

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
February 5, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 8:05 a.m., Thursday, February 5, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman
Senator James N. Kosinski, Vice Chairman
Senator Richard E. Blakemore
Senator Wilbur Faiss
Senator Virgil M. Getto
Senator James H. Bilbray

GUEST LEGISLATORS:

Senator Lawrence Jacobsen

STAFF MEMBERS PRESENT:

Mr. Sam Hohmann, Senior Research Analyst, Science and Technology
Ms. Connie Richards, Committee Secretary

Mr. Hohmann said that he had staffed the interim committee on transportation of radioactive waste. He said that six of the committee's recommendations have been incorporated into the bills before the committee today. The other six are in the form of resolutions or general recommendations.

Mr. Hohmann gave a brief overview of the bills under consideration by the committee.

Senator Jacobsen, Vice Chairman of the interim committee on transportation of radioactive waste identified other members of the interim committee as Senator Neal, Senator Getto, Assemblyman Bedrosian, Assemblyman Prengaman, and Mr. Hohmann. He read through S. B. No. 86 for the benefit of the committee.

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Senator Bilbray asked whether the interim committee had considered instituting a fee to be paid by the persons shipping radioactive waste to Nevada to provide for the inspection of the sites of origin of the waste itself as well as the packaging of the waste.

Senator Jacobsen explained that the interim committee had not gotten into the finites of licensing, feeling that that is a prerogative of the agency in charge.

Senator Kosinski referred to the last section of S. B. No. 86, and asked what situations would allow a carrier to be exempt from lisencing.

Senator Jacobsen said that in cases such as the University of Nevada, Reno's medical school in which gloves and syringes may have been exposed to some type of contamination, but are generally considered safe enough to dispose of at the local dump. As a precautionary measure a shipper who may be passing through may pick up the contaminated equipment and take it where it can be condensed and shipped off.

Senator Kosinski asked whether the Board of Health will exempt carriers or certain classes of waste.

Senator Jacobsen said that the exemption would be by type of waste.

Senator Kosinski said that he could see no definition of radioactive waste within the bill or chapter 459 of the NRS. He asked if this could create a problem.

Senator Jacobsen responded that he believes that the definition of radioactive waste is provided by federal law.

Senator Neal commented that the term radioactive is all-inclusive, including both classes of waste, high-level as well as low-level waste.

Mr. Hohmann commented that chapter 459 of the NRS defines what classes of radioactive substances can be regulated by the individual states.

Senator Kosinski referred to subsection 5 of section 2.

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He asked if either the health division or the board can individually revoke or suspend a license.

Senator Jacobsen said that he felt that the health division would have that authority and if it went beyond them the board would make the final decision.

Senator Kosinski asked whether the board could revoke a license on its own.

Senator Jacobsen replied that it probably could not, stating that the board is a body that does not meet on a regular daily basis. He said that the board is the supreme order, while the health division is the monitoring body.

Senator Bilbray asked that action on the bills presented today be postponed until additional bills pertaining to the same subject have returned from the bill drafter's office and can be heard. He said that he feels that regulations should be more severe and added that not only carriers should be licensed, but shippers and packagers as well.

Senator Jacobsen said that he and the interim committee share Senator Bilbray's concerns about the disposal of waste in Nevada, however, waste is created by the government, military, and medical research and technology. He said that each of us must take the responsibility for this waste. He pointed out that Nevada is not an energy producing state but a consumer of the energy that is derived from other states. Nevada pays a high price for the use of that energy just as other states must pay a high price to dispose their waste in Nevada.

Senator Faiss asked how much of the waste produced nationwide is disposed of in Nevada.

Senator Jacobsen said that the most recent information available shows that South Carolina disposes of about 70 percent while Hanford was taking 17 percent with Nevada receiving only about 7 percent. He said that this is gradually changing somewhat. He pointed out that many states such as California have very large amounts of waste yet no disposal site for that waste.

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Senator Bilbray asked how accidents (particularly during transportation of radioactive waste) are to be prevented.

Senator Jacobsen said that most accidents are due to human error and the best way to combat them is through preventative maintenance including training for personnel who might come in contact with these incidents. They must know how to handle accidents when they occur.

Senator Faiss asked whether there is a team of people who know how to handle this type of emergency when it occurs. He said that he had heard of some type of team established through funds from chemical companies in conjunction with railroad companies to respond in an emergency situation.

Senator Neal said that there is a radiological response team that exists within the state of Nevada that can respond anywhere there is a high-level accident occurrence within four hours.

Senator Kosinski asked if there is a natural limit of waste that the Beatty dumpsite can hold.

Mr. Hohmann said that there is a natural limit. He added that when that limit is reached the dumpsite will be closed to further waste disposal.

Mr. Verne Ross, Representative, Division of Environmental Protection submitted to the committee suggestions for changes to S. B. No. 86. These suggested changes are listed as Exhibit C.

Senator Faiss asked if there are any restrictions against the mixing of low-level waste with hazardous waste.

Mr. Ross said that he didn't know for sure but felt that there should be some type of restrictions against this practice.

The Chairman appointed a sub-committee to further investigate the suggestions made by Mr. Ross. The sub-committee consists of Senator Kosinski, Chairman, Senator Faiss, and Senator Bilbray. He asked Mr. Ross if he would be able to make himself available to the sub-committee.

Mr. Ross said that he will make himself available to the sub-committee.

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Mr. Ross proposed that in S. B. No. 87, page 1, line 22, the Environmental Protection Agency would like to add a Section 3a.

The Chairman assigned the research of the additional amendment to the sub-committee.

Dr. Disibio, Director, Department of Human Resources, said that he opposes S. J. R. No. 13 because if regional sites are to be established, Nevada will be a prime target for additional sites. He said that legislation passed as recently as December, 1980 that encourages each state individually to establish sites for disposal of waste. He said that this clearly points out that radioactive material that is commercially generated is each state's problem.

The Chairman asked Dr. Disibio if he agrees with S. J. R. No. 13.

Dr. Disibio said that he agrees with the intent; establishment of regional sites, but disagrees with the idea that the federal government should have that responsibility. He asked that the resolution be amended on line 24 so that "the Congress of the United States, encouraging financially, the states to establish additional regional sites".

Senator Kosinski asked if using the words "additional regional sites" is an admission that the Beatty site is a regional site.

Dr. Disibio said that the Senator had a good point and that the word "additional" should not be used.

Dr. Disibio submitted to the committee a list of proposed amendments to S. B. No. 86. Mr. Bryan M. Nelson, Deputy Attorney General, Department of Human Resources gave brief explanations of the proposed amendments. These proposed amendments are listed as Exhibit D.

Ms. Pamela Crowell, Member, National Public Lands Advisory Council said that in both S. B. No. 86 and 87 reference is made to "due compatibility of federal regulations". She said that she believes that the responsibility is such that the committee should seriously consider the most stringent possible regulations.

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Ms. Crowell asked where repackaging of waste materials occurs when leakage is detected. She asked how many containers are generally packed in one shipment. She pointed out that if one leaking container imposes a fine of \$500 with a maximum fine of \$10,000, that only allows for 20 containers to be leaking on one shipment.

Referring to S. B. No. 86, Ms. Crowell asked whether it could not be possible that a leaking container might leak due to the fault of the manufacturer, not the packager, carrier, or producer. She asked if there is any penalty to that manufacturer.

Responding to Ms. Crowell's second question, Mr. Hohmann said that he believes that 40 barrels is generally the maximum number in one shipment, thus the \$10,000 maximum fine is half of what the amount would be if there were no maximum level.

Mr. Nelson, responding to Ms. Crowell's question about the leaking container being the responsibility of the manufacturer said that it is the responsibility of the packager to be sure that the materials used in the package itself are safe.

The Chairman asked Mr. Nelson where repackaging occurs when a leaking container is detected.

Mr. Nelson said that this would be up to a person with expertise in the field, but guessed that it would be dependent upon the package itself, what the material is within the package, and how much of the material had leaked.

Ms. Peggy Tweet, Representative, League of Women Voters presented testimony to the committee in favor of S. B. No. 86. She also presented some proposed amendments. This testimony and proposed amendments are listed as Exhibit E.

Mr. Daryl Capurro, Nevada Motor Transportation Association, said that the changes proposed on page five by Ms. Tweet would not be appropriate. He said that the language as it stands must appear that way to allow the state transportation board to designate alternative routes for all hazardous materials.

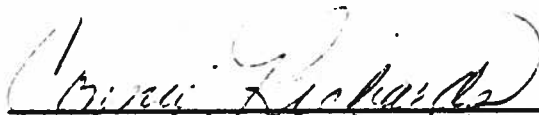
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Mr. Pete Pradere, Assistant Director, Nevada Department of Transportation agreed with Mr. Capurro's comments and added that S. J. R. No. 12 should include the training of all persons involved in public safety.

Mr. C. K. Stoddard, retired chemical engineer, spoke in favor of the growth and use of nuclear energy. He said that he believes that nuclear power and energy from coal are the energies that will be used in the coming years. Nuclear waste, or by-products, very possibly will be useful in the future, and the processes at Beatty should not be impeded.

There being no further business the meeting adjourned at 10:28 a.m.

Respectfully submitted:



Connie Richards, Committee Secretary

APPROVED:



Senator Joe Neal, Chairman

DATE: February 16, 1981

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Human Resources and Facilities , Room 323 .

Day Thursday , Date February 5 , Time 8:00 a.m.

S. B. No. 86--Provides for regulation of transport and disposal of radioactive, chemical and other hazardous materials.

S. B. No. 87--Regulates processing and disposal of certain nuclear byproducts.

S. J. R. No. 11--Requests President and Congress to regulate strictly the transport of radioactive waste.

S. J. R. No. 12--Requests United States government to make training and equipment available for accidents involving hazardous materials.

S. J. R. No. 13--Requests Congress to establish regional sites for disposal of low-level radioactive waste.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON Human Resources and FacilitiesDATE: February 5, 1981

| NAME | ORGANIZATION & ADDRESS | TELEPHONE |
|-------------------|----------------------------------|-----------|
| Daryl E. Casero | NEVADA MOTOR TRANSPORT ASSN | 331-6584 |
| BRYAN M NELSON | DEP. AG. DEPT HUMAN RESOURCES | 4772 |
| Dale Kraus | Intern | 836-5266 |
| William G. Clark | DMV. Motor Carrier Div | 885-5340 |
| Ch. Stoddard | Self. | 883-4546 |
| Pete Pradere | NDDOT | 885-5313 |
| Lari Tarkovich | Dept of Transportation | 885-5440 |
| Michael Anderson | New Business & Hotels | 885-4750 |
| Frank Holmquist | Dept of Environmental Protection | 885-4670 |
| VERUE ROSSE | DIV OF ENVIRONMENTAL PROTECTION | 885 4670 |
| Bob WARREN | NEV. MINING ASSN | 323-8575 |
| Peggy Turdt | League of Women Voters | 992-2079 |
| Ira Levine | Intern | 784-4487 |
| Laura Baskerville | Intern | 885-5300 |
| PETE ZADRA | DMV-HIGHWAY PATROL | 885-5300 |
| GARY WOLFE | DMV HIGHWAY PATROL | 885-5300 |
| H.K. Petersen | PUBLIC SERVICE COMPANY | 885-5116 |
| John Eck | Southern Pacific Co | 329-2492 |
| FRANK LUCHETTI | SIERRA PACIFIC POWER COMPANY | 789-4754 |
| Tim Finn | AG's Office | 785-4173 |
| John Borda | Nev. Motor Trans. Assoc. | 331-6884 |
| John Coleman | LUISIANA | 385-3111 |
| Janis M. Small | citizen (Carson City) | 882-0850 |

DIVISION OF ENVIRONMENTAL PROTECTION

SUGGESTED CHANGES TO SB 86

Page 4, line 14 radioactive materials [and chemical wastes.]

Section 7A. Chapter 444 of NRS is hereby amended by adding thereto the provisions set forth as sections 7B to 7D, inclusive, of this act.

SEC.7B. 1. A shipper or producer of waste, or a broker, who receives such waste from another person for the purpose of disposal, shall not dispose of the waste in this state until he obtains a license from the division of environmental protection to use the disposal area. The division of environmental protection shall order a shipment of such waste from an unlicensed shipper or broker to be returned to him, except for a package which has leaked or spilled its contents, unless the package has been securely repackaged for return.

2. The division of environmental protection shall issue a license to use a disposal area to a shipper or broker who demonstrates to the satisfaction of the division that he will package and label the waste he transports or causes to be transported to the disposal area in conformity with the regulations of the state environmental commission;

3. A shipper or broker violates this section if he transports or causes to be transported to a disposal area any such waste:

(a) Which is not packaged or labeled in conformity with regulations of the state environmental commission;

(b) Which is not accompanied by a bill of lading or other shipping document prescribed by that commission; or

(c) Which leaks or spills from its package, unless, by way of affirmative defense, the shipper or broker proves that the carrier of the waste was responsible for the leak or spill, and if licensed by the commission, he may be assessed an administrative penalty by the division of environmental protection of not more than \$500, or if not licensed, he is guilty of a misdemeanor.

4. Each container of such waste which is not properly packaged or labeled, or leaks or spills its contents, constitutes a separate violation, but the total amount of the penalty or fine for any one shipment, must not exceed \$10,000. In imposing a penalty or fine, the division of environmental protection or the court shall consider the substantiality of the violation and the injury or risk of injury to persons or property in this state.

5. The division of environmental protection, or the commission, may suspend or revoke a license to use a disposal area if it finds that the licensee has violated any provision of this chapter. If a license has been revoked, it may be reinstated only if the licensee demonstrates to the division of environmental protection that he will comply with the provisions of this chapter in all future shipments of waste.

SEC.7C. 1. Inspectors and peace officers of the motor carrier division of the department of motor vehicles, the public service commission of Nevada and the Nevada highway patrol shall enforce those provisions of this act which govern the transport and handling of hazardous waste as they affect the safety of drivers or vehicles, the leakage or spill of hazardous waste from its package.

2. The inspector or peace officer may:

(a) Impound a vehicle with unsafe equipment; or

(b) Detain a vehicle, if any such waste has leaked or spilled from its package, and order the driver of the vehicle to park it in a safe place, as determined by an officer designated by the division of environmental protection, pending remedial action by the division.

3. After a vehicle has been so detained, an officer designated by the division of environmental protection may order:

(a) The vehicle to be impounded;

(b) The leaked or spilled waste to be cleaned up;

(c) The contents of any unsafe or leaking package to be repackaged; or

(d) Any other appropriate precaution or remedy, at the expense of the shipper or broker, carrier or other person who is responsible as determined by the division of environmental protection.

SEC.7D. The state environmental commission shall establish by regulation:

1. License fees and any other fees for the operation of state-owned areas in an amount sufficient to defray all costs of monitoring, securing or otherwise regulating the storage or disposal of hazardous wastes. The person who contracts with the state for the operation of such an area is responsible for the payment of these fees.

2. Procedures for the collection of interest on delinquent fees and other accounts for the operation of disposal areas.

3. Penalties of no more than \$3,000 per day for each separate failure to comply with an agreement, license, regulation or statute governing the operation of a disposal area.

4. License fees and other fees for the use of such an area to store or dispose of hazardous wastes, which are chargeable against shippers or brokers in amounts sufficient to defray the costs to the state of inspecting, monitoring, securing or otherwise regulating their use of the area. In addition, the commission may establish by regulation a fee chargeable against shippers and brokers for revenue for the State of Nevada. Before establishing a fee for revenue, the commission must consider the amounts of the fees for licensing and disposal which are chargeable against the users of such areas in other states, in order that a shipper or broker be neither encouraged nor discouraged from disposing of such waste in this state, and that he base his decision about where to dispose of the waste primarily on the cost of transportation to the areas which are available for disposal. The regulations adopted pursuant to this subsection may include a method for the collection of fees from the users of an area, and each of the fees may be a percentage of the fee paid by a user to the operator of the area. The commission through the division of environmental protection shall report to the legislature at the end of January of odd-numbered years the amounts of revenue paid to the state for the use of such areas in the preceding biennium.

Page 6, line 13)
line 17) ... radioactive waste
line 24) and hazardous waste ...

Page 6, following line 35 add

3A. A carrier of hazardous waste shall reject any package containing such waste which is tendered to him for transport in this state if the package is leaking or spilling its contents, does not bear a shipping label prescribed by the state environmental commission or is not accompanied by a bill of lading or other shipping document in a form prescribed by that commission. A carrier who accepts such waste for transport in this state is liable for any package in his custody which leaks or spills its contents, does not bear the required shipping label or is not accompanied by the required shipping documents, unless, in the case of a leak or spill of such waste and by way of affirmative defense, the carrier proves that he did not and could not know of the leak when he accepted the package for transport.

Page 6, line 43)
line 46) ... radioactive waste and
line 49) hazardous waste ...

PROPOSED AMENDMENTS TO S.D. 86

Amend Section 2, subsection 2, on page 1 following the word "division" at the end of line 11 by adding the following words: or any third party inspector designated by the health division.

On page 2, line 3, delete the word "board" and insert the words health division.

On page 2, add a new subsection dealing with the fine and where that fine should be deposited. Suggested language: All fines imposed as a penalty for noncompliance with this chapter or the regulations promulgated thereto shall be deposited into the state radioactive materials perpetual care and maintenance fund.

Page 2, line 9, delete the words "or the court".

Page 2, line 15, following the word "revoke" add the words or suspended.

On page 2, line 40, delete the words "state board of health" and insert the words health division.

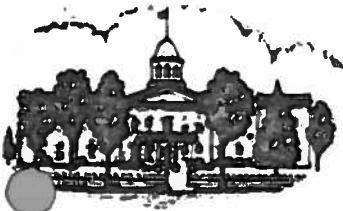
Page 2, line 41, delete the words "that board" and insert the words the health division.

Page 2, line 43, delete the words "state board of health" and insert the words health division.

Page 6, line 28, delete the words "state board of health" and insert the words health division.

Page 6, line 29, delete the words "that board" and insert the words the health division.

Page 6, line 41, delete the words "state board of health" and insert the words health division.



League of Women Voters of Nevada

SB 86

The League of Women Voters of Nevada supports SB 86. One of our priority items for this session of the legislature is regulation of wastes - both radioactive and hazardous. This bill as stated in the summary addresses both types of waste.

The fact the bill considers both radioactive and hazardous wastes without distinguishing between them is also a general concern. The two areas are distinct. In this state the Bureau of Consumer Health Protection of the Department of Human Resources oversees radioactive materials while the Nevada Division of Environmental Protection within the Department of Conservation and Natural Resources is responsible for hazardous waste control.

There is already confusion in the law on this distinction. The disposal site at Beatty consists of 40 acres devoted to radioactive wastes and the other half devoted to non-radioactive hazardous wastes. During the 1977 session SB 153 amended NRS 590 transferring non-radioactive waste control to the Department of Conservation and Natural Resources while SB 33 amended chapters 459 and 374 transferring control of the full 80 acres of the Beatty site to the Department of Human Resources giving the State Board of Health responsibility for adoption of regulations, licenses and fees to be incorporated into the agreement for lease and operation.

The League would like to see this confusion corrected and a similar problem avoided. While the radioactive and hazardous waste problems are equally important, the distinction must be observed. The League recommends that SB 86 be confined to regulation of radioactive materials. To this end we make the following suggestions:

p. 4, line 14 delete "and chemical wastes"

p. 5, line 12 delete "chemical and other hazardous"

The League also has several other specific questions and/or suggestions.



EXHIBIT E

League of Women Voters of Nevada

p. 1, lines 6 - 9 What is meant by this sentence?

If it means a package which has leaked or spilled its contents must be securely repackaged before being returned, we feel these costs should be born by the shipper or broker.

p. 1, lines 19 - 20 Has any thought been given to a full manifest system? A manifest system would give the State the added information of all wastes leaving and entering its territory as a means of checking on final delivery to the designated disposal site. It would also require that State personnel receive copies of accident or incident reports sent to the US Department of Transportation.

p. 2, line 9 Is the \$10,000 maximum fine sufficient? Federal penalties for violations of hazardous waste regulations have a maximum fine of \$25,000 per day for noncompliance. Since the problems involving radioactive violations are as serious as those involving hazardous waste, would the \$10,000 be sufficient to cover potential injury or risk to people and property in Nevada?

p. 2, part 5 When the health division suspends or revokes a license, should the Interstate Commerce Commission also be notified. This would be consistent with the final paragraph on p. 6.

In closing the League reemphasizes we do support this bill. The suggestions are meant as that. We hope they will be considered and dealt with as seen fit. The distinction between radioactive and hazardous waste is our main concern. It might be well to hold off voting on this measure as there will be legislation on hazardous waste introduced. Consideration of all these bills at the same time might prevent the confusion which resulted from the 1977 session.