the

*Nevada Revised Statutes* (NRS) that have those provisions and bumps everything up to keep everybody in their current categories, unless individual sections of the NRS are changed.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Amber Joiner, Committee Policy Analyst:**

Assembly Bill 349 was sponsored by Assemblywoman Parnell and heard on March 23, 2009.

**Assembly Bill 349:** Revises provisions governing certain emergency medical technicians. (BDR 40-1022)

Assembly Bill 349 requires the State Board of Health to prescribe regulations for all counties, except Clark County, for the endorsement of intermediate emergency medical technicians (EMTs) to administer immunizations, dispense medications, and provide certain services for the community under certain circumstances. In Clark County, the District Board of Health is authorized to adopt regulations for such an endorsement.

There are two amendments proposed [work session document ([Exhibit O](#))]. The first, by Carson City Health and Human Services, proposed to add advanced emergency medical technicians to the list of people authorized, as shown on the mock-up. It would also amend a section of the *Nevada Revised Statutes* (NRS) to provide that an attendant or fireman who is an advanced EMT may also perform the procedures described in the bill.

The second amendment was by the Nevada Nurses Association and proposed that in section 1, subsection 1, paragraph (c), the reference to the definition in NRS Chapter 414 for public health emergency be added. There was no testimony in opposition.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO  
PASS ASSEMBLY BILL 349.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

**Chairwoman Smith:**

Dr. Hardy, you will take your bill on the floor. Ms. Parnell will do A.B. 349, and that concludes our work session.

We will now open the hearing on Ms. Leslie's bill.

**Assembly Bill 263:** Requires the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly in certain counties. (BDR 38-509)

**Assemblywoman Sheila Leslie, Washoe County Assembly District No. 27:**

This bill requires the Aging Services Division to establish a Program for All-Inclusive Care for the Elderly (PACE). The way it is now written, it would be a demonstration project in Washoe County only, just in an effort to get it going. This is a much better way for the elderly, both in terms of cost and in terms of options. There will be some testimony forthcoming about the history of the PACE program and all the services that have been provided. Also serving on the Committee on Ways and Means, I know that anything with one penny of cost will not be approved this session, and there is quite an extensive fiscal note. I would just ask that this Committee not delve into the fiscal issues. Obviously, if you think the policy is right, it would go to Ways and Means, where it will probably die, but I do think this is the right approach for our state and perhaps there is a way for us to get started this session. If you think the policy is right, we will put the statutory authority in and try to get things moving, so by the time we are elderly people, we will have the option to stay in our homes rather than go to a nursing home. That is the impetus behind the bill. Others also will talk to you about this bill.

**Assemblywoman Kathy McClain, Clark County Assembly District No. 15:**

I wanted to go on record as supporting this concept because we cannot do enough for our elderly. They always seem to get the back seat for anything that gets funded. We are going to have 76 million baby boomers hit the nation in the next couple of years, and we are also living longer than before, so we will need programs like PACE. This is the kind of program that helps people stay healthy, stay engaged in life, and stay in their own home and out of nursing homes.

In looking this program over, I think about some other good programs like Children's Hospital Insurance Program (CHIP) and Community Service Options Program for the Elderly (COPE), but when you look at what PACE does, you will find it is far more inclusive. For example, it can help if one needs his house fixed, a ramp built, assistance for a wheelchair lift on a car, weatherization, and so on. PACE is an all-encompassing, case management program that helps

seniors with all the issues they deal with. I fully support it. I agree with Ms. Leslie that it is a great policy to get into statute, so that when the money is available—and we know the economy will come back someday—at least we will have the policies that matter. I think we make a statement to our seniors that we agree with the policy, even if we do not have money this year.

**Assemblyman Stewart:**

Does this mean I have to move to Washoe County to qualify?

**Assemblywoman Leslie:**

My hope would be that this will be available throughout the state. In fact, some of the testimony you will hear is about a rural program where it is needed more because there are fewer resources than in the urban areas. I am thinking of my mother, who wants to stay in her own home. I try to interest her in selling her house, buying a condo, and moving where my sisters and I can help her. She does not want to leave her home, and I am going to be like that, too. She will do anything to stay out of a nursing home. It would be great if PACE were available for her and for all of us. The irony is that it will cost the state and county government less to invest in the PACE program than it would to spend the money to have these people in a nursing home. In order to use the PACE program, one has to be eligible for a nursing home. Again, the irony is that if we can figure out the up-front cost, we could end up saving a lot of money.

**Assemblywoman McClain:**

If it works in Washoe County, it will certainly work in Clark County, so we can expand the program after they have proven how well it works.

**Chairwoman Smith:**

We have lost our connection to Las Vegas; however, the people who were there came for the work session, so we are not losing any testimony.

**David Reyes, M.A., Principal, Altitude Edge Consultants, Longmont, Colorado:**

We are a PACE technical assistance organization. Our role is to help not-for-profit organizations around the country develop and manage PACE programs. I had the privilege of serving as the Chief Executive Officer of the second-largest PACE program in the country, located in Denver, Colorado, and in Albuquerque, New Mexico. We have been helping organizations for the past four or five years in this technical assistance role.

I am also here representing Volunteers of America, which you may have heard about. They have a real interest in coming to Nevada to develop PACE programs. They have a presence in Clark County and in Washoe County, so it



seems to be the right opportunity in terms of locations for them to potentially develop PACE programs. They have one PACE program in rural Colorado, operating in Montrose and Delta Counties, which are very small counties in terms of total population. They have been operating the program for about seven or eight months and have about 125 people enrolled, which is very good for that size community.

The PACE program was born in San Francisco with an organization called On Loc over 35 years ago. Since that time, the program has operated under a demonstration project, one of ten across the country authorized by legislation initiated by Congress in 1986. The Balanced Budget Act of 1997 gave PACE permanent provider status under federal law and enabled the federal as well as state government to implement PACE programs across the country. We are now at a place where PACE has an opportunity to grow, and we are seeing that happen. Currently, there are 65 PACE programs nationwide, with 14 new rural PACE programs this past year. Up until now, PACE had been restricted to larger, metropolitan areas.

Eligibility criteria include age, 55 years and older, and being nursing-home eligible, as defined by the state. There are many frail elderly in Washoe County, and even more in Clark County. They also have to be in the service area and be able to live safely in the community with the supportive services of the PACE organization. These are the frail and often the poorest people in the community who will enter this type of program. The program is all-encompassing in terms of covering every service typically seen in Medicare, as well as those services covered by Medicaid.

There are additional services provided based on the decision of the PACE Inter-disciplinary Team, depending on what is needed by the individual. We are now offering a program that one can actually use common sense to determine what the needs are, and then deliver the services to meet those needs, regardless of any fee schedule or additional eligibility requirements. For example, the requirement that one has to be in a hospital for three days prior to going into a nursing home does not exist in PACE. Other examples include applying more imaginative solutions to problems the elderly might have. If a person faces being placed in a nursing home because he can no longer safely cook his own meals, PACE will purchase a microwave and teach the person to use it, thus allowing him to stay at home. Using everyday solutions to solve everyday problems is a concept embraced by PACE that does not exist with Medicare or Medicaid.

It is an extraordinary program that has had extraordinary success across the country; there has not been one PACE program closed, and the program has

grown into 32 states. We are excited about bringing PACE to the State of Nevada and want to be a part of that process, and we therefore urge your support for this bill.

**James F. Pezzuti, Director, Bureau of Community Development, Office of Long Term Living, Departments of Public Welfare/Aging, Commonwealth of Pennsylvania:**

I work for the Commonwealth of Pennsylvania and was asked by the Volunteers of America to share our experience with the national Program for All-Inclusive Care for the Elderly. [Mr. Pezzuti read from prepared testimony ([Exhibit P](#)).]

Sooner or later the elderly population will require services, and we do not want nursing homes to be the only viable option. It is the most costly of all of our services and the least appropriate.

**Chairwoman Smith:**

Thanks to both of you for traveling here to share this information. It seems like a "no-brainer" to do what we can to keep people in their homes and comfort zone. The letters and stories you provided are right on target. It seems like the bigger issue is the fiscal issue, and I can see it is a very complicated one when looking at the fiscal note and listening to your testimony.

Connie McMullen, did you want to speak or just submit your written testimony? Connie McMullen has submitted written testimony ([Exhibit Q](#)), which the Committee has received, and she has expressed her support for this bill.

**Carol Sala, Administrator, Aging Services Division, Department of Health and Human Services:**

[Ms. Sala read from prepared testimony ([Exhibit R](#)) excerpted here].

PACE is a viable alternative to institutional care. The Division welcomes the opportunity to begin working on development of this service option.

**Chairwoman Smith:**

The only question I have is why we have to pass legislation to do this?

**Carol Sala:**

I guess I would say that I am not sure that we do have to pass legislation. I believe that it is something that has been brought forward by Assemblywoman Leslie, as she does recognize it as a very good potential program for Nevada, and I would say that at times that is the way we get things moving in this state.

**Assemblywoman Leslie:**

Very good question and I would agree it is not necessary, but I would also agree with Ms. Sala that it is how most of our waivers get started—a legislator puts it out there and pushes the issue. When I submitted this, I had no idea we would be 40 percent down in revenue. It is going to take some money to get started. We do not need to get into the fiscal note today but, Ms. Sala, if we did change the wording somewhat and say you "may" instead of you "shall," would that help prioritize this in the planning process at all?

**Carol Sala:**

I believe that it would. It is a very good option. I know that years ago, before I was ever close to being in this position, there was discussion in Washoe County when Karen Mabry was the head of Washoe County Senior Services, and Mary Liveratti was very involved in the infrastructure of Aging Services. At that point some of the feasibility studies said that the county was not big enough. But the PACE program has always been something that the aging network has been looking at. In working with Mr. Reyes, and this morning with Mr. Pezzuti, it just solidifies the idea that it is something that is very exciting and would be a great addition to our community-based care system.

**Assemblywoman Leslie:**

I would just like to prioritize it among the things you are working on.

**Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:**

A revised fiscal note ([Exhibit S](#)) was given to you just for the Division of Health Care Financing and Policy. We did not revise Aging Services, and it is not for this biennium, but the future biennium medical costs. We worked extensively with David Reyes and he brought up some different points, so we have revised that.

**Chairwoman Smith:**

Thank you, and we will let the Ways and Means Committee take that up. We appreciate your hard work on that. I know it is a complex fiscal note to develop.

**Bruce Arkell, Reno, Nevada, representing Nevada Senior Corps Association, Carson City, Nevada:**

I worked with Karen Mabry trying to put that program together when On Loc was still a demonstration project, and the issues we ran into were essentially that it was not designed at that point. Everybody was making up what they were going to do; it was a fluid program. Washoe County, at that time, had

a developer who was going to build it. We were going to staff it with social workers out of Washoe County, and we were working with the state. Then the whole thing collapsed, in part because the numbers were not there. I am not sure we agreed with that.

I want to encourage you to pass this bill. I think it should be an optional program, "may" instead of "shall," because there is probably two years' worth of work to get it put together. I think there are a lot of options. We had interest in running the program from St. Mary's Hospital, and the University of Nevada had a role they wanted to play. I think that is even more important today as they have the health sciences program there now. I think there are some real potential providers that were not around 15 or 20 years ago.

We support this and think it would be a great program, but it still needs to be a pilot project.

**Chairwoman Smith:**

We appreciate your testimony. Is there anyone else who wishes to testify? [None.] I will close the hearing on A.B. 263. Is there any public comment at this time? [None.] I appreciate everyone's patience. We are adjourned [at 4:29 p.m.].

RESPECTFULLY SUBMITTED:

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Darlene Rubin  
Committee Secretary

APPROVED BY:

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Assemblywoman Debbie Smith, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Health and Human Services

**Date:** April 1, 2009

**Time of Meeting:** 1:08 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 213	C	Assemblyman Anderson	Testimony
A.B. 213	D	Liz MacMenamin	Proposed Amendment
A.B. 213	E	Sheila Baez, R.N.	Written Testimony
A.B. 326	F	Carolyn Cramer	Proposed Amendment
A.B. 326	G	Liz MacMenamin	Proposed Amendment
A.B. 62	H	Jodi Stephens	Written Testimony
A.B. 379	I	Assemblyman Segerblom	PowerPoint
A.B. 379	J	Assemblyman Segerblom	Hospital Projection Fiscal Chart
A.B. 379	K	Assemblyman Segerblom	Proposed Amendment
A.B. 157	L	Assemblyman Cobb	Proposed Amendment
A.B. 157	M	Assemblywoman Smith	Proposed Amendment from JOIN
A.B. 249	N	Amber Joiner	Work Session Document
A.B. 349	O	Amber Joiner	Work Session Document
A.B. 263	P	James Pezzuti	Written Testimony
A.B. 263	Q	Connie McMullen	Written Testimony
A.B. 263	R	Carol Sala	Fiscal Effect Data
A.B. 263	S	Elizabeth Aiello	Written Testimony