

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-sixth Session  
April 15, 2011**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Michael A. Schneider at 12:58 p.m. on Friday, April 15, 2011, in Room 2135 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 Michael A. Schneider, Chair  
Senator Shirley A. Breeden, Vice Chair  
Senator David R. Parks  
Senator Allison Copening  
Senator James A. Settelmeyer  
Senator Elizabeth Halseth  
Senator Michael Roberson

**GUEST LEGISLATORS PRESENT:**

Senator Moises (Mo) Denis, Clark County Senatorial District No. 2  
Senator Joseph (Joe) P. Hardy, Clark County Senatorial District No. 12  
Senator John J. Lee, Clark County Senatorial District No. 1

**STAFF MEMBERS PRESENT:**

Scott Young, Policy Analyst  
Matt Nichols, Counsel  
Vicki Folster, Committee Secretary

**OTHERS PRESENT:**

Ed Guthrie, Executive Director, Opportunity Village  
Keith Lee, State Contractors' Board  
Amber Joiner, Director of Government Relations, Nevada State Medical Association

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James Jackson, Nevada Homeopathic & Integrated Medical Association  
Bruce Fong, D.O., H.M.D., President, Board of Homeopathic Medical Examiners  
Rusty McAllister, Professional Firefighters of Nevada  
Carole Vilardo, Nevada Taxpayers Association

CHAIR SCHNEIDER:

We will open the work session with Senate Bill (S.B.) 21. During a previous work session, several interested parties agreed to delete portions of the modified mock-up. The Committee requested the Legal Division to prepare a new mock-up showing these agreed upon changes. The new mock-up is Proposed Amendment 6309 ([Exhibit C](#)).

**SENATE BILL 21**: Revises the requirements for reopening a claim of compensation for a permanent partial disability. (BDR 53-479)

SENATOR SETTELMAYER:

I appreciate that this proposed amendment is part of a bigger package and have no problem supporting S.B. 21. If something changes on the bigger package, I will change my vote.

CHAIR SCHNEIDER:

We will close discussion on S.B. 21.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 21.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will now discuss S.B. 189.

**SENATE BILL 189**: Revises certain provisions governing real estate transactions. (BDR 54-615)

SCOTT YOUNG (Policy Analyst):

Some of the bills discussed during this work session were submitted after the workbook was prepared. This is one to be considered today that is not in the workbook. A proposed amendment dated March 28, 2011, from Teresa McKee ([Exhibit D](#)) is being distributed.

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

Senate Bill 189 authorizes a party to a real estate transaction to terminate an agreement with a licensee under certain circumstances. By law, the Realtor is supposed to have 24 hours to put that listing on the books. If it is not listed within two days and something should happen, then the hiring party who contracted the Realtor may decide not to have the Realtor do the work. Presently, the broker owns the listing, not the agent, and it may be given to another agent within the brokerage. The bill allows the consumer to get out of the deal with the brokerage firm. The only opportunity currently for the consumer to cancel the agreement is to file a complaint with the Real Estate Division, Department of Business and Industry, or file a civil lawsuit.

To assist the consumer, this bill would also provide updated forms to list certain real estate information. This information will also be updated in the Real Estate Division's "Residential Disclosure Guide."

SENATOR PARKS:

I want to disclose that I am a real estate licensee but it does not appear this will affect me any differently than anyone else.

Senator Lee, will the form to terminate the agreement be readily available?

SENATOR LEE:

Ms. Anderson assured me that would be on their forms list.

SENATOR ROBERSON:

Is it correct to state that the proposed amendment we just received changes the initial form of the bill which allowed for someone to rescind a contract? Would this change it so that it is clear on the contract they have this right?

SENATOR LEE:

I do not know if it will indicate this in the contract, but it will state this information in the "Residential Disclosure Guide" booklet.

SENATOR ROBERSON:

Do you know what the Nevada Association of Realtors' position is on this bill now that it has been amended?

SENATOR LEE:

I would say they probably would wish these problems did not come up. Two days to make sure their agents are turning in business is not too onerous for them. They would just need to provide a course to discuss the law.

SENATOR SETTELMAYER:

I am bothered about the concept of this bill. I think if someone decides to enter into an agreement to list property with somebody for a period of time, that person has entered into a contract. I do not like the idea of unilateral rescissions.

CHAIR SCHNEIDER:

We will close the discussion on S.B. 189.

SENATOR BREEDEN MOVED TO AMEND AND DO PASS S.B. 189.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS COPENING, HALSETH, ROBERSON AND SETTELMAYER VOTED NO.)

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MR. YOUNG:

We will now discuss S.B. 190. This bill is not in your workbook. Included in the handout is a proposed amendment by Judith Pinkerton ([Exhibit E](#)) which was presented previously at the subcommittee meeting on March 17, 2011.

[SENATE BILL 190](#): Provides for the licensure of music therapists. (BDR 54-377)

SENATOR MOISES (Mo) DENIS (Clark County Senatorial District No. 2):

This bill provides for the licensure of music therapists by the State Board of Health (SBH), Health Division (HD), Department of Health and Human Services (DHHS).

One question that came up previously was whether music therapists were practicing outside their profession. The proposal was to replace section 7 with the language you see there, [Exhibit E](#).

The second question had to do with breaking new ground and new licensure. As mentioned there, Nevada could be the first state to license music therapists; however, there are six or seven other states that are actually further along in the process than we are.

As far as board oversight, there was a question about who would oversee music therapists. In previous meetings, it was determined that the SBH would have oversight using standards the American Music Therapy Association (AMTA) uses. They have to be certified with AMTA and then would come back to the SBH. The SBH would be the ultimate authority. Regulations would also be set up by the SBH.

SENATOR SETTELMAYER:

One item we discussed was who would conduct the due-process rights. Is that still going to Pennsylvania and then Nevada has the final decision?

SENATOR DENIS:

No. The AMTA is located in Pennsylvania. What will happen is a complaint would go to the SBH for consideration. The SBH would then use the AMTA to be sure the music therapist is following the requirements for their certification. The AMTA would report back to the SBH who would then determine the outcome.

SENATOR SETTELMAYER:

I appreciate your explanation. I am concerned about the concept of due-process rights coming from a non-housed state agency, regardless of what state.

SENATOR DENIS:

We are trying to provide an opportunity for music therapists to be recognized in Nevada. There are individuals who are advertising as music therapists who actually do not have any certifications.

CHAIR SCHNEIDER:

We will close the discussion on S.B. 190.

SENATOR BREEDEN MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 190.

SENATOR COPENING SECONDED THE MOTION.

SENATOR COPENING:

I discussed with the sponsor of the bill that I do have some concerns because I do not believe all the stakeholders have properly communicated and come together on this bill. Nevertheless, I believe the sponsor has put many hours into it and, perhaps, those who may have been in opposition had time to meet; I am going to vote in favor of the bill, but I reserve the right to change that vote if additional information comes forward that is compelling enough for me to change it.

THE MOTION CARRIED. (SENATORS HALSETH, ROBERSON AND  
SETTELMAYER VOTED NO.)

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MR. YOUNG:

The next work session bill is S.B. 293. This is Senator Cegavske's bill for Opportunity Village. The handout provided is a proposed amendment by Ed Guthrie, Executive Director, Opportunity Village ([Exhibit F](#)).

SENATE BILL 293: Makes various changes relating to certain nonprofit organizations. (BDR 3-1011)

CHAIR SCHNEIDER:

Committee, I spoke with Senator Cegavske about the amendment and she is okay with it.

ED GUTHRIE (Executive Director, Opportunity Village):

Opportunity Village is a nonprofit community training center in Las Vegas serving people with intellectual disabilities.

We tried to address two different concerns of the Office of the Secretary of State and the trial lawyers. Nevada law encourages government agencies to contract with nonprofit community training centers that provide jobs for

individuals with disabilities, without having to go through the competitive bid process. The caveat is that 75 percent of the people working on any contract involving the training centers to provide goods or services to a State agency must be people with severe disabilities. This bill attempts to prevent individuals or for-profit companies from circumventing purchasing laws by establishing alleged nonprofit community training centers that are then controlled by the individual or the for-profit company.

The original bill required the Secretary of State (SOS) to monitor the community training centers and requested limits or caps on liabilities for the nonprofit community center to offset any fee that might be required by the SOS to provide that monitoring. The SOS indicated they were not the appropriate agency to provide this monitoring to the nonprofit community training centers. They can say the nonprofit was registered with the State and listed with the SOS's office, but other than that they cannot provide any other services.

We then went to the Department of Employment, Training and Rehabilitation (DETR) and to the Division of Mental Health and Developmental Services (MHDS), DHHS, who already certify those community training centers and asked if they could provide the monitoring that was requested in the bill. They indicated they could provide that on an annual basis and there should be no additional costs to provide that monitoring. Since there were no additional costs to provide the monitoring, there would be no fee. Therefore, there should be no limits to the liability. There would be no need for the limits to the liability for the nonprofit community training centers.

In section 1 of the bill, as amended, all limits on the liability to nonprofit community training centers are deleted. The revised section 1 requires, under *Nevada Revised Statute* (NRS) 435, that MHDS requires certain information of nonprofit community training centers on an annual basis. The new section 2, the nonprofit community training centers, certified by DETR, requires the same type of information.

CHAIR SCHNEIDER:  
We will close the discussion on S.B. 293.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 293.

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SENATOR COPENING SECONDED THE MOTION.  
THE MOTION CARRIED UNANIMOUSLY.

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MR. YOUNG:

We will now discuss S.B. 351. There are materials in your binders for this bill ([Exhibit G](#)). Senator Hardy presented a conceptual amendment, [Exhibit G](#), page 2, which addresses sections 4 and 6 of the bill. Also in the binder, [Exhibit G](#), page 3, there is a second conceptual amendment dated April 14, 2011, addressing section 1.

**SENATE BILL 351**: Revises provisions governing disciplinary action against contractors. (BDR 54-225)

SENATOR JOSEPH (JOE) P. HARDY (Clark County Senatorial District No. 12):  
The second conceptual amendment dated April 14, 2011, [Exhibit G](#), page 3, takes precedence. It includes and clarifies the first conceptual amendment.

CHAIR SCHNEIDER:

Would you describe to the Committee what that second conceptual amendment does?

SENATOR HARDY:

Section 4, subsection 1 of the second amendment, [Exhibit G](#), page 4, asks for the license number. It not only asks the executive director of the Department of Taxation to notify the State Contractors' Board (SCB) of the name, but also asks for the license number.

To illustrate, the original bill draft came from Ex-Senator Raggio at the request of Michael Miller. We have yet to identify Michael Miller because there is no license number attached to that name. It illustrates the challenge they have identifying some of the people who are identified only in part.

SENATOR SETTELMAYER:

I see there was a fiscal note. Has that been potentially resolved? It was about \$57,600 from the SCB. I thought this bill actually helped them.



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SENATOR HARDY:

It does help. Perhaps Keith Lee of the SCB can address that question. It does facilitate the process.

SENATOR SETTELMAYER:

I think it actually saves them money.

KEITH LEE (State Contractors' Board):

Yes, it does help. You will note that part of the conceptual amendment at the bottom of page 3, [Exhibit G](#), reads: "... and may recover the costs of the hearing." The biggest part of the fiscal note was the cost of the hearing, which is not insubstantial.

Also note, in section 1, subsection 1, paragraph 4, on page 4, [Exhibit G](#), specifies that notification the SCB would receive, "...is irrefutable [sic] presumption of the validity of the lien." One of our concerns is that we do not want to have the hearing and then have to again contest the validity of the lien. We want to be able to determine the person before us is the person who is named in the lien and then determine whether that person has paid the lien.

CHAIR SCHNEIDER:

We will close the discussion on S.B. 351.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 351.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will now go to S.B. 329.

[SENATE BILL 329](#): Revises provisions governing prescriptions. (BDR 54-904)

MR. YOUNG:

In the workbook you will find two documents ([Exhibit H](#)). The first is the conceptual amendment, [Exhibit H](#), page 2, from Senators Breeden and Wiener. Behind that on page 3 is a document dated March 29, 2011, submitted by Elisa Cafferata, President/CEO of Nevada Advocates for Planned Parenthood Affiliates. These documents are proposed amendments.

SENATOR BREEDEN:

I would like to ask Amber Joiner to come forward to testify. We met all the stakeholders who were involved with this bill. That is why the conceptual amendment is before you.

AMBER JOINER (Director of Government Relations, Nevada State Medical Association):

The Nevada State Medical Association (NSMA) is happy to support this version of the conceptual amendment, [Exhibit H](#), page 2. Denise Selleck Davis representing the Nevada Osteopathic Medical Association was not able to attend today and asked that I put on the record her support for this version.

The conceptual amendment would delete all the sections of the bill and leave you with the current law. This bill allows physicians to ask their patients if they would like additional information added to the labels of their prescriptions: additional information regarding the symptoms and use for that prescription.

When we reviewed this, Larry Matheis, NSMA, testified at the original hearing that we have always been in support of the option of putting additional information on the prescription labels. In fact, when this was added to statute, we were part of that discussion. We looked at the problem and decided it may be an issue of physicians not asking the question perhaps because they do not know this is in the law and patients not knowing they are allowed to ask. Because it is a fairly new law, it may be an education issue.

Proposed items 2 and 3 on the conceptual amendment were from the NSMA. The first thing we would do is revise NRS chapters 630 and 633 to authorize the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage the physicians to attend educational programs. These programs would address the methods of educating their patients in medication management, including the option to request special prescription labels.

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The next amendment would be to NRS 453.155 to authorize the Board of Pharmacy or the Investigative Division, Department of Public Safety, in consultation with the HD, to carry out educational programs to assist in the education and training of physicians, pharmacists and patients regarding the option of these special labels. That portion of NRS already indicates that those entities provide education.

The final item amends NRS 639 to require each practitioner to post a sign in English and Spanish in a conspicuous location in the exam room.

SENATOR BREEDEN:

When we met, we spoke with a legal counsel from the Legislative Counsel Bureau (LCB) who indicated the posters would be made in both Spanish and English.

I would like to indicate that Elisa Cafferata from Planned Parenthood and Elizabeth MacMenamin from the Retail Association of Nevada were also participants in the meeting.

SENATOR ROBERSON:

Are we including Planned Parenthood's proposed amendment to S.B. 329 on page 5, [Exhibit H](#)?

SENATOR BREEDEN:

No. The conceptual amendment, [Exhibit H](#), page 2, is what we all agreed upon.

SENATOR SETTELMAYER:

How does a doctor know which language to print? Are they the same rules that apply to the Secretary of State about printing in a language based on a percentage of the population in a particular area?

MS. JOINER:

The way this is drafted would only require it to be in English and Spanish. Many of our medical facilities only use those two primary languages. Some physicians may choose to use additional languages, but is it at their discretion based on the population they serve.

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SENATOR SETTELMAYER:

I understand. The bill will require the postings to be printed in those two languages only and then a physician at his/her own discretion may add other languages to address those other patients' needs.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 329.

SENATOR COPENING MOVED TO AMEND AND DO PASS S.B. 329.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will now open discussion on S.B. 412.

**SENATE BILL 412**: Provides for the regulation of the practice of complementary integrative medicine. (BDR 54-1105)

JAMES JACKSON (Nevada Homeopathic & Integrated Medical Association):

We have gutted this bill in our proposed amendment to apply only to the NRS 630A licensees ([Exhibit I](#)). Our main goal at this point is to change the name of the board of authority from the Board of Homeopathic Medical Examiners (BHME) to the Board of Complementary Integrative Medicine to reflect what is happening in that medical community as shown in section 45, [Exhibit I](#), page 10. The rest of the changes are in NRS 630A and wherever "homeopathic physician" is referenced. That changes to "complementary integrative physician" or "complementary integrative practitioner."

To be clear, we do not want to include anyone in this bill except the practitioners of integrative medicine and other individuals who are licensed under NRS 630A. We do not intend to include any other licensee, board, vitamin stores, dieticians, or anyone other than NRS 630A licensees.

You should have a letter from Nancy Eklof, Executive Director, Board of Homeopathic Medical Examiners, dated April 14, 2011, asking for the name change and providing additional information, [Exhibit I](#), page 49.

Our intent was to address the legislative mandate that has been given to the BHME to make sure Nevadans are kept safe from anyone who is practicing a healing art in this State and is not otherwise covered by a licensing board. It was not our intention to take over anyone else's licensing supervision or oversight. If the LCB, after reviewing our proposed amendment, indicates that specific language needs to go in that clearly states, for example, a massage therapist is not to be covered by this, we are fine with that.

SENATOR ROBERSON:

I am very concerned about the process involved. This is a big bill that has been gutted, Mr. Jackson. When would we have had a chance to read this? I want to make two requests of the Chair: would you open this meeting up to people who are opposed to address the new version of the bill; and is there still a two-thirds majority vote requirement for this bill?

MR. JACKSON:

We do not believe there is a two-thirds requirement because we have removed the integrative technician which included a licensing fee of \$150. There are no changes in fees, and there are no new fees added. The law in NRS 630A remains the same except the name change. There is a portion about prescription rights that Dr. Fong will address.

BRUCE FONG, D.O., H.M.D. (President, Board of Homeopathic Medical Examiners): We removed the list of modalities that were to be added in sections 2 through 8, and all the sections up to section 43 have been removed. Section 43 starts with the BHME's chapter of the NRS which includes the homeopathic medical doctors, homeopathic advanced practitioners and the homeopathic assistants for which we were proposing name changes. The extensiveness of the rest of the bill, other than the prescription changes, really is a boilerplate change for the name of the board as well as the name of those three levels of practitioners who already exist under NRS 630A.

Senator Roberson, I agree with Mr. Jackson that since we have removed any new fees and any new penalties, this should not require a two-thirds majority vote. There is no additional fiscal impact on anybody.

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CHAIR SCHNEIDER:

For those who were concerned about their modalities listed in S.B. 412, section 41, the proposed amendment removes them [Exhibit I](#), page 8. There are additional amendments submitted by Charles Duarte, Administrator, Division of Health Care Financing and Policy, DHHS, [Exhibit I](#), page 52; Paula Berkley, representing the Board of Physical Therapy Examiners, [Exhibit I](#), page 55; and Jim Jenks, [Exhibit I](#), page 56.

Written testimony was also provided to the Committee from Ellen Crecelius, Management Analyst IV, Nevada State Division of Health Care Financing and Policy, DHHS, [Exhibit I](#), page 58.

DR. FONG:

We apologize for the extensiveness of this proposed amendment but to emphasize, these are boilerplate changes for name changes.

SENATOR SETTELMAYER:

I appreciate the work that went into this bill, but I want to address something my colleague mentioned earlier, which is the size of this bill. I will take it home to read. I will have people who are affected by this chapter review it for clarification. I will vote "no" for now but I may change my vote on the Senate Floor.

CHAIR SCHNEIDER:

We will close the hearing on S.B. 412.

SENATOR COPENING MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 412.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HALSETH, ROBERSON AND  
SETTELMAYER VOTED NO.)

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CHAIR SCHNEIDER:

We will now discuss S.B. 135.

**SENATE BILL 135**: Revises provisions governing the presumption of eligibility for coverage for certain occupational diseases. (BDR 53-717)

SENATOR DAVID A. PARKS (CLARK COUNTY SENATORIAL DISTRICT No. 7):

The conceptual amendment ([Exhibit J](#)) for S.B. 135 primarily changes the bill which was previously heard. It adds new provisions which are outlined in items numbered 1, 2 and 3. Item 4 will add a new provision that would specify that the bill apply to prospective hires on or after the effective date of the bill.

In item 2 of the conceptual amendment, the provisions specify that police officers, firefighters or other persons who have met eligibility requirements and cease employment with his or her government employer, shall retain eligibility for medical coverage under the NRS only until that person reaches Medicare eligibility or any successor program to Medicare. The provision does not apply to a person who makes a claim for those medical benefits while he or she is employed with a government employer and that claim is accepted.

Item 3 adds a new provision which specifies that anyone who has met qualifications for the benefits and does not meet the other requirements from an unreduced retirement benefit from Public Employees' Retirement System (PERS) shall have five years of eligibility in which to file a claim for benefits under the provisions listed. This provision would not affect the person's right, as provided under existing law, to reopen the claim.

RUSTY MCALLISTER (Professional Firefighters of Nevada):

Under the conceptual amendment, item 1 deletes section 2, subsection 5 and section 3, subsection 1 of S.B. 135 which was brought up in the previous testimony. Randy Waterman, Public Agency Compensation Trust, suggested the removal of the rebuttable portions of that section.

Item 2 of the conceptual amendment provides an end to the sunset, at the same time providing coverage for police officers and firefighters. As we testified earlier, the Supreme Court has already ruled that once an employee retires, that employee is only eligible for medical benefits. The concept we had was to provide the coverage for employees once they retired until they reached Medicare age or Medicare eligibility. At that point, the insurer would be "off-the-hook" and that retired employee would now fall under the provisions of Medicare. The insurer would then have an end to coverage of the retired employee.

A provision is included to indicate that, should Medicare not continue, there would be a successor—if there is a successor program—and the provision does not apply to persons who have already made a claim or had a claim accepted and are receiving a benefit. When people retire, they do not just go to Medicare because they are already receiving both. If they filed a claim and it was accepted during the course of their employment, then they would be receiving both medical benefits and indemnity or disability payments; that would not cease.

Under item 3 of the conceptual amendment, this would help close the argument we have heard for years about the mythical guy who comes and works for five years and then leaves the job, goes to another occupation in another state, and we are “on-the-hook” for him until he dies. There has not been anyone coming back in this situation to file a claim. This item would close that loophole. In other words, if the qualifications to retire from PERS have not been met, or if the qualifications for eligibility were met but the employee left the job, eligibility for coverage would continue for five years. At that point, if no claim was filed, benefits covering heart and lung disease would cease.

Concerning Item 4 of the conceptual amendment, discussions with LCB Legal Counsel indicated that this benefit, by the nature of the change, made it a prospective type of situation. It could not be applied to those currently employed who had been working under the provisions of the premise that this benefit was available to them if they had been exposed for an extended period of time, they would not have that “yanked out” from underneath them. Based on the information they provided, they felt it was appropriate to make it prospective for new hires.

SENATOR SETTELMAYER:

Where is the reasoning for not changing or making sure the State does not incur liability for individuals who have made a claim and clearly were not the State’s responsibility?

MR. MCALLISTER:

I am following legal counsel’s direction. They are the ones who brought in the provision of a prospective nature of this conceptual amendment.



CAROLE VILARDO (Nevada Taxpayers Association):

I appreciate the fact that the bill was added to the work session. I cannot tell you specifically what this does; not matching statute language, except in section 2, which liberalizes the benefits. Currently, in NRS 617.487, hepatitis is restricted to one year. In NRS 617.487, hepatitis is restricted to five years and this one opens it up into Medicare. We would prefer to go back to the statutory provisions. Those were discussed previously and we would not like to see that liberalized. I have not had the benefit of reviewing this. Legislative Counsel, LCB, Mrs. Brenda Erdoes, contacted me before this hearing, and, unfortunately, I was not able to meet with her regarding this section 4. If the Committee would change and go back to the one year and five year limits as specified in statute, even though I am not familiar with the rest of these sections, I would be more than happy to say that, barring something unforeseen, I would accept the amendment.

MR. MCALLISTER:

With regard to the provisions in item 2, we did not ask for the continuing or to try to advance that benefit for cancer or hepatitis. When it came out of drafting and we first saw this, it was in there. When the proponents of the bill put it in, for some reason, it listed cancer and hepatitis. We realize the sunsets are one year and five years, and it was not our intent to expand that benefit to Medicare.

MS. VILARDO:

I appreciate that. When the bill came out, it had that rebuttable presumption which we testified we did not want. I have to qualify that not having read the rest of it, I would accept the amendment as is. I will discuss this with Senator Parks at a later date before it gets to the Senate Floor with the formal amendment to advise if we see anything else. With the change of putting the one-year and five-year eligibility back into the bill, we would accept the amendment.

MR. YOUNG:

With your permission, to clarify, I would like to ask the individuals testifying if they agree that items 2 and 3 of the conceptual amendment are only for a retiree who is eligible for an unreduced retirement benefit. If that is correct, it will be clear to everyone.

MR. MCALLISTER:

Correct; that is my understanding. The premise is, if an employee or member were to have a heart or lung problem while they are still employed, the regular workers' comp provisions would apply as they do now. Once they retire, with an unreduced benefit from PERS, from that point forward until they reach Medicare eligibility they would have the benefit. Once the Medicare eligibility is available, the State benefit would cease.

Item 3 is for the person who is entitled to an unreduced benefit from PERS or, if not entitled to an unreduced benefit from PERS, would have five years of eligibility after they ceased employment.

CHAIR SCHNEIDER:

Mr. Nichols, are you comfortable with these understandings?

MATT NICHOLS (COUNSEL):

I think that Mr. McAllister accurately described what I understand the intent to be so that part 2 of this proposed amendment would apply only to someone who retired with their full PERS benefit and part 3 would apply to someone who retired with a reduced benefit; from before they were eligible for their full benefit.

As to part 4, there is a constitutional requirement there that these kinds of changes to these benefits would have to be applied prospectively only. I am sure Brenda [Mrs. Erdoes] would be happy to talk with Ms. Vilardo afterwards to explain that.

SENATOR SETTELMAYER:

I am concerned with this amendment because of the strange language, but I trust the individuals at the table with what is being said. I hope the final bill will do what we are all trying to accomplish; to make sure we are not letting certain individuals who are problematic drain the legitimate Firefighters Fund.

CHAIR SCHNEIDER:

We will close discussion on S.B. 135.

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 135.

SENATOR COPENING SECONDED THE MOTION.

SENATOR ROBERSON:

I echo my colleague, Senator Settelmeyer. I do not like this process of completely new language with no time to review. Even some of the witnesses have not fully reviewed this bill. Today I will vote yes and reserve the right to change my vote to "no."

SENATOR HALSETH:

Mr. Chair, I will also support this bill but reserve the right to change my vote on the Senate Floor.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

There being no further business for the Senate Committee on Commerce, Labor and Energy, the meeting is adjourned at 2:07 p.m.

RESPECTFULLY SUBMITTED:

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Vicki Folster,  
Committee Secretary

APPROVED BY:

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Senator Michael A. Schneider, Chair

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

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 21	C		Work Session Document
S.B. 189	D		Work Session Document
S.B. 190	E		Work Session Document
S.B. 293	F		Work Session Document
S.B. 351	G		Work Session Document
S.B. 329	H		Work Session Document
S.B. 412	I		Work Session Document
S.B. 135	J	Senator David A Parks	Conceptual Amendment