

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

**Seventy-fifth Session
February 23, 2009**

The Senate Committee on Health and Education was called to order by Chair Valerie Wiener at 3:23 p.m. on Monday, February 23, 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

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Mindy Martini, Committee Policy Analyst
Sara Partida, Committee Counsel
Maureen Duarte, Committee Secretary

OTHERS PRESENT:

Joni Eastley, Chairman, Board of Commissioners, Nye County
Scott Jackson, Division Administrator, Investigation Division, Department of Public Safety
Wes Henderson, Nevada Association of Counties
Glenn Savage, Director, Environmental Health, Southern Nevada Health District
Tom Roberts, Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association
Kayla Crowe, LMT

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

Kay A. Panelli, Social Services Chief, Division for Aging Services, Department of Health and Human Services

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

Tim Tetz, Executive Director, Office of Veterans' Services, State of Nevada

David Evans, Senior Chief Hospital Corpsman, United States Navy (Retired)

Jeanette Rae, Program Manager, Office of Veterans' Services, State of Nevada

Anne Loring, Washoe County School District

Joyce Haldeman, Executive Director, Community and Government Relations, Clark County School District

Keith G. Munro, Assistant Attorney General, Office of the Attorney General, State of Nevada

Ernest Figueroa, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General

Linda West Meyers, Chapel of Four Chaplains

Edward Gobel, Chapel of Four Chaplains

Warren Russell, County Commissioner, Elko County

CHAIR WIENER:

We will now open the hearing on Senate Bill (S.B.) 60. I will pick up where we left off in last week's meeting when the people in Las Vegas were evacuated from the Grant Sawyer State Office Building.

SENATE BILL 60: Revises provisions governing buildings, motor vehicles and other property that has been used in crimes involving methamphetamine or certain other substances. (BDR 40-542)

JONI EASTLEY (Chairman, Board of Commissioners, Nye County):

This bill will allow Nye County to make use of brownfields funding by providing guidance for law enforcement operation as it relates to communication and cleanup measures on multiple levels. We started working on this bill last July. We have developed a friendly amendment to this bill of which you have been given a copy ([Exhibit C](#)).

CHAIR WIENER:

On page 3, line 5, of the proposed amendment, there is additional language of "or chemical, biological, radiological, nuclear, or explosive materials." I am

curious as to what may have prompted the language to this measure that started out as "methamphetamine."

MS. EASTLEY:

I cannot answer that question, but there are individuals in the audience who can.

SCOTT JACKSON (Division Administrator, Investigation Division, Department of Public Safety):

The reason we wanted to expand the language to include the "or chemical, biological, radiological, nuclear, or explosive materials" (CBRNE) is to be able to look towards the future in regard to law enforcement efforts to reduce terrorism and incidents that may affect our homeland security. We felt that as long as we were providing language to amend the bill, we should address all of the law enforcement concerns that we may address in the future.

CHAIR WIENER:

It may take some substantial redrafting to make sure that we do this appropriately.

SARA PARTIDA (Committee Counsel):

Those words that were added in this amendment just need to be clarified and defined.

WES HENDERSON (Nevada Association of Counties):

The Nevada Association of Counties supports this bill and the amendments.

CHAIR WIENER:

Were you in the group that drafted the amendment?

MR. HENDERSON:

No, we were not. We relied on Commissioner Eastley. We support the amendment.

GLENN SAVAGE (Director, Environmental Health, Southern Nevada Health District):

We are also in support of the bill. We agree with the comments of Mr. Jackson concerning the future of our bioterrorism programs. We work closely with the U.S. Climate Partnership Association, the Las Vegas Metropolitan Police

Department and others to look at other chemical and biological issues that might confront us in the future. We would like to make sure that in this bill we have the opportunity to go forward with regulations which could address remediation costs or inspection costs incurred as a health district. We have worked in the past on the "meth lab" cleanups as well as other chemical cleanups. They can cost tens of thousands of dollars for the property owner or a body of government, and we want to make sure that we have that opportunity to seek legal remedies through the court system if necessary.

CHAIR WIENER:

Would that require an additional amendment or specific language about regulations, remediation or recovery?

MS. PARTIDA:

Some of that is already provided for in the existing *Nevada Revised Statutes* (NRS) surrounding the sections that are being amended, but we will look into that.

TOM ROBERTS (Las Vegas Metropolitan Police Department; Nevada Sheriffs' and Chiefs' Association):

We are in support of this bill as amended. We have worked closely with Scott Jackson and Nye County on that amendment.

CHAIR WIENER:

Has this been coming for a while or was it anticipated when the original bill was drafted?

MR. ROBERTS:

We were not part of the original work group. It has only been the last couple of days that I have worked with Scott Jackson regarding the concerns that we had with section 7 dealing with vehicles. That has been deleted. The addition of the CBRNE is a good idea with those being more prevalent in our communities with terror and antiterror efforts which seem to come up more than they have before.

CHAIR WIENER:

We will close the hearing on S.B. 60 and bring it back for a work session at a later date. We will now continue with the public comment on Medicaid. This is continued from the February 18, 2009, Committee meeting.

SENATE BILL 65: Revises certain provisions relating to advocacy for residents of facilities for long-term care. (BDR 38-330)

KAYLA CROWE, LMT:

Several months ago, my three-year-old daughter was fortunate enough to be accepted into the Medicaid program. For the first time, I could look at her and know that she was going to be safe and all of her health-care needs were to be provided. My concerns and guilt about being a mother were eased, because I knew I had helped her as much as I could. Over three years of much deliberation, my husband and I decided that we would get her vaccinated. When I started the process, I was hit with a brick wall by not being able to get a doctor to take her. No one who is signed up with Health Plan of Nevada through Medicaid will accept any new Medicaid patients. I have to wonder if Medicaid is nothing more than an emergency room (ER) provider and not a preventative health service. I am happy that when I did have to go to the ER, everything was taken care of. Now I need to make sure that she does not get any of these horrible "pathologies." We are still finding it difficult to provide her with that security. If there was anything I could do to make sure a doctor would see her, I would. I was told this was the forum to bring it to your attention that many doctors are not accepting the patients they signed up to accept.

CAROL SALA (Administrator, Division for Aging Services, Department of Health and Human Services):

I have prepared testimony that I will read ([Exhibit D](#)).

CHAIR WIENER:

As we become more electronic, with sharing of information, are you tracking access to the Website and how often the Website is visited? Do most people, resource centers and senior centers know they can access that information electronically?

Ms. SALA:

The Nevada Care Connection has become more and more known, but we are phasing that in as we develop our aging and disability resource centers, and that concept over the last year or so.

SENATOR HORSFORD:

I have a couple of questions about the training aspect of volunteers; S.B. 65, page 3, section 5, subsection 2, pertaining to training advocates. Exactly

who performs that training, how often it is done, and what are the parameters for those advocates, recognizing the important role fulfilled by a full-time ombudsman?

KAY A. PANELLI (Social Services Chief, Division for Aging Services, Department of Health and Human Services):

We have developed a certification process for ombudsman, 40-plus-hours of training, a training manual and different modules, DVDs and onsite training. We would narrow this down slightly for a volunteer ombudsman. They would not have quite the depth of responsibility as a paid ombudsman.

SENATOR HORSFORD:

What type of background check do you do for volunteers?

Ms. PANELLI:

Many states use professional doctors who have retired, retired nurses and people who are interested in getting back into a nursing facility setting, the medical-type setting. We interview and work out references, a very in-depth process, almost like hiring somebody. We are now reviewing the impact a volunteer program would have on our budget.

SENATOR HORSFORD:

How is this aligned with some of the hospital-reporting information that we are also working toward. Is this in alignment with that?

Ms. PANELLI:

Our long-term program is limited to nursing facilities, group homes and homes for individual residential care.

MIKE WILLDEN (Director, Department of Health and Human Services):

That Website is still in the process of being developed. That is the legislation that will put online hospital inpatient and hospital outpatient, ambulatory surgery center information—all that quality data that is being reported now to the University of Nevada, Las Vegas (UNLV), the Center for Health Information processing center. In fact, just today I saw the first draft of the potential Website. We will share that with everyone. It will be accessible to the public entirely. I am not sure whether that dovetails to the long-term care ombudsman process, but again, it will be available to everyone.

MS. SALA:

There is a new grading system for facilities, recently in the media, on the grade B nursing homes in Nevada. We have had questions from facilities and have been asked for our assistance, via our elder-rights advocates, to help change some situations to make higher grades the next round.

SENATOR HORSFORD:

In a case where there is an egregious abuse or accident with an elderly person in a long-term care facility, explain what the process would be either for advocates or ombudsmen, and how one would identify and ultimately address it at that particular point.

MS. SALA:

One of the structure changes in the program this last year was to separate family rights and investigatory duties, and turn investigations of elder abuse over to the Elder Protective Services. We receive reports from other kinds of persons, whether a family member, a facility person who sees something happening and then we start an investigation. We work very closely when something is serious and we also bring in the bureau of licensure and certification. We bring them into the mix as they have the "teeth" as far as sanctions for these facilities, and they work in tandem with them to resolve serious situations.

CHAIR WIENER:

We will close the hearing on S.B. 65 and bring it back later for a work session. We now open discussion on S.B. 71.

SENATE BILL 71: Revises various provisions relating to veterans. (BDR 37-325)

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

I have provided the Committee with a visual demonstration of what S.B. 71 attempts to carry forth, legislation that the veterans have asked for several times; i.e., to fix the variety of definitions of veteran, as in the NRS and to have one single definition of veteran. We are not trying to come up with wording that is a fanciful betterment, but merely refer to the federal wording, wherein the Department of Veterans Affairs (VA) gives veterans the majority of their benefits and make it the same under state laws. We, and the veterans who have advised us in preparing this legislation, felt that it was only fair to

offer them the same benefits under our State law that they are offered under federal law.

I have provided you with a document that basically outlines that we are trying to clarify the character of discharge so that it reads exactly with what the U.S. Code, Title 38, reads ([Exhibit E](#)). That federal definition of a veteran is the term "veteran means a person who served in the active duty military, naval or air service and who was discharged or released "under conditions other than dishonorable." The table that I have provided classifies this into three groups; the administrative discharges, from "Honorable" to "Under Honorable Conditions" and various wordings thereof, "Other Than Honorable" and finally "Bad Conduct" or "Dishonorable" have been adjudicated before a court of military justice and were found guilty under those and thus defined as such. Everything above that is a "muddy zone."

There is great disparity between service branches and even in the same service on what character of discharge you may receive; therefore, because of that, and as we discussed last time, we cannot change the federal law. The best way to do this would be to widen it to match the federal law. Again, everyone, with rare exception, who has anything better than a bad conduct discharge or a dishonorable discharge receives federal veterans' benefits; therefore, we feel certain they should receive their State benefits.

After our last meeting, I asked neighboring states who responded that either they were trying to fix it to one definition, as Oregon currently has a bill, or as our California counterpart responded, "They are fully using the federal definition." Those states already realize there is a problem as we have defined these over the generations, and certainly a problem as we look to today's soldiers.

The handout hopefully, in writing, says what I said last time, and I know there are a number of veterans who wish to speak for and against this bill. I realize there is an enormous fiscal note and I have been working with some folks to see if there is a way to phase this in where there would not be that enormous fiscal note. There are federal examples, namely, the concurrent receipt issue, which is a federal issue, where they offset disability pay with retirement pay, and where the federal government said, "We understand there is a lot to do here, but we cannot afford it right now." The federal government set precedence and said, "Let us phase this in over ten years and if there is a way

we can structure this and help those who need it the most now, we are going to try to figure out a way to amend the language."

SENATOR WASHINGTON:

My concern was the fiscal note. Do you have any idea, if this will go to the Senate Committee on Finance, what the numbers will look like phasing it in over ten years and how many veterans we are talking about, what the numbers are for the acute-care veterans. At least we would have an idea of what the numbers would look like for this policy.

MR. TETZ:

We have definite numbers to say we know how many veterans receive 100-percent disability checks right now. If we phase in the new definition and say those people would be able to take advantage of the 100-percent exemption, then we have the new definition and would work it down. We know the categories they are in, and ultimately we would be left with all those veterans who are not receiving any benefits. Their tax implication is a lot less, as it is a very minor deduction they receive. We are working out those details.

CHAIR WIENER:

Would you please provide that analysis to the Committee because that is a challenge for us this Legislative Session. We need to weigh in on the policy consideration.

SENATOR WASHINGTON:

Before we process this bill and send it on its way to Senate Finance, we at least have to look at those numbers. I am sure there are other states that have considered this and have changed the definition. I do not know if they have phased it in or not, but we need to get some comparisons as to what those numbers look like as well. I know it is a different population, but it gives us an idea as to whether to pass or not pass the bill based on what we see and the financial responsibility.

MR. TETZ:

Absolutely, I will do so. We have the model to look at in Oregon as a similar-sized state and veteran population. They had a similar complexity they were trying to deal with, so we will look at their comparisons and their models. They are not phasing theirs in, but we can obviously just prorate it out.

CHAIR WIENER:

We will attempt to work with new definitions, deleting certain time frames that were included with the original bill in 1953, addressing the armed forces members who went into combat zones as you articulated in your original testimony. There are some policy considerations that we will need to weigh in that was ongoing intent with the legislation from the beginning of this consideration. There are extensive policy issues for us to discuss as well.

SENATOR CEGAVSKE:

Yesterday, as I was leaving church, several members of my congregation who are veterans, my father was a veteran, asked me questions about S.B. 71 and said they were opposed because they already have funding from the federal government. Can you go over a little bit about some of the concerns? They were concerned about this legislation and again, they are all decorated.

MR. TETZ:

This has been haunting us since prior to my arrival in the Office, whether from veterans who were receiving federal VA benefits but were denied the State veterans' tax exemption or their veterans' benefits because they had a discharge of "general, under honorable conditions." Or, it would not even say "general" at times on some of the DD214s I have in my file, but would say "under honorable conditions." They said, "Wait a second, I receive my federal benefits and yet I cannot have the State benefits?"

We are talking about much less money and we need to address this. Moreover, in one of the tax exemptions there is a loophole where if you receive a federal VA benefit for disability you can get the State benefit if you go through the Department of Motor Vehicles (DMV), but you cannot receive State money if you go through the county, if you do not have a VA disability and only use your military disability. That was another one of those loopholes brought up to some of our membership who questioned the sensibility of them receiving federal funds but not State funds. That is not the way the law is written.

Those veterans who receive federal benefits are not impacted if they do not choose to receive their State benefits, but for those who, for some reason, receive federal benefits, but are ineligible for State benefits, this would allow them to do so. We are not broadening the definition to allow anyone who does not receive federal benefits to receive State benefits. We are merely trying to marry the two together. We, like you, have been approached by many veterans,

perhaps a dozen or so, who have e-mailed my office, called my office or the Governor's office, to say, "What the heck is up with this?"

We have put forth the document that I gave you today, [Exhibit E](#), and about half the cases have that, it is clear now, about trying to merely match the federal benefit but are not trying to get anything more than the federal benefit. There are a few others, though, that do not agree with that. Inasmuch as that pains me, they are looking at it from a personal perspective. When you see veterans across different eras, there is just no uniformity across eras or across service branches, to be so narrow as to say, "This is it." That is why the VA has broadened the definition so much.

DAVID EVANS (Senior Chief Hospital Corpsman, United States Navy-Retired):

A copy of my prepared text has been given to the Committee ([Exhibit F](#)). I most strongly urge you to favorably consider the proposal for redefining "veteran" and seek passage of S.B. 71, aligning the definition of veteran with the federal definition and qualifying Nevada veterans to receive all available State benefits.

JEANETTE RAE (Program Manager, Office of Veterans' Services, State of Nevada): I serve as supervisor for all of our veteran service officers, statewide. I would like to give you a little bit of my personal background. I am a retired Master Sergeant from the United States Air Force Reserve, having served on active duty, and then subsequently in the Reserves, for a total of 24 years' service. During my career in the Reserves, I was a career advisor and a career counselor. I helped individuals with their military-service decisions as to whether or not to stay in the service, and to help them accomplish that if it was their desire. For me, that career path was part of the personnel career field in the Air Force. I have seen, in both my military and now civilian careers, probably tens of thousands of DD214s.

We, at the Office of Veterans' Services, are currently the only organization, as we represent the American Legion in our function, which assists veterans with discharge upgrade packages. The other service organizations do not perform this function. Again, we also get to hear first-hand the personal stories of those individuals who had a less than honorable discharge.

One case I would like to relate to you is a veteran who was discharged just recently from the Naval Air Station in Fallon. Scott lives in Fallon, and came to

me for help with his discharge upgrade. His discharge was "under other than honorable conditions." This veteran has served three terms with the U.S. Navy, honorably. He went to Iraq, is decorated and has a Purple Heart. During his period of time, part way through his tour in Iraq, the Navy changed its regulations and made it essentially illegal for a service member to have a tattoo that could be seen. This individual was told that he had to have that tattoo removed. He said he would be happy to if the Navy would help him pay for it, as laser removal costs thousands of dollars. Since he had recently returned from Iraq, he did not have those kinds of funds available to him. Through working with his doctor, and the command, the doctor said that she could not really see the tattoo when he was in proper uniform, but for some reason the commander wanted to make an example with this new law. He was discharged without the opportunity to fight against the discharge. He was discharged for "other than honorable conditions" because of not being able to remove that tattoo.

There are many circumstances that we hear that are similar to this. That is why we would just ask that Nevada's definition mirror, not change, the federal definition. We deal with it every day. We help veterans with "other than honorable discharges" get their federal benefits every single day. We have talked about hundreds of thousands of "bad-paper discharges" out there, and there really are not. One of my staff volunteered and did a cursory review of all of our discharges in 2007, and there were only four bad-conduct discharges at all in 2007. There were only 131 "general under honorable," and even fewer that were "less than honorable." It is really a small segment we are talking about, but one thing I have noticed as I was reviewing these DD214s was the disparity in how these discharges were meted out. Our last speaker tried to show you that even between the services what clearly was the same offense for one service would be given as "general under honorable," and in another service, "less than honorable."

CHAIR WIENER:

We have a bill draft request before us for Committee introduction as we are on a deadline here.

BILL DRAFT REQUEST BDR-40-808: Revises provisions relating to emergency services and care. (Later introduced as [Senate Bill 157](#).)

SENATOR HORSFORD MOVED FOR COMMITTEE INTRODUCTION OF
BDR 40-808.

SENATOR WOODHOUSE SECONDED THE MOTION

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

We have three bills on the work session document. We have heard these bills and we will have a brief overview from Mindy Martini.

[SENATE BILL 19](#): Revises provisions governing the award of grants of money by the Commission on Educational Excellence. ([BDR 34-302](#))

MINDY MARTINI (Committee Policy Analyst):

As you will recall from the hearing on February 9, 2009, [S.B. 19](#) contains the Commission on Educational Excellence giving first priority to applications for summer school, including transportation, to those eighth grade students who have been promoted to ninth grade while on academic probation. Two amendments have been proposed on behalf of Washoe County School District (WCSD) ([Exhibit G](#)). An explanation of the amendments is broken down on page 3 of your document [Exhibit G](#) and the amendments follow.

SENATOR HORSFORD:

Is the option either to go with the amendment on page 4, or the preamble on page 5?

CHAIR WIENER:

It would be either to amend [S.B. 19](#), keep it as-is, amend it with the amendment offered by WCSD on page 4, or we could replace it with a resolution that is offered on page 5 [Exhibit G](#) also proposed by WCSD. This is not a preamble to the bill, it would be a substitute resolution in lieu of [S.B. 19](#).

MS. MARTINI:

You are absolutely correct.

SENATOR HORSFORD:

The interim Legislative Committee on Education had a lot of discussion and there is a reason the bill was brought forward. I do not support the resolution approach as I think that waters it down to the point of not making it

"impactable." I would support the amendment on page 4 to give priority to applications to establish or maintain a program of remediation including, but not limited to, summer school.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 19.

SENATOR WOODHOUSE SECONDED THE MOTION.

SENATOR WASHINGTON:

I sat on the interim Education Committee and we were specifically targeting summer school students, seventh and eighth graders, who were moving toward high school. I am opposed to this language that WCSD has just brought before us, "remediation including, but not limited to summer school." I think this expands the scope of what we were trying to do and I do not know what the fiscal cost would be. I think there are other provisions for remediation. This bill is specifically targeted at those students that were moving into high school and fell a little bit behind, so I support the bill as it is currently written.

SENATOR CEGAVSKE:

I talked to Senator Raggio because he was very vocal about the issue of making sure these kids graduated. He was hoping there would be a group of people that would come together and find another solution, or another recommendation, but I know he is adamantly opposed to this. I might say that one issue brought to my attention, from Clark County, was their concern that it is just for the seventh and eighth grades. They believe that if you go to second and third grades there are students that you could help at that age, before they get up to the sixth and seventh grades. I am torn over this, because I totally understand where Clark County is coming from and I understand the State's desire to get our drop-out rate taken care of.

I do not think that we have come to a good compromise yet. This concerns me, but again, this is my opinion, that we have not come to that point. Do we know if there is any money for the Commission on Educational Excellence this time? Maybe somebody who sits on that Commission would let us know. I understand the money is not even there. I personally would like to see it go back into the teacher training programs that we have.

ANNE LORING (Washoe County School District):

The comment from Senator Cegavske about helping students in the elementary grades is critically important. You will notice that either alternative, but specifically the amendment, speaks to that section of the grant money that is secondary money, assuming there is any money in the program at all. Since the program was founded in 1997 or 1999, there was originally high school remediation money and secondary remediation money in the grant program, and then it was added to and expanded by former Governor Guinn with S.B. No. 404 of the 73rd Session.

The money has always been separated between secondary and the other money which was available across the board. This bill speaks to the Grades 7 through 12 funding, should there be any. Presumably, if there is funding, it would be elementary school funding also. If you look at page 4, line 38, "To the extent money is available ... for grades 7 through 12 ..." it would also give priority to programs of remediation." The concept there was to try to catch students before they got to academic probation.

SENATOR CEGAVSKE:

You did not spell out that it was for any one grade, you just put a blanket word that would encompass any grade.

MS. LORING:

The original bill was directing the secondary funding.

SENATOR CEGAVSKE:

What I thought you were saying is that your amendment, which I do not see, was allowing it to go to the elementary. Is that not what you are saying?

MS. LORING:

I am looking at my version of the amendment.

MS. MARTINI:

On page 4 of the work session bill, the amendment presented by WCSD says it does not have anything to do with elementary. It is just seventh and eighth grades, and that money will be just for secondary schools.

MS. LORING:

The amendment is expanding on just summer school for help to middle school students going to high school and to expand it to tutoring and other things in seventh and eighth grades. The reason we were asked why we added seventh grade instead of just eighth grade is because there is a requirement that middle school students must pass successfully three semesters of English and math. If a student fails two semesters in seventh grade, they have already missed the boat. That is why we have expanded it to seventh grade.

SENATOR CEGAVSKE:

Were you not including the elementary grades at all? Was that not anything that you wanted to do from Washoe County?

MS. LORING:

We were trying to offer an amendment that would broaden the application and the funding should it be given first priority in middle school. We also offer the alternative of the resolution about the philosophical discussion of prioritizing money that was originally intended to be given to any level of school, to empower them to use the money as they thought appropriate.

JOYCE HALDEMAN (Executive Director, Community and Government Relations, Clark County School District):

I want to read a statement that I prepared ([Exhibit H](#)).

In my conversation with Senator Cegavske, I used an example that relegating the funds to middle school might not be the most effective use because of the possibility of catching students earlier. Anytime you put a group of educators in a room and ask them what is going to affect their population, they are all going to have a different answer because all of them have different needs.

I am truly supportive of the middle school programs. I think they are important and we need them. If we had a parade of people here talking about the things they use their grants for, I would be equally supportive of those things as well. It is too bad we are not in the position that we could have a bill to specifically set up a summer school fund so these things could be done for middle school students. In place of that, I respectfully request that you allow the flexibility to stay there because that is what has made these grants so successful and so attractive to teachers and school districts.

CHAIR WIENER:

We have an amendment before us proposed by Washoe County that would include seventh and eighth grades, remediation which would include a summer school option, and the flexibility to use basically the best programs possible based on what has been learned in the field. Does the Clark County School District support the amendment to the bill that we are considering?

MS. HALDEMAN:

I would like to go on the record that flexibility is the most important thing, next to the money itself that makes this program so successful. I am not saying that people would not use it for this purpose, I think that a lot of people would. I just think, especially with the temptation during this particular Session, because the money is so limited, it is misdirected to target it at certain things. I am worried about setting a precedent. If we take away the flexibility of the grants, which is what makes it so great, and start earmarking it for different things, then we have gone back to what we used to do before.

SENATOR HORSFORD:

I appreciate this discussion and dialogue; however, I would like to provide some additional context to the discussion. Last Session there was a bill to mandate remediation at the middle school level because of the issue with students who were not able to advance to high school. Even with the provision from S.B. No. 312 of the 74th Session which allowed them to promote to high school on academic probation, there was recognition that they needed a remediation component first and foremost in order to continue to advance and earn their credits.

In the case of Clark County School District, the single grade level that has the highest number of students not earning their credits to advance is eighth grade. It seems to me this language, simply and through the recommendation of the Legislative Committee on Education, prioritizes their funding. It does not make it prohibitive to use the funding beyond what teachers or schools would deem appropriate, that flexibility still exists—it simply states that the priority be for remediation, including but not limited to, summer school. Unfortunately, because of the time that we are in session, and the fact that we have, in previous sessions, mandated a remediation program, the least we could do at the State level is to provide funding through this program to schools for that purpose. Without it, I am fearful that we will have a hodgepodge approach to a solution that is very specifically directed by legislative intent. If students must

earn the credits to advance, then we must equip them with the resources to do so, and I think that is what this bill does. Now, we have a real broad spectrum of viewpoints where we want to prescribe summer school in the initial bill. Then, you want full flexibility. I think the compromise is in the middle which is to say the focus should be on remediation and that it include summer school. Not that this is the only mechanism by which students can attain remediation. I just wanted to add some additional context to why this is important from a student's perspective. They are the ones that ultimately, if they are not on track to graduate, are going to lose out by not earning their high school diploma.

SENATOR WASHINGTON:

I am a proponent for flexibility if the school district needs it. We pigeonhole most of our school districts into programs that may not be of service to the students. On this particular issue, and aside from the flexibility, it was earmarked because of legislation that passed last Session dealing with seventh and eighth graders that were moving into high school, and were behind and did not have enough credits to move into high school. Therefore, this particular legislation came to be so we would focus on those students during the summer.

I understand what you are saying but the language, as I read it, does not read that way. It says programs of remediation, including but not limited to summer school, which gives some flexibility but takes the focus away from those students that are trying to move from middle school to high school. Those are the students that I am really concerned about because they lag behind. If they are not caught up in academics or in their credits by the ninth grade and complete the ninth-grade courses, they have either decided to drop out of school or are misfits and we have more problems than are necessary.

I think this language could be "re-crafted." Where there is an emphasis on summer school, those middle school students moving from middle school to high school and are behind, we need the ability to use whatever remedial courses are necessary to catch them up to their grade level. This is not good language and it should be reworked.

CHAIR WIENER:

I have worked with Ms. Loring and have made some suggestions. It does not preclude summer school.

SENATOR WASHINGTON:

It takes the emphasis off summer school and moves to remediation, including but not limited to summer school.

CHAIR WIENER:

It was in the initial legislation about some extraordinary programs offered by WCSD that address the concerns associated with the eighth grade. We have expanded it, based on Ms. Loring's research, to the seventh grade as well, so they do not lose those credits.

SENATOR WASHINGTON:

Can we hold this bill over so I can speak with Ms. Loring, because I do not want to lose the emphasis on summer school?

CHAIR WIENER:

Maybe in conversation we will be able to expand on some of her points as well. We have a motion and a second. We need to take a vote.

SENATOR HORSFORD:

I think debate is good. At some point, we have to make a policy decision and we may not all agree on the approach. Senator Washington is right in the instance where summer school works as an option, for example, in Washoe County, which has a very effective truancy program. Some of the reasons the students are not earning their eighth grade credit has to do with truancy, not competency. Just putting them in a summer school program may not work for a group of students who actually need to be picked up, and whose parents need to be told that they need to sit in the class for 180 hours to get their required course work completed. That is where I think flexibility needs to be within remediation, not within one prescribed approach for remediation. Again, we need to have a debate so that we can arrive at a consensus that allows members of the Committee to work with the stakeholders, but in the end we need a policy that focuses on remediation. This is something that the Legislative Committee on Education spent a lot of time working on, and there needs to be a bill processed that deals with that component.

CHAIR WIENER:

My conversation was not to just narrow down to the one option of summer school but to come up with best practices or evidence-based practices.

SENATOR WASHINGTON:

My concern is maybe because of truancy or whatever, the focus of summer school is secondary to remediation. I am looking for language that still has a focus on summer school, then coupled with new courses of remediation to get that student to the next level. I want summer school to still be the central focus.

SENATOR HORSFORD:

I would support delaying action with the understanding that remediation needs to be the focal point for whatever comes back in our future work sessions. I do not disagree that summer school should be one approach. If we put emphasis on any one particular approach, then we are missing the mandate on remediation which the 2007 Legislature basically imposed on the districts. If students cannot be promoted from grade to grade in middle school, and particularly high school, and need remediation, that ultimately needs to be the priority for how these funds are used. I will withdraw my motion and ask that this be calendared for an additional work session, but I hope that when it comes back we have language that follows through on the intent around remediation.

SENATOR WASHINGTON:

It is not to kill the bill; I think we are trying to get to the same place. It may be one's desire to prioritize what is important or not important. I am not saying remediation should not be included. I want to make sure the emphasis on remediation is something we can work through, yet not to lose emphasis on remediation coupled with summer school, so that summer school is not left behind as the secondary option.

SENATOR HORSFORD WITHDREW HIS PREVIOUS MOTION TO AMEND
AND DO PASS S.B. 19.

SENATOR WOODHOUSE WITHDREW HER SECOND.

CHAIR WIENER:

We will reschedule S.B. 19 into another work session.

[SENATE BILL 20](#): Revises provisions governing education. (BDR 34-300)

CHAIR WIENER:

We will not open [S.B. 20](#) until further work can be accomplished. We will now open [S.B. 21](#).

[SENATE BILL 21](#): Revises provisions governing the sale or offer for sale of certain food, drugs and other commodities after the date of expiration for those products has passed. (BDR 51-260)

MARSHEILA LYONS (Committee Policy Analyst):

The Committee heard testimony on this measure on February 13, 2009, and an amendment was submitted by Ernest Figueroa, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General. That amendment is listed on pages 13 and 14 in the work session document, [Exhibit G](#).

CHAIR WIENER:

If you recall, the bill was much more expansive than the amendment. There is clarity on over-the-counter drugs versus all drugs. You will also notice that there is an intent standard that has been introduced into the amendment.

SENATOR CEGAVSKE:

I asked whether or not this could be handled under the Health Division. The county district already does inspections and checks for outdated milk and dairy products. The Attorney General's office told me they did not foresee this being a "money cost project." I asked if they were looking at doing "stings" or how they were going to find out. They told me it would be through complaints which brought me to some other concerns. Who is penalized for the sale? Is it the store clerk, store manager or owner? What would the penalty be: a fine, criminal record, or jail time? What would happen?

What if the customer brings back something to the store that is out of date or they have it for a long period of time and say they got it from that same store, but it is out of date because they kept it. How does the store know that? Is the jurisdiction the police, local health department, or the Attorney General? They stated all jurisdictions would be involved. When asked how it would be enforced, that was when I went back to looking at possibilities of utilizing the local health department, without the penalties. I asked them what would be the

time frame, what about the products with unreadable codes, what about the vendors or the people coming in to stock the shelves? What about donations to charitable organizations? There are charitable organizations that will take items that are out of code, keep them for a period of time and then give them to homeless programs and charitable programs. All of the aforementioned are important issues for me.

I am not trying to dismiss the importance of the baby food and the drugs. Brenda Erdoes, Legislative Counsel, points out in the amendment that the owner is responsible for selling the outdated goods if the sale of the outdated goods was done knowingly and willfully. That is the standard where the owner or his agent, the sales clerk, knows that the goods are outdated and for financial reasons does not cause them to be removed from the shelf. The penalties for violation are civil penalties up to \$10,000 and the criminal penalty is up to a Category D felony. In the material that I gave her, which is our work document, there was no answer to the questions that I have asked, and that is why I wanted them on the record. I would invite the Office of the Attorney General to come forward. Again, I know there are people who do bad things, but are we penalizing more than not?

KEITH MUNRO (Assistant Attorney General, Administration, Office of the Attorney General):

Senator Cegavske and I agreed that if someone knowingly sells baby formula or over-the-counter drugs that are expired, someone could get hurt and there should be a penalty. I think the crux of our disagreement was that Senator Cegavske thought that presently one can be penalized. We have looked to see if there might be a hole in our State laws, that knowingly selling out-of-date, over-the-counter drugs or baby formula does not warrant a penalty. We are trying to step into that gap to make sure there is a penalty and there is a scheme in place stating Nevada does have a policy that those actions are not good. I think there are a lot of concerns raised, but I am not sure there might have been some clear questions.

CHAIR WIENER:

We are in a work session. Senator Cegavske, so that your concerns are resolved, do you wish more meeting time with Mr. Munro and Mr. Figueroa?

MR. MUNRO:

I heard Brenda Erdoes' statement to Senator Cegavske and I do not mind if that is part of the record. I agree with her analysis of the bill.

SENATOR CEGAVSKE:

I also asked Sara Partida, Committee Counsel, if she could find anything that would help with this discussion. What is on the records now that could help the Attorney General's Office? I am perplexed at the magnitude of trying to figure out if it is the store clerk, the owner or the vendor who is going to be charged with this, knowingly, and how to prove it. If you are on the defense, you are the one who has to get an attorney, and you have to prove whether you did not do it knowingly or willfully.

SARA PARTIDA (Committee Counsel):

I have been unable to identify what I believe Senator Cegavske has been asking. I will continue to look into that and get back to the Committee.

SENATOR NOLAN:

A Category D felony is potential prison time, I believe, up to a year, or six months to a year.

ERNEST FIGUEROA (Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

The Category D felony, the deceptive trade practices statute, is a three-tiered, "three strikes and you're out" law, before you get to the Category D felony. The first offense is a misdemeanor, the second offense is a gross misdemeanor and the third offense is a felony.

SENATOR NOLAN:

Within the State, the framework of the law looks at having their license revoked, in addition to any civil penalties that they are going to have to sustain if there was someone who was injured as the result of deceptive trade practices, right?

MR. FIGUEROA:

There is a remedy under deceptive trade practices statutes for suspension of business privilege; however, that is not an automatic remedy. Every remedy that the Attorney General will seek will have to be approved by a judge, and go through a formal legal proceeding before we even get to that point.

CHAIR WIENER:

It seems that we have some additional concerns about this bill and it is not ready for the work session as we had anticipated. I will reopen public comment on S.B. 71.

MS. RAE:

I will summarize very quickly our intent of wanting to have the State definition of veteran mirror the federal definition. We want to make it as equitable to receive benefits on the State side as it is currently on the federal side. I know emotions run high and some will possibly try to make you believe every single person given a less-than-honorable discharge is some kind of crazed felon, and has done something so heinous that they should never be granted anything or hardly even be looked at again. Maybe there are some very serious offenses that go to the punitive stage of the court martial version, and they get those discharges accordingly.

Because the services do not mete out these discharges with any kind of consistency, either between the services or even between commands within the same service, that is why we feel strongly that we should at least have the federal definition the same as the State definition.

LINDA WEST MYERS (Chapel of Four Chaplains):

In 1953, when Nevada's property tax was first enacted, it was a State benefit. It was the State's way of thanking those who served with an honorable discharge in time of war. It is simple, straightforward and the language and dates delineate those times of service up through the Vietnam War. After Vietnam, they started to include actual theatres of service, the actual areas of the war as well. It is a very simple way that our State says thank you to those who stepped up to the plate, served steadfast with honor and integrity, met the challenge and earned their honorable discharge, did not fall short, did not slack off, protected their honor and integrity, and protected this benefit through their actions and their service as evidenced by their honorable discharge.

I have been approached by several veterans who are honorably discharged and have a lot of concerns that changing the definition of veteran in this fashion would serve to dishonor their service and integrity. For many reasons, aside from the financial implications of the bill, we oppose this bill

ED GOBEL (Chapel of Four Chaplains):

I am past commander of an American Legion Post and a lifetime member of Disabled American Veterans and Council of Nevada Veterans Organizations. I am not speaking for those groups at this time. I just want to briefly touch on the presentations ([Exhibit I](#) was Exhibit F in the meeting held on February 18, 2009, of the Senate Committee on Health and Education) and an idea of why we came up with our exhibits. It is a very simple bill. The original intent of the bill in 1953 was for those who had earned an honorable discharge, veterans returning from actually serving in the war, to receive the benefit. After Vietnam, it came under Public Law 102-1 which added the additional requirement of being in the theatre of operations, mostly because there was a difference between Vietnam and the end of conscription and future wars. One had to not just be in the service voluntarily but also had to have served in time of war. There is no federal benefit that correlates whatsoever with this bill. This is a veterans' property tax exemption which the federal government does not give, nor does it address.

Forty-seven of fifty states require an honorable discharge for all the benefits, including Oregon. Two other states have one benefit they allow for general discharges and one state has most benefits allowed except for burial, where they have to have an honorable discharge. We are talking about something that adds \$100 million over two years to the State budget, for what purpose?

My exhibit, [Exhibit I](#), shows the five basic discharges for all the services. They are not difficult to understand, but discharges are earned upon completion of military obligation. There is no difference between someone who received a medical discharge for various reasons.

I have post-traumatic stress disorder. I was discharged from the military and have an honorable discharge. I served in Vietnam and am a decorated veteran. There is a member in this Legislature who has a similar situation. There is no inconsistency in the definition of veteran throughout the NRS. Today, we have been talking about it not including people with bad conduct discharges, yet in the bill it includes anyone who does not have a dishonorable discharge. It is all convoluted. I do not have the answer to that. The Research Division used it in 1999 and 2001 when we passed the first increase in the veterans' property tax exemption since 1953. It was discussed that Nevada did not give a cash bonus

to veterans upon returning home from the war. They decided instead to give the veterans a property tax exemption.

In 1953, it was hoped that all the property tax would be done away with by this benefit, especially for disabled veterans. It did not work out that way when you do not increase it for 48 years, but we did get it passed in 2001, doubled it over 4 years, then applied the consumer price index thereafter.

It is not a federal benefit. The federal government does not give out property tax exemptions. Forty-seven of fifty states do similar things and none of those forty-seven states allows for anything other than an honorable discharge. An honorable discharge is earned. Over 90 percent of the people who serve in the service earn it. Are the military branches of the service bureaucratic, are they hardwired into chain of command? You bet! That is something we need in America in order to carry out our mission and try to return as many people back alive that we can.

I am very proud of the veterans' property tax increase of 2001. At that time, it was clear that we discussed the intent of the bill, everybody agreed with it, and that is what we have had since time immemorial.

The consequences of S.B. 71 are very easy to understand. Clark County School District alone, just by the fiscal note that has been changed by the Legislative Counsel Bureau (LCB), would lose \$40 million over the next two years, and more as time goes on. The additional veterans eligible for benefits would number 270,533. Our protracted budgetary costs are allocated in page 4 of our presentation [Exhibit I](#).

The original assumption of the LCB fiscal note was that all veterans would only take the property tax exemption from DMV, the governmental services tax (GST) because that was the highest rate. Churchill County gets a little bit higher rate. That was a misunderstanding because now in many of the counties they split it between the GST and property tax exemption. There is actually a higher benefit. We tried to provide clarity, because, like I said, "medical discharges do not remain medical discharges." The only period of service used to be six years: two years active duty, two years active reserve and two years inactive reserve. At the end of that, your medical discharge becomes honorable, general, other than honorable, bad conduct, or dishonorable [Exhibit I](#).

WARREN RUSSELL (Board of Commissioners, Elko County):

In Elko County, we have no objection to helping veterans, including tax abatements or government services. We have striven to get a full-blown clinic in the City of Elko to serve veterans in our area. There is an estimate that we have 5,500 veterans in our county; only 1,100 of them have signed up for the tax abatement. I can hypothetically think of a reason why the veterans would not sign up. Certainly, part of it is educational, maybe they are not informed, but there is a spirit within a veteran that says, "I really do not deserve that ... there are people who have served alongside me who have had injuries, difficulties and more crises and problems in their lives, who deserve it more than I do," and there is that spirit.

Recently, I have talked to a few folks who have said that if they received this abatement, they will give it to the VA hospital in Las Vegas. This feeling relates to the sense of honor among veterans; for example, one of the worst things you could do as a veteran would be to wear a decoration that you did not earn.

There are a lot of veterans who totally despise that person who is trying to be accredited with that honor. When we hear the word "honor" as a veteran, we do not hear the word "honor" in honorable discharge. The word has content, it is not just an empty word that kind of hangs out in the air. To hear that someone has an honorable discharge means something to most veterans.

When we have given someone else a phrase of "thank you," as tax abatement or certain services that are available, it is given to them because they have served in an honorable manner. The word means something.

I will close by saying I am a politician also, and I am on the budget committee for Elko County. I looked for some facts to bring to you and the best I could do was Churchill County. They consider that the impact of this bill will be roughly \$400,000 to their county, if everyone accesses it.

You do not want to say, "I am going to do something honorable by reaching out from behind the State Legislature and taking it out of someone else's pocket to give someone a 'thank you.'" If you want to honor veterans, you do it out of your own pocket, as a Legislature. We are going through our struggles, too.

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CHAIR WIENER:

There being no other business for the Committee, the meeting was adjourned at 5:33 p.m.

RESPECTFULLY SUBMITTED:

Maureen Duarte,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____