

**MINUTES OF THE
SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION**

**Seventy-third Session
March 21, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:35 p.m. on Monday, March 21, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maurice E. Washington, Chair
Senator Barbara K. Cegavske, Vice Chair
Senator Dennis Nolan
Senator Joe Heck
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven Horsford

GUEST LEGISLATORS PRESENT:

Senator Bob Beers, Clark County Senatorial District No. 6
Senator Michael A. Schneider, Clark County Senatorial District No. 11
Senator Dina Titus, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Leslie K. Hamner, Committee Counsel
Marshellah D. Lyons, Committee Policy Analyst
Cynthia Cook, Committee Secretary

OTHERS PRESENT:

Bradford Lee, M.D., J.D., M.B.A., State Health Officer, Health Division,
Department of Human Resources
Alex Haartz, M.P.H., Secretary, State Board of Health, Health Division,
Department of Human Resources
Valerie M. Rosalin, R.N., Director, Office for Consumer Health Assistance,
Office of the Governor

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Bill Welch, Nevada Hospital Association
Joyce Haldeman, Clark County School District
D. L. "Dusty" Dickens, Director, Demographics, Zoning and Realty Department,
Clark County School District
Frederick C. (Fred) Smith, Director of Construction Management, Clark County
School District
Ken Lange, Nevada State Education Association
Anne K. Loring, Washoe County School District
David S. Noble, Assistant Staff Counsel, Public Utilities Commission of Nevada
Debra Jacobson, Southwest Gas Corporation
Kent Anderson, Associate Director for State Regulatory, SBC Nevada Bell
Heidi Mireles, Chief of Right-of-Way, Director's Office, Nevada Department of
Transportation
Mark Sullivan, Associated General Contractors, Nevada Chapter

CHAIR WASHINGTON:

We will open the hearing on Senate Bill (S.B.) 159.

SENATE BILL 159: Prohibits State Board of Health from requiring person enrolled in program of distance education within University and Community College System of Nevada to submit proof of immunity to communicable diseases. (BDR 40-942)

SENATOR BOB BEERS (Clark County Senatorial District No. 6):

I was contacted by a constituent who was attending a program of distance education. She wanted to know why she needed to submit immunization records when she participates in a program located 450 miles away from the University and Community College System of Nevada (UCCSN).

BRADFORD LEE, M.D., J.D., M.B.A. (State Health Officer, State Health Division, Department of Human Resources):

I am here to present information about S.B. 159, which would prohibit the State Board of Health from requiring a person enrolled in a program of distance education within UCCSN to submit proof of immunity to communicable diseases. The *Nevada Administrative Code* (NAC) directs that a student shall not attend a university in Nevada unless proof of immunity is provided. The regulation needs to be modified to take into account other Nevada institutions of higher education, as well as to make reasonable accommodation for new technologies. The intent of the bill is to address a situation whereby a student

intends to attend class not in the congregate setting. This intent can be accommodated by modifying the regulation to read: "A student may enroll in a Nevada institution of higher education without proof of immunization if their total educational experience is to be off campus, through distance learning in a non-congregate setting."

ALEX HAARTZ, M.P.H. (Secretary, State Board of Health, Health Division, Department of Human Resources):

I serve as the secretary to the State Board of Health. After discussion about the intent of S.B. 159, the State Board of Health would like to go on record as willing to amend existing regulations to reflect the intent of the bill. The Board believes these types of issues can be addressed by regulation.

SENATOR MATHEWS:

Does this measure refer to students who do not appear on campus for any reason?

SENATOR BEERS:

If any students are going to be on campus for any reason, they will be required to provide proof of immunity.

SENATOR MATHEWS:

It seems that a student enrolled in a program of distance education would need to be on campus for an examination or a conference.

SENATOR BEERS:

There are students enrolled in a program of distance education that is totally long-distance.

MR. HAARTZ:

The regulations to be crafted will address all of the institutions of higher learning. They will state that if a student does not set foot on campus they will not need proof of immunization. The new regulations will fall under the provisions of *Nevada Revised Statute* (NRS) 233B.

SENATOR HECK MOVED TO INDEFINITELY POSTPONE S.B. 159.

SENATOR NOLAN SECONDED THE MOTION.

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

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CHAIR WASHINGTON:
We will open the hearing on S.B. 166.

SENATE BILL 166: Limits enrollment of pupils in new public schools constructed in certain larger school districts. (BDR 34-61)

SENATOR MICHAEL A. SCHNEIDER (Clark County Senatorial District No. 11):
This bill calls for smaller schools to be built in Clark and Washoe Counties. The bill lifts language from a 1995 interim study. Studies have indicated smaller schools make a difference. The optimum total student population is 300 in elementary schools, 600 in middle schools and 900 in high schools. Clark County is building some of the largest schools in the world and this trend is adversely affecting the children. The additional costs to the districts are not the point. We are in the business of educating children, not building factories. We know how to keep students out of trouble with extracurricular activities. High schools with an enrollment of over 4,000 are turning students out because there is no room for them. Smaller schools save money in the long run. Building huge schools has created a system of enormous bussing costs. Smaller schools will cut that cost forever. There will be dollars realized that can be moved to a classroom.

SENATOR CEGAVSKE:
I do not see anything in the bill to address the costs. Are you looking at new construction only?

SENATOR SCHNEIDER:
I would suggest there are small lots available that the Clark County School District (CCSD) could purchase. There would be enough room for a small, two-story school. The CCSD could buy old strip malls, dismantle them and create neighborhood schools. Financing would require new bonds. There is an effort to try programs in the existing schools such as "schools-within-schools." The district seems to realize big schools are not the best.

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SENATOR CEGAVSKE:

My question is what is to be done with the existing facilities? Would the bill require they also limit enrollment?

SENATOR SCHNEIDER:

That would be ideal, but unlikely. They would probably consider the concept of schools-within-schools.

SENATOR CEGAVSKE:

Would S.B. 166 require the existing plans CCSD has for construction be scrapped?

SENATOR SCHNEIDER:

Yes. We are going to explain to the taxpayers that this plan will create a better education system for Nevada.

SENATOR NOLAN:

We would have to build three times the number of schools in order to accommodate current enrollment. We currently have 25 schools under construction at any given time. That would be increased to 75 schools under construction.

SENATOR SCHNEIDER:

Correct. I understand the CCSD is swamped, but smaller schools will be a positive move for the children of Nevada.

CHAIR WASHINGTON:

We will close the hearing on S.B. 166, and open the hearing on S.B. 155.

SENATE BILL 155: Requires hospitals to provide patients with certain information regarding Bureau for Hospital Patients. (BDR 40-1254)

SENATOR DINA TITUS (Clark County Senatorial District No. 7):

Recently, in the Senate Committee on Finance we heard testimony from the Bureau for Hospital Patients. I am presenting their mission statement ([Exhibit C](#)). Page 5 illustrates the savings by hospital.

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VALERIE M. ROSALIN, R.N. (Director, Office for Consumer Health Assistance, Office of the Governor):

The Office of the Governor, Office for Consumer Health Assistance, Bureau for Hospital Patients is in full support of S.B. 155. The recommended language for hospitals to implement into their admission and discharge forms is as follows: "As a patient of this hospital you have the right to contact the Office for Consumer Health Assistance, Bureau for Hospital Patients with any questions regarding your stay, including but not limited to billing. This is a free service provided by the State of Nevada to assist Nevada consumers in understanding their patient rights and responsibilities."

BILL WELCH (Nevada Hospital Association):

The Nevada Hospital Association has no problem with S.B. 155. This will be incorporated into the patient bill of rights.

SENATOR WIENER MOVED TO DO PASS S.B. 155.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR WASHINGTON:

We will reopen the hearing on S.B. 166.

JOYCE HALDEMAN (Clark County School District):

This bill would limit the student population to 300 in elementary schools, 600 in middle schools and 900 in high schools. Currently, in Clark County, we construct for student populations of three times those numbers. In 2002 and again in 2004, a smaller-schools committee met in Clark County to review the ideal size of different types of schools and the benefits of smaller schools and made recommendations to the Clark County School District Board of Trustees concerning the construction of smaller schools. Following is a quote from the report:

Smaller schools, on average, can provide a safer place for students; a more positive, challenging environment; higher achievement, higher graduation rates, fewer discipline problems

and much greater satisfaction for families, students and teachers. Research has repeatedly found small schools to be superior to large schools on most measures and equal to them on the rest. This holds true for both elementary schools and secondary students of all ability levels and in all kinds of settings. Studies conducted over the past 15 years suggest, in smaller schools, students come to class more often, drop out less, earn better grades, participate more often in extracurricular activities, feel safer and show fewer behavior problems.

We support the findings. We also support a number of programs we think would benefit students. The problem is the cost.

D. L. "DUSTY" DICKENS (Director, Demographics, Zoning and Realty Department, Clark County School District):

Our projected enrollment is shown on page 2 of the handout we have prepared for the Committee ([Exhibit D](#), original is on file at the Research Library). Page 3 reflects the live births, and pages 4, 5 and 6 detail the 1998 building program. The balance of [Exhibit D](#) includes graphs for projected enrollment and capacities, current projection of future schools needed, construction timelines and the impact of changing assumptions of the building programs.

CHAIR WASHINGTON:

How many high schools do you have planned for the next three years?

Ms. DICKENS:

Between now and 2008, seven high schools are to be constructed. There are two comprehensive high schools under construction. One is a technical center and one is a replacement for Rancho High School.

SENATOR CEGAVSKE:

The school district has built two-story elementary schools, and there is one under construction. What is the capacity increase for a two-story school?

Ms. DICKENS:

There is no capacity increase with a two-story school; it does take up less land.

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FREDERICK C. (FRED) SMITH (Director of Construction Management, Clark County School District):

In addition to elementary school prototypes, we have a design for a multistory middle school. Currently, all middle schools are one-story and high schools are two-story buildings. There would be no increase in capacity. Prior to the 1988 building program, schools were usually one-story buildings.

SENATOR HORSFORD:

Why is there a design for a multistory middle school building that you do not plan to build?

MR. SMITH:

The design for a multistory middle school building was developed in the event we had those instances where there was not enough available land to build a single-story, 150,000-square-foot middle school. The multistory middle school is designed to be constructed on as little as 10 acres of land.

SENATOR HORSFORD:

Is there a design for a multistory high school building?

MR. SMITH:

The high schools constructed during the past and current bond programs are two-story buildings.

SENATOR HORSFORD:

Is it correct that all of the plans for high school buildings are on based on 40 acres of land?

MR. SMITH:

That is correct.

MS. DICKENS:

The chart on page 23 of [Exhibit D](#) shows costs developed based on current cost factors associated with school construction. It includes land costs and the assumption that an elementary school would be built on 10 to 12 acres.

MR. SMITH:

Please follow the handout describing the escalation in school construction costs ([Exhibit E](#), original is on file at the Research Library).

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SENATOR NOLAN:

There are unrealistic projections being created which do not meet the market demand. How is the mark being missed by such a wide margin, as shown on pages 3 and 4 of [Exhibit E](#)?

MR. SMITH:

[Exhibit E](#) also looks at other parts of the country. Page 17 addresses reasons for higher bids than anticipated.

SENATOR CEGAVSKE:

I have concerns about change orders that increase the costs of construction. What are we doing to prevent omissions by a contractor?

MR. SMITH:

In general terms, I can tell you that punch-list items are truly the responsibility of the contractor. The situation has improved considerably. We have imposed liquidated damages strictly for those items and it seems to work. With the current bond programs, we are able to reduce change orders to a rate of 3 percent.

SENATOR CEGAVSKE:

Are you saying change orders do not have any additional costs associated with them?

MR. SMITH:

If I understand your question, any time we do work by change order it will be more expensive than the base bid. That is why we are trying to bring down those change orders. If you look at what we are paying for change orders, the vast majority is for work that is levied upon us after the bid has been received due to off-site improvements or utilities.

CHAIR WASHINGTON:

How do you determine school capacity?

MR. SMITH:

We know that going into the design process the enrollment is 720 elementary students, 1,700 middle school students and 2,700 high school students. These totals were included in the 1998 capital improvement program. The building codes dictate the total square footage.

SENATOR NOLAN:

What method was used to calculate these totals?

MS. HALDEMAN:

The local school districts have the responsibility to raise funds to build schools. When you go to the public to promote a bond campaign for a capital improvement program, you cannot use taxpayer dollars to launch the campaign. If you wish to do a persuasive campaign, the monies need to be raised separately. The school district has never had the luxury of assembling a list, then going to the public to say here is what we need, and if you would pay for it. The most common question I heard during campaigns that I have been involved in is why the schools are not built larger. The way the campaign is designed, we maintain the existing bond rate and continue to roll over that rate. We also do focus groups and extensive polling. We develop the number we believe the public will support. Instead of designing a program for our educational needs, we design a program for the dollar amount. In 1994, we had a two-part question. Part A was for the rollover bond and part B was for an additional \$300 million to remove the schools from year-round scheduling. Part A passed and part B did not. We have been careful to balance the needs of the students with willingness of the taxpayers.

SENATOR NOLAN:

Has the district looked at other districts that have experienced unprecedented growth?

MS. HALDEMAN:

Clark County School District leads the nation in construction. Many fast-growing areas use portable classrooms. Clark County has an excellent record of completing schools on time and under budget.

MR. SMITH:

New York City has a massive replacement program. Los Angeles Unified School District has passed a multibillion-dollar bond issue. They are replacing portable classrooms and building very few new schools. Dade County, Florida, passed bond issues the same size as those in Clark County, but I do not believe they have built near the number of schools because of legal and land-acquisition issues. In terms of new schools to meet new growth, Clark County is probably the largest construction program in the country.

MS. HALDEMAN:

Clark County School District recognizes that large schools have an impact on students. A small-schools report suggested four alternative strategies: the use of academies, houses, schools-within-schools and magnet programs.

SENATOR WIENER:

I am not familiar with the term houses.

MS. HALDEMAN:

The term describes a high school program which entails having a different house for each grade level. There is a principal for the entire school, and an assistant principal assigned to each house. The physical part of the school is divided into sections for each house.

SENATOR WIENER:

Are smaller schools the result of using those programs?

MS. HALDEMAN:

Even with four houses, when there are 2,800 students on campus, the classes are large. Not every school is implementing the initiatives, but those that are show a significant difference.

KEN LANGE (Nevada State Education Association):

Part of the reason high schools are failing is because students are being warehoused. All schools are confronted with the concept of adequate yearly progress (AYP). Beyond that, teaching skills appropriate for a workforce in a technological economy are imperative. Smaller schools allow the flexibility to look at various patterns, instructional strategies, different groupings and class sizes that larger classes do not allow. Nevada must build new schools, but if the past patterns are followed, the same outcome will result. The maintenance of large, industrial-sized schools lessens the kind of education and instruction to produce the needed workforce. Expectations have risen for students, teachers and support professionals, yet teaching is being done in the same kinds of structures used for the past 50 years.

ANNE K. LORING (Washoe County School District):

The existing prototype for the Washoe County School District (WCSD) is 648 students for elementary schools, 1,050 students for middle schools and 2,000 or more for high schools. The WCSD is experiencing the same increases

in construction costs being faced by the CCSD. We are adding between 1,600 and 2,000 new students each year. If S.B. 166 were to pass, the estimate for the schools anticipated to be built during fiscal year (FY) 2006 would add \$66 million to construction costs. During the life of the WCSD school bond, which runs from FY 2002 through FY 2012, the estimated amount to reduce the size of the schools would be approximately \$342 million in construction costs. Operational costs also increase when school size is reduced and that estimate, through the life of the bond, is \$18.8 million. Washoe County School District is the only district in Nevada that relies entirely on property tax revenue for funding new schools. Unlike the CCSD, we do not have room tax, and, unlike the rural districts, we do not have residential construction tax or the 0.25 percent infrastructure tax. We are unable to get additional bonds because the City of Reno is near the property tax cap.

SENATOR MATHEWS:

What causes a school to initiate a year-round schedule?

Ms. LORING:

When the elementary school population rises to 110 percent of capacity the school will go on a multitrack schedule the following school year.

SENATOR MATHEWS:

Are the classrooms in the new schools small in order to accommodate class-size reduction?

Ms. LORING:

When we did the prototype under which we are currently operating, the design was for smaller classrooms to accommodate a 16-students-to-1-teacher ratio in first and second grades. The Washoe County School District Board of Trustees has requested the prototype be modified to enlarge those classrooms for the elementary schools being planned.

SENATOR HORSFORD:

We all need to keep in mind that a part of the reason construction costs are increasing dramatically is because of a shortage of skilled tradesmen. This goes back to the premise of the bill, which is if we are engaging students in various formats of learning to help the students graduate with skills they can put to work.

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CHAIR WASHINGTON:

How many schools are scheduled to be built during the current bond program?

Ms. LORING:

We are anticipating between 13 and 17 new schools through 2012. There will be seven elementary schools, three middle schools and three high schools.

CHAIR WASHINGTON:

Who determines the sites for new schools?

Ms. LORING:

We have staff looking for building sites in areas where there will be population growth. The final decision rests with the Washoe County School District Board of Trustees. Growth tends to be towards the north valleys and the Spanish Springs area, northwest Reno and southeast Truckee Meadows. Sites have been set aside on the master plan, but we still need to acquire them by purchase or gift.

CHAIR WASHINGTON:

I represent Sun Valley, and the residents have been requesting a middle school in that area.

SENATOR MATHEWS:

I am wondering about the construction delays.

Ms. LORING:

The original plan was for construction of two elementary schools in Spanish Springs, one elementary school in the Double Diamond area and a middle school in Cold Springs. However, construction costs had risen so dramatically there was not enough money to build all four schools. The board decided to delay the construction of the elementary school in the Double Diamond area.

CHAIR WASHINGTON:

We will close the hearing on S.B. 166 and open the hearing on S.B. 146.

SENATE BILL 146: Makes various changes concerning detection and marking of subsurface installations. (BDR 40-654)

DAVID S. NOBLE (Assistant Staff Counsel, Public Utilities Commission of Nevada):
Senate Bill 146 is a request by the Public Utilities Commission of Nevada (PUCN) to revise provisions in *Nevada Revised Statutes* (NRS) 455.080 to 455.180 relating to the excavation or demolition near subsurface installations. The request for the revisions came out of a rule-making meeting the commission conducted in August 2004. We brought together stakeholders interested in the procedures. Two issues arose that could not be addressed in regulations. Section 1 of the bill concerns the installation of devices to designate the subsurface installations. That refers to installations made of polyvinyl chloride (PVC), plastics and concrete that cannot be readily detected from the surface. It would require a marker or tracer wire to be placed above that facility so when there is to be excavation, they can be readily detected from the surface and marked accordingly. Presently, there are various procedures in place. When an excavator calls the association for operators, they mark those facilities. If there is a tracer wire, it is easy to locate and mark; otherwise they rely on as-built maps, which are not always accurate. This will simplify the process on a statewide basis and increase accuracy. When facilities are properly marked, the excavators will use machinery to a certain point, and hand dig as they get closer. When the facilities are not marked properly, the result could be a disruption in service. Section 5, lines 41 and 42 will remove the designation of the letter F in safety-alert orange to be used for fiber-optic communication lines. That would not mean to completely eliminate the marking of fiber-optic facilities. They would be marked as telecommunication facilities, and be specifically designated as fiber. There was a concern regarding security. A tremendous amount of damage could be done to public utilities.

DEBRA JACOBSON (Southwest Gas Corporation):

I am here today to put forth an amendment suggested by the working group that Mr. Noble mentioned ([Exhibit F](#)).

KENT ANDERSON (Associate Director for State Regulatory, SBC Nevada Bell):

We would like to go on record as being in favor of the bill and the amendment.

SENATOR WIENER:

Often, when we name an organization in a bill and there is a change in the name it creates a problem.

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LESLIE K. HAMNER (Committee Counsel):

Typically, it is easier to change a regulation than a statute. We could have the PUCN adopt regulations to address any problems.

SENATOR HORSFORD:

Will this help address the issue of roads repeatedly being torn up?

MR. NOBLE:

These revisions would go towards minimizing mistakes and accidents in hitting facilities improperly marked. The bill would not address repeated returns to add additional infrastructure.

HEIDI MIRELES (Chief of Right-of-Way, Director's Office, Nevada Department of Transportation):

We believe this bill, as introduced, has merit and we do not oppose it. All work done within the Nevada Department of Transportation (NDOT) right-of-way requires an occupancy permit from NDOT. The right-of-way section or district engineer has the authority to require markers and detection devices be installed for subsurface utility installations. This bill would strengthen the position of NDOT, which is set forth in an occupancy permit. Our subsurface installations specific to highway projects are built in conformance with the bill.

MS. LORING:

We have a small issue with this bill. As written, we believe the bill would include the PVC irrigation pipeline for sprinkler systems underneath football fields and playgrounds.

MR. NOBLE:

Ms. Loring has a good point. The definition of subsurface installation could be revised, or an advisory opinion from the PUCN could say this aforementioned pipeline was never contemplated.

CHAIR WASHINGTON:

We would like to handle this through regulation.

MS. HAMNER:

These concerns can be adopted by regulation.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 146.

SENATOR HORSFORD SECONDED THE MOTION.

MARK SULLIVAN (Associated General Contractors, Nevada Chapter):

Our concern is the elimination of the letter F, and outlining the fiber-optic lines in orange. We believe this may transfer some liability to contractors. We were told this is a national-security issue. If you are laying it out in orange, it does not matter if it is identified with the letter F or in orange. The most dangerous types of lines are gas lines. The next priority would be fiber-optic lines. Those lines are important for emergency services. Now we are told the line will be identified in orange paint, and I do not think the reasoning holds true about this being a national-security issue.

MR. NOBLE:

We do want the lines to be marked, but not announce to the world the importance of this place. The American Public Works Association has weighed the pros and cons of this issue and came to the conclusion giving less information is proper.

CHAIR WASHINGTON:

We will ask Mr. Noble and Mr. Sullivan to work out an amendment to address this concern and we will entertain the amendment on the floor of the Senate.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

There being no other issues before us today, this meeting of the Senate Committee on Human Resources and Education will now adjourn at 3:43 p.m.

RESPECTFULLY SUBMITTED:

Cynthia Cook,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____