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TO: Joint Subcommittee on General Government

FROM: Michael Diamond, NCBV Inc.

SUBJECT: Testimony for meeting on April ~~16~~ 2003, regarding the  
Department of Employment, Training, and Rehabilitation,  
Blind Business Enterprise Program, Budget Account #101,  
Category #3253

EXHIBIT F Senate Committee on Finance

Date: 4/24/03 Page 1 of 7

### Testimony Before The Joint Sub-Committee on General Government

There is not a day that goes by when a blind operator does not call me to voice a concern about the way the Nevada Business Enterprise Program is operated. Today, in front of this sub-committee, the DETR and BSBVI will receive a report card on their management of the Nevada Business Enterprise Program, and of their management of the Blind Operator's money!! Did you notice that I said the Blind Operator's money? The Nevada Business Enterprise Program is funded 100% from monthly assessments paid by the Blind Operators from the net profits of their business. This is known as the set-aside fund. State money does not fund this program, federal money does not fund this program, and most importantly this program is not a burden on the taxpayers of the state of Nevada.. DETR and BSBVI, guess what?, it is not your money either. I see Sr. Attorney General John Albrecht is present. Even a portion of the blind operator's money pays for the AG's Office to litigate against us, which they gladly do, even though the AG's Office is supposed to represent us in legal matters.

Why has the full force of the AG's Office come down on us? Think about this, The Nevada Attorney General's Office, one of the, if not the largest law firm in the state of Nevada plus all the top level management from DETR have also gladly aligned against us. What have these 15 Blind Operator's done to warrant such undivided attention? Have they sold top secret US information to the Russians? Are the Blind Operator's a National Security risk? No, I don't think so. What the Blind Operator's want is to Actively Participate in all the decisions regarding "their" program. The Blind Operator's want to have a legitimate say in the management and operation of "their" program. Is that too much to ask? DETR & BSBVI think so, but I don't. The Blind Operator's fund this program 100%. They pay the salaries and benefits for 5.5 state employees. This is about ACCOUNTABILITY!!

As elected representatives of the Senate and Assembly for the State of Nevada you are indebted to the public and are considered public servants or public officers to your constituents. Should n't BSBVI also be ACCOUNTABLE, especially to those who pay their salaries. When DETR or BSBVI is asked to be accountable, they turn it around and do audits(financial reviews) of the Blind Operators locations. If you are a blind operator who does not make any waves, you will probably have your financial review done every 3 months. If you are a blind operator who speaks his mind and voices his opinion, an audit(financial review) will be conducted every other week. I have an idea. We will compromise with you. Compromise, there is a term that is foreign to DETR and BSBVI. How about agreeing to allow an independent firm to conduct audits and financial reviews of BSBVI., with special emphasis on how BSBVI manages and operates the Nevada Business Enterprise Program. Fair is fair! The Blind Operators have to account for every nickel and dime that they spend. How about BSBVI being made accountable for every nickel and dime of the Blind Operator's money that they spend? Believe me, BSBVI spends it freely. The approved Budget for the Business Enterprise Program for 2003 lists total SLA Expenditures of over 1.3 million dollars, an increase of almost half a million dollars from 2002. Interesting way to run a program. Their has been little to no program expansion, no training program per say, and a

BEP staff unwilling and unable to assist Blind Operators in the everyday operation of running their businesses. BSBVI and BEP staff have long forgotten the mission of the Business Enterprise Program. This program is for the blind and not for the convenience of the state agency. Ask DETR and BSBVI if any blind operator in this program has actively participated in the formation of the Budget presented in front of you. I would wager the blind operators not only have not actively participated in the formation of the budget but probably have not even seen the proposed budget.

If this was taxpayers money we were talking about everyone would be up in arms. Their would be a sworn duty to protect the taxpayers money. Some blind operators pay as much as 50% of their net profits back to BSBVI, the highest set-aside rate in the country.

I am under no illusions. DETR's Budget people will have the right words to explain these expenditures. They will rationalize the immense mismanagement and lack of accountability on DETR's and BSBVI's part by blaming the 15 or so blind operator's who seek nothing more than to run, manage, and be in charge of "their" own program.

There is mention of wanting the position of Chief of BSBVI to become a classified position. I look at the job of Chief as one who has a responsibility to resolve problems, keep morale high, and move the program forward. The Chief has mentioned there are 102 grievances filed against BSBVI and DETR. Where these numbers come from I have no idea? There has been absolutely no attempt by the Chief to resolve any of these grievances. The chief is not accessible to the blind operators and will not return phone calls. The Chief will automatically dismiss and deny every grievance. You mean to tell me out of all of those grievances, not one has merit. Just the idea that this amount of grievances have been filed tells you something about the leadership of the program. To say the least there is a lack of a cooperative spirit on the part of the Bureau. Talk about due process. Not once have we had a hearing held in the amount of time prescribed by Nevada Statute. So not only does the Chief dismiss or ignore the grievances presented, the blind operators never get a fair hearing on their concerns either. What a system? I believe the Bureau Chief has an obligation, a responsibility, no a duty to come to the table and try to resolve these issues. The Blind Operators fund this program 100%. This equation alone should determine that the Blind Operator's should Actively Participate in the decision whether or not to make the position of Chief of BSBVI classified. This equation alone should determine that the blind operators should actively participate in all aspects of their program! Why not? After all, it's their money!

Respectfully Submitted on April 24, 2003, To The Joint Sub Committee on General Government

*Michael Diamond*  
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### Conclusions and Recommendations

- \* Program is funded entirely by the set-aside fees paid by the blind operators
- \* BEP front line staff has no experience dealing with the blind or visually impaired
- \* Bureau Chief is not blind or visually impaired.. NRS 426.550 states "Preference shall be given to qualified blind persons in filling the position of chief."
- \* Bureau does not respect blind and visually impaired individuals
- \* Bureau Chief not accessible to the Blind Operators
- \* Bureau's passion is financial reviews of the operators locations, no idea what this program is really about. Instead of chasing the blind operators around for nickels and dimes, should concentrate on pursuing the large amount of revenue that would be generated by monitoring vending companies who under report their sales to the Bureau, and are on public property but are not paying commissions to the Bureau.
- \* DETR and the Bureau look at the program as a revenue source, and not an employment program for the Blind. Bureau consistently tells the blind operators that there is not enough money for anything they care to do. We believe the Bureau is stockpiling the money to attract federal funding for their other programs.
- \* The Nevada blind operators pay the highest set-aside fee in the country, about 50% of their net profits. Bureau estimates they will take in about \$923,500.00 in set-aside fees this year. Bureau expenditures will be about \$877,000.00. Personnel costs will run about \$270,000.00. Bureau cannot spend our money fast enough. We receive little to nothing for our money
- \* How is BEP being expanded? What training programs are in place to educate existing operators and enlist and train new ones?
- \* LCB requested audit of the Bureau, what they got was an audit of two BEP facilities. DETR used this as an excuse to takeover the program.
- \* Bureau cannot take care of their own house. Former BEP secretary embezzled money to pay her landlord and former Reno District Manager took items that were meant for the blind for personal use. Another Bureau employee used her state credit card for personal use.
- \* Except for compliance issues dealing with the monthly financial statements, Bureau Chief and staff are little help to the operators in the day to day operations of their businesses.
- \* The blind operators pay for the salaries and benefits of 5.5 state employees for the management and support of their program. This equation should demand the active participation of the blind operators in all decisions regarding their program. Unfortunately it does not.
- \* NCBV Inc. has filed about 90 grievances against the Bureau and DETR. Not once have we received adequate due process. Within 30 days of the denial of a grievance by the chief, an evidentiary hearing shall take place. Not once did we have an evidentiary hearing within 30 days. In fact, out of the 90 grievances, only 3 have come before a hearing officer, and only 3 more had briefs submitted. It took the hearing officer 8 months to decide 3 grievances.
- \* Program is not expanding. Several locations have been downsized or closed. The Bureau's failure to recruit and produce qualified candidates has caused facilities to be lost or closed. The Bureau's failure to aggressively pursue new locations has resulted in circumstances when a

facility is closed due to no fault of the blind operator, the operator does not have a new location to go to, therefore he stays home and collects a subsidy check from the Bureau. The Bureau has also allowed back into the program blind operators who left the program under unfavorable terms.

- \* The Bureau is not recognizing the blind priority. In almost every case the Bureau is attempting to force the blind operator into a teaming partnership with a private entity. Some of these locations produce a marginal living for the operator. If he now has to split the profits, it will be a terrible hardship.
- \* Bureau is allowing private vending companies to use state owned equipment to make a profit.
- \* Bureau putting more responsibility on the blind operator shoulders, but blind receiving less and less support from the Bureau.
- \* Bureau spent about 1.5 million dollars from the set-aside fund to remodel all BEP facilities. Many locations were marginal at best and some have now been closed. An unabashed waste of the blind operators money.
- \* The Bureau and DETR have put the state of Nevada at risk by their arrogance of ignoring the Federal Law, The Randolph-Sheppard Act.
- \* Bureau is not an advocate for the blind. In almost all cases the Bureau sides with the other entity, whether it be a vending company, city or local entity etc. Even their fraudulent committee, has not assisted Blind operators when they have needed help.
- \* Blind Operators are considered Independent Contractors according to their operating agreements with the Bureau. If this is true, how can the Bureau dictate how the blind operators manage and operate their businesses.

NCBV Inc. recommends a complete audit be done of the Bureau of Services to the Blind and Visually Impaired, (The State Licensing Agency), for the Business Enterprise Program.

NCBV Inc. also recommends that the Bureau establish a budget for NCBV Inc. As Bureau personnel will not assist us, give us back our money to help ourselves. We will prove to the state that we can operate the program more efficiently, more economically, produce trained personnel and qualified blind operators and expand employment opportunities for the blind.

NCBV Inc. recommends that BEP staff personnel be reduced. Other states of similar program size to Nevada, such as Oregon, Washington, Idaho have a state staff of 2 personnel. We have a state staff of 5.5 personnel. As we receive little in the way of assistance from the staff, it should be reduced drastically. \$270,272.00/yr for personnel is ridiculous. On top of that, the blind operators also pay a Division Cost Allocation of \$54,576.00/yr and a Statewide Cost Allocation of \$5,259.00/yr for a grand total of \$330,107.00. NCBV Inc. could manage the Nevada BEP much better

NCBV Inc. also recommends that the set-aside fee be reduced. Nevada blind pay the highest set-aside rate in the country. It seems the more money the Bureau takes in from set-aside, the more money they spend. For example, it used to cost the state about \$675,000.00 to manage and operate our program, the recent budget projections from the Bureau indicate it will need about \$877,000.00 to manage and operate our program.

NCBV Inc. also would like the Bureau to recognize NCBV Inc., and it's Executive Director. As NCBV Inc.'s Director is the only one who has the experience and knowledge needed for a successful program, he could bridge the gap between operator and Bureau, expand the program and train new and existing operators.

Respectfully Submitted on April 24, 2003, To The Joint Sub Committee on General Government  
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BLIND BUSINESS ENTERPRISE PROGRAM  
BUDGET ACCOUNT #101, CATEGORY #3253

EXPENDITURES	FISCAL YEAR 2002	APPROVED BUDGET 2003
STATE LICENSING AGENCY (SLA), Bureau of Services for the Blind and Visually Impaired		
PERSONNEL	\$270,272.00	\$291,368.00
TRAVEL	\$11,612.00	\$15,220.00
OPERATING	\$35,575.00	\$36,587.00
DATA PROCESSING	\$-0-\$	\$4,245.00*
DIVISION COST ALLOCATION	\$54,576.00	\$68,422.00*
PURCHASING ASSESSMENT	\$513.00	\$537.00
STATEWIDE COST ALLOCATION	\$5,259.00	\$5,260.00*
TOTAL SLA EXPENDITURES	\$377,807.00	\$421,639.00
BUSINESS OPERATIONS	\$298,808.00	\$536,859.00*
FACILITIES		
HEALTH BENEFITS	\$201,397.00	\$405,000.00*
RETIREMENT		
TOTAL BUSINESS OPERATIONS	\$500,205.00	\$941,859.00*
TOTAL EXPENDITURES	\$878,012.00	\$1,363,498.00*

\* EXPLAIN DATA PROCESSING FEE

\* EXPLAIN DIVISION COST ALLOCATION, WHY DO WE NEED TO PAY THIS  
AND WHY IS IT INCREASING BY \$14,000.00?

\* EXPLAIN STATEWIDE COST ALLOCATION, WHY DO WE NEED TO PAY THIS?

\* EXPLAIN \$240,000.00 INCREASE IN BUSINESS OPERATIONS

\* EXPLAIN HEALTH BENEFITS/RETIREMENT INCREASE OF \$204,000.00 WHEN THE  
NUMBER OF BLIND OPERATORS HAS STAYED THE SAME

\* EXPLAIN THE RATIONALE FOR NEEDING ALMOST ANOTHER \$500,000.00 TO  
OPERATE THE BUSINESS ENTERPRISE PROGRAM