

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND EDUCATION**

**Seventy-fifth Session
May 1, 2009**

The Senate Committee on Health and Education was called to order by Chair Valerie Wiener at 1:30 p.m. on Friday, May 1, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Valerie Wiener, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Steven A. Horsford
Senator Shirley A. Breeden
Senator Maurice E. Washington
Senator Barbara K. Cegavske
Senator Dennis Nolan

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31
Assemblywoman Ellen Koivisto, Assembly District No. 14
Assemblywoman April Mastroluca, Assembly District No. 29
Assemblywoman Kathy McClain, Assembly District No. 15
Assemblyman John Ocegueda, Assembly District No. 16

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Marshella D. Lyons, Committee Policy Analyst
Sara Partida, Committee Counsel
Betty Ihfe, Committee Secretary

OTHERS PRESENT:

Michael J. Willden, Director, Department of Health and Human Services

Mary Guinan, M.D., Ph.D., State Health Officer, Health Division, Department of Health and Human Services

Luana J. Ritch, Ph.D., Chief, Bureau of Health Statistics, Planning and Emergency Response, Health Division, Department of Health and Human Services

Tim Tetz, Executive Director, Office of Veterans' Services

Kate Marshall, State Treasurer

Michael Alonso, International Game Technology

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

David Castagnola, Program Specialist, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services

Ann Price McCarthy, Nevada Justice Association

Donald W. Winne, Jr., Senior Deputy Attorney General, Health and Human Services Division, Office of the Attorney General

Cheryl Blomstrom, Nevada Nurses Association

Bill M. Welch, President and Corporate Executive Officer, Nevada Hospital Association

Renee Ruiz, Representative, National Nurses Organizing Committee of Nevada; California Nurses Association

Zsuzianna Revay, RN, National Nurses Organizing Committee of Nevada; California Nurses Association

Stacy Shaffer, Political Director, Service Employees International Union Nevada

Michael Collins, R.N., University Medical Center

Rocky Finseth, PhRMA

Michael Hillerby, Nevada State Board of Pharmacy

Lea Tauchen, Retail Association of Nevada

Rey Bauknight, Associate Director of Legislative Affairs, Nevada Cancer Institute

Christopher Roller, American Heart Association

Amelia Hoban, RN, MSN, Stroke Coordinator, Las Vegas HCA Hospitals

Anna Smith, RN, Stroke Coordinator, Valley Hospital

Lynn O'Mara, M.B.A., Health Planning Program Manager, Bureau of Health Statistics, Planning and Emergency Response, Health Division, Department of Health and Human Services

CHAIR WIENER:

We begin with an update of the swine flu. We are not quite sure how to describe it yet—epidemic or pandemic.

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):

We wanted you to have a copy of the "H1N1 Flu (Swine Flu) Update" ([Exhibit C](#), original is on file in the Research Library) produced by the Department of Health and Human Services, Health Division. The report is also available on our Website < www.health.nv.gov > for the public.

As director of the DHHS, I will give you a brief history and tell you where we are to date on this virus. Sunday morning, the Centers for Disease Control and Prevention (CDC) informed us they were going to begin distributing to the states part of the Strategic National Stockpile which is medicines and personal, protective equipment. We began working on that process as soon as we got that word. We were also notified through laboratory (lab) testing that we have our first confirmed, positive case of swine flu in Nevada. That case is a child in Washoe County who is doing well on her treatment. There has been lots of press coverage and that will continue.

Since then, several things have occurred. First, we worked to get the stockpile here, and it is here. Two, the mobile support staff is in Las Vegas accepting, inventorying and preparing the distribution plan, so it follows the process and protocols set up. Third, we are processing suspected cases through the State Laboratory (State Lab). So far, five cases have been classified as "Type A – Unsubtypable" which means there is a chance, probability or likelihood that it could be swine flu. We should hear from the CDC soon about those outcomes.

Publically we have said many times, there is a high likelihood we will see additional cases in Nevada. We also think this virus has been circulating in our communities for awhile. Now because more testing is being performed, we are going to find more samples that are positive for the H1N1 flu. Soon, we will be announcing we have an 800 call-in number for people who want to get more information about this virus. In addition to the Website I mentioned previously, another Website is < www.cdc.gov/swineflu > . Both sites are updated frequently. We are working with the CDC on places where children gather, such as schools and day-care centers. Our other priority is to get our stockpile into the distribution phase.

MARY GUINAN, M.D., PH.D. (State Health Officer, Health Division, Department of Health and Human Services):

The background information on the H1N1 virus is in the handout, [Exhibit C](#). The right thing for us to do is to monitor the system very closely. Everything we have done so far is working. We have over 60 sites in Nevada where we are taking counts of people who come in with influenza-like illness. We culture them and test for the virus. If it is positive, it is sent to the State Lab. If they cannot type it, it is sent to the CDC. This is an ongoing process. We have enhanced the surveillance. We used to do it weekly. This is done during all flu season from October through May, and we are going to prolong it. We check the results from the lab daily. Everyday, we have a meeting with the CDC and all the state health officers. At four o'clock every day, we have a meeting of all the health officers in our State. We update whoever is representing the counties. Our communication process is very good, but we do have several things we should emphasize. I ask your help in telling everyone.

The CDC has changed the name from "swine flu" to "H1N1" which is a novel strain of H1N1. The reason for that is because many people are afraid to be exposed to pigs or animals of every kind. Our State Department of Agriculture is part of our "Pandemic Influenza Preparedness and Response Plan," so it is important for us all to understand there is no animal known to have transmitted this virus. Originally, this virus came from a pig, but has come through a bird and through a human plus it has been mixed with several different viruses. It is not of animal origin; it is direct human-to-human transmission. Also, there is no concern about this virus being transmitted in food such as pork or ham. We must emphasize that this virus is a human-to-human transmission and reduce any kind of panic.

On page 2 of [Exhibit C](#), of the 141 lab-confirmed cases we have in the United States, they have not been more severe than our usual flu, even though we do have this new flu that we have not seen before. The fear has been that this flu will be more virulent, and therefore, we will have a higher fatality rate, more like the 1918 flu. It is not turning out to be more virulent. The good news is that the medications we use for the seasonal flu are effective for this new strain of flu. We do have prospective cases, but to this date, they are not severe. As in usual cases, we can expect there will be severe cases. We can expect deaths because we know we have 36,000 deaths each year due to the usual strain of flu. The CDC is telling us this strain has a very high infective rate. With the Mexico experience, there was some thinking the strain

was a more virulent one, but the thought now is it had a more intense infection rate. With that, you would see a larger mortality rate. That mortality rate may not be different from the mortality rate we would see with regular flu. We will keep our preparedness plan in place.

LUANA J. RITCH, PH.D. (Chief, Bureau of Health Statistics, Planning and Emergency Response, Health Division, Department of Health and Human Services):

I am chief of the bureau that includes the public health preparedness program as well as the emergency medical systems program (EMS), so it is the emergency response system. We are working closely with our local public health partners which are the Southern Nevada Health District, the Washoe District Health Department, the Carson City Health and Human Services and our frontier and rural county public health system. We are also working closely with our health care system which is both the acute care hospitals and the system of clinics and tribal health centers across Nevada. We are in the process of rolling out the State stockpiles and the national stockpiles that have come to us and getting them into the hands of those providers that are most likely to see the most acutely ill patients. This distribution plan addresses our State not only in terms of regionality or population, but it also takes into consideration health-care access and health-care system patterns.

Every time we get updates from the CDC for guidelines concerning identification, testing, treatment, use of the antivirals or for "cautions" for EMS and law enforcement individuals, we put them on our Websites and get them to specific audiences such as our local health partners. In turn, our health partners update their information as they communicate with their partners.

One of our biggest challenges has been—and we anticipate it will continue to be—providing timely information to the public. That is one reason we are activating a "hot line." It will answer questions for the general public from "frequently asked questions" scripts for clinicians and other health-care professionals.

We are working with all of our public health partners and with the private sector. We are working closely with the manufacturers of our antiviral medications. They have assured us that clinicians can continue to seek not only antiviral medications but also other types of supplies through their

normal distribution route. The manufacturers are doing everything they can to meet the surge in demand. We are working with and coordinating through the Nevada Department of Public Safety and the Division of Emergency Management. I know we will have tasking with other agencies as we roll forward, perhaps including the Nevada National Guard. This is a multi-agency, multi-pronged coordinated effort in putting this response out.

CHAIR WIENER:

It is reassuring for us to know that we are following a preparedness plan that is well-established and that you are working with local health authorities. It is important for people to know that there are things they can do individually to be healthier at the front end. There is not a specific vaccine yet, but I understand they are working on that. I also understand there is a positive response to the prescription medication, Tamiflu. Please share with us what measures can we all take.

DR. GUINAN:

We stress the same preventative things for every flu season. The flu is transmitted through respiratory droplets such as coughs reaching as far as six feet or so; therefore, people should cover their coughs. It is preferable to cough into their elbow or arm rather than into their hand. We always want people to wash their hands after coughing. If you have flu-like symptoms which are a temperature of 101 degrees, a sore throat, aches and pains plus respiratory symptoms, it is very important for you to stay home in order not to infect others. If your child is sick, it is very important to keep your child at home in order not to infect others.

Currently, we think this virus has been circulating for awhile. We have not detected it previously, because we did not have the testing for it. People get this flu; they do not seek treatment—just as with the usual flu—and recover. Our experience, and those of others who deal with people who have the flu, tells us people should continue the safeguards, stay home if they are sick and use these hygienic principles. People know that Tamiflu and Relenza are prescription medications which do not prevent the flu. They are not vaccines, so they will not protect or prevent people from getting the flu in the future. Hopefully, that information will prevent people who are not ill from demanding a prescription for those medications from their doctors.

SENATOR NOLAN:

The symptoms of this flu are not any worse than any other flu. My understanding of the high mortality rate in Mexico had to do with their population being more acclimated to self-treat with any over-the-counter prescription medications or with antibiotics they want to take from the local drug store. What they buy does not work, so they get sicker and sicker and even expire. Generally, that is not the experience we are having in the United States, is it?

DR. GUINAN:

It is perplexing, and the high mortality in Mexico is of great concern. We are trying to explain it. Senator Nolan is correct, there is not the same level of access or understanding of what the appropriate medications are. Maybe the flu symptoms were not even known early on, but that has changed quite a bit with what has happened. Because this flu was so widespread in Mexico, it may have appeared to have a high mortality rate.

We do not know what our infection rate of influenza is. Usually, what we know are the numbers of people who come to the doctor or come to a place where we have our surveillance. We know when the numbers of people are going up and when they are going down. Many people, even most people, do not go to the doctor with the flu. They stay home, go to bed, take medications that relieve their symptoms and they are fine. That is probably true of this new strain as well. But, if you have severe symptoms, it is very important to see your health-care provider and get the appropriate treatment.

SENATOR NOLAN:

Is the only concern about the H1N1 virus that it tends to be more virulent? Does it have a longer contact surface lifetime than typical flu viruses?

DR. GUINAN:

I have not received information about this particular virus as to whether or not it lingers longer on inanimate surfaces than other viruses. As you know, viruses need cells to live. If the surface is dry, usually, they are gone. If there is moisture, they tend to live longer; usually, that is not longer than a day. The same precaution should be, "Keep washing your hands." If you are sick, stay home and try to have just one person take care of the sick person.

SENATOR HORSFORD:

With the leadership of the DHHS, Dr. Guinan and the whole team working on this issue at the State and the local level, Nevadans should feel some level of comfort that we are doing everything possible to protect them and preserve their health. The frank, open and honest information and the coordination you are providing will help people's level of security. Based on the experience we had last year, obviously we learned about improving the coordination and the communication systems. I am happy to see this taking place. I have looked at the Website, and I understand there is an 800 number going "live" soon. All this helps provide a specific place for people to find out the facts. Thank you for your leadership and for whatever information you can continue to share with the public.

MR. WILLDEN:

We will continue to provide the updates as we have been doing.

CHAIR WIENER:

We will be hearing testimony on six bills. We begin with Assembly Bill (A.B.) 459.

[ASSEMBLY BILL 459](#): Provides for the safekeeping of certain abandoned property. (BDR 37-124)

ASSEMBLYWOMAN KATHY MCCLAIN (Assembly District No. 15):

This bill provides for the safekeeping of abandoned military artifacts. A couple of years ago, there was a private veterans museum that had some major problems when their exhibits were "trashed." The leaseholder of the building tried to salvage what was left, but did not know what to do with the things. They called our Office of Veterans' Services (OVS). We realized there was no authority for them to take possession of the items; however, not to lose the items, they did take them. The OVS has since catalogued everything and put it in a warehouse where it is in sealed storage. Since it is catalogued, as people come forward looking for their artifacts or their memorabilia, the OVS can help them find their items.

Assembly Bill 459 makes it clear in statute that the DVS will have the authority to accept abandoned or unclaimed military artifacts, memorabilia or whatever. It serves a good purpose.

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CHAIR WIENER:

It is a proud function of this Committee to be able to process these measures.

TIM TETZ (Executive Director, Office of Veterans' Services):

We are happy be a part of taking care of the memorabilia of veterans, especially if it is from an abandoned property list. We support A.B. 459 and ask for passage today.

KATE MARSHALL (State Treasurer):

I am pleased to testify in favor of this bill. The Office of the State Treasurer has the Unclaimed Property Division (UPD). We often get military artifacts in safe deposit boxes. We will continue to advertise to see if we can find the owners. We believe our first and primary mandate is to find the people who own the artifacts and return the items to them. Once we have done the advertising, if we could not find the owner, formerly, we would auction off the items. We would preserve the proceeds for an owner or an heir who might come forward. Now, we will not auction the artifacts, and we have no problem turning the artifacts over to the owner. The Office of the State Treasurer submitted a document titled, "IGT Amendment Implications" stating their position on proposed amendments to A.B. 459 ([Exhibit D](#)).

MICHAEL ALONSO (International Game Technology):

We are here supporting A.B. 459, primarily, because it is a vehicle we are trying to use to put an amendment onto unclaimed property as it is the same subject matter. I have spoken to the sponsor of the bill, Assemblywoman McClain, and received her permission to attempt the proposed amendment ([Exhibit E](#)).

The model act for unclaimed property was passed in 2007, and since that time, the administrator of the UPD has been allowed to perform audits. International Game Technology (IGT) has been under an audit for over a year. Given that experience, we think there ought to be some changes to the law. We got much more focused going through that process. We have talked with the Treasurer's Office several times, and we have agreed to disagree on some of this. On one particular piece, we are in agreement.

CHAIR WIENER:

There are two of us on this Committee who serve on the Senate Committee on Judiciary. This measure has been before that committee with the Uniform Unclaimed Property Act. Because I had some concerns based on those

conversations and some further discussions about the amendment and knowing what the primary subject of this measure was, I sought our counsel. I would like to be assured we are doing the right thing in looking at this amendment as part of this measure. Ms. Partida, please help us to ensure we are doing this appropriately.

SARA PARTIDA (Committee Counsel):

After having looked at the amendment, [Exhibit E](#), and upon the Chair's request, I did look at the Joint Standing Rule No. 14.7 - "Amendments" (Rule 14.7). I do not believe this is germane to A.B. 459. This bill deals primarily with military items and, in fact, the title says, "AN ACT relating to military;" It is the opinion of the Legal Division that it is not germane.

CHAIR WIENER:

Therefore, it would not be something we would entertain as a potential amendment for this measure?

MS. PARTIDA:

That is correct. It cannot be amended into this bill.

CHAIR WIENER:

We are not able to proceed with the amendment on the measure.

MR. ALONSO:

Assembly Bill 459 amends the *Nevada Revised Statutes* (NRS) chapter 120A, "disposition or transfer of unclaimed property" which is the chapter I am seeking to amend.

CHAIR WIENER:

Ms. Partida can assist us with that.

MS. PARTIDA:

Simply being in the same chapter does not necessarily make something germane. Specifically, this does not amend the same sections that are in the bill currently and has nothing to do with military artifacts of any nature.

CHAIR WIENER:

One of my concerns was not to go through what we went through with the Nye County methamphetamine measure.

SENATOR CEGAVSKE:

I am not an attorney, but under the different sections of the NRS, do we not have different subject areas that fall into multiple categories? This amendment falls into the area and closely fits even though the subject is not the same. Could it not be put under this section?

MS. PARTIDA:

We do follow the single subject rule, and this single subject is military. It is not germane. I did speak with Legislative Counsel Brenda Erdoes last evening, and she had the same opinion.

CHAIR WIENER:

It is a coincidence that Mrs. Erdoes has just entered the room. Mrs. Erdoes, we want to make sure what we are doing is appropriate with A.B. 459. Our Committee Counsel, Ms. Partida, has shared with us that a proposed amendment on this measure is not germane.

BRENDA ERDOES (Legislative Counsel):

The germaneness rule is one of the things that, frankly, is a hard area, because it says, " ... the Legislative Counsel will not accept these amendments." We take this seriously, and that is what the rule says. In construing Joint Standing Rule 14.7, subsection 2, it is a tough rule that the Legislature enacted. It says that an amendment has to be independent and specifically related to the subject. It has to relate to the topics, not just to an act relating to topic, but it has to be related to the general subject of the bill.

In this case, the general subject of the A.B. 459 is the military. It is that narrow, and it does not at all have to do with anything that is unclaimed property. We had looked at this prior to this meeting and that is the conclusion we had come to. We are constrained by Rule 14.7, subsection 2 which explains that it is not just the general topic, which is usually stated, where it says " ... an act relating to" It is the topic that when you add up all those clauses there, what is the narrowest general topic you can come to and that is the topic. We have tried to do that across the board.

CHAIR WIENER:

Is that a Session rule?

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MRS. ERDOES:

Actually, it is one of the Joint Standing Rules. The heading introducing this section is "Limitations on Introductions and Requests for Drafting of Legislative Measures." Rule 14.7 deals with amendments and subsection 2 pertains to this issue.

CHAIR WIENER:

At this point, how do we proceed?

MRS. ERDOES:

As Majority Leader of this House, Senator Horsford could overrule us. Certainly, these are rules—I am passing the buck here. If you wanted to do this, certainly it could be waived in if leadership chose to do that with a new bill. Or if you want, I do not know if we have looked exhaustively to see if there is anything else related to unclaimed property that is still alive. We can look and see if there is any other possible vehicle. Sometimes we are successful at that. All we did was look at this specific issue because that is the one before you.

SENATOR HORSFORD:

I have enough on my plate, so I am not going to waive any rules. I would ask though if Legislative Counsel can pursue other bills for consideration. Clearly, this is an issue that deserves further debate and discussion. I am willing to support that discussion when and if there is a vehicle that allows us to do that.

CHAIR WIENER:

I would be happy to work with counsel to see if we can find the appropriate vehicle for this amendment.

I close the hearing on A.B. 459.

SENATOR CEGAVSKE MOVED TO DO PASS A.B. 459.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR WIENER:

I open the hearing on A.B. 101.

ASSEMBLY BILL 101 (1st Reprint): Revises provisions governing the support of children. (BDR 38-340)

ROMAINE E. GILLILAND (Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services):

The Child Support Enforcement Program (CSEP) is a State-administered program operated within various localities either by the State or the local counties. In 2005, the Legislature authorized an audit to be performed to identify areas and opportunities for program enhancement and to increase the amount of child support being distributed to Nevada families. MAXIMUS, Inc. (MAXIMUS) was selected to conduct the audit. The audit was finalized in late 2006, and the Division of Welfare and Supportive Services (DWSS) reported to the Legislature in 2007. Since that time, the DWSS has developed a strategic plan to implement the recommendations of the audit and has established a task force comprised of State and county administrative staff to advance a collaborative effort and partnership between the participating jurisdictions to produce significant improvements to the program.

In addition, the DWSS identified statutory changes that if passed would maximize the program performance. These are presented in A.B. 101. These changes, in conjunction with identified program enhancements, will significantly improve the performance of the program. The DWSS is fully committed to providing quality and timely services and providing the maximum child support to the custodial parent and to the children of the families.

During my prepared testimony, I will review various sections of A.B. 101 (Exhibit F).

- Section 1 provides a time frame for participating counties to notify the State if they choose to opt out of the CSEP also called the Title IV-D of the Social Security Act, 42 U.S.C. §§ 651 et. Seq., part D (IV-D). Our objective is to provide stable funding for the program.
- Section 2 provides that any payment of public assistance made by DWSS for the benefit of a child creates a debt to the State against the

responsible parent regardless of a custody or support order to the contrary.

- Section 3 specifies that the administrator of DWSS is the responsible individual for the supervision of the CSEP and the administration of the program. The CSEP is a required program to be operated by the State and to also have Temporary Assistance to Need Family (TANF) Block Grant funds available to the State for that assistance to those families.
- Section 8 allows court masters to conduct telephonic child support hearings from outside of the judicial district in which the master is appointed. This is another means to more timely facilitate court orders for child-support enforcement.
- Section 9 requires district court reviews of hearing master recommendations to be "on the record" rather than *de novo*, or newly again. This provides for the elimination of a restatement of the facts in a court environment which helps facilitate the ability to move the individual court orders through the process in a timely manner.
- Section 11 provides that a court master's recommendation shall be deemed approved by the district court if the parties have not filed an objection within 10 days of receiving the recommendation. Currently, the master's recommendations require a court signature with no time limit, so it is possible that a recommendation could sit for a lengthy period of time. This provision is designed to move the process forward in a timely manner.
- Section 13 requires financial institutions to encumber assets held by the financial institution on behalf of a responsible parent upon the receipt of a notice from another state's child-support enforcement agency that the funds are required to fulfill a child support enforcement obligation. This is something that has been embraced by 12 other states and has worked well from a state-to-state relationship. Of the 12 states that have embraced this type of policy, the majority of those states are high in the child-support enforcement performance. Nevada, typically, has had relatively low performance among the states. Every one of these provisions is designed to improve our performance both from a child support perspective for the individual child and from a

State perspective to improve our performance as compared with the other jurisdictions in the Nation.

- Sections 16 and 17 provide for penalties imposed against employers who fail to deliver to CSEP monies that the employer has collected from the employee in the form of withholding pursuant to a court order. What occasionally happens is an employer will withhold funds and those funds will not be effectively transmitted to the State. This provides penalties to ensure that the employer does transfer funds that have been withheld by the noncustodial parent for the benefit of the child.
- Sections 6, 11, 12, 18, 19 and 21 delete provisions in existing law that require social security numbers (SSN) in child support cases to be maintained in court records. This is not required by CSEP or any federal regulations, but does exist within State statute. Changing this eliminates the need for SSNs to be maintained by the court. However, they continue to be maintained by CSEP.

CHAIR WIENER:

Will there be a process of redacting that information from records?

MR. GILLILAND:

No. This just eliminates the requirement for maintaining the SSNs by the courts. It helps facilitate the process on a going-forward basis.

- Section 22 establishes when court ordered medical support is to be available to the child at reasonable cost and accessible to the custodial parent.
- Sections 4 through 7, 10, 14, 15 and 20 are technical in nature and have minor adjustments.

Assembly Bill 101 contains many diverse proposals, all of which share the common goal of improving the effectiveness of CSEP with a primary target of improving the lives for the children within those programs. In a time of economic downturn, our focus needs to be on enhancing the timeliness of establishing orders and making monies available to the custodial parent and to the families in order to ensure the access to food, shelter and the other basic necessities.

CHAIR WIENER:

Was there a federal requirement to move forward with these revisions? Are we in a time frame to do this?

MR. GILLILAND:

These are no federal requirements. These are consistent with the audit recommendations provided by MAXIMUS. That audit was requested by the Legislature. We are looking at those items from a program perspective to enhance those recommendations and further enhance the program. There are no specific time frames, but since we have such low performance as an organization, we are anxious to move forward with these proposals.

CHAIR WIENER:

We appreciate your wanting to create improvements in the system. Too often we are at the bottom where we should be at the top. It is reassuring to know that you want to move our delivery in the right direction.

SENATOR HORSFORD:

On page 2 of [Exhibit F](#), section 13, regarding financial institutions encumbering or placing a financial lien on assets, can you explain the process that takes place prior to that step being taken?

MR. GILLILAND:

Today, if another state seeks to encumber assets for the benefit of the child and a custodial parent, the state has to come through the CSEP. That action causes us to open a case which adds to all our State-managed cases. By adding section 13 into the bill, that allows those other states to go directly to the financial institutions rather than to have to come through our organization.

SENATOR HORSFORD:

What does that mean?

MR. GILLILAND:

By enacting this bill, a state can go directly to the financial institution for a child residing outside Nevada. That removes one case that CSEP does not have to manage. This allows us to utilize our resources to work on the custodial parent and child cases in the State.

SENATOR HORSFORD:

What do you have to do or have to authorize a financial institution to actually place a lien on that asset? What is the standard or the threshold that has to be met?

MR. GILLILAND:

Do you mean in today's environment?

SENATOR HORSFORD:

I mean under the provisions of this bill.

DAVID CASTAGNOLA (Program Specialist, Child Support Enforcement Program, Division of Welfare and Supportive Services, Department of Health and Human Services):

State statutes authorize the CSEP to match data with financial institutions to identify assets belonging to those who owe child support. There is also a mechanism in statute that allows us to seize those assets. If another state identifies assets belonging to someone they are seeking to enforce their child support, they open a case with Nevada. It becomes our case for the purpose of communicating with the financial institution. We would use the existing laws to send notice to the financial institution and seize the assets. After collecting the assets, we process them through our Disbursement Unit and forward them to the state that requested our assistance.

Assembly Bill 101 would take Nevada out of the loop. It allows the other state to communicate directly with the financial institution. The financial institution would send the encumbered funds directly to the other state. This measure would expedite the process for the other state and for the family as one less government agency would not be acting as the "middleman." It would also expedite and help our performance in Nevada because it is work that CSEP would not have to manage. This would allow us to spend more time working on Nevada's family cases.

SENATOR HORSFORD:

If a person resides in Nevada but owes child support in another state and if there is a dispute regarding that, would that have to be resolved in the state that initiated the lien on the assets with the financial institution?

MR. CASTAGNOLA:
Yes.

SENATOR HORSFORD:

Is there some central repository that tracks this asset information, so the custodial parent, the parent owing the money and the child-support agency can all know if money is owed in multiple states? If someone owes money, can the situation be resolved before the assets are seized?

MR. CASTAGNOLA:

There is no central authority contemplated in this measure. With the other states that allow a direct interstate action, if there is a contest on the action, it becomes a two-state case. The child-support agency would become involved and facilitate the required hearing.

SENATOR HORSFORD:

What happens if a child or a family living in Nevada is owed child support, but the person owing them money lives in another state? Would we be able to seize their assets in another state to help with our collection and enforcement here in Nevada? Is this somehow reciprocal in other states, and if so, how many other states have passed this law?

MR. GILLILAND:

It is not reciprocal to the states that have not passed the law. There are 12 states that have passed a similar law. With our embracing this law, it will not make it any easier with those 12 states because they already have the provision. But as states continue to embrace this and it becomes more common, it will make collection from those states easier. Passing this provision will move us in the right direction.

SENATOR HORSFORD:

Regarding the SSNs that are mentioned throughout various sections of A.B. 101, it says, "... federal law requires that they be kept in an IV-D program" I am not sure what the IV-D program is. Are you requesting the numbers be kept in court records?

MR. GILLILAND:

Today's environment has the SSNs being maintained in both court records and in the CSEP records. The IV-D or "4d" is the federal nomenclature for the

CSEP and that is fundamentally the program we are operating. Federal law requires that the SSNs be maintained by the IV-D program. Those would be the state administered and operated and the county-operated program. The federal law does not require the SSNs be maintained at the court levels. This provision would bring us consistent with federal law.

SENATOR HORSFORD:

This means they would be kept at the court level?

MR. GILLILAND:

They would not be kept at the court level, but would only be kept at the IV-D level.

SENATOR HORSFORD:

We had a judge in the Las Vegas area who was misusing that information. I would hope this would get fixed.

CHAIR WIENER:

Again, this would be prospective if this bill goes forward. Is that correct?

MR. GILLILAND:

Madam Chair, that is correct.

ANN PRICE MCCARTHY (Nevada Justice Association):

I am an attorney in Carson City and practice primarily in the area of family law and bankruptcy. I should have been available to testify in the Assembly when this bill was heard, but I could not. I apologize for that. I am bringing my concerns to you today—belatedly. There are many parts of A.B. 101 that are valuable and have already been reviewed for you.

My first concern with this bill, and I echo district court judges on this—certainly not all of them—namely, Judge Charles Weller and Judge David Hardy of the Second Judicial District, is with section 2, page 3, lines 17 through 25. This would seem to make most of the judges' orders under the NRS chapter 125B – "Obligation of Support" pretty meaningless.

While I do understand that federal concerns may have influenced bringing this bill—and while I do not think it is the intent of the bill—we see this negatively impacting the noncustodial payer—the obligor—who is paying

child support. The obligor is complying with every part of the court order, does everything he or she is supposed to do, but does not know about and has not received notice that their child, for whatever reason, is receiving public assistance, and as obligor, he or she has a debt to the State for that public assistance. The obligor may already be paying as much as he or she possibly can because of our system of payment. Our payment system is based on the obligor's ability to pay.

In 1993, the federal government told the states to get their child-support situations under control and to develop a consistent plan for paying the child-support obligation based on the ability of the responsible parent to pay in the best needs of the child. Every ten years, the states report to the federal government on what has been done and how it has complied with those regulations. It was a federal requirement that NRS 125B.145 be put into the statute which requires a three-year review of child support. This was to ensure that the child support stays within the obligor's or payer's ability to pay and in the best needs of the child.

Ms. MCCARTHY:

The district court judges see this provision as removing their jurisdiction of taking care of the child while not pushing people into poverty any further. Payers could end up not being able to pay the debt to the State. This debt is not dischargeable in bankruptcy; no family support order is. In speaking with Senior Deputy Attorney General Donald W. Winne, I know it is the way the statute is written—certainly it is not the intent of the Office of the Attorney General—but there could be a serious constitutional issue with that particular section. That would be because the obligor parent is not going to receive any notice of debt, so he or she is not participating. The question is where is the due process of law in this?

Another concern in section 2 is on page 4, lines 34 through 37. It is my understanding that the DWSS has deliberately chosen to define "joint physical custody" only in the NRS chapter 425 – "Support of Dependent Children," simply because they wanted to overturn the *Rivero v. Rivero* 124 Nev. Adv. Op. No. 84 (October 30, 2008) decision by our Nevada Supreme Court. It has been explained to me—and I understand the concerns—that part of the *Rivero* decision lowers child support and causes DWSS problems in balancing child support and the needs of the child.

I know the Nevada Supreme Court has ordered amicus briefs from the family-law section.

The definition of joint physical custody proposed in A.B. 101 is "equal" custody. That fixes problems for the DWSS but not for our families and our children. Sometimes joint physical custody is not "joint" physical custody as people arrange things as fits the needs of their child, themselves and their employment. This definition would, of course, destroy that. With this language, parents would not be able to have joint physical custody unless it is 50-50 equal time. This benefits the State, but it does not benefit our families and our children.

My only other concern is on page 10, section 9, lines 11 through 16 regarding the child-support master hearings. We might all agree that the child-support system statewide is severely underfunded, understaffed and overwhelmed. When you call on the phone, you cannot talk with a human. There are no attorneys. Cases are prepared by statute through workers who have had no training because there is no money. There are no NRS 125B.145 reviews being done because there is no staff and no time. Those reviews are done only if there is a 20-percent change in the income of the families. Because of these deficiencies, what is brought in front of the master is not a complete story of what is happening between the people. Sometimes the story is not prepared correctly; sometimes the right evidence is not entered into evidence. Sometimes things are not reviewed; sometimes hearings are only a "shocking" five minutes long. This section of the bill limits the district courts' review of what happened in front of the master. Even more shocking is all this is "without standard." There is no standard of review. There is no clear and convincing evidence. There is no preponderance of the evidence. This would be the only place in our statutes where this occurs. All the courts have a standard of review. All of the courts have discretion to review what should have happened below.

I understand this is meant to speed up the process. I support the ten-day deadline. I support making all this happen faster. If what is happening in front of the master is often not correct, why are we limiting the district court's review of all the evidence that should have been brought before it and was not? I sympathize with the DWSS, with their budgetary concerns and with the reasons for bringing this bill, but there are serious concerns about these three provisions in A.B 101.

CHAIR WIENER:

I would like to hear comments from someone from DWSS, so we could address these concerns. We do not usually do this, but since the other House did not have the opportunity to have everyone in the same room at the same time, this is really the first pass at the bill. We are looking out for our children, so it is important that we have more discussion.

MR. GILLILAND:

In regard to section 2, page 3, of A.B 101, I will explain the process that occurs there. When a parent with a child applies for TANF and that parent is eligible for child-support enforcement services—and this is one of the reasons that TANF and child-support services are linked together—the parent assigns their child-support payments that might occur in the future back to the State and to the federal government up to the extent of the TANF benefits they have received. This takes child-support enforcement payments received by the noncustodial parent and assigns it to the State. This facilitates that assignment. In no case would a noncustodial parent be looked at for payments they would not otherwise make. It is to take the payments they would be making in the normal course of their obligation and ensure that those funds are returned to the State and to the federal government. That is the primary issue of section 2.

Two other sections discussed in the MAXIMUS audit are in sections 9 and 11. They point out the distinction between a highly judicial and an administrative process. Today, the State tends to be a highly judicial CSEP. The MAXIMUS audit recommended that we move to a blend of the administrative and judicial process. Those two sections help move us in that direction. On page 10, section 9, lines 11 through 16, we are not limiting future testimony to be provided. We are proposing what has been presented to the hearing master and what the hearing master's recommendations are be on the record for any future hearings that might occur at the court level. Being on the record prevents the need to have that testimony reheard, and it allows the various courts to use that information as if it were presented de novo at the court level.

Page 12, section 11, lines 30 through 40, it points out a timeliness issue. This language ensures the process moves along quickly. It allows an opportunity for objections to be filed, but it also prevents cases where there are no objections from having to wait until there is a signature at the court level. We are aware

that may even take some time, but we are still looking to move the process along more quickly.

MR. GILLILAND:

The other issue that did not relate to sections 2, 9 and 11 has to do with the cost-effectiveness of CSEP. Today, the State spends \$1 to collect about \$3.70 of child-support enforcement funds that are transferred from the noncustodial parent to the custodial parent. In that area, we are close to the bottom as we rank 46th in cost-effectiveness. An example of a more cost-effective program is in Indiana. That state spends \$1 of federal and State money to collect \$9.93. We have spent enough money; we have not spent enough money wisely. This bill attempts to move us in a better direction. For the same reason, several other nonstatutory-related measures are being looked at by the DWSS and by the various localities that are operating the CSEP.

SENATOR WASHINGTON:

I am having some difficulty with the language on page 3, section 2 as it appears to subvert the court. In lines 21 and 22, it says, "Any court order for custody or support ...", so according to the existing language in the NRS 425.360 – "Support of Dependent Children," there is the obligation to notify, but if the parent does not receive the notice, they are still in debt for the TANF payments. This wording basically subverts the court. If the court should rule that the noncustodial parent is not obligated for custody or child support, they are still indebted. The court should be "in front" of the DWSS because there is a due process that is owed to everyone. This subverts that due process.

MR. GILLILAND:

Madam Chair, I would like to ask for some legal assistance on this. We do have a representative here from the Office of the Attorney General, Donald W. Winne. He has assisted us with this and perhaps he can provide a legal clarification for us.

CHAIR WIENER:

Mr. Winne, please come forward. I have another legal question to ask if it is not answered in your response.

DONALD W. WINNE, JR. (Senior Deputy Attorney General, Health and Human Services Division, Office of the Attorney General):

The drafting of A.B. 101 was prepared by the Legal Division of the Legislative Counsel Bureau (LCB). In regard to the discussion Ms. McCarthy and I had, I indicated to her this was LCB's drafting as to whether or not the draft met the intent which was, essentially, to eliminate the impact of the Rivero case as it applies to the CSEP.

In the Assembly, there was some excitement with the lobbyists from the Administrative Offices of the Courts which is an arm of the Nevada Supreme Court. They wanted to know if we realized this bill would overturn the Rivero case. I said, "Yes. That was the intent." They wanted to know why. The administrator for the DWSS has already addressed the reason why, so I will not repeat that.

I need to remind the Committee that the Rivero case is a case-made formula, not a statutory formula. In fact, in the Rivero opinion, the Nevada Supreme Court goes out of its way to say, "To date, neither the Nevada Legislature nor this Court has defined joint physical custody." That is the issue in that case, so our request for the bill draft was, "Please deal with the fact that in public-assistance cases we want joint to mean joint—50-50."

The Rivero case allows, through case-made formula, the ability for a noncustodial parent who might spend 30 percent of the time with the child to take that 30 percent and have that taken into consideration in the calculation of the child support. To me, that is a policy decision. Interestingly enough, the court has decided that because the Legislature has not made a policy, they made their own policy decision. The problem, whether you agree with the Rivero case or not, as the administrator has told you, is there is an issue of reimbursement.

When a custodian goes on public assistance, they are getting public tax dollars to help take care of the costs of that child. What happens with the Rivero case overlaying the top of that is that you are getting child support in most cases on the part of the noncustodial parent. He or she is going to get his child support diminished at the expense of the custodian who has a child on public assistance. That was the concern, that you are not only limiting the public-assistance reimbursement rate, but also, in essence, cutting a noncustodial parent who has been labeled "joint" under the Rivero case but is

not a 50-50 joint custodian. My definition of this math means 50-50, but under the Rivero case it says something like, "Well in Nevada, we don't think joint means joint. Joint means that you share some time with the child, and we are going to structure the child-support formula based on our case-made law to reflect that she or he gets some kind of discount for spending time with the child." This is a long-winded answer, but we are giving you the reason why this language has ended up the way it is.

Although Ms. McCarthy could not be at the Assembly hearing, a Mr. Lyons, I think, from the Nevada Justice Association (NJA), was there. He did not indicate anything other than he wanted everybody to be treated the same. Even though A.B. 101 passed in the Assembly, and they had no issue with it, if there is a reason to work on this language, perhaps the LCB and the administrator can discuss this further. The intent was when a case becomes public assistance and a previous divorce order applies a joint physical custody-Rivero formula, we will notice the noncustodial individual and go back in on a hearing in the child-support program case. We will say things have changed because we have public assistance being paid out, and by the way, the Rivero case does not apply to this situation because we now have public-assistance dollars going out to this custodian. So, therefore, do not decrease through your case-made formula, what the statutory formula would require him or her to pay.

SENATOR WASHINGTON:

Was joint physical custody defined in the Rivero case as 50-50?

MR. WINNE:

No, the Rivero case essentially said that 50-50 does not mean joint under our case law.

SENATOR WASHINGTON:

The custody could be any division such as 40-60, 30-70 or 20-80; is that right? This provision on page 3, section 2 of A.B. 101 could be any numeration. If it is a 20-80 situation and if the noncustodial parent is spending 20 percent of the time with the child, does the DWSS have the ability to collect that additional 30 percent?

MR. WINNE:

Rivero does not work on a flat 30-percent increase or decrease. It is a six- or seven-step complicated formula. It does decrease it somewhat and, depending upon the circumstances of both parties, it could be as much as 20 to 30 percent. It is not completely based on the time spent with the child. It is a bit more complicated than that.

SENATOR WASHINGTON:

I understand there are mitigating factors in that formula, and I am familiar with the formula. For simplification, without those mitigating factors, let us say he or she is spending 20 percent of the time with the child. Whatever the child-support payments allocated to that child and considering what the custodial parent is getting from the DWSS, does he or she owe that 30 percent to make it 50-50?

MR. GILLILAND:

If the child were with the noncustodial parent 20 percent of the time and with the custodial parent 80 percent of the time, that could be considered joint physical custody. We are saying that in order for it to be joint physical custody, it has to be 50-50. If it were 20 percent and if it were considered joint physical custody, it would preempt the ability of the child support to be paid to the custodial parent. By virtue of that, a return of the funds that were paid to the custodial parent through the public benefit program would be required.

SENATOR WASHINGTON:

There is an issue here of due process, then.

MR. WINNE:

The due process is not an issue in my estimation, and, again, I am not adamant about the language in section 2—you need to understand that—but, again, the intent was that we changed the definition under the NRS 425 to say joint means 50-50. That is what we mean by joint.

It was an LCB consideration in saying that what they understood is if two people got a divorce decree and that divorce court, rightly so at the time, applied Rivero and if, as you were suggesting, the custody was a 30-70 situation, the problem is that subsequent to that divorce decree, the custodial parent came on public assistance. The LCB drafter's concern was they

did not want that order to interfere with an ability to go back into court under a public-assistance case and say this parent is now on public assistance, and we want our full statutory formula applied, not the Rivero case calculation. We are saying the due process is not raised because there will be a subsequent notice to the obligor and to the custodian.

SENATOR WASHINGTON:

I understand what you are saying, but I do not read that in this language here.

VICE CHAIR WOODHOUSE:

This bill will go to work session. Chair Wiener will be in contact with the DWSS and others who want to work this out.

I close the hearing on A.B. 101. I open the hearing on A.B. 121.

ASSEMBLY BILL 121 (1st Reprint): Makes various changes concerning health care facilities that employ nurses. (BDR 40-492)

ASSEMBLYWOMAN ELLEN KOIVISTO (Assembly District No. 14):

A number of times before, I have brought a nurse staffing bill to you. This bill is changed, so instead of using numerical ratios, it is based on staffing standards. Some hospitals in southern Nevada are doing this now, and it is working. The hospital has a committee to develop a staffing plan comprised half of nurses and half of hospital administrators. From personal experience, I can tell you it works to have these staffing standards in place.

CHERYL BLOMSTROM (Nevada Nurses Association):

The Nevada Nurses Association supports A.B. 121. One of the things contemplated by the staffing plan is that it looks at a hospital holistically. It looks at patient acuity and the skill mix of the various personnel on each unit. One thing that was added in the Assembly—which I like very much—is requiring a report back either to the Legislative Committee on Health Care or to the Legislative Counsel Bureau for delivery to the Legislature in odd-numbered years. That will provide some specific Nevada data. The report will provide what staffing plans look like within the various hospitals.

We worked closely not to interfere with those hospitals where the nurses have chosen to collectively bargain. We have avoided that topic entirely, and think

we have been quite successful in the attempt. We wholeheartedly support this bill in its current iteration.

BILL M. WELCH (President and Corporate Executive Officer, Nevada Hospital Association):

I speak in support of A.B. 121. Assemblywoman Koivisto brought together our organization, the Nevada Nurses Association, the Nevada Organization of Nurse Leaders and the Nevada Rural Hospital Partners to work on this bill. This proposed legislation does not intervene on any of the contractual relationships that any of the bargaining units may have with the hospitals. We looked at ways to bring in other hospitals to be sure the committees included nonmanagement nurses. We want bedside-registered nurses (RN) involved in establishing hospital staffing policies. There was a desire to ensure there was some accountability, so the hospitals would be required on an annual basis to submit their plans to the State. The State would have the ability to come in and review the plan to be sure the hospital is following and complying with the policies. This would also reinforce the condition of licensure the hospital would have if these policies were part of their licensure requirements. We support this legislation as it has been amended.

RENEE RUIZ (Representative, National Nurses Organizing Committee of Nevada; California Nurses Association):

In my position as representative for the National Nurses Organizing Committee of Nevada, I advocate for bedside nurses in both southern and northern Nevada. Today, I am testifying that we are against A.B. 121. The bill contains vague language on focused oversight, needless additional bureaucracy and unnecessary costs to the State, to hospitals and, therefore, to patients. Safe RN-to-patient ratios are something for which we strive. We do bargain ratios into our collective-bargaining agreements. Ratios are important to us, and one day, we hope to bring them to the rest of Nevada. We feel this bill is a step backwards for that goal as well as steps backward for our patients and for the practice of nursing. We ask you not to support A.B. 121.

SENATOR NOLAN:

Assemblywoman Koivisto's goal over the years has been to establish equitable nurse-to-patient ratios. It sounds as though you advocate for that as well. In the past, we have not been able to get to some common ground; however, this bill sounds as though it was a good effort at compromise to take a look at

nurse-to-patient staffing ratios. Specifically, why do you feel this is not going to work towards that end?

Ms. RUIZ:

We applaud Assemblywoman Koivisto's efforts over the past several sessions in working with nursing organizations to put together safe RN-to-patient ratios. The present language in the bill is so vague, it could be meant to say anything. There is nothing that specifically gives a guideline that would ensure the safety of patients in safe ratio for nurses. There are no guidelines for the hospital to follow. It does not mandate anything that ensures the safe care of patients; therefore, we cannot support it.

SENATOR NOLAN:

Absent this effort, there is nothing else before the Legislature that would give us the opportunity to take a look at the ratios. It may have been left vague intentionally so that each hospital would sit down and take a look at written plans in collaboration with the nurses at their hospital. It does not establish hard-core staffing ratios because that has always been where the argument has been. Do you not think sitting down with administration and discussing the objectives and reasons for the number of nurses in a room or on a floor is better than doing nothing at all?

Ms. RUIZ:

Over the years, we have provided study after study as to why safe RN-to-patient ratios are necessary; they are necessary for real, safe patient care. We have seen many of the hospitals where "the labor/management" table is set up, but we still have severe nurse-to-patient ratio problems as others will testify to in a few moments. This bill is not a solution; it actually ties our hands for legislation further down the road that would establish safe-staffing ratios.

ZSUZIANNA REVAY, RN (National Nurses Organizing Committee of Nevada; California Nurses Association):

I am an RN in an intensive care unit at St. Rose Dominican Hospital, San Martin's campus in Las Vegas. Before moving to Las Vegas, I practiced nursing in Kaiser Hospitals in San Francisco. I am quite aware of the benefits of safe RN-to-patient ratios. In every hospital in Nevada, having safe RN-to-patient ratios is one of the main obstacles to recruitment and keeping good RNs at the bedside. With A.B. 121 as amended by the Assembly, the solution to our

ratio problem is not addressed. The bill brings about a new set of problems. There are no emergency staffing provisions; there are no oversight guidelines for the staffing to plan to follow and pay a penalty for noncompliance. Further, there are hospitals of significant size outside of Las Vegas and Reno that are not covered by this bill. This bill does nothing to address filling the empty shoes in Nevada hospitals, and it creates a layer of unnecessary red tape. The RNs do not support this bill.

STACY SHAFFER (Political Director, Service Employees International Union Nevada):

The Service Employees International Union Nevada (SEIU) represents nearly 14,000 health-care workers statewide. My prepared written testimony includes some thanks and acknowledgements for those who brought and worked on this bill ([Exhibit G](#)). Unfortunately, we are here in opposition to A.B. 121. We appreciate the intent of the bill which sheds light on the issue of understaffed hospitals in Nevada; however, we feel this legislation does not go far enough to ensure patient safety and quality care.

The fact is that higher RN staffing levels equal better patient care. A growing body of evidence confirms that higher staffing levels directly affect the quality of patient care and reduces tens of thousands of preventable injuries, infections and deaths in hospitals each year. Setting minimum staffing guidelines based on patient safety and acuity is a critical part of comprehensive health-care reform.

Nurses and health-care workers in Nevada understand this issue all too well. The SEIU Nevada nurses and health-care workers at Catholic Healthcare West's, St. Rose Dominican Hospitals in Las Vegas have negotiated some of the strongest ratios in the country. Every patient in Nevada deserves the same in their hospital.

SENATOR WASHINGTON:

I am puzzled as to why you think the bill is vague. In my reading, it seems to be well-crafted on your behalf. In the bill on page 2, section 12, lines 27 through 37, it requires a report be submitted each year to the Legislature. If this report indicates there is a lack of patient safety or quality of care for patients, the report is going to indicate that those two issues are insufficient. This may lend itself to your case to have exact numbers. Section 13 on pages 2 and 3 not only specifies the size of the hospital, but it also requires a plan to be put together by the nursing staff and the hospital administrators. On page 3, line 7,

it lists "without limitation" some of the things that need to be considered in the plan. This gives you an opportunity to add things to it if they are necessary. Of all the things you have been advocating for so many years, this bill gives you an opportunity to justify your case. To be in opposition to it, says to me that you want hard and fast numbers perhaps for employment purposes. I question whether or not the patient safety and quality of care is in question here. That is my determination in reading this bill.

MICHAEL COLLINS, R.N. (University Medical Center):

I am an RN and a long-term, bedside nurse at University Medical Center. I am a member of SEIU. Since I testified in the Assembly on A.B. 121, the language in the bill that was passed there only vaguely resembles the bill I had gone to the Legislature for originally. In the bill before you today, as an RN, I have several concerns.

One of my primary responsibilities to the patients of the community that I serve is advocacy. In response to Senator Washington's statement that the interest expressed by the witnesses today tended more toward employment purposes than toward patient advocacy and patient safety, I have to reject that. My responsibility as an RN is to make sure the people in my care get the best possible care I can provide. I can only do that if my ratio numbers are adequate in order to care for the people in my care. We presented ratios that had been demonstrated in studies to provide the best and safest care for people in various settings, whether in the intensive care unit (ICU) setting, in the medical surgical setting, the operating room or a step-down unit.

One of the other things I see missing in the bill in its current state is whistle-blower protection. Any floor nurse or any bedside nurse can tell you that, often because of expediency, the hospital industry will have people do things that are not necessarily safe or even legal. One of the best examples of this is what happened most recently with the endoscopy centers of southern Nevada. The whistle-blower protection portion of the original A.B. 121 would have been helpful to make sure that nurses could live up to what they need to do for the public they serve.

SENATOR NOLAN:

In a critical-care unit, if there is a poor outcome for a patient, presumably because you were understaffed, some sentinel event occurred or there was negligence, do you not believe that the health-care facility has a responsibility

for that patient, too? If the hospital has staffed a dangerously low level, might not the hospital be looking at a significant liability situation? Do you not agree with that?

MR. COLLINS:

No, I do not agree with that. The hospital industry standards are based on business models rather than on a model formulated from a nursing process. I do not know how much testimony was gathered from the bedside nurse, but the nurses are routinely understaffed. I do not know if Ms. Ruiz's testimony was heard clearly. To reiterate what she said, the so-called "nursing shortage" would go away if nurses were allowed to work on a ratio more favorable to what needs to be done. What happens in an ICU setting is the ratio should probably be one nurse to two patients. What routinely takes place is because of the nursing shortage, the hospitals justify having the unit understaffed. What I would like to see in a bill is to bring the staffing level up to a safe level by changing the industry standard to accommodate what is really needed in our hospitals.

ASSEMBLYWOMAN KOIVISTO:

In 2003, we negotiated whistle-blower protection into the law. There was a bill passed during this Session to strengthen whistle-blower protection. That is why it is not in this bill. Assembly Bill 121 gives nurses a voice in staffing.

MR. WELCH:

The Nevada Hospital Association had worked closely with Assemblywoman Koivisto in 2003. We have worked closely with the interim Legislative Committee on Health Care on the whistle-blower issue. There are a number of provisions that have already been implemented into law and a number of provisions that are being considered in this Legislative Session to reinforce and further strengthen those laws. That issue has not and is not being ignored.

Nevada does have the worst staffing availability in the Country, beaten only by California. California is the only state that has full-mandatory, numerical staffing ratios defined in statute. To suggest that putting an arbitrary, numerical number in place would resolve the nursing shortage in this State is a misrepresentation of the facts. My final comment on this is there are studies that have come out by the California Healthcare Foundation that demonstrate there is

no measureable, significant difference in patient outcomes as a result of the implementation of mandatory, numerical staffing ratios.

If a committee with 50-percent bedside nurses and 50-percent management is not important, I do not understand why it has been such an important issue when nurses negotiate their management/labor contracts. Any nurse who feels that the hospital is not following the appropriate staffing plan or is not following their staffing plan can file an anonymous complaint with the State Board of Nursing's Licensure, Certification and Education office. That office has the responsibility to investigate and determine the validity of the complaints. There are a lot of protections in place.

VICE CHAIR WOODHOUSE:

I close the hearing on A.B. 121, and the bill will go to a work session. I open the hearing on A.B. 213.

ASSEMBLY BILL 213 (1st Reprint): Requires the establishment of the Cancer Drug Donation Program. (BDR 40-39)

ASSEMBLYMAN BERNIE ANDERSON (Assembly District No. 31):

I am the primary sponsor of A.B. 213 and have a prepared testimony ([Exhibit H](#)). This bill would provide certain donated cancer medications to patients who need them. The program would eliminate a huge amount of waste that occurs when prescribed medications are no longer needed by the cancer patient for one reason or another.

There are several safeguards built into the bill including a requirement that the donated cancer drug must be in its "original, unopened, sealed and tamper-evident unit dose packaging." It must not be adulterated or altered, and it must not bear an expiration date later than 30 days after its donation. Obviously, the program cannot resell the medications donated to it. In addition to these safeguards, a patient or family member who donates a cancer drug to the program for distribution is not liable for any civil damages, not amounting to gross negligence, that arise from donating the cancer drug.

There was a fiscal note that should have been removed from the bill. When the bill was held up in the Assembly Committee on Ways and Means (Ways and Means), there was indication at that time that the Nevada State Board of Pharmacy (Pharmacy Board) would be able to do this. I am not an expert on

how all this would operate, but like most people, I think that medical science has advanced itself to the position where all of us are touched by the newest forms of medication to fight cancer. The approach in this bill has been tried several times, including one by Senator Cegavske who is now a joint sponsor on this piece of legislation. It was modeled largely after legislation put in last Session by the Senator. I felt that was an issue that needed to be solved then, and I asked her if she would join me in this bill. She agreed. This is an important piece of legislation. The compromises have been worked out on it, and all the contending parties should say, "Me, too."

VICE CHAIR WOODHOUSE:

Senator Cegavske has informed us that she is a joint sponsor on this bill, so we are well aware of that.

MS. MCCARTHY:

On behalf of the NJA, we are in enthusiastic support of this bill. This is a positive bill which was carefully and responsibly drafted.

ROCKY FINSETH (PhRMA):

We thank and applaud Assemblyman Anderson and Senator Cegavske for this great piece of legislation, and we go on record supporting A.B. 213.

MICHAEL HILLERBY (Nevada State Board of Pharmacy):

The Pharmacy Board is pleased to support this bill. I will clarify Assemblyman Anderson's comments about the fiscal note. In the first reprint, there is no fiscal note as the Pharmacy Board can do this with the existing resources and can administer the program within the budget that they have. We are glad to support A.B. 213.

LEA TAUCHEN (Retail Association of Nevada):

I am representing chain drugstores. We are in full support of A.B. 213 and appreciative of Assemblyman Anderson's efforts on this issue.

REY BAUKNIGHT (Associate Director of Legislative Affairs, Nevada Cancer Institute):

I came today to demonstrate the Nevada Cancer Institute's support for A.B. 213. I have submitted a brief testimony and a letter sent by Justine Harrison, vice president of Legal and Government Affairs of the Nevada Cancer Institute ([Exhibit I](#) and [Exhibit J](#)). We are appreciative of

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Assemblyman Anderson and Senator Cegavske in proposing this legislation to establish a cancer drug donation program.

SENATOR CEGAVSKE:

My bill is over in the Assembly now, and somehow our bills will merge. At some point they will become one.

VICE CHAIR WOODHOUSE:

I will entertain a motion.

SENATOR CEGAVSKE MOVED TO DO PASS A.B. 213.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I open the hearing on A.B. 107.

ASSEMBLY BILL 107 (1st Reprint): Creates the Advisory Committee for the Prevention and Treatment of Stroke and Heart Disease within the Health Division of the Department of Health and Human Services. (BDR 40-208)

ASSEMBLYMAN JOHN OCEGUERA (Assembly District No. 16):

In my written testimony for A.B. 107, I will emphasize that in our Nation today, cardiovascular disease is the number-one killer of men and women and stroke is the third leading cause of death ([Exhibit K](#)). Every second counts when treating life and death emergencies of stroke and heart attack patients. As a firefighter paramedic, I have certainly seen those types of cases. It is necessary that victims of stroke and heart attack receive the best care possible quickly.

This bill would allow for the creation of an advisory committee for the prevention and treatment of stroke within the Health Division. The goals of this advisory committee are to develop policies promoting and coordinating prevention, treatment and rehabilitation of heart disease and stroke patients. The working group that has spent the last year developing this legislation has done an excellent job of working together, and I would like to

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make sure that the altruistic nature of this bill remains intact. The purpose of this committee is to educate and advise—nothing more.

There is one minor change to the bill that I would like to address. The Nevada System of Higher Education (NSHE) was dropped as a member from the panel, and I would like to make sure they are added back in.

Two years ago, we passed a similar bill that added a position to the DHHS which was a stroke advisory position. In the first round of budget cuts, that position went away. This bill addresses that issue in the advisory committee. It went to Ways and Means, and I draw your attention in the bill to page 4, section 10, lines 34 through 36. That provision allows the advisory committee to "... accept gifts, grants, donations and bequests from any source to carry out the provisions ... " of the bill. The Health Division did testify that they would provide support for this, as best they could, with the resources they have, so there is no fiscal note. I ask your support of A.B. 107.

SENATOR CEGAVSKE:

I am always pleased when we see things for the prevention and treatment of heart disease. Why was NSHE removed, and why would you like them back?

ASSEMBLYMAN OCEGUERA:

Somehow during the process, they were dropped for no reason that I know of. When NSHE noticed their omission after the bill had passed, I said I would be happy to add them back in.

SENATOR CEGAVSKE:

The fiscal note that we have received is for \$245,474 from the State. Why was that removed?

ASSEMBLYMAN OCEGUERA:

It was removed because of section 10, page 4, lines 34 through 37 of the bill which allows the committee to receive gifts and grants.

SENATOR CEGAVSKE:

You cannot do this program unless you get money; is that correct?

ASSEMBLYMAN OCEGUERA:

That is correct.

CHRISTOPHER ROLLER (American Heart Association):

I would like to respond to Senator Cegavske's question about how NSHE got dropped. An inappropriate name such as the School of Public Health was given for their inclusion. Since they do not have such a school, it had to be changed to the School of Community Health—or something along those lines—so there was some confusion in the transition to the proper name of the proper school within the NSHE. That is how that occurred.

In my written testimony representing the American Heart Association, I will add just a few points to Assemblyman Ocegvera's testimony ([Exhibit L](#)).

- Cardiovascular disease, including heart disease and stroke, is the number-one killer in Nevada as well as in the Nation.
- Heart disease and stroke are the leading cause of disability. The costs are staggering with approximately \$5 billion in direct and indirect expenses as a result of cardiovascular diseases.
- The Health Division does not have anything in place to address the number-one killer in the State. They do have a tobacco prevention section which addresses that risk factor. There is a Fitness and Wellness Advisory Council that does address nutrition, physical activity and behavior modifications.
- The proposed advisory committee would raise public and professional awareness of the risks and the signs and symptoms of heart disease and stroke. Something like 70 percent of Nevadans in the CDC's Behavioral Risk Factor Surveillance Survey (BRFSS) do not know the signs and symptoms of stroke.
- We are only one of five states in the Nation that does not have any type of public investment, program or staff addressing heart disease and stroke. It is a gap that needs to be filled.

This bill would help in taking a step forward in filling that gap. The formation of the advisory committee and the hiring of a staff person would be contingent upon funding, and, of course, we are cognizant of the financial situation of the State. It has been three years or so in the process of coming up with a solution

to this situation. We think A.B. 107 is that solution. It has the support of everyone involved, including the American Heart Association.

AMELIA HOBAN, RN, MSN (Stroke Coordinator, Las Vegas HCA Hospitals):

I am the stroke coordinator for Sunrise Hospital and Medical Center, Southern Hills Hospital and Mountain View Hospital. I want to point out what a significant impact stroke has in Nevada. It is the third leading cause of death and Nevada is approaching being the worst state in the country in terms of disability related to stroke. One in four stroke patients die, and nearly 50 percent of the surviving stroke patients do not regain functional independence after their stroke.

In addition to Mr. Roller's reporting of the CDC's BRFSS statistics, Nevadans also do not recognize where in the brain a stroke takes place or what that means to their lives. It is imperative that we provide resources to form this group of dedicated professionals to address the knowledge deficiency in the public and increase awareness related to the signs and symptoms of stroke and its appropriate treatment. In terms of stroke treatment, thiobarbituric acid, better known as TBA, is the only U.S. Food and Drug Administration (FDA) approved medication to treat acute stroke, but must be given within three hours of the last known "well" time. Based on the knowledge deficit, the public is not seeking care in a timely fashion. Therefore, less than 10 percent of acute stroke patients present to the hospital within the 3-hour time frame. Due to the lack of adequate resources at hospitals, less than 2 percent of stroke victims actually receive the FDA approved medication for stroke. This contributes to the significant disability in the State. I propose A.B. 107 be passed to be proactive in the care of stroke patients.

ANNA SMITH, RN (Stroke Coordinator, Valley Hospital):

My intention is to go on record that we, at Valley Hospital, are supportive of A.B. 107. Ms. Hoban and I are coordinators for stroke programs. There are three primary stroke centers in southern Nevada and one in northern Nevada. We see a bulk of the patient population who suffer from stroke and heart disease. With reference to stroke alone, in our opinion, primary prevention is not happening. Prevention is not widespread, and it is a rather fractured system. The primary stroke centers work diligently to offer education to impact as many patients as possible, but that education is usually through secondary prevention once the patients have already shown up at our facilities and have received care for their stroke or heart disease. Because stroke and

heart disease are so linked with risk factors and disease process, vascular illness has been the number-one problem in the State for some time.

Having a fractured system poses many problems. If we can get a vascular committee to create one structured plan which all hospitals can use to impact their community and community resources, we can pull together. This can impact the primary prevention sector, so we can reduce the risks associated with stroke. A stroke is an everyday occurrence in many lives. We can talk about the numbers, but the most important thing is each day we see patients affected by stroke. We talk to their families. We see deficit and disability. We know that if they had known about the signs and symptoms, they could have sought treatment in a timely fashion and not be left with a disability. Disability is difficult for the stroke patients, their families, their communities and even the State. Moving toward a vascular advisory committee with one main plan would help all the agencies that are working diligently with patients.

MARSHEILAH D. LYONS (Committee Policy Analyst):

Assemblyman Ocegüera, you mentioned you wished to amend the bill to include the NSHE. Are you speaking about the health sciences system, a particular public health educator within the system or do you want to list the NSHE?

ASSEMBLYMAN OCEGUERA:

It may be the health sciences department, but please call them to verify the appropriate area.

LYNN O'MARA, M.B.A. (Health Planning Program Manager, Bureau of Health Statistics, Planning and Emergency Response, Health Division, Department of Health and Human Services):

The Health Division is empowered by A.B. 107 to seek outside funding to support the advisory committee. Until that funding is secured, we will do our best in whatever limited way we can to support the work of the advisory committee. We suggest the establishment of the advisory committee might better position Nevada to secure additional funding sources which would then support a more comprehensive vascular-disease program. We are finding that it is not uncommon for the federal government, particularly, to require that a state already have something in place before receiving funding. Having this advisory committee established in statute would go a long way to demonstrate

that Nevada is committed to a vascular-disease program. It would probably make us more competitive for some of those dollars.

The Health Division's Nevada Alliance for Chronic Disease Prevention intends to develop a comprehensive statewide chronic-disease plan. The planning process will allow stakeholders to identify diseases and conditions that share common risk factors. With the prevalence of heart disease, stroke and other vascular diseases, they would surely be included among those multiple-disease conditions.

SENATOR WIENER:

This bill mirrors well the fitness and wellness program. Having an advisory committee in place allows us to capture money. I would volunteer to assist on this advisory committee because the fitness and wellness program is going well.

On page 4, section 10, lines 32 and 33, in terms of entering into contracts for any service that is necessary, what do you anticipate as to how you might want to reach out to people about this?

ASSEMBLYMAN OCEGUERA:

One of the things we would like to do is get the information out, so the public-relations aspect comes to mind first.

SENATOR WIENER:

Today, we passed out the fitness and wellness program with the mandatory language and with the fine tuning we have learned as we have moved through the process. I would love to work with you on this advisory committee, if this bill becomes law, as I see both bills working extraordinarily well in a complementary fashion to create solid policy and practice for the State.

VICE CHAIR WOODHOUSE:

I will turn the meeting back to Chair Wiener.

SENATOR WASHINGTON:

Madam Chair, can we take a motion on A.B. 107 to amend and do pass?

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CHAIR WIENER:

Since I was not here for the entire proceeding, I will let the Vice Chair take the motion.

VICE CHAIR WOODHOUSE:

I would be happy to take a motion.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS A.B. 107.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR WIENER:

I open the hearing on A.B. 364.

[ASSEMBLY BILL 364 \(2nd Reprint\)](#): Makes various changes concerning the protection of children. (BDR 38-1092)

ASSEMBLYWOMAN APRIL MASTROLUCA (Assembly District No. 29):

Assembly Bill 364 makes several changes of court-ordered admission to certain children with emotional disturbances into a locked facility for treatment. In addition, it also requires each agency providing child welfare services to establish policies concerning their monitoring and use of psychotropic medication to children in their custody. This measure provides for a court procedure to determine whether to include an order for visitation with a sibling in certain decrees of adoption for children in custody of an agency that provides child welfare services. I have provided a comparison chart of A.B. 364 and a similar bill, S.B. 293, from Senator Cegavske ([Exhibit M](#)).

[SENATE BILL 293 \(1st Reprint\)](#): Establishes procedures for authorizing the administration of certain medication for children in the custody of certain agencies. (BDR 38-701)

On page 2, section 1, lines 3 through 25 and page 3, lines 1 and 2 of the bill, it describes the court-ordered admission of a child and a child who has been placed in a facility under emergency admission and how the court orders the

continuation of the placement of that child in the facility. The purpose of these provisions is to do tracking. We want to know how many children within our foster-care system are being administered psychotropic medications and for what reasons. We want to find out if the medications are being used appropriately and find out if there are better ways of looking at this. As residents of the State, we are the "parents" of these children while they are under the care of the State.

On page 3, section 3, lines 32 through 35, additional language has been added to say that if a child is admitted under an emergency admission to a facility, a petition must be filed no later than five days after the admission or the child must be released. This is to ensure that the children are being looked after and that they are not being left without someone finding out why they are there and seeing if that is the appropriate place for them.

On page 6, section 10, lines 44 through 45 and page 7, lines 1 through 14, deal with sibling visitation. When siblings are placed into foster care, the State has done a wonderful job and so have all of our child-welfare agencies in working to make sure, when it is possible, to keep siblings together. What inevitably happens though is a sibling will "age out" of the foster-care system. When that happens, it becomes difficult to keep that family intact. This bill provides that if the judge deems it appropriate when a child ages out of foster care, they can petition for visitation with their younger sibling in the hopes of keeping some semblance of family together.

Ms. MCCARTHY:

This bill went through the Assembly in a responsible manner. The amendment added to the qualities of it. As a private, practicing attorney, I have been appointed to a lot of the NRS 432B cases. Everything in this bill has affected children whom I have represented in the past and who I represent now. I am especially pleased to see section 10, pages 6 and 7, regarding the sibling visitation included. The NJA supports A.B. 364 100 percent.

CHAIR WIENER:

I will entertain a motion.

SENATOR WOODHOUSE MOVED TO DO PASS A.B. 364.

SENATOR NOLAN SECONDED THE MOTION.

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THE MOTION PASSED UNANIMOUSLY.

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SENATOR WASHINGTON:
Did we pass out A.B. 121?

CHAIR WIENER:
No, we did not. I was not here, so I did not hear the bill and on this Committee, we do not vote without the Chair being present.

SENATOR WOODHOUSE:
On A.B. 121, we did not pass it out. At the close of that hearing, I indicated it would go to work session.

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CHAIR WIENER:

With no further business to come before the Senate Committee on Health and Education, the meeting is adjourned at 4:10 p.m.

RESPECTFULLY SUBMITTED:

Betty Ihfe,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____