

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-fifth Session
May 27, 2009**

The Senate Committee on Finance was called to order by Cochair Bernice Mathews at 9:06 a.m. on Wednesday, May 27, 2009, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Bernice Mathews, Cochair
Senator Steven A. Horsford, Cochair
Senator Bob Coffin
Senator Joyce Woodhouse
Senator William J. Raggio
Senator Dean A. Rhoads
Senator Warren B. Hardy II

GUEST LEGISLATORS PRESENT:

Assemblyman John C. Carpenter, Assembly District No. 33
Assemblyman Marcus Conklin, Assembly District No. 37

STAFF MEMBERS PRESENT:

Brian M. Burke, Principal Deputy Fiscal Analyst
Laura Freed, Program Analyst
Gary L. Ghiggeri, Senate Fiscal Analyst
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Dotty Merrill, Executive Director, Nevada Association of School Boards
Lonnie Shields, Nevada Association of School Administrators
The Honorable James W. Hardesty, Chief Justice, Nevada Supreme Court
Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System
Scott J. Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Van Mouradian, Chief Insurance Examiner, Division of Insurance, Department of Business and Industry
James L. Wadhams, Nevada Association of Health Underwriters; Nevada Association of Insurance and Financial Advisors
Mary Liveratti, Deputy Director, Department of Health and Human Services

COCHAIR MATHEWS:

I will open the hearing on Senate Bill (S.B.) 303.

SENATE BILL 303 (1st Reprint): Enacts the Interstate Compact on Educational Opportunity for Military Children. (BDR 34-186)

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

I first became involved with this proposal in January 2009, when the National Association of School Boards provided information about the Interstate Compact on Educational Opportunity for Military Children. When Senator Dennis Nolan introduced S.B. 303, I worked with him to address some of the issues we had been made aware of. I have proposed Amendment 4780 ([Exhibit C](#), original is on file in the Research Library). I will go over that amendment and the fiscal aspects of S.B. 303.

Section 2 of S.B. 303 establishes the structure of the Interstate Compact. This section is long and goes through a number of provisions I am told are typical for a compact of this type.

Section 3 of S.B. 303 establishes a State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children. [Exhibit C](#) adds subsection 5 to section 3 and states that the members of this Council will serve without monetary compensation and are not entitled to per diem or travel expenses. This removes the cost of the Council.

Section 4 of S.B. 303 requires the Council to appoint a liaison to assist military families. [Exhibit C](#) adds subsection 4 to section 4 to specify that this liaison serves without monetary compensation and is not entitled to per diem or travel expenses.

Section 7 of S.B. 303 establishes an account for the Interstate Compact that may be used by the Council for the coordination of the Interstate Compact or any other expenses. This account is administered by the Superintendent of Public Instruction, who may accept gifts, grants or donations for deposit in this account.

COCHAIR MATHEWS:

That section makes it clear where the money is going to come from. The Council will not require any General Fund money. Is that correct?

MS. MERRILL:

Yes. [Exhibit C](#) also adds subsection 5 to section 7 of S.B. 303 indicating there is no obligation for the Department of Education or the board of trustees of a school district to allocate funds to support the Council or the liaison.

Sections 10 through 16 of S.B. 303 relate to efforts to be made by school districts to assist students from military families who transfer into Nevada. Testimony on this bill in the Senate Committee on Health and Education indicated that these children can attend 16 or more different schools between kindergarten and grade 12 because of the way their parents are transferred. This language deals with the reasonable efforts that will be made to accommodate these students.

Section 17 of S.B. 303 deals with immunization policies and establishes a timeline for incoming students to be immunized before attending Nevada schools.

[Exhibit C](#) adds section 18 to S.B. 303 and authorizes the Superintendent of Public Instruction to apply for grants, donations, gifts and so on to be deposited into the account to carry out these provisions.

SENATOR RAGGIO:

In an earlier version of S.B. 303, I noted that the Council had the authority to assess any member state for financial requirements. That gives me cause for concern. Is that still part of this bill?

MS. MERRILL:

I believe the language is still in here. However, it is my understanding, from the Department of Defense liaison who has been working with Senator Nolan on this proposal, that there is a period between the time Nevada's membership starts and the time the assessment occurs. I have been told the assessment does not exceed \$1 per child.

SENATOR RAGGIO:

I did not see that in the bill. All I saw was that they have the right to assess, and a member state must pay whatever the assessment is. I am concerned about how that will operate. I do not know what the limits are on that assessment. This language is on page 17 of [Exhibit C](#), under Article XIV of the Interstate Compact language, which pertains to the financing of the Interstate Commission. I want to make sure we know what we are getting into.

My other concern has to do with academic standards. I understand why we want to have flexibility, but I want to make sure that when someone gets a diploma from a Nevada high school, it means something. This should also hold true when the student comes from a military family. I see throughout S.B. 303 waivers of exam requirements for graduation, and I am concerned this may be too much of a waiver. How do you address that?

MS. MERRILL:

When this bill first appeared as a bill draft request, school board members shared those concerns. We have worked very hard to ensure there is some flexibility, and reasonable efforts will be made to accommodate these students, but nothing will be given away. For example, if a student has passed his home state's high-school proficiency exam and comes to Nevada as a senior, the superintendent has the opportunity to waive the high-school proficiency exam in Nevada.

SENATOR RAGGIO:

The provision that concerns me is in article VII, which is on page 7 of [Exhibit C](#). I assume this language cannot be changed because it is in the compact. The language here makes me nervous. We may think we are helping these children, but we may be sending them off without an adequate education because of the exigencies of the situation.

MS. MERRILL:

[Exhibit C](#) includes an amendment to section 11, subsection 6, which is specific to Nevada. This language is permissive and states, "A pupil who transfers to grade 12 to a school in this State ... because of the military transfer of the parent or legal guardian of the pupil may receive a waiver" It does not say that they must receive a waiver because a student may not have enough credits to graduate or there may be other factors. A waiver may only be granted if the pupil meets one of the three cases listed in paragraphs (a), (b) and (c) of subsection 6. There may be reasons why a student is required to pass the high-school proficiency exam, and there are multiple opportunities to do so.

SENATOR RAGGIO:

I thank you for pointing that out. I certainly want to help the children of military families, but I do not want to provide a system that prevents them from getting an adequate education. As I understand it, none of the language in the articles of the compact can be changed, and that is in section 2 of S.B. 303. Article VII mandates those waivers; it is not permissive.

MS. MERRILL:

School board members share that concern. In several places in the language of the compact, the term "reasonable efforts" is used. It is my understanding that the compact does not envision that State requirements will be waived in toto for these students simply because they come from military families. Rather, the expectation is that the schools will make reasonable efforts to make these accommodations. That was an important feature to school board members as they were reviewing this legislation.

SENATOR COFFIN:

I do not recall hearing any testimony as to the need for this bill. Do we have any empirical evidence showing that children of military families fail in school compared to those from permanent homes?

MS. MERRILL:

There was much testimony in the hearings on this bill in the Senate Committee on Health and Education from the commanders of Nellis Air Force Base and Naval Air Station Fallon supporting the need for consistency from one state to another. This testimony was presented as representative of the need. The commander from Nellis shared the story of his son, who was in one state for grade 11 and another for grade 12, and the problems he had getting into advanced placement classes. There were issues with transcripts, graduation requirements and other matters.

LONNIE SHIELDS (Nevada Association of School Administrators):

We would like to be on record as being in support of S.B. 303.

COCHAIR MATHEWS:

I will close the hearing on S.B. 303 and open the hearing on Assembly Bill (A.B.) 207.

[ASSEMBLY BILL 207 \(2nd Reprint\)](#): Makes various changes concerning common-interest communities. (BDR 10-694)

ASSEMBLYMAN JOHN C. CARPENTER (Assembly District No. 33):

This bill would exempt rural agricultural residential communities from paying the fee for the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels. There has been an amendment to say if the communities want to use the Ombudsman, they must pay the fee.

Another change has been made to exempt these homeowners' associations (HOAs) from the requirements of the Open Meeting Law. In Spring Creek, for example, it would cost the association over \$2,500 to send out notices to everyone.

In reference to the Open Meeting Law, the Attorney General (AG) wanted to insert a provision indicating that these HOAs would be public entities in this

regard. This would mean the AG could enforce the Open Meeting Law among these HOAs.

Another amendment exempts HOAs that are in communities with a population of less than 50,000 from the requirement to hire a reserve study specialist because of the cost. Rather, this amendment would allow them to appoint someone with the expertise to consider the amount they need to have in reserve. In some of these communities, all they have is a road with two or three culverts. If they were able to hire an engineer to do the reserve study, it would be less expensive than hiring a reserve study specialist.

COCHAIR MATHEWS:

The fiscal note for A.B. 207 shows a cost of \$191,384 over the biennium. You may not have seen it because it is unsolicited.

ASSEMBLYMAN CARPENTER:

No, I have not seen it.

COCHAIR MATHEWS:

I will see that you get a copy.

SENATOR COFFIN:

Does A.B. 207 apply to all counties? There are a lot of rural areas in the larger counties, even in Clark County.

ASSEMBLYMAN CARPENTER:

It would apply to areas that are considered rural agricultural communities because of the zoning.

SENATOR COFFIN:

The way you have drafted the bill, it is really specific to one community. Section 1.3, subsection 2 of A.B. 207 describes a common-interest community created before January 1, 1992, located in a county with a population less than 50,000. Is the bill drawn just for Spring Creek?

ASSEMBLYMAN CARPENTER:

It was not intended to apply just to Spring Creek. It could apply to HOAs in any county. That section refers only to the exemption from the requirement to hire a reserve study specialist.

With regard to the fiscal note, this number seems very high to me. It seems to be based on the cost of the Office of the AG going out to these rural communities to enforce the Open Meeting Law, and I do not see that happening. Most of the HOAs in question are already doing this, and the Office of the AG currently has staff who check up on these matters. It does not cost that much to go to Spring Creek. In addition, there are not that many HOAs that meet these criteria. I do not see how this fiscal note would apply.

COCHAIR HORSFORD:

Where did this unsolicited fiscal note come from? Our information shows no fiscal impact.

GARY L. GHIGGERI (Senate Fiscal Analyst):

The note was submitted by the Office of the AG.

COCHAIR HORSFORD:

I would tend to agree with Assemblyman Carpenter. I do not understand how the fiscal impact could go from zero to \$150,000.

COCHAIR MATHEWS:

I will close the hearing on A.B. 207 and open the hearing on A.B. 92.

ASSEMBLY BILL 92 (1st Reprint): Revises the provisions governing the benefits of a retired justice or judge. (BDR 1-400)

THE HONORABLE JAMES W. HARDESTY (Chief Justice, Nevada Supreme Court):

As you know, justices and judges of the State judicial system are in at least three separate retirement systems. A limited number are in the old retirement system; a smaller group are in the Public Employees' Retirement System (PERS); and the majority are in the Judicial Retirement Plan that was created in 2001. The purpose of A.B. 92 is to extend the ability of the chief justice to commission and recall into service those judges who are in the Judicial Retirement Plan to serve as senior justices or judges.

The senior judge program has been an enormous success story for Nevada. It is one of the shining lights to which this Legislature and past Legislatures can look as a real success. I have two examples of this. First, without the services of Judge Peter Breen and Judge Archie Blake, there would be no drug or mental health court in northwestern Nevada. Those two senior judges continue to serve in that capacity, and our ability to have them there preserves the benefit of those programs. Second, when I learned how backlogged we were in the medical malpractice cases in Clark County, I directed senior judges to conduct settlement conferences this month. We have scheduled 73 of those cases. By the end of the process, those senior judges will have settled more medical malpractice cases in one month than the Eighth Judicial District settled or tried all of last year. It is critical to continue to give the chief justice the ability to recall retired judges into service.

A fiscal note of about \$800,000 was provided to you by PERS. We were concerned that such a fiscal note, given the State's economic condition, would kill the bill and the senior judge program. We therefore engaged in a number of discussions with PERS to eliminate the fiscal note, and we did so by modifying the program in several important respects. First, retired judges must be 60 years of age to participate in the program. Second, they must have a six-month break in service before they can be recalled into service. Third, they cannot reenroll in the Judicial Retirement Plan.

Assembly Bill 92 has a sunset provision, set for 2015, to correspond with A.B. 488. We have also placed a study on this bill to determine the fiscal impact of any subsequent retirements after July 1, 2009. These measures eliminated the fiscal note.

ASSEMBLY BILL 488 (2nd Reprint): Revises provisions governing the employment of retired public employees. (BDR 23-782)

CHIEF JUSTICE HARDESTY:

I urge the Committee to endorse A.B. 92. It allows us to continue to have senior judges available to the system. The subcommittees that heard our budget have already funded the court's budget to accommodate us to compensate senior

judges; however, without A.B. 92, I will not be able to continue the senior judge program for new judges. I am advised by PERS that existing senior judges will be grandfathered in regardless of the passage of this bill. This bill affects judges who retire after July 1, 2009.

SENATOR COFFIN:

The senior judge program is extraordinary, and it is greatly needed in southern Nevada. How do we monitor possible conflicts of interest for the senior judges, since many of them are also in private practice?

CHIEF JUSTICE HARDESTY:

The Nevada Supreme Court enacted modified preemptory challenge rules and extended them to the senior judges as well.

SENATOR COFFIN:

Do they have to voluntarily disclose, or do they wait for challenges to come from counsel?

CHIEF JUSTICE HARDESTY:

They do both. The senior judges are required to disclose in some circumstances, and they are also subject to a preempt within a time period before a hearing.

DANA K. BILYEU (Executive Officer, Public Employees' Retirement System):

I have had the chance to review A.B. 92 with the PERS independent actuary. Because of the extremely limiting language concerning the program with the elements Chief Justice Hardesty described, the actuary would prefer to have a new experience period, since it is difficult to see how the changes would affect the costs. With that, they are comfortable extending the experience period as described in A.B. 92 to July 1, 2014, for delivery to the Legislative Session in 2015. We are therefore happy to remove the fiscal note and adopt a neutral position on this bill.

COCHAIR MATHEWS:

I will close the hearing on A.B. 92 and open the hearing on A.B. 546.

[ASSEMBLY BILL 546 \(1st Reprint\)](#): Revises provisions related to continuation of coverage for health insurance under the group policies of smaller employers. (BDR 57-1308)

ASSEMBLYMAN MARCUS CONKLIN (Assembly District No. 37):

I have printed testimony describing the need for A.B. 546 and explaining its provisions, including where the funding comes from ([Exhibit D](#)). For those who are not familiar with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), once a person leaves employment, the employer provides the paperwork to enroll in the COBRA program, but the actual relationship is between the insurer and the former employer. The employer is out of this loop. For that reason, the American Recovery and Reinvestment Act of 2009 money or the tax credit is provided to the insurer because the former employee pays the insurer directly for the coverage.

There are three primary provisions in A.B. 546. Sections 1 and 2 reduce the maximum premium for individual continuation coverage from 125 percent to 110 percent of the premium the insurer charged the employer on the date of the qualifying event. For example, under current law, if you are involuntarily

terminated and your coverage costs your employer \$400 a month, the insurer is now allowed to charge you \$500 a month for the same coverage. This bill would reduce that amount to \$440 a month. It also changes premium payments from quarterly to monthly.

Sections 3 and 4 of A.B. 546 implement a second chance for "mini-COBRA" continuation coverage for former employees involuntarily terminated between September 1, 2008, and February 16, 2009. This enables those who would like to be in the COBRA system, but who thought they could not afford it, to enter the system at a significantly reduced rate.

COCHAIR MATHEWS:

Is there a reason why the insurer charges the former employee more than they charged the employer for the same coverage?

ASSEMBLYMAN CONKLIN:

If a person is no longer part of a larger group, the insurance company is allowed to recoup the cost of administration and so on. These COBRA contracts terminate automatically after 18 months. The question becomes whether 10 percent or 25 percent is closer to the amount the insurer would have gotten if the person had remained in the group.

SCOTT J. KIPPER (Commissioner of Insurance, Division of Insurance, Department of Business and Industry):

There is a provision in the federal COBRA program to allow the insurer to add an additional administrative charge on top of the cost of the premium. In the case of the federal program, it is 3 percent. There are additional administrative costs borne by the insurer, and we felt 10 percent was reasonable.

COCHAIR MATHEWS:

It is reasonable unless you have no money and no job.

ASSEMBLYMAN CONKLIN:

I understand; that is why we brought this bill. The first two provisions I mentioned are required so that when a person elects to go into the mini-COBRA system, the insurer will be able to charge them only 35 percent of the normal cost. The other 65 percent will be paid by the federal government in the form of a tax deduction or tax rebate to the insurer. The bottom line is people who are, through no fault of their own, unemployed and eligible for this will have health insurance that is actually affordable to them under the current circumstances for up to nine months.

Sections 3 and 4 establish a process for giving notice. The insurer must notify the employer of the employer's duties, and the employer has the obligation, under current State and federal COBRA laws, to notify former employees that these provisions are available to them.

Section 6 provides that this act is effective upon passage and approval. Because the 65-percent subsidy does not appear in the bill, we are only obligated to provide this as long as the federal money is available.

MR. KIPPER:

The only thing I would add to Assemblyman Conklin's explanation is that the Division of Insurance determined A.B. 546 would have no fiscal impact on the Division or the State.

COCHAIR HORSFORD:

If a person is able to take advantage of this program within the time frame, it starts when they enroll, and the federal rebate is granted to the insurer going forward. Is that the case?

ASSEMBLYMAN CONKLIN:

It is my understanding that the rebate portion is only valid through the end of the year. The significantly reduced cost, which is 35 percent of 110 percent, only runs through the end of the year regardless of when the person starts, unless Congress chooses to extend those rebate provisions.

You are also asking whether people can get coverage in arrears. I would venture a guess that the answer is yes, but I am not completely sure.

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

The way the bill is written, it does not matter when the people who have a second chance qualify on a forward-going basis. They can go back to May 1 to get coverage from May 1 through the end of the year, or get the subsidy through the end of the year as a second chance.

COCHAIR HORSFORD:

They would just have to pay the premiums back to that date. Is that right?

MR. MOURADIAN:

Yes.

COCHAIR HORSFORD:

What if they incurred medical expenses before they enrolled?

MR. MOURADIAN:

If they paid their 35 percent when the carrier fronts the 65 percent, they will be covered from May 1 forward.

COCHAIR HORSFORD:

Do they have to pay their premiums of 35 percent back to May 1 in order to receive the coverage?

MR. MOURADIAN:

Yes.

COCHAIR HORSFORD:

Would any medical bills they incurred prior to May 1 be eligible for reimbursement?

MR. MOURADIAN:

They are not covered for any medical expenses prior to May 1. The bill requires the insurance company to notify the employer of the program. The employer identifies and notifies eligible persons, who then have until August 31 to elect

the second chance, which can go back to May 1. If the individual pays the premiums back to May 1, they have full coverage from May 1.

COCHAIR HORSFORD:

If they incurred expenses after May 1, would those be reimbursed?

MR. MOURADIAN:

No. They are fully covered, just like a regular COBRA.

COCHAIR HORSFORD:

Let us say I had a doctor's appointment on May 15 and the bill was \$700. If I enrolled in this program on June 15 and paid my premiums back to May 1, would I be reimbursed for that \$700?

MR. MOURADIAN:

Yes. The only thing you would be responsible for is the amount specified in your plan for deductibles and co-insurance.

COCHAIR HORSFORD:

What about preexisting conditions?

ASSEMBLYMAN CONKLIN:

My understanding is that because this is a continuation of coverage, preexisting conditions are covered.

MR. MOURADIAN:

This provision was put in specifically to make people eligible for a Health Insurance Portability and Accountability Act of 1997 (HIPAA) plan if they needed it. The time gap they would have suffered because they did not elect or could not afford to elect is eliminated so they can qualify after they come off state continuation for a HIPAA plan, a guaranteed issue plan, if they had medical conditions. Preexisting conditions are covered.

COCHAIR HORSFORD:

Insurance companies cannot deny you based on your COBRA enrollment. Is that correct?

MR. KIPPER:

That is correct. If you elect, those preexisting conditions would be covered as if there were no gap in coverage.

ASSEMBLYMAN CONKLIN:

I should point out that the insurer cannot deny you coverage, but they can still deny a claim for other reasons.

JAMES L. WADHAMS (Nevada Association of Health Underwriters; Nevada Association of Insurance and Financial Advisors):

We support this bill. We have asked if the Committee would consider an amendment that has nothing to do with the body of the bill but fits into this section of the *Nevada Revised Statutes* (NRS) that was eliminated from another bill ([Exhibit E](#)). This includes four sections from S.B. 388, which changed into S.B. 426.

[SENATE BILL 388 \(1st Reprint\)](#): Revises provisions relating to insurance.
(BDR 57-1131)

[SENATE BILL 426 \(1st Reprint\)](#): Revises provisions relating to insurance.
(BDR 57-1203)

MR. WADHAMS:

There were a variety of issues that were lost in that transition. One of them has to do with the change that came as a result of a federal court case eliminating the distinctions between resident and nonresident agents. Mr. Kipper fixed several of those in A.B. 546, but he overlooked one provision in NRS 683A.261 that places an obligation on a resident agent to have a bricks-and-mortar location but does not place a similar obligation on a nonresident agent. Our amendment would eliminate that but retain the obligation to maintain and display a license. This would essentially allow them to operate from their homes.

The second change we asked for is the elimination of the limit on the protection of proceeds of annuities and life insurance in NRS 687B.290. Historically, a very old statute limited it to payouts of \$350 a month. Those benefits are typically the last thing an individual puts aside for his or her family in the event of death. We requested that those limitations be eliminated.

COCHAIR MATHEWS:

Does this have anything to do with employee leasing?

MR. WADHAMS:

No. It has nothing to do with either employee leasing or viaticals. These provisions were discussed early on with Mr. Kipper and his staff, and they supported them.

The third change is in NRS 689A.710. This is an important provision, and it is somewhat related to the mini-COBRA. When we adopted the HIPAA law, which guaranteed issuance of health insurance to small employers, a provision was placed in that law and in a companion section of the individual law that discourages the use of commissions to steer away business. Not all small businesses have the same level of risk. If my employees are all healthy young people, any insurance company would love to insure us. If my employees are older people with high risk and heavy medication use, they would prefer that we go somewhere else. Customers who pose a higher risk can be steered away by a manipulation of commissions.

Existing language essentially says commissions cannot be set up that would steer away business. We have added one more sentence to subsection 3 of NRS 689A.710 that clarifies the intent because of the variety of arrangements that could be developed to do this. That language appears again in NRS 689C.355, and we have added the same sentence to subsection 3 of this statute as well. They deal with the same issue of steering away the higher-risk business so the insurer gets the benefit of the best business, not all the business. The obligation here is incumbent upon insurers to take any risk presented to them rather than incentivizing it to go somewhere else.

COCHAIR MATHEWS:

Does that mean they could not turn me away, even if I am a senior citizen?

MR. WADHAMS:

That is precisely the purpose of this law. If I am in a small business with between 2 and 50 employees, any insurance company in that marketplace has to accept my business. The trick we were trying to avoid is when they use different commission structures so people who might be a higher risk are steered away from the company. We did not want the insurers to use the agents to try to move that business to a competitor.

COCHAIR MATHEWS:

The risk factor would still be higher because of the age group.

MR. WADHAMS:

It could also be based on the medical conditions of the employees. The premium might be higher, but you still have to be accepted. The federal government passed the Kennedy/Castlebaum Act in 1996 to ensure this, and the Nevada version was adopted in 1997. This act made sure small businesses would be able to buy insurance if they apply, and this precludes being declined. This section was designed to avoid an insurance company inducing that business to go somewhere else.

The final change we are requesting in [Exhibit E](#) is to NRS 21.090, which is the companion piece to NRS 687B.290. It is protection from creditors for the benefits that flow out of a life insurance policy upon death or the annuity the insurance would be turned into, so that the family still has the benefit of the insurance purchased.

MR. KIPPER:

This is language we have seen and concurred with before. I would defer to the sponsor of [A.B. 546](#). As far as the public policy and insurance issues are concerned, I do not have a problem with the amendment in [Exhibit E](#).

ASSEMBLYMAN CONKLIN:

This is the first time I have seen this language. I have some concerns with the change to NRS 689A.710. I understand what Mr. Wadhams is trying to do, and I believe there is an issue for small businesses. Large groups have a distinct advantage in the insurance world because they pool all their employees together and spread the risk out over sometimes thousands of employees, which means the cost is lower. In Nevada, we allow small groups to be their own risk pool, and small groups by definition will pay more. If you have a claim, your small group of five or ten employees may bear the cost of a substantial amount of money over the next premium cycle and beyond. However, I am not sure this helps that situation. If the compensation is the same, which is usually a percentage of the amount of the premium that is paid, the cost will rise exponentially for people who pay a higher premium because they have more risk factors in their pool. That concerns me.

This amendment may be well intended, but I need an opportunity to look at it more closely. There may be a better way to get at it. I am not opposed to having more health insurance available to small businesses with high risk, but they are already paying a substantial amount. We should be looking for ways to get the small businesses into larger pools where the risk can be shared amongst many and give more people access to available health care.

SENATOR COFFIN:

Pooling already exists for the smaller groups, both regionally and nationally. The purpose of [Exhibit E](#) is to prevent a situation in which the insurer pays the agent a higher commission for selling insurance to a young and healthy group and a lower commission for selling to a group with higher risk.

ASSEMBLYMAN CONKLIN:

Maybe what we need is a provision preventing commissions from being added to the rates being charged to that small employer.

SENATOR COFFIN:

I would not go so far as that. That is a contractual arrangement between the people who sell and the people who market.

COCHAIR HORSFORD:

I have one more question on A.B. 546. Is there a mechanism for reporting which companies take advantage of the rebate process so we can see the return on the federal dollar and how many people are covered by the bill?

MR. KIPPER:

There is no reporting requirement built into the bill. At your request, we could survey carriers to see if there are entities that take advantage of this and report back to the Legislature, if you like.

COCHAIR HORSFORD:

That report would be helpful to show how successful this was in Nevada, particularly if we are called upon to encourage the federal government to extend it.

COCHAIR MATHEWS:

Please report this to the Interim Finance Committee.

MR. WADHAMS:

The issue raised by Assemblyman Conklin and Senator Coffin is critical. The intent of the existing language in NRS 689A.710, and the companion section at NRS 689C.355, was to avoid the use of commissions—that is, the price paid to the agent for finding the business and getting it to the carrier—to deter insurance companies from trying to avoid obligation to take all comers. They must accept all employers rather than cherry-picking the good risks by paying a differential commission. Section 3 of NRS 689A.710 states:

Except as otherwise provided in this subsection, an individual carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the individual

The purpose of this is to avoid discouraging all comers. If they come, they must be accepted. If you induce the broker to take them somewhere else by means of the commission structure, that could result in cherry-picking by the insurance company. The language we have added simply clarifies that. I believe Mr. Kipper

agrees that the existing language generally would support the language we have added. We added it to make their job of interpretation easier.

COCHAIR MATHEWS:

Does [Exhibit E](#) include consequences for people who are found guilty of that sort of cherry-picking?

MR. WADHAMS:

Yes. That would be a violation of this act. The Commissioner of Insurance could sanction the company and force them to accept the risk.

SENATOR RAGGIO:

Mr. Wadhams is a member of the law firm of which I am a shareholder. And even though he didn't testify directly on the bill, unless he's proposed an amendment, I will abstain from voting.

SENATOR COFFIN:

Could you insert into the record that [I am] in the fortieth year of [my] licensed agent activities. However, I do not—have not been soliciting insurance for a long time.

COCHAIR MATHEWS:

I will close the hearing on [A.B. 546](#) and open the hearing on [S.B. 434](#).

[SENATE BILL 434](#): Combines the Office of Disability Services of the Department of Health and Human Services and other disability programs with the Aging Services Division of the Department. (BDR 18-1172)

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

I have written testimony explaining the purpose and effect of [S.B. 434](#) and describing a minor technical correction needed in section 9 ([Exhibit F](#)). That passage refers to section 23 of the bill, and it should be section 26. I spoke with Ms. Brenda Erdoes, Legislative Counsel, and she said she could take care of it.

SENATOR RAGGIO MOVED TO DO PASS [S.B. 434](#) WITH THE TECHNICAL CORRECTION NOTED.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

SENATOR RAGGIO MOVED TO DO PASS [A.B. 92](#).

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

COCHAIR MATHEWS:

I will close the hearing on S.B. 434 and open the hearing on A.B. 555.

ASSEMBLY BILL 555: Revises provisions governing the Senior Citizens' Property Tax Assistance Account. (BDR 38-1315)

SENATOR RAGGIO MOVED TO DO PASS A.B. 555.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED. (SENATOR HORSFORD WAS ABSENT FOR THE VOTE.)

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COCHAIR MATHEWS:

I will close the hearing on A.B. 555 and open the hearing on S.B. 122.

SENATE BILL 122 (1st Reprint): Revises the provisions governing refunds of property taxes for certain senior citizens. (BDR 38-104)

LAURA FREED (Program Analyst):

We have a revised fiscal note for S.B. 122 that was submitted about a week ago by the Division for Aging Services, Department of Health and Human Services.

I will walk you through the changes, beginning with the handout titled "Senior Citizens Property Tax Assistance Program" ([Exhibit G](#)). The first change from the previous fiscal note is that the fiscal impact begins to be felt in fiscal year (FY) 2012-2013, rather than FY 2011-2012. This is due to the lag time between the time a person pays his or her property taxes and files an application with the Division, and the time the person receives a refund. Since the effective date of the bill in July 1, 2011, which is FY 2011-2012, it would apply to property taxes paid during calendar year 2011. This means a person would pay property taxes in 2011, apply for a refund in FY 2011-2012 and would be paid the consumer price index (CPI) refund in calendar year 2012, which would be FY 2012-2013.

The second revision is that the Division has taken section 1, subsection 2, and section 2 of S.B. 122 into account for all the years referenced instead of adding the maximum refund at the fiscal year of the bill's effective date. Those sections mean the maximum refund, which is currently \$500, should be adjusted for each fiscal year by adding to \$500 the percentage increase in the CPI from November 2002 to the November preceding the fiscal year for which the adjustment is calculated. In [Exhibit G](#), the Division calculated the CPI increase to the \$500 maximum back to 2003. The addition to the maximum would be accruing in the background. When S.B. 122 becomes effective in FY 2012-2013, the fiscal impact is fairly great, as you can see in the handout titled, "Estimated CPI Increase to Maximum Refund" ([Exhibit H](#)). These CPI-increase numbers came from IHS Global Insight, which used the fourth quarter numbers to conform to the November-to-November comparison point in time.

Using the calculations in [Exhibit H](#), the Division revised [Exhibit G](#), which displays the income tiers and the resulting refunds made to each income range for each fiscal year. Those of you who were on the Joint Subcommittee on Health and Human Services/CIPs will remember that in closing the Senior Citizens Property Tax Assistance budget, the number of applicants eligible for refunds, as well as the average refund, were revised downward from the Governor's recommendation due to the anticipated drop in assessed valuation. Fiscal staff asked the Division to use the legislatively approved numbers for refunds issued as well as the average refund to do this revised fiscal note. If you look at page 2 of [Exhibit H](#), you will see that the fiscal impact in FY 2012-2013 is \$561,761. We have also provided the fiscal impact for FY 2013-2014 and FY 2014-2015 for comparison purposes. Since the increase to the maximum refund that hits in FY 2012-2013 has been building up since FY 2002-2003, the fiscal impact in FY 2012-2013 is large, but thereafter it becomes smaller, dropping to \$47,000 and \$77,000 for the next two years.

MR. GHIGGERI:

Basically, what S.B. 122 would do is to delay the cost of implementing the refund to FY 2012-2013. The current maximum is \$500 per applicant, and this would increase it, based on the estimated CPI, to \$637 per applicant. That has an impact in FY 2012-2013 of almost \$562,000. The impact in FY 2013-2014 would be an additional \$47,000. What, in essence this does, is provide for an increase in the refund prospectively in future biennia. If it is approved, the 2011 Legislature would have to fund that increased refund, and the Governor would be bound by this legislation to provide funding for an increased refund in the Executive Budget.

SENATOR COFFIN:

We had extensive hearings on this bill in the Senate Committee on Taxation, so there are no surprises here for me. The fact that property taxes have dropped should mean the refund will be slightly less in the end. Ms. Freed, did you calculate all of that?

MR. GHIGGERI:

That would not be a question appropriate for Ms. Freed to answer. She does not project property taxes. That would have to be done either by the Agency or someone else.

SENATOR COFFIN:

It is common wisdom now that we see a decline in property tax revenues, so we are aware of the rates dropping, which would mean the need for some of this money might decline. Is it correlated to the size of the tax?

MS. FREED:

If you are asking about the future effect of average property tax refunds when this bill takes effect in 2013, it is difficult to know and outside my area of expertise. As you will remember, in closing the Senior Citizens Property Tax budget, we projected the number of applicants, the number of people eligible for a refund and the average refund. It dropped somewhat in the second year of the upcoming biennium, based on a collaboration of our tax experts and the Agency.

COCHAIR MATHEWS:

Did the numbers go up?

MS. FREED:

The numbers increased slightly for FY 2009-2010 and FY 2010-2011, but the rate of increase was lower than originally projected by the Governor. Both the number of people receiving refunds and the average refund are projected to go up slightly.

COCHAIR MATHEWS:

I think this is a good bill, but the fiscal note concerns me. I have always had some concern about one Legislature passing on this kind of debt to another Legislature. They will have debts of their own without our adding to them. The policy is a good policy, but I have concerns about the projected fiscal impact.

SENATOR RAGGIO:

The bill is well-intentioned, and when it was requested funds were more available. However, I would think it would be inadvisable to commit to this kind of situation now. This is certainly something that can be looked at early in the next Legislative Session and implemented at that time if the revenue picture is better.

SENATOR WOODHOUSE:

The fiscal note on this bill was a shock. Senator Raggio is correct; when I submitted the bill draft request for this bill, it was long before the economy had begun to deteriorate. I strongly believe this is an issue that needs to be taken up at some future date. We need to do something for the senior citizens who fall in this category. This Legislative Session is difficult, and I expect the next one will also be difficult. But let us hope that things will be better and we can proceed on finding an answer for our seniors who are in this area at our next Session.

COCHAIR MATHEWS:

I agree. This is a worthy bill, and a worthy piece of legislation. Is there any further business to come before the Committee? Hearing none, I will adjourn the meeting at 10:46 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Bernice Mathews, Cochair

DATE: _____