

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

**Seventy-fifth Session
April 10, 2009**

The Senate Committee on Health and Education was called to order by Chair Valerie Wiener at 12:42 p.m. on Friday, April 10, 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:

Tom Morton, Director, Clark County Department of Family Services
Jack Kim, United Healthcare; Nevada Association of Health Plans
Molly Conklin, Vice President, Ferraro Group
Anne Loring, Washoe County School District
Frankie McCabe, Director, Special Education, Elementary and Secondary
Education School Improvement Programs, Department of Education
Charles Duarte, Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services

CHAIR WIENER:

Senator Cegavske has requested that we move one bill out of order, and that is Senate Bill (S.B.) 293. Please keep in mind this is a work session and only if the Committee needs additional information will we be calling people forward. This is not to take testimony unless we need it to process the legislation; again, we have 15 measures and this is the final pass on these bills in this form, in our House, and we will do the deliberation we need to do on the measures.

SENATOR CEGAVSKE:

If Committee Policy Analysts Marsheilah Lyons and Melinda Martini who worked with us on the amendment went through it, then we could have Mr. Morton respond and explain where we are. The amendment before you has been agreed upon by all parties, State and county. We feel very good about where we are going with this and we appreciate staff being very diligent with this issue.

CHAIR WIENER:

We will begin the hearing on S.B. 293.

SENATE BILL 293: Requires a court order for certain prescriptions of medication for children in the custody of certain agencies. (BDR 38-701)

MARSHEILAH D. LYONS (Committee Policy Analyst):

The Committee should have before you a mock-up copy of the proposed amendment 4232 to S.B. 293, section 1, subsection 1 ([Exhibit C](#)). One of the agreed-upon provisions was to remove the reference to "a physician may prescribe" and relate to the child welfare services agency that works with that child to allow them to be the authorizing administrator of psychotropic medications for children. That again takes place in section 1 with provisions related in subsection 1 throughout to address that issue.

It also requires that consent be obtained for the administration of those drugs and includes specifying the types of information to be included.

In subsection 2, it makes sure the parent or legal guardian of the child who has the authority to make the medical decisions for the child has the right to refuse the consent of the prescriptions if the child is under the age of six or the child is being prescribed more than five psychotropic medications.

Subsection 3 contains the provision that allows the agency which provides child welfare services, if they believe a psychotropic medication must be administered to a child, may, on behalf of the child, file a petition with a court of competent jurisdiction to authorize the administration of those medications. The subsection also includes the provisions that the petition must include.

There was some question about the term "behavior" and whether that was appropriate. Some from the medical profession felt that "symptoms" would be a better descriptor, so that was changed.

Subsection 5 allows provisions for the foster parents to be involved in the medication process.

Subsection 7 provides an exemption for emergency services for a child who is in the custody of an agency which provides child welfare services. If the child is admitted to a public or private mental health facility, the facility can immediately respond and be able to give the child appropriate medications.

Section 2 has the provision that if a parent or legal guardian fails to respond to a request for permission to administer a medication, the agency which provides child welfare services may authorize such administration without the parents consent. Section 2 also requires agencies to continue to look at the issue and come back with recommendations on the best ways to address some of the concerns related to the prescribing of psychotropic drugs to children in the child welfare system.

CHAIR WIENER:

Senator Cegavske, is Mr. Morton ready to respond to questions?

SENATOR CEGAVSKE:

He will give a brief overview from the perspective of the county and then what he has heard from the State.

TOM MORTON (Director, Clark County Department of Family Services):

We have worked with Senator Cegavske to modify the language of the initial bill in several respects. Largely, as staff has pointed out, the bill will place responsibility on the child welfare agency for seeking parental approval while parental rights remain intact. They asked for inclusion of additional language which would authorize the child welfare agency to proceed in a timely manner if

parents do not respond within five days. That is not currently in the amendment.

We would like to make clear that if parents do not consent or do not respond in a timely manner, the child welfare agency would be authorized, or at least be legally eligible, to provide authorization for medication for children who are six and over, or children who have been prescribed five or fewer psychotropic medications.

SENATOR HORSFORD:

I agree with the language in the amendment. I have one technical question for Mr. Morton. For those children who are removed because of the threat of serious harm, do you have to ask that parent for permission? Help me to understand how that would work. When you are in the process of removing the child, and it is determined that the child needs these medications, do you have to ask the parent who potentially caused harm to the child to agree to the prescription being provided?

MR. MORTON:

Yes, in part. As long as we are working toward the goal of reunification, our philosophic position would be that we would like to keep parents, who still have a legal responsibility for their children, involved in making decisions regarding the child's best interest. I certainly recognize your concern about the parent who has caused significant harm, but the bill does provide a number of back-up provisions, should that parent make an unwise decision, in our opinion. We can authorize for older children and children on fewer drugs, and seek the court's authorization for younger children.

SENATOR HORSFORD:

Is it just the court's approval for under age six?

MR. MORTON:

It is children under the age of six or any child who is being prescribed more than five psychotropic medications, as the bill is drafted.

SENATOR HORSFORD:

There are additional options available in the event that the parent who caused the harm is irrational or does not want to sign. You can pursue other means including the court, if necessary.

MR. MORTON:

I have talked with my colleagues at Douglas County and Washoe County Family Services. We have proposed that if a parent has failed to act responsibly within five days, we can proceed. In most of these instances, they are nonemergency. We have also added provisions for emergency admissions to a psychiatric facility. The facility is able to proceed with medication as they deem necessary, but for the affected population under the age of 6, and a child prescribed more than 5 drugs, a court review would still be required within 21 days.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 293 WITH PROPOSED AMENDMENT 4232.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR WIENER:

We will now open the hearing on S.B. 318.

SENATE BILL 318: Provides that tuition at all campuses of the Nevada System of Higher Education must be free for certain veterans. (BDR 34-744)

MINDY MARTINI (Committee Policy Analyst):

In the last work session, the Committee did not make any decisions concerning this bill. There is an amendment submitted by the Nevada System of Higher Education ([Exhibit D](#)). It clarifies that this would pertain to members currently stationed in Nevada, and veterans of the United States armed forces who were honorably discharged or separated from service under conditions other than dishonorable or who were on active duty stationed in Nevada at the time of discharge. This also includes those stationed at the United States Marine Corps Mountain Warfare Training Center at Pickel Meadows, California (Pickel Meadows).

CHAIR WIENER:

In S.B. 71, Tim Tetz, Executive Director, Office of Veterans' Services, referenced an inconsistency in the legislation referring to honorable discharge. Though this says honorable discharge, it also then says under conditions "other than dishonorable." Is there reconciliation at some point, if S.B. 71 goes through, as to the distinctions here? We have had a lot of testimony on these two different ways to phrase the discharge requirements.

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

SARA PARTIDA (Committee Counsel):

I believe S.B. 318 is inconsistent with S.B. 71. As far as what happened with some of the other bills this Committee has already processed, there was no consensus as to how the discharge question was handled, so the Committee needs to make a policy decision for this bill.

CHAIR WIENER:

Section 1, subsection 2, paragraph (g) of the proposed amendment refers to honorably discharged or separated from service under conditions other than dishonorable. That has been a consideration of the Committee in the past several weeks. Those are just my thoughts on wordsmithing as to what we would want to do.

SENATOR CEGAVSKE:

I still have concerns with the language. I have heard from enough veterans, those in my family and those who are not, that we need to leave the language as honorably discharged. That is what it has been, and the other language concerns me. I would not be able to support this unless we just left it at honorable discharge.

SENATOR WASHINGTON:

I do remember some of the previous testimony and trying to define honorable or dishonorable discharge is very convoluted right now. There are numerous parties with differing opinions. I would be happy to support Senator Cegavske in making sure it says "honorable discharge."

CHAIR WIENER:

Ms. Partida, I do not know how "or separated from" affects the remainder of the language that was added in this amendment, "or honorably discharged," or

"in Nevada at the time of discharge," or "stationed locations." How would it be if we took out "other than dishonorable" and "separated"?

MS. PARTIDA:

I do not believe those rely on one another. You can go with honorable and still leave in the requirements that they were stationed in Nevada or at Pickle Meadows at the time of separation from service and that it was honorable.

SENATOR CEGAVSKE MOVED TO AMEND THE LANGUAGE SO THAT IT DOES STATE JUST HONORABLE AND TO HAVE THE ORIGINAL LANGUAGE OF S.B. 318.

CHAIR WIENER:

And it should sustain the addition of "at the time of discharge" stationed in Nevada.

SENATOR CEGAVSKE:

That might be something we want to talk about. It is just when they are stationed here and they would not have to have lived here at all? How long will they have had to be living here, six months, or a year? That would cause a little concern, but what about the fiscal note on it.

CHAIR WIENER:

If you look at paragraph (f) of subsection 2, section 1, it says "currently stationed in Nevada; and" What follows that is what we were talking about.

SENATOR CEGAVSKE:

That is new language, "currently stationed in Nevada," correct? That might be a concern. Does it mean 1 day, 3 months or 6 months? If you are stationed here, we are opening it up. If we leave it for honorably discharged, you have to have a time frame for how long they are here. Being able to come for 1 day or 6 months, and receive an education, causes me concern.

CHAIR WIENER:

Should we then refer this to the Senate Committee on Finance?

SENATOR CEGAVSKE:

Is there a fiscal note on S.B. 318?

Senate Committee on Health and Education
April 10, 2009
Page 8

CHAIR WIENER:

There is a fiscal impact. We can do the policy consideration and then rerefer it to the Senate Committee on Finance. We have the suggestion of the Committee to make a motion to amend without recommendation and rerefer to the Senate Committee on Finance.

SENATOR CEGAVSKE:

What are we going to amend?

CHAIR WIENER:

We are still reconciling what the motion will be.

SENATOR CEGAVSKE:

I withdraw my original motion.

SENATOR HORSFORD MOVED TO AMEND S.B. 318 WITHOUT
RECOMMENDATION AND REREFER TO THE SENATE COMMITTEE ON
FINANCE.

CHAIR WIENER:

What would that amendment be, please? Is that the amendment as it stands, or would it be removing "other than dishonorable" language as well?

SENATOR HORSFORD:

I support removing both ... including both ... , without recommendation.

CHAIR WIENER:

The motion is to amend the amendment as proposed and rerefer to Finance without recommendation.

SENATOR CEGAVSKE:

Is that my amendment?

CHAIR WIENER:

The amendment as it stands.

Senate Committee on Health and Education
April 10, 2009
Page 9

SENATOR CEGAVSKE:

As it is in here? Then I would have to vote no. That is not what I thought Senator Horsford was saying. I thought he said to remove both.

CHAIR WIENER:

It is the amendment deleting the "other than dishonorable" language which will come out.

SENATOR CEGAVSKE:

What about the time spent in Nevada?

CHAIR WIENER:

We have not had testimony on that, so we would send it with that one change in the amendment, without recommendation and rerefer to Finance.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CEGAVSKE VOTED NO.
(SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR WIENER:

We will now open the hearing on S.B. 259.

[SENATE BILL 259](#): Establishes a temporary program for the alternative licensure of teachers. (BDR 34-679)

MS. MARTINI:

There is one amendment submitted for this bill. There was a concern expressed by the Committee at the last work session that the teachers under this licensure may be teaching in at-risk schools.

Section 1, subsection 4, page 2 of proposed amendment 3704 submitted today specifies that a person who is licensed pursuant to this section shall not teach in a public school which is designated as demonstrating "need for improvement pursuant to NRS 385.3623" ([Exhibit E](#)).

CHAIR WIENER:

A letter has been submitted by Laurie Crehan, Ed.D., Quality of Life State Liaison, Pacific Region, Office of the Deputy Undersecretary of Defense, Military Community and Family Policy, in support of S.B. 259 ([Exhibit F](#)).

SENATOR CEGAVSKE:

I want to remind the Committee, I talked to Senator Horsford in reference to this, and I understand his concerns. I understand what we want to do in education, and I wish we had the luxury of having all qualified teachers. The at-risk schools we refer to have short-term and long-term substitutes. They have a disproportionate number of substitute teachers who do not have the education of the teachers brought forward in this bill. I would respectfully ask for reconsideration of the amendment, just under those circumstances. I am looking for the best possible educator in the classroom, and from educators in other states that I talked to about this program. The alternative licensed teachers have been exceptional teachers and I would like a reconsideration. I would hate to hamstring the school districts to not utilize these teachers if they needed to. I want to put that on the record. I totally understand where you are coming from, Senator Horsford, but I wanted to bring this issue out. I know exactly what we want in every classroom, and that is a teacher that is highly qualified. We want someone the children can learn from. With that, I will have some discussion with you.

SENATOR WOODHOUSE:

I spent a great deal of worry regarding this bill. At the last meeting, I indicated some of my concern on this issue, and it is the same concern I had two years ago, when we amended the original bill to provide for the pilot program, which did not happen. I was frustrated by that, as was everyone on the Committee. I guess my overriding concern is professionalism of teachers and the required certification they need. I do want to state on the record that I received, and I am sure all members of the Committee received, a packet of information from the chairman of the Nevada Commission on Professional Standards in Education, which identified a lot of the work they do and some of the problems they have had. The chairman of the Commission on Professional Standards is an individual who is extremely professional herself, one that I highly value in everything she has always done with the Clark County School District (CCSD) and the Douglas County School District (DCSC).

Senate Committee on Health and Education
April 10, 2009
Page 11

Last Session I indicated I would support an amendment regarding the at-risk schools, but after further deliberation, I cannot support the bill as it was originally stated, nor the amendment. I will be voting no on whatever happens on this bill.

SENATOR CEGAVSKE:

I want to let my colleague know I did not receive anything from the Commission on Professional Standards.

CHAIR WIENER:

For the record, I did. Are there any other questions or comments?

SENATOR CEGAVSKE:

This is an important measure to pass, Senator Horsford. I need to ask what you want to do.

SENATOR HORSFORD:

Until I have evidence that this alternative process works, I do not want them teaching in schools where we already have a lack of highly qualified teachers. They will not meet that threshold based on our law or the equity plan. I agree with your frustration with the Commission on Professional Standards, but I also do not want to keep opening up the standard. We have standards for kids, and we need to have high standards for the teachers in the classroom.

SENATOR CEGAVSKE:

Then you want to amend and do pass?

CHAIR WIENER:

Is that a motion, Senator Cegavske?

SENATOR CEGAVSKE:

Yes.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 259.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS BREEDEN, WIENER, AND WOODHOUSE VOTED NO.)

* * * * *

CHAIR WIENER: We will open the hearing on S.B. 330.

SENATE BILL 330: Enacts the Initiative for a World-Class Education in Nevada.
(BDR 34-171)

MS. MARTINI:

There are three proposed amendments for this measure. The first amendment was submitted by the Nevada Association of School Boards ([Exhibit G](#)). There are two parts to this amendment. The first part of this amendment indicates that the State Board of Education as reconfigured should retain its current statutory responsibility to appoint the Superintendent of Public Instruction. The second part of this amendment proposes that the State Board and superintendent be directed to conduct a statewide study concerning the high school proficiency examination. I believe at the last hearing the amendment proposed by Senator Horsford eliminated the section pertaining to revisions of the high school proficiency examination as it relates to graduation. This would provide a different recommendation for a study.

The next amendment was submitted by Senator Cegavske ([Exhibit H](#)). This has four parts to it. The first part would rename the State Board to the Education Commission of Nevada. The second part changes the Commission to nine members. The third part changes "elected" to "appointed by the Governor." The fourth part changes to "appointed by Legislative leadership." It changes the appointee criteria. The appointee must be a resident of Nevada and have experience in some level of education or have experience in public policy or public administration. In the fourth part, the nomination process is eliminated in this amendment.

The third amendment was provided by Senator Horsford ([Exhibit I](#), original is on file in the Research Library). Sections 8 and 71 of the proposed amendment would delete the appointed members by the Senate Majority Leader and Speaker of the Assembly, and replace those members with two members appointed by the Legislative Commission. Both members cannot be Legislators.

Sections 6, 11 and 73 of the proposed amendment delete the nomination process and replace the provision to require the Governor to appoint the State

Superintendent of Education. The term is revised to four years, commencing January 1, 2011.

Sections 2, 3, 4 and 14 delete the four divisions and instead would require the State Superintendent for Education to appoint a Director of Assessment and Accountability and a Director of Innovation, Research and Professional Development. The Director of Assessment and Accountability would be required to report his activities annually to the Legislative Committee on Education. The deputy superintendent positions are maintained as described in the original measure, and it does clarify throughout that no person may be appointed to the various divisions unless he or she meets the qualifications specified.

Section 5.5 is a new provision and it replicates S.B. 379 which was passed by the Committee at the last work session. That has been referred to as the "bucket bill." Those provisions are specified throughout this measure.

SENATE BILL 379: Revises provisions governing certain educational programs.
(BDR 34-285)

Section 21 adds the submission of the State improvement plan, in odd-numbered years, to the Director of the Legislative Counsel Bureau for transition to the Legislature.

Sections 22, 23, 24, 25 and 26 concern the Commission on Educational Excellence. The Commission is eliminated through this amendment due to the provisions of S.B. 379.

Sections 31, 32 and 69 concern the Commission on Educational Technology. The State Board is replaced with the Department of Education to oversee that. This revision is also made upon the revisions concerning section 5.5. The Trust Fund for Educational Technology is repealed and that is also based upon the new section 5.5.

Sections 21, 60 and 69 reinstate the Statewide Counsel for Coordination of Regional Professional Development Programs (RPDP). There are no changes made to the RPDP.

Sections 35 and 43 concern graduation and the high school proficiency examination and have been eliminated.

Section 45.5 is a new section that concerns teachers' salaries. This is the section that authorizes a teacher who holds an endorsement in math, science or special education to be able to negotiate his salary with the board of trustees of the school district, or the governing body of a charter school. This is only if the minimum is matched in the contract. It has to be above and beyond the minimum.

Section 47 and the new section 47.5 concern the program of performance pay. It creates an endowment fund for a program of performance pay to be administered by the Department of Education. This fund would not revert to the State General Fund. It also adds that the performance of teachers based upon achievement and progress of pupils is allowed based upon the data input in this System of Accountability Information in Nevada (SAIN). The new provisions concerning section 58 of S.B. 330 are removed in this amendment.

Section 28.5 is new, and again, deletes the language specifying the information obtained by the SAIN system is deleted. It can be used for purposes of evaluating an individual teacher or paraprofessional.

In section 70 the newly created Commission to Oversee Educational Reform is deleted and replaced with the Legislative Commission to monitor the State Board of Education and the Department of Education carrying out the provisions of the act.

CHAIR WIENER:

Senator Horsford, do you have any comments based on the overview that has been presented?

SENATOR HORSFORD:

No, the staff did a great job.

SENATOR WOODHOUSE:

I would like to ask if we could remove section 45.5 of the proposed amendment. This deals with collective bargaining where individual teachers in specialty areas could negotiate their own contracts or additions to their contracts. I would like to remove that for the reasons I stated on Wednesday when we discussed this earlier.

I do not want to make any changes in incentives or in pay for performance at this point. I am hopeful this bill will come out of Committee today and be rereferred to the Senate Committee on Finance. It is appropriate for us to work further on those things if they involve funding matters.

SENATOR WASHINGTON:

There are a couple of things that need technical corrections. Section 8 of proposed amendment 4056 currently reads "and have experience." It should have read "or have experience in public policy or public administration or be active in the business community or industry of this State"

The State Board should be a nine-member board: three elected by the congressional districts, two appointed by the Governor and one appointed by each leadership in the Senate and Assembly.

SENATOR HORSFORD:

I would be agreeable to also amend out the Commission on Professional Standards in Education upon further review of that Commission and the legislative intent for its creation. I do see the value of having that Commission separate; however, there should be, separate from this bill, a discussion about how that Commission operates based on some of the challenges we are having. I do not want to have this bill move forward with that provision because it goes counter to the previous legislative intent on how that Commission was specifically created. We did that similarly for the Parental Advisory Committee, as well, on express legislative intent.

SENATOR CEGAVSKE:

In deference to my colleague, Senator Woodhouse, I appreciate her thoughts on section 45.5. I would like to remind this Committee that we have had no organization or association help us try to promote getting teachers in the specialty fields of math, science and special education. We have not had cooperation or help in that arena. We have teachers who do not belong to an association. We have teachers, in or out of associations, who would like to have the ability to negotiate a contract. We stipulated that the provisions in chapter 288 of the *Nevada Revised Statutes* (NRS) concerning minimum compensations are in there. That would be up to them; they could have a choice. If we do not start offering something to the teachers, we will continue to have people who do not want to be a part of or be associated with our school districts. We cannot stick our heads in the sand and say that we are not

going to make changes. This is a very appropriate time to do this, and we in good faith negotiated in talking about different things happening in education. This is a small step and will help us recruit people who want to teach, but want a year-round job, not a nine-month job. They would like to work year-round. It is very important for us to do this at this time. It goes along with making changes we have talked about in our governance structure.

As far as the Commission on Professional Standards, there was a case made that it is time to remove that. If we are putting another structure underneath the education governance structure, that would be the time to let the new or present superintendent and the other commissions that are going to be involved make the decision about this. Let us clean the slate and make some radical changes. The Commission on Professional Standards has been a group that has stymied the growth of education in Nevada, and it is time that we make a change. It is very important that we look at all of this as a fresh start. To keep saying "no" to changes is why we are behind in education in Nevada.

SENATOR HORSFORD:

I would move to amend and do pass S.B. 330 with proposed amendment 4056; with the additional suggestions by my colleague Senator Woodhouse on section 45.5; on the provision that my colleague Senator Washington made on the "and/or" technical change; and putting back the Commission on Professional Standards as currently in statute.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 330 WITH PROPOSED AMENDMENT 4056 AND REREFER TO THE SENATE COMMITTEE ON FINANCE.

SENATOR WOODHOUSE SECONDED THE MOTION.

SENATOR HORSFORD:

I understand where my colleague is going. We have to debate the second proposed amendment, but we have to move on a motion on one. Proposed amendment 4143 has certain conflicts with the other amendment we are doing. Do you want a discussion to highlight the proposals in the other amendment that is being proposed or take that up in a separate motion?

CHAIR WIENER:

You are the maker of the motion, Senator Horsford, and we have a second.

SENATOR HORSFORD:

I would defer to Senator Washington if he would like to explain the provisions of his amendment so the Committee can have that as consideration for a vote on the motion and the second.

SENATOR WASHINGTON:

Proposed amendment 4143 was presented to the Committee by Senator Cegavske for the makeup of the Board or Commission that has been renamed in this amendment, formerly the State Board of Education and now the Education Commission of Nevada, which deals with public education. The makeup of that board is changed in this amendment. It is a nine-member board with three elected officials, one from each respective congressional district, two appointed by the Governor and one appointed by each leadership in both houses.

SENATOR HORSFORD:

Clearly, the governance structure is different than what is in proposed amendment 4056, which is where we have the motion under consideration. I would not be agreeable to that. Naming it the State Board of Education or the Education Commission of Nevada does not make much of a difference. I do understand the rationale of starting fresh with something new. I would take that up as a separate motion, should the first motion pass.

CHAIR WIENER:

We have considered the competing proposed amendment 4143, but right now we are considering 4056. You have offered that part of 4143 addressing the name change from the State Board of Education to the Education Commission of Nevada to be considered under a separate motion and to reinstate the Commission on Professional Standards to current state law.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

SENATOR WASHINGTON MOVED TO ADOPT PROPOSED AMENDMENT 4143 TO S.B. 330.

SENATOR CEGAVSKE SECONDED THE MOTION.

CHAIR WIENER:

I have a question of clarity. There was some conflicting provision in here with what we just passed as an amended bill. There are some things that are different. One thing different is the renaming of the State Board of Education to the Education Commission of Nevada.

MS. PARTIDA:

The Committee needs to clarify for counsel what it is they would like to have happen. If you adopted both, we would just need clarification as to those conflicting points.

CHAIR WIENER:

We have a motion from Senator Washington, and a second, to adopt proposed amendment 4143 to S.B. 330 in its entirety, or knowing what we just discussed ...

SENATOR WASHINGTON:

I am not hung up on the name one way or the other. I am just concerned about section 8 of the amendment as to the makeup of the board or commission, whatever they decide to call it.

SENATOR CEGAVSKE:

The name was a suggestion. Along with my colleagues, I thought renaming it would be a good idea, for a fresh start. I do agree with Senator Washington about the other parts of the amendment. Senator Horsford had thought the concept was amenable, as that was the last thing we had discussed. We had to make the name change separate because of the timing, placing it into the other amendment.

SENATOR HORSFORD:

Again, the discussion is that the governance piece under section 8, as proposed by Senator Cegavske in her amendment, and moved by Senator Washington, is different from my proposed amendment 4056 to S.B. 330. We did discuss this; however, there was no agreement as far as changing to appointment by the majority leader or minority leader; I conceded to the point based on recommendations from others who provided input that it should not be a completely partisan process. The Legislative Commission is evenly represented. I feel it addresses that issue of the partisanship. I do not know another approach than the Legislative Commission that takes out as much of the

partisanship as you can. We are a partisan body and I do feel the legislative body should have more of a role in the appointment of the Board. That is why I am supporting, and have supported, the other amendment.

CHAIR WIENER:

Based on what we have heard prior to the motion being made, and just passed, one consideration Senator Horsford offered was the name change. Because of the conflicts, there was support in this vote that we just took for the Legislative Commission to be the body that we would consider in the measure, and that is what just passed the Committee. That is why I asked Counsel how we would deal with the conflict.

SENATOR WASHINGTON:

I respect Senator Horsford's opinion. He is the author and sponsor of this bill. For the most part, the bill is yeoman's work and does set in motion things that have been needed in Education. When it comes to the makeup of the Board, I respect his desire to let the Legislative Commission do it. Like anything else, this body, which is made up of 63 members, can be reflective of any party at any given time. Currently, the party that I am not in is in control of both houses, so the Legislative Commission will be reflective of the body in control. The Chair, and the majority of the members who would sit on that commission, means the party in control would have the majority of the votes. With the process set forth in this amendment, at least you have set equal representation from both parties, whoever is in power. You would have one from the Senate Majority Leader, one from the Senate Minority Leader, one from the Speaker of the Assembly, and one from the Minority Leader of the Assembly. The Governor, of course, is reflective of the will of the people. Depending on their choice this could be Republican, Democrat or Independent. The Governor has the ability, under this amendment, to select two members. I do not see how you could become any less partisan than the process that has been set forth in this amendment with equal representation from both parties and their respective views on education.

I am partial to the amendment because I do not think the Legislative Commission allows us that full bipartisan representation dealing with educational matters. I am in support of the nine-member board with the technicalities listed.

CHAIR WIENER:

Ms. Partida, can you find somewhere the makeup of the Legislative Commission as it pertains to equal members from each party and each House?

MS. PARTIDA:

The membership of the Legislative Commission is when the members of the minority party in the Senate or in the Assembly comprise one-third or less of the total number elected to that House, then the minority party membership from that House would be one, if such membership is less than one-fifth of the total number elected to that House, and two, if the membership is at least one-fifth but not more than one-third of the total number from that House.

SENATOR HORSFORD:

A real change occurred last cycle, but it basically says that it is even unless there is a two-thirds makeup of a particular body, and then that Commission is adjusted. Just for clarification, in the Senate, it would be an equal number of Democrats and Republicans.

CHAIR WIENER:

Let us go back to the option before us. Is there any additional discussion on the proposed amendment 4143?

SENATOR WASHINGTON:

If that is the case, I stand corrected. Like everybody else, or in the fever pitch in which we have been working, I probably neglected to read that rule change this Session, but this was changed this Session and it has not always been that way.

SENATOR CEGAVSKE:

Senator Horsford indicated that it was that way in the Senate but it is not that way in the Assembly. One shift in a member in the Assembly and that dynamic would change back to "even-steven."

SENATOR HORSFORD:

I do not disagree; there is no perfect process for having legislative representation appoint the members. We all agree that the Legislature needs to have more of a stake in what is happening because we set the policy and ultimately this will be debated further, but I feel that the Legislative Commission approach actually provides greater input because this is just leadership. Even

Senate Committee on Health and Education
April 10, 2009
Page 21

though I would currently be the one who makes these appointments, I would be able to confer with all of my members through the Legislative Commission process.

CHAIR WIENER:

We have had substantial debate on the motion and the second.

THE MOTION FAILED. (SENATORS WOODHOUSE, BREEDEN, WIENER AND HORSFORD VOTED NO. SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR WIENER:

We will now open the hearing on S.B. 343.

SENATE BILL 343: Requires the Division of Welfare and Supportive Services of the Department of Health and Human Services to expedite the application of a person for treatment or services if the person is involved in the child welfare system. (BDR 38-477)

Ms. LYONS:

One amendment is proposed to address the concern that was brought to the Committee's attention during the hearing related to whether things could be expedited in certain federal programs. That amendment is conceptual language and is proposed by Senator Horsford ([Exhibit J](#)).

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 343.

SENATOR WOODHOUSE SECONDED THE MOTION.

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

* * * * *

CHAIR WIENER:

We will now open the hearing on S.B. 378.

SENATE BILL 378: Establishes requirements for certain early childhood education programs. (BDR 34-1134)

At the last work session, there was some concern expressed over the State Board of Education adopting regulations relating to curriculum at private schools. Although there is no formal amendment, the Department of Education noted it could be clarified that the regulations relate to programs funded with State and federal education funds.

SENATOR HORSFORD:

I support S.B. 378; however, I would ask, if we could, to just require the Department to establish a plan for early childhood education and to omit the provisions dealing with the academic standards, curriculum and educational personnel of such programs because they vary from public to private. We have Head Start and the like. I would also add a provision, as funds are available from the American Recovery and Reinvestment Act (ARRA), the federal stimulus act, that the Department must apply for such grants to support the development of the plan and support early childhood education programs throughout the State.

CHAIR WIENER:

For clarity, I know there are other measures that might not have a fiscal impact, yet are these measures not rereferred to the Senate Committee on Finance? I know there have been one or two others referred because of that potential.

SENATOR HORSFORD:

That is correct. It has gone both ways, but the Department of Education would need to identify whether it is available funds or funds for which they must apply. It would be appropriate for the Senate Committee on Finance to review that before the bill goes to the Senate Floor.

SENATOR WOODHOUSE MOVED TO AMEND, DO PASS AND REREFER TO THE SENATE COMMITTEE ON FINANCE S.B. 378 WITH THE ITEMS INDICATED BY SENATOR HORSFORD.

SENATOR HORSFORD:

I support the development of the plan which is in section 1, subsection 1, but to omit the development of regulations, curriculum and the standards for personnel, which I do not think are germane, just yet, until the plan is developed. We would also include, as funds are available from ARRA, that the

Senate Committee on Health and Education
April 10, 2009
Page 23

Department of Education apply for such funds for the plan and support of early childhood education programs, generally.

SENATOR HORSFORD SECONDED THE MOTION.

CHAIR WIENER:

This is an amend and do pass with amendment as stated, with referral to the Senate Committee on Finance.

THE MOTION CARRIED. (SENATORS WASHINGTON AND NOLAN WERE ABSENT FOR THE VOTE.)

* * * * *

CHAIR WIENER:

We shall now open the hearing on S.B. 384.

SENATE BILL 384: Revises provisions governing apportionments from the State Distributive School Account to certain charter schools. (BDR 34-805)

MS. MARTINI:

There are no amendments to this measure at this time. Senate Bill 384 revises the apportionments from the State Distributive School Account to a charter school that offers 75 percent or more of its courses through a program of distance education. This does not require the pupils enrolled in the charter school to physically attend the charter school to meet with a teacher at least once each week (Exhibit K).

CHAIR WIENER:

This measure, as the Committee will recall, though it is in our jurisdiction in terms of policy, was sent to the Senate Committee on Finance. It was rereferred to our Committee without recommendation in the last few days, and we did hear the bill because there was strong support for policy consideration of this measure. Most of us knew the bricks and mortar model and then we went to charter schools in the 1997 Session; but they were still bricks and mortar. Now, we are talking about distance education. We will possibly take this bill to the interim Legislative Committee on Education to do a major policy consideration of this measure.

Senate Committee on Health and Education
April 10, 2009
Page 24

SENATOR WASHINGTON MOVED TO INDEFINITELY POSTPONE
S.B. 384.

SENATOR CEGAVSKE SECONDED THE MOTION.

SENATOR WOODHOUSE:

I have a question for the Chair. It is my understanding that what you wanted to do was to form a study over the interim, so that we could come up with a better policy for handling these kinds of funds, is that correct?

CHAIR WIENER:

This is a shift; we are doing this even though we have had distance education for a while. We are not going into a new model in a new way, but I thought as we make these kinds of transitions in education that we should look at how to do this and do it well and equitably.

SENATOR WASHINGTON:

You do not need a bill to do that. On the interim Legislative Committee on Education, you can come up with your own agenda.

CHAIR WIENER:

That is where I would convert this bill.

SENATOR WASHINGTON:

You do not need a bill to suggest a study; they can study whatever they want.

CHAIR WIENER:

We have a motion and a second to indefinitely postpone S.B. 384. Is there any additional discussion?

THE MOTION FAILED. (SENATORS BREEDEN, WOODHOUSE,
HORSFORD AND WIENER VOTED NO. SENATOR NOLAN WAS ABSENT
FOR THE VOTE.)

* * * * *

CHAIR WIENER:

The vote failed a majority vote. We shall entertain another motion.

Senate Committee on Health and Education
April 10, 2009
Page 25

SENATOR WOODHOUSE MOVED TO REFER S.B. 384 TO THE LEGISLATIVE COMMITTEE ON EDUCATION FOR CONSIDERATION IN THE INTERIM.

SENATOR BREEDEN SECONDED THE MOTION.

SENATOR HORSFORD:

We have heard this in the Senate Committee on Finance and actually, because it had no fiscal note, we rereferred it to the Senate Committee on Health and Education. When that bill came before our Committee, I did not understand what the bill proposed to do because, in my opinion, what they are saying is distance education does not have the same value as all other charter schools, and certainly distance education programs need their full allotment of Distributive School Account funding.

The bill was arbitrarily written to make a value judgment on distance education. I need to understand the purpose of the study. Is it to look at the 75 percent or more of courses offered through distance education, or is it to look at distance education generally? What is the purpose of the study?

CHAIR WIENER:

The purpose of the study was partially to respond to many of the questions you have just asked, to determine if indeed there is a reassurance that the same allocation is appropriate for a virtual charter school, or if there is a formula that should be established. It is certainly worth talking about. It may come up that this is exactly the formula that works.

SENATOR HORSFORD:

Just to elaborate, there is the Governor's advisory committee on charter schools that has a lot of the stakeholders in the department on it. Who is going to do this study?

CHAIR WIENER:

It is one of those subjects that would be considered by the interim Legislative Committee on Education, the statutory committee on education, not as a full-blown study.

SENATOR HORSFORD:

I do not think the study should be specific to distance education. It makes a value judgment.

CHAIR WIENER:

That would be part of the dialogue. That was what I had said, that we have to take a look at the evolving nature of education on a bigger scale, because we are going in new directions and we need to have a bigger look than one bill.

SENATOR HORSFORD:

How does that also relate to creation of the Nevada Charter School Institute? Would they have the purview of doing some of that? I appreciate your attempt to reach a resolution, but when this was first brought to us in the Senate Committee on Finance, it did not require too much testimony because we found out there was no fiscal note. We wanted it to come back to this Committee for a policy discussion.

CHAIR WIENER:

In response to your question, that is something staff would have to help with on the concept of the Nevada Charter School Institute.

MS. MARTINI:

My understanding of the Nevada Charter School Institute that you will be considering later was simply a sponsorship. They did have authority over regulations. It was never contemplated that this issue would be considered by them, but that could be looked at by this Committee.

CHAIR WIENER:

That is the idea for a dialogue about emerging education. We have a motion and a second to indefinitely postpone the bill.

SENATOR WASHINGTON:

I agree with my colleague from Clark County. We looked at this issue last interim and it was thoroughly discussed. Last interim the Legislative Committee on Education did not rule upon this issue because there was no merit to it. The issue was not up for a vote, there was no motion, so therefore there was no second. It just died. The public took it upon themselves and we heard testimony from Dr. Rheault that it is really not necessary. I would say the bill is really not that necessary for us to delineate what type of study the Education Committee

needs to study. They can study it on their own and do not need a bill to do that. We have had distance education for a while and the bill is not necessary. We have already looked at it once.

SENATOR HORSFORD:

I am not going to support the motion; not because I disagree, I just do not think this bill is necessary, and I do not think we should process this bill. If we need to look at a study, we need to look at a comprehensive list of education issues that include charter schools.

CHAIR WIENER:

The motion on the table has received no votes either for or against. Is there any other action anyone wishes to take with regard to this bill? Hearing none, I will close the hearing on S.B. 384.

I will open the hearing on S.B. 381.

[SENATE BILL 381](#): Revises provisions governing the immunization of children against certain diseases. (BDR 38-809)

Ms. LYONS:

There are three amendments proposed for this bill. The first is proposed by the Southern Nevada Health District ([Exhibit L](#)). The second amendment is proposed by Erin Russell Hayes and Robert Crowell on behalf of Aflac ([Exhibit M](#)). The third proposal is submitted by Jack Kim ([Exhibit N](#)).

CHAIR WIENER:

The second proposed amendment added "supplemental" which opens up more conversation. There are other supplemental insurance plans available. How would that affect those that were proposed by the Southern Nevada Health District, Washoe County and others who offered the amendment that you read just prior to this one?

Ms. LYONS:

Are there any insurance representatives who could address the question about the other types of supplemental insurance?

Senate Committee on Health and Education
April 10, 2009
Page 28

JACK H. KIM (United Healthcare; Nevada Association of Health Plans):

I do not think there is an impact. The amendment that is being proposed by Aflac is really to get at those limited types of insurances, like vision insurance. You can have life insurance, and these are not the comprehensive health plans that this bill is targeting. As for the amendment proposed by the health district, I do not think that really changes the discussion. The amendment proposed by Aflac really tries to get at the intent of this bill.

CHAIR WIENER:

Mr. Kim will give a brief testimony to the third proposed amendment to S.B. 381.

MR. KIM:

Over the years, the health plans that I represent with United Health Plan, Health Plan of Nevada, Sierra Health and Life and other plans, fully licensed health plans, cover these immunizations and will continue to cover them. Typically, most services including these types of immunizations have some sort of co-pay, some very small, the average being probably \$7 to \$15. We have not heard any comments from the immunization coalition or anyone else that this has been a barrier to access. We would like the flexibility to still have appropriate co-pays as needed.

SENATOR WASHINGTON MOVED TO NOT ADOPT THE PROPOSED AMENDMENTS TO S.B. 381.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS WOODHOUSE, BREEDEN, WIENER AND HORSFORD VOTED NO. SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

SENATOR HORSFORD:

Do we need the Aflac amendment or not?

CHAIR WIENER:

Based on what Mr. Kim said, it is for those specialty insurances that do not provide comprehensive coverage, such as dental, vision, and others.

Senate Committee on Health and Education
April 10, 2009
Page 29

SENATOR HORSFORD:

So, do we include the one by Ms. Russell and the Health District as well?

CHAIR WIENER:

Though it is provided this way as Ms. Lyons presented the amendment. There are two components we would need to delete, and that would be union trust plans and self-funded plans.

SENATOR HORSFORD:

I would like to see if we can add language that says "encourages" because I do feel that they should do that even though we cannot require them.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 381 AND REREFER TO THE SENATE COMMITTEE ON FINANCE.

SENATOR WOODHOUSE SECONDED THE MOTION.

SENATOR HORSFORD:

We need to have discussion on this bill and the other bill that was processed.

CHAIR WIENER:

That is the immunization bill sponsored by Senator Woodhouse.

SENATOR CEGAVSKE:

I am not going to vote for the bill. I do appreciate and think that the amendments are needed, but my vote will be a "no."

THE MOTION CARRIED. (SENATORS CEGAVSKE AND WASHINGTON VOTED NO. SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR WIENER:

We will open the hearing on S.B. 382.

SENATE BILL 382: Revises provisions relating to disproportionate share payments to certain hospitals. (BDR 38-1105)

Senate Committee on Health and Education
April 10, 2009
Page 30

MS. LYONS:

This measure revises provisions relating to disproportionate share payments to certain hospitals. There are three amendments proposed. Proposed amendment 4045 was prepared by the Legal Division ([Exhibit O](#)). There is an amendment from Senator Washington ([Exhibit P](#)), and there was an amendment presented to the Committee by Andy North ([Exhibit Q](#)).

SENATOR WASHINGTON MOVED TO DO PASS S.B. 382 WITHOUT RECOMMENDATION AND SEND TO THE SENATE COMMITTEE ON FINANCE.

SENATOR HORSFORD SECONDED THE MOTION.

SENATOR WASHINGTON:

We have been working with the Department of Health and Human Services (DHHS), and there are some things that need to be worked out to make the bill amenable to all the parties and stakeholders involved. We need to get it over to the Senate Committee on Finance.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

CHAIR WIENER:

We will open the hearing on S.B. 383.

SENATE BILL 383: Requires certain warnings regarding the use of certain tobacco products. (BDR 40-1104)

MS. LYONS:

An amendment has been submitted by the March of Dimes ([Exhibit R](#)).

MOLLY CONKLIN (Vice President, Ferraro Group):

We have been working with Peter Krueger, Retail Association of Nevada; and Nevada Petroleum Marketers and Convenience Store Association, and have come up with language on which everyone has agreed. Specifically, we agreed on where the sign has to be located and clarified the language for the sign. It can be added to existing signage in the retail location.

SENATOR CEGAVSKE:

I understand the intent, and I think the world of the nonprofit is bringing this forward. As a previous small business owner, however, the thought came to me and my niece, "Will someone think of making just one sign and putting all the warnings on it that everyone has talked about?" I thought, there are so many issues. Hit the top priorities, because in these convenience stores there is only so much space. If there was one sign, and you picked the top priorities of what you wanted on there ... because it is very frustrating and very hard to find space to put anything. The other thing is, you are taking away space, which is very limited, that retailers receive compensation for. That is part of their income. All the ideas coming forward to us are out of compassion and are heartfelt, but we have to think of what we keep piling on these business people.

CHAIR WIENER:

It is my understanding that this would combine with the sign that is already required by law. Correct?

MS. CONKLIN:

The March of Dimes is in support of anything that is less cumbersome to the retailers. We will work with Mr. Krueger in any way we need to in order to reach a real consensus on this.

SENATOR WOODHOUSE:

I can understand the problem of all priorities on one sign, but I would imagine there are some business owners that would post the signs based on how their cashier area is set up. They may prefer multiple signs because of where they can place them. I would like to give the business owner the opportunity to have a sign, but based on where it would fit best for them.

SENATOR CEGAVSKE:

You mean giving them the flexibility. Yes. But, in this bill it is specific that it has to be at the point of sale. If you give them flexibility, the problem is everybody wants their sign up front, everyone wants their sign read. We can only tell people to do so much. It is not that I disagree; it is important to have people think about it, as with the signs warning of fetal alcohol syndrome but there are different places to put them. I would appreciate flexibility being part of it.

SENATOR WOODHOUSE:

I do not want the signs spread throughout the stores, or in the restrooms. I believe they should be at the point of sale.

SENATOR CEGAVSKE:

The point of sale is probably the area where you have the least space. They do not have room in those small convenience stores to put all the required signs, now estimated as at least eight, if not more. I do not know where you are going to put all of these. There is no guarantee, wherever you put it, that the person trying to read that sign will be able to read it. That is why I was asking for the flexibility. The only way I could support this is if it was flexible for the retailer. If it is at the point of sale, I cannot support it.

CHAIR WIENER:

It took two sessions for me to get a sign for fetal alcohol syndrome and it was posted as the language we have here, "in a location conspicuous to patrons of the establishment." The patrons have to see it; it cannot be on the back door or in the alley near the garbage cans. Restaurants put the signage on the back door of the women's restroom because that is probably one of the most appropriate places to put a sign to contact the person to benefit from the message.

If this were to say, in section 1, line 1, [Exhibit R](#), "each retail establishment where cigarettes are sold or offered for sale shall post at least one sign that meets the requirement of this section in a location conspicuous to patrons," that would give the flexibility, but it would still be in a location where it will be seen.

MS. CONKLIN:

The March of Dimes is supportive of any way the patron will see the sign. It does not necessarily have to be at the actual point of sale but somewhere where it will have an impact on the customer.

CHAIR WIENER:

That would amend the amendment provided to us. In section 1, subsection 1, we would be taking out the language "at the point of sale" and leaving in the remainder of the language. That takes the point of sale out of it so there is more flexibility. The sign will still be easy to observe, and in a conspicuous place, by those who patronize the location.

Senate Committee on Health and Education
April 10, 2009
Page 33

SENATOR CEGAVSKE:

For the record, could we put "combination of signs"? I think it is really important that they have that option.

CHAIR WIENER:

That is something for the Committee to consider.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 383 WITH THE AMENDMENT BY THE MARCH OF DIMES WITH THE CHANGE JUST MADE TO END AT "CONSPICUOUS LOCATION" NOT AT POINT OF SALE.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CEGAVSKE ABSTAINED FROM THE VOTE. SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

SENATOR CEGAVSKE:

I am going to reserve my vote for the Floor.

CHAIR WIENER:

We shall open the hearing on S.B. 385.

[SENATE BILL 385](#): Revises provisions governing charter schools. (BDR 34-279)

MS. MARTINI:

As you will recall, S.B. 385 creates the Nevada Charter School Institute (NCSI). The members heard this bill on April 1 and April 8. There are three amendments proposed, one by Washoe County School District (WCSD) ([Exhibit S](#)), one by the Department of Education ([Exhibit T](#)), and one by the State Board of Education ([Exhibit U](#)). Included is a table that summarizes those three different amendments ([Exhibit V](#)).

SENATOR WASHINGTON:

We have come to a consensus that the proposed amendment from the Washoe County School District, [Exhibit S](#), instead of having two sets of regulations would just have one set of regulations, and that would be the NCSI.

CHAIR WIENER:

That means no matter who the sponsor is, it would be the regulations promulgated by this Institute?

SENATOR HORSFORD:

I do not support these amendments that would take the authority of the local school districts away from those charters that they authorize. We cannot do this. We do not have the authority to tell them how to run their charter schools and, at a minimum, if we do not put in some language that says that those charter schools are able to opt-in to NCSI, and remain through the district, we are imposing a mandate here. We have had discussions about mandates to the local districts. I would not support these amendments.

SENATOR WASHINGTON:

Currently, the State Board of Education does it for all the charter schools, and we are not usurping the districts' authority or its charge, we are just shifting the responsibility over to the Institute. It is not usurping what school districts already do.

MS. MARTINI:

The State Board of Education adopts the regulations for all the charter schools and the school districts over the public schools. This measure would take the responsibility of adopting regulations away from the State Board and give it to the NCSI just for purposes of charter schools. The State Board of Education does adopt those regulations.

SENATOR HORSFORD:

In addition to those regulations adopted by the State Board, there are additional rules, procedures and policies the local districts have that may exceed those of the State Board. They should have that authority. Again, I cannot believe I am arguing for the school districts' positions on this, but fair is fair.

SENATOR WASHINGTON:

It was the school districts that basically said they wanted to rescind their request to have dual and competing regulations. I see Ann Loring here, and she is the one that was representing the school districts.

Senate Committee on Health and Education
April 10, 2009
Page 35

SENATOR HORSFORD:

Also for the State Board of Education, I would like to understand the rationale for that; now we have a two-headed State process where you can have a sponsorship by the State Board and a sponsorship by NCSI. I need to understand what that is about. This is so beyond what we have talked about in these bills, I do not know that we should process anything.

ANNE LORING (Washoe County School District):

For this discussion, I am also representing Clark County School District; Nevada Association of School Superintendents; Nevada Association of School Administrators; Nevada Association of School Boards; K-12 Inc.; Nevada Virtual Academy; Connections Academy; Charter School Association of Nevada, Imagine Schools, Agassi Prep; Odyssey Charter School and ACE Charter School in Reno.

I am not entirely sure I understand the discussion. Are we discussing on the chart that Ms. Martini has prepared, [Exhibit V](#), number 2 on that first provision?

MS. MARTINI:
Yes.

MS. LORING:

The bills, as written, both the Assembly and Senate bills, transferred all regulatory authority for charter schools from the State Board to NCSI. That is in the bill as written. In our discussions among the groups that I represent, we had concerns that are reflected in this number 2. Charter schools that are sponsored by school districts would be changing from regulations they had been operating under from three departments of education, to a different set of regulations from the NCSI, and the NCSI would be doing regulations over both their charter schools and the districts' charter schools. We had concerns about that for the charter schools that are currently operated by the district. When the Assembly processed this bill on Wednesday, they said they wanted to stay with the bill as originally written, and the NCSI would write all of the regulations for specific sections of statutes that are identified on page 40 of the bill.

Our groups tried to come up with some other solution and decided we would withdraw our recommended amendment and stay with the bill as written; the NCSI would write all regulations for charter schools on no certain, specific sections or statutes. The districts would continue to monitor their own charter

schools. We have withdrawn the recommendation that would have resulted in two sets of regulations, one from the State Board and one from the NCSI.

CHAIR WIENER:

There will not be so much regulating; it will be monitoring regulations developed by the NCSI.

MS. LORING:

For the district-sponsored charter schools, they will monitor their charter schools but they will be following the regulations for charter schools now as adopted by the NCSI, which is the way it was in the bill. We are okay with that. We have withdrawn that recommendation.

SENATOR HORSFORD:

The regulations adopted by NCSI can be overturned by the State Board in the event the State Board does not agree with a regulation.

MS. LORING:

That is our understanding, although I believe there are two very specific grounds for overriding in the statute. Yes, we understand that also.

SENATOR HORSFORD:

That is a process rather like our Committee that can review regulations. We can reject or approve, and if we reject, we go back and fix it until we like it.

MS. LORING:

In this case, the NCSI would. Yes.

SENATOR HORSFORD:

That addresses part of my concern. Those charters sponsored by the local districts or higher education will abide by the NCSI rules.

MS. LORING:

The regulations promulgated by NCSI, and there will not be any State Board regulations now relative to those.

SENATOR HORSFORD:

Only the regulations. I want to make sure we are clear. We are trying to move in a new direction.

SENATOR WASHINGTON:

We did not agree with the amendment. The reason why the NCSI has come forth is because of the actions that the State Department of Education took, placing moratoriums on charter schools, and so the Legislative Committee on Education took it upon itself to say, okay, that is fine. We will develop an institute that will oversee the operations and the compliances of charter schools. Once they saw that the bill was being processed and moving forward, they then offered an amendment to be able to sponsor their own charter schools.

SENATOR HORSFORD:

On the assessment, is that amendment still being proposed? Is it the uniform assessment regardless of sponsor?

SENATOR WASHINGTON:

Yes, the 2 percent is to be assessed across the board to all charter schools. It fluctuated between 1 percent, 2 percent and 3 percent. The 1 percent would have been too low for the NCSI to maintain its operations, 2 percent would just carry them through with enough cash flow to survive to operate indefinitely because more charter schools will probably be added, and 3 percent would have been a surplus. The reason I was a proponent for the 3 percent was because it is so difficult to start charter schools unless you have a bankroll or a sponsor that is going to help you get started. It is very difficult to start a charter school without sufficient funds. The 3 percent would probably have created a surplus where we could set up a loan mechanism, but the charter schools thought that was too excessive, so 2 percent is what we settled on.

SENATOR HORSFORD:

My only issue there is for those that are sponsored with a fee less than 2 percent. Are they being grandfathered in; are there any concessions being made?

SENATOR WASHINGTON:

Actually, for the ones in the district, their assessment is 2 percent already. For the ones sponsored by the State, the first year was at 2 percent, then they went down to 1 percent, and then last Session we raised it up 1 percent; they are at 1.5 percent, so they would actually climb up another 0.5 percent.

Senate Committee on Health and Education
April 10, 2009
Page 38

MS. MARTINI:

Just to clarify, this amendment would make it the same across all charter schools, so the ones that are currently paying maybe 1 percent would be raised to 2 percent. That is true.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS S.B. 385 WITH ALL AMENDMENTS EXCEPT FOR THE AMENDMENT DEALING WITH THE REGULATIONS AND THE AMENDMENT FROM THE STATE BOARD OF EDUCATION.

SENATOR CEGAVSKE SECONDED THE MOTION.

CHAIR WIENER:

For clarity, the amendment with the regulations would go to one set of regulations rather than two, as you stated earlier. Are we clarifying State Board as well?

SENATOR WASHINGTON:

No, excepting the State Board of Education.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

CHAIR WIENER:

We shall now open the hearing on S.B. 389.

SENATE BILL 389: Revises provisions governing accountability in public schools. (BDR 34-807)

MS. MARTINI:

This bill, S.B. 389, eliminates requirements for a school support team for non-Title I schools that have been designated as demonstrating need for improvement for three consecutive years and instead authorizes the Department of Education to establish its school support team only for those non-Title I schools where it is deemed necessary. This is the accountability bill that you have all listened to.

Under existing law, if a school is designated as demonstrating need for improvement for three or more consecutive years, a support team must be established for the school as outlined in NRS 385.3721 and 385.3745. Proposed amendment 4072 to S.B. 389 has been prepared by the Legal Division ([Exhibit W](#), original is on file in the Research Library). On the chart submitted ([Exhibit X](#)), you will see that the changes start with "in need of improvement" (INOI) at "year 5" and work backwards, so it is a little bit different.

CHAIR WIENER:

This accountability plan with more specificity would address the specific needs in a more customized fashion, addressing accountability sooner.

SENATOR HORSFORD:

As I indicated when we heard this bill, this is a great step forward. I did get input on two provisions that I need to get addressed. One applies more to Clark County than anyone else, but it is an issue statewide. In the term "at risk" the definition includes special education, English Language Learners (ELL), special Title I and the like. The representative who contacted me was concerned that in Clark County in particular, where a majority of the students are Latino and half of them have an English language barrier, it should be more prominent in the strategy for improvement in accountability than it is today. My question is about this portion stating "without limitation, methods of instruction, and assessment and the review of curriculum." Is there something that can be added to address the issue around ELL? It is included, but it is included within some broad definition that this particular community does not feel is focused enough. They are the majority of the population and think it should be more prominent in the criteria for review.

FRANKIE MCCABE (Director, Special Education, Elementary and Secondary Education School Improvement Programs, Department of Education):

When we did some of the amendments, we did have some additional language for one of the sections that may or may not meet that need. It just got left out in the haste of redrafting. We wanted to add some language, referring to the color mock-up, where it talks about prescribing a differentiated approach, beginning on line 33, page 7, proposed amendment 4072, [Exhibit W](#). We wanted to have differentiated corrective actions based upon the identified needs of the public school. It may be at that particular point, the needs of the school are attributed to the second-language students. Maybe if we added that additional language, it would tighten it down because we do not want them to

differentiate on any other criteria other than the needs of the students at that school.

SENATOR HORSFORD:
That would be extremely helpful.

MS. MCCABE:
We would totally agree with that, so I can give the language to Ms. Partida. It would fit the best after the phrase "any combination thereof" based upon the identified needs of the public school. If ELL students are having a particular problem at that school, that would be the focus.

SENATOR HORSFORD:
You could say "including without limitation" and then list them so that it is clear.

MS. MCCABE:
I was thinking that it might fit, reading across: "The State Board shall prescribe by regulation the differentiated corrective actions, the consequences, or the sanctions, or any combination thereof," and this would be the new phrase, "based upon the identified needs of the public school," and the rest of the phrase, "that has been designated as demonstrating need for improvement for 4 consecutive years or more."

SENATOR HORSFORD:
Maybe add a little more like, "including but not limited to," such as ELL, special education and whatever else the at-risk definition criteria includes. It is simply because the average person in the community does not know what all of our definitions mean in law. I would show that it does include it there, but they felt that it was not prominent enough and that the term "at risk," is too broad a term.

You say the recommendation in the bill is after the third year of not making progress, that the Department of Education would require the board of trustees to develop a comprehensive audit; that is in section 12, page 13, lines 5 through 15, membership of the support team, [Exhibit W](#). This goes back to some of the discussions around empowerment. The problem with the list of representatives is that it does not include community members or parents or the people that are affected at those schools. We really want to know what is

wrong or ways to make it better. We have to include parents and community members from the school that are affected in the evaluation of the audit, [Exhibit W](#), section 12, subsection 2. The board of trustees, institutions of higher education, regional education laboratories, outside consultants, regional training program and all the professionals are included, but you do not have the people who really know what is going on, with all due respect to all those professionals. We could include a paragraph (h), in section 13, [Exhibit W](#) that has members, parents and community members from the particular school being audited.

Ms. McCABE:

Right now, we do have a parent on that school support team, a required member of the school support team. I agree with what you are saying, it is just under current statute that we do have a parent as a member of the school team.

SENATOR HORSFORD:

That is better, because it does say "must include those representatives" but you only have a parent or guardian of a pupil who is enrolled, so you just have one. I will take that back to them and see what they say.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 389 WITH PROPOSED AMENDMENT 4072 INCLUDING THE ADDITIONAL CORRECTIONS MADE TO THE AMENDMENT.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

CHAIR WIENER:

We shall open the hearing on S.B. 393.

[SENATE BILL 393](#): Revises provisions governing barber schools. (BDR 34-1223)

Ms. MARTINI:

This bill transfers the responsibility for licensing and regulation of barber schools from the State Barbers' Health and Sanitation Board to the Commission on

Postsecondary Education. No amendments have been submitted at this time ([Exhibit Y](#)).

SENATOR HORSFORD:

There was one amendment not included. The instructor provision was repealed and the instructors would still have to be licensed by the Barbers' Health and Sanitation Board because they are the only ones who can do that.

CHAIR WIENER:

The Postsecondary Education Commission would still have a substantial role regarding curriculum and all of that.

SENATOR HORSFORD:

Currently, the instructor is licensed by the State Barbers' Health and Sanitation Board. Because of the qualifications that are necessary to be an instructor that should remain with the Health and Sanitation Board. I agree to keep that there.

CHAIR WIENER:

They would also be the licensing board for all of those who would complete the educational curriculum at the school.

SENATOR HORSFORD:

Correct.

SENATOR CEGAVSKE:

I would ask Senator Horsford to clarify the need for this. What was the issue that brought this to us? I was out of the hearing room that day. If I could get that information, I would appreciate it.

SENATOR HORSFORD:

Last Session, we had a bill that created the establishment of the first barber school in the State. At that time, it was all within the purview of the State Barbers' Health and Sanitation Board. In the development of that school, it has become apparent that the State Barbers' Health and Sanitation Board does not have all of the infrastructure and adequate support because their role is licensing barbers and not really monitoring or overseeing schools. The Commission on Postsecondary Education was a better fit since it is a vocational-education institution. We brought this bill forward to transfer the responsibility for the licensing and regulations of the barber schools from the

Senate Committee on Health and Education
April 10, 2009
Page 43

Barbers' Health and Sanitation Board to the Commission on Postsecondary Education.

Mr. Perlman from Postsecondary Education was here and indicated his ability to do this without any fiscal impact due to the fees and such that are collected from the school.

SENATOR CEGAVSKE:

Why is this not in the Senate Committee on Commerce and Labor. It is a board issue, so is it because of the Commission on Postsecondary Education?

SENATOR HORSFORD:

It was introduced by the Senate Committee on Commerce and Labor, but the Chair of Commerce and Labor referred the bill to us because of Postsecondary Education. I submitted another amendment on the apprenticeship issue. It is not in my book, but it was passed out at the hearing. It would allow a licensed barber to have up to three apprentices and that needed to be placed somewhere as well because it is currently not allowed, or not clear, in the law.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 393.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR NOLAN WAS ABSENT FOR THE VOTE.)

* * * * *

CHAIR WIENER:

In the motion to amend and do pass it would include the two amendments that you just discussed involving apprentices and the instructor being under the jurisdiction of the existing body.

We shall now begin the hearing on S.B. 157.

SENATE BILL 157: Limits the amount that certain hospitals and physicians may charge for the provision of certain services and care. (BDR 40-808)

Ms. LYONS:

As you recall, we sent this to the Subcommittee to report back. The report contains some of the provisions that the Subcommittee agreed to bring forward to the full Committee after the Subcommittee's meeting this morning. I can walk through those, or the chair of the Subcommittee can, whichever you prefer.

The Subcommittee, after receiving some information from Senator Horsford and some directions to take another look at how they could get to the intent of the bill that is attached for your review ([Exhibit Z](#)), as well as some information that was provided by Senator Washington ([Exhibit AA](#)). This document and this information process are developed pursuant to that and the discussion that was provided during the Subcommittee meeting.

The first provision is to institute a better data collection effort to evaluate the problem that would increase the role of the Governor's Office for Consumer Health Assistance. It requires the Office to track noncontracted, or out-of-network medical provider-related complaints. They also prepare reports that outline some specific things, including the total number of noncontracted medical-provider complaints filed with their office. The Office prepares listings of medical providers, health plans and hospitals most frequently involved in such complaints. The number of resolved complaints, financial concessions, negotiated discounts from provider or hospital, increased payments from the health plans—all are submitted by the health plans in a quarterly summary report to the Legislative Committee on Health Care.

The second tenet under that is to authorize the Office to request and collect charitable-donation plans and policies from all three of those entities: medical providers, health plans and hospitals. An appropriation of \$150,000 to the Office is provided for staff support and their efforts to collect and maintain this information.

The second provision was to require all health plans to review their plans and prepare a summary report to be submitted to the Legislative Committee on Health Care as well, on a quarterly basis. The second part of that was to develop an out-of-network medical-care discount program. If all of those provisions are met, then the non-network hospital with 100 or more beds would not charge for services and care at a rate that was more than the usual and customary. A physician on the staff at a hospital with 100 or more beds would

not charge for such services and care at a rate that is greater than 200 percent of the amount Medicare would pay for the specific services and care.

This measure, if it were adopted by this body and moved forward, would sunset on June 30, 2011, thus allowing the Legislative Committee on Health Care, once they have received the information and data, to take another look at it and come back with some recommendations to the next Legislature.

SENATOR HORSFORD:

We had several Subcommittee meetings and listened to all of the various stakeholders, including physicians, insurers, several patients and the Office for Consumer Health Assistance on some of the challenges that are being faced. As you know, this is not an easy subject as we have been dealing with this for several sessions. This represents progress to this point. There is still work that can be done if this Committee desires to move the bill forward. My commitment would be to continue to work with those stakeholders toward creating a resolution. As we heard, there are providers, particularly here in northern Nevada, who operate under one set of rules and one set of practices, and they are pretty good, whereas that is not the case throughout the State based on the complaints we have heard. We are trying to strike a balance for a statewide policy without causing dramatic harm to those emergency room physicians and specialty physicians that we desperately need in our hospitals. This was the consensus reached today, but again, there is much more work to be done.

CHAIR WIENER:

There is an appropriation to the Office for Consumer Health Assistance to help provide staff support for this. Certainly, as you have just mentioned, and we did not have that provision before, this is much expanded with more diversion of what came in to the Committee, so I am absorbing your work.

SENATOR CEGAVSKE:

I have some grave concerns, and again, this goes to people being in business, as hospitals and doctors are, that we would tell them how much they could or could not spend on something. When you are in business, everyone gets paid before you do. If anyone thinks that being a doctor or hospital is easy, it is not. They do give a lot. For us to put mandates or strong-arm them on issues, judging how they should spend their money, or set charges, is like coming into my small business and telling me what prices I can put on my items. We are getting into an area that we should not. Again, I do not know the depth of it,

but Senator Horsford and Senator Washington know it. I do know business and I do know how hard it is when people come in and try to dictate what you should charge. It is a very harmful area when we look at doing some of the things that I have heard in this Committee for S.B. 157. I will not be able to support what the Committee came up with. I will be voting against this.

I hope in future meetings we remember these are businesses. For us as a State to dictate regulations like this will literally put doctors and hospitals out of business. I find it really hard to take that we would be doing that at a time where we have severe economic issues in our State. I talked to one of the doctor's wives who said they are lucky if their profit is 30 percent. In the emergency room, those doctors see so many indigent patients on a regular basis and they risk every day not getting paid.

SENATOR WASHINGTON:

We have been working on this issue for a number of sessions, and I hope this is the beginning of something that will resolve the issue. Hopefully, future Legislators will not have to deal with such contentious issues. For the most part, the parties involved in providing patient care, the hospitals and physicians, providers and self-funded groups, all try to do their best to make sure a health-care delivery system is at its best and provides adequate care. I would hope accessibility and quality are at the forefront.

We had to choose a way to come up with usual and customary rates concerning hospitals. It would add an additional fiscal note to the bill, but the Senate Committee on Finance can work that out. I have asked Mike Willden if they could do this and he has assured me they could, but there will be a fiscal note to it. It would be the DHHS and/or the Division of Insurance that would establish a usual and customary charge for medical services either by region or the State, and/or statewide. In that way, the Department itself will establish the usual and customary charges that are based off of a chargemaster.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

First of all, although it was not stated, I want to make clear that we do not have usual and customary rate data available to us routinely. We get claims information, some of which may have usual, customary and reasonable (UCR) charges on it and some of which does not. If someone was going to be sending this to us and the intent is for us to try to calculate that, we can certainly put

together the resources necessary to do that job. This would then be referred to the Senate Committee on Finance, but that is something that we are going to take a look at.

I know there was reference to some federal confidentiality rules. I am not sure how we would get around that unless there is some de-identify data. I would like to have the opportunity to look at those federal rules to make sure that we are not hampered by the same confidentiality laws as other divisions.

SENATOR HORSFORD:

My only question deals with the requirement already in statute, under NRS 439B, that hospitals are required to state their billed charges for indigent care. How is this already being done to meet the current provision of law?

MR. DUARTE:

There are two separate issues here. One has to do with billed charges that are accumulated in each hospital and something called the chargemaster. There are then separate charges for professional services. Insurance companies administer professional claims and usually base their opinion on a usual and customary rate. There are two separate issues: billed charges for hospitals and a UCR schedule that is used to administer some health plans.

In terms of the chargemaster, the way that it is administered is that if requested, a hospital must provide a patient access to the chargemaster. We do not get those electronic charges. We do not get a hard copy or an electronic copy of the chargemaster, which is literally thousands of pages long. We do not even get an electronic version, but if it is requested either through us or directly to a hospital, the hospital must provide it to the patient.

SENATOR HORSFORD:

How are we meeting the provisions of NRS 439B currently?

MR. DUARTE:

If requested, we will provide it. If a hospital is asked, we will ask the hospital to provide it directly. We do not collect the chargemaster data. Is there a specific section of NRS 439B that you are referencing with respect to claims data that goes to the centers for health information and analysis?

SENATOR HORSFORD:

As stated in NRS 439B, "Except as otherwise provided in subsection 2 of NRS 439B.330, no payment for indigent care may be made to the hospital until the total amount so accruing to hospital exceeds the minimum obligation of the hospital for the fiscal year. ... That the amount accruing to the hospital for the care until the hospital has met its obligations pursuant to this section is the highest amount the county is paying to any hospital in the county for that care."

How is that being handled and certified? "A hospital may only receive payment from the county for indigent care provided in excess of its obligation pursuant to this section ... " I know this deals with indigents but the fact that they have to certify that amount is what we are trying to get at here, but just for a different purpose.

MR. DUARTE:

I apologize; I would have to go back and ask staff how we are doing this, and maybe ascertain that through some of our audit reviews. Off the top of my head, I am not sure how that is being administered. We do review their indigent costs and report back on that 0.6 percent of net revenue for the preceding year, but again, we do not specifically use the chargemaster for the calculation of that number.

MS. LYONS:

I want to clarify something on page 3 of [Exhibit Z](#). Right before the first bullet point: " ... shall not charge for such services and care a rate which is: No more than usual and customary." The "no" has to go, so it will say, "shall not charge ... a rate which is more than the usual and customary rates."

SENATOR HORSFORD:

The usual and customary aspect needs review, and ultimately it may not be doable as not everyone abides by it, but I am willing to work on it if the stakeholders are, and other members of the subcommittee. We need the data, we need improve on it get these charges identified. It is part of the big question here; when no one knows what the charge is it is a moving target.

SENATOR WASHINGTON:

I agree with Senator Horsford that we do need to get a handle on it. I will also say that it is probably the same thing for the second bullet on page 3, [Exhibit Z](#), dealing with the 200-percent cap for emergency room doctors.

Senate Committee on Health and Education
April 10, 2009
Page 49

SENATOR WASHINGTON MOVED TO ADOPT THE PROVISIONS AND
CONCEPT LAID OUT BY STAFF AND REREFER S.B. 157 TO THE SENATE
COMMITTEE ON FINANCE.

SENATOR WASHINGTON:

If I might add, to the Cochair of the Senate Committee on Finance, if he would
allow this one Senator to continue to work on it for a while once it gets over
there.

CHAIR WIENER:

Counsel, is that a proper motion, to adopt in concept?

MS. PARTIDA:

Yes.

SENATOR HORSFORD:

I would just stick with the DHHS at this point until we determine otherwise.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CEGAVSKE VOTED NO. SENATOR
NOLAN WAS ABSENT FOR THE VOTE.)

CHAIR WIENER:

Is there any other business coming before the Committee in terms of voting
responsibilities of our Committee? Is there anyone to come forward with public
comment on this?

Senate Committee on Health and Education
April 10, 2009
Page 50

We will be in Committee again on Monday, starting at 3:15 p.m., our regular time. We have four bills ready to hear, Assembly bills, moving forward. This meeting is adjourned at 4:04 p.m.

RESPECTFULLY SUBMITTED:

Maureen Duarte,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____