

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

**Seventy-fourth Session
April 6, 2007**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:09 a.m. on Friday, April 6, 2007, 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 Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Joseph J. Heck
Senator Michael A. Schneider
Senator Maggie Carlton

GUEST LEGISLATORS PRESENT:

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8

STAFF MEMBERS PRESENT:

Wil Keane, Committee Counsel
Michelle Van Geel, Principal Research Analyst
Jeanine Wittenberg, Committee Secretary
Scott Young, Committee Policy Analyst
Lori Johnson, Committee Secretary

OTHERS PRESENT:

Keith L. Lee, Nevada Board of Contractors
Todd Butterworth, M.B.A., Social Services Chief III, Office of Disability Services, Department of Health and Human Services
Betty Hammond, M.S.W., Office of Disability Services, Department of Health and Human Services

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David Gordon, Court Interpreter Program Coordinator, Administrative Office of
the Courts
Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center
Danell Fanning
Jacque Matteoni, Special Education Area Administrator, Washoe County School
District
Cindy Frank
Jean Irwin
Gary W. Olsen
Linda Raymond, Clark County School District
Pam Pearce
James Womack, Instructor, Community College of Southern Nevada
Karen Taycher
Joyce Haldeman, Executive Director, Clark County School District
Caroline Bass
Sarah Cale
Mary Wherry, Deputy Administrator, Division of Health Care financing and
Policy, Department of Health and Human Services
Graham Galloway, Nevada Trial Lawyers Association; Citizens for Justice
Karen Yates
John P. Sande, IV, Nevada Collectors Association
Randy Robison, Nevada Credit Union League

CHAIR TOWNSEND:

We will open the meeting with a work session to go over bills that we have
already taken testimony on.

SENATE BILL 279: Provides express authority for the State Contractors' Board to
collect and disseminate data and to conduct investigations. (BDR 54-624)

CHAIR TOWNSEND:

The mock-up that is being handed out ([Exhibit C](#)) contains the change on
page 2. The amount of \$500 was increased to \$1000. The other change
concerns disseminating information for all complaints. The Committee may
choose not to allow the board to make public all the complaints, just the
complaints that have been dealt with. The easiest way to deal with the bad guy
is to simply act quickly and once you have acted, you can release any
information.

KEITH E. LEE (Nevada Board of Contractors):

My understanding is that we have an allegation period, when the complaint is received and the contractor is notified. They are given 15 or 20 days to resolve the complaint. If the complaint is not resolved after that period of time, the complaint then becomes reportable, and is given out to the public. At that time we also categorize the complaints as to valid, invalid, pending, resolved or disciplinary action imposed. We have suggested including language for anyone reporting a false allegation to be charged with a misdemeanor.

SENATOR HARDY:

I hate to hold up this bill for this one issue. I was intrigued by Mr. Keane's explanation of the disciplinary process that the American Bar Association uses. I have committed to Mr. Lee, if this bill is passed out of Committee, that I will follow up with him on the process. I definitely want the board to be able to get at the bad actors. My concern is that this process could be used as a weapon.

CHAIR TOWNSEND:

Just because we have reported the bill out of committee does not mean that you cannot get together with Mr. Lee to go over the remaining issue which we could then adopt on the floor.

SENATOR CARLTON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 279.

SENATOR SCHNEIDER SECONDED THE MOTION.

SENATOR HARDY:

I do not see where the language was stricken in this mock-up.

WIL KEANE (Committee Counsel):

"What you have in your hand is a short-form mock-up, not the long-form mock-up, which does include the language you are looking for."

SCOTT YOUNG (Committee Policy Analyst):

You would need use the long-form mock-up as the amendment from which to amend and do pass.

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CHAIR TOWNSEND:

We need to get the original long-form mock-up to make sure that the bill is amended properly. We want to remove section 4, subsection 2, [Exhibit C](#), "upon request, disclose and disseminate, to a member of the public a compilation of statistical data regarding the complaints on a specific contractor." Now, if the Committee were so disposed, you could simply remove the term "complaints" and put in the appropriate language about issues that were adjudicated, so there is no misunderstanding. Any contractor that has had a suspension, letter of recommendation or a fine is absolutely open to having that information made public.

MR. KEANE:

"I want to make sure that I understand what you intend. Take out the word 'complaint', and change to 'any final action of the board ... ' will be available to the public."

SENATOR CARLTON:

Are we creating a problem by making a law that might affect a current court case? We would be better off having that section disappear altogether.

CHAIR TOWNSEND:

I think we need to vote, and then the three of you get together to iron out what information can be disseminated

SENATOR HARDY:

I do not have any problem making sure that legislative intent is upheld.

SENATOR CARLTON:

I would like to withdraw my original motion.

SENATOR SCHNEIDER:

I withdraw my second.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED S.B. 279 REMOVING SECTION 4, SUBSECTION 2, PARAGRAPH (d) OF [EXHIBIT C](#).

SENATOR SCHNEIDER SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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SENATE BILL 281: Revises provisions governing industrial insurance.
(BDR 53-1136)

CHAIR TOWNSEND:

You have a proposed amendment ([Exhibit D](#)).

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 281.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR TOWNSEND:

Please take a look at the proposed amendment to S.B. 412 in mock-up form
([Exhibit E](#), original is on file in the Research Library).

SENATE BILL 412: Makes various changes regarding health care. (BDR 54-540)

SENATOR HECK:

This is a short-form mock-up so only the changes to the bill are in this exhibit. The change in section 1 concerns the appointment to licensing boards. Instead of making it the Governor shall select from a list provided by the associations, it will read that the Governor shall solicit nominations and may or may not pick from that list. It changes licensure provisions to provide an endorsement process that includes being board-certified within the last ten years and that they have been actively engaged in continuous practice in their specialties of medicine for the five years previous. There can be no adverse action in National Practitioner Data Bank, they must submit all prior malpractice action and it allows the board a "shall unless shown for good cause" provision. This amendment includes a sunset provision in four years so we can come back and evaluate whether this process is accomplishing its stated goal.

The other provision allows a nurse educator with a bachelor's degree to provide clinical education, a matter of much discussion during the hearing. I have increased the requirement of clinical practice from two years to five years to make it consistent with the State Board of Nursing's current policy. This provision will also sunset in four years to allow for an evaluation. The Nursing Board will also proceed to adopt a Nurse Licensure Compact. There was a concern whether all participating nursing boards require a criminal background check. Of the 20 states that are participants, 15 states do require background checks, 3 states are pending statutory approval to make that a requirement and only 2 states perform state background checks.

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

SENATOR HARDY SECONDED THE MOTION.

SENATOR CARLTON:

The Nurse Licensure Compact issue gives me great concern. We have all worked hard to be sure that the potential licensees must have background checks. We asked the Nursing Board to make that a priority, to protect the health, safety and welfare of our citizens. I strongly disagree with the licensing compact because it releases them of this responsibility; by not allowing them to deny a license to someone from another state.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR TOWNSEND:

Let us continue with S.B. 473. I believe Senator Cegavske is here to present this bill.

SENATE BILL 473: Makes various changes concerning the practice of interpreting and the practice of realtime captioning. (BDR 54-295)

SENATOR BARBARA K. CEGAVSKE, (Clark County Senatorial District No. 8):

I am going to give a brief background and then turn this over to the other people on the Committee. I have an amendment ([Exhibit F](#)) that is being handed out. This bill was requested by the Legislative Committee on Persons with

Disabilities that I chaired during the last interim. We authorized appointing an advisory committee to assist the committee with its studies and inquiries on various issues. A prominent issue the committee chose to study was how the school districts were meeting the needs of their pupils who are deaf or hard of hearing. They also looked at the manner by which accessible communication can be provided and or improved for all residents of this State who fit this disability classification.

Senate Bill 473 has turned into a major piece of legislation that is a result of the persons with disabilities interim committee. I do want to thank some people. Karen Taycher, who headed this committee, did such an awesome job. Todd Butterworth was absolutely just incredible as well. We are very thankful to all the people who participated. We made an effort to reach out across the State to let everyone participate and give public testimony and make sure that everyone's needs were heard. Jacque Matteoni, who is special education administrator with Washoe County School District, was included in this committee and she will speak here today. It was a pleasure to work with all of these people who work in this community day in and day out. They have raised some significant issues that would be addressed by the amendment and we would appreciate your support on this bill.

CHAIR TOWNSEND:

Did anyone from the Judicial Branch participate as well as the school districts? The reason I ask that is we are a policy committee who approves licensing, but the impact of the hearing-impaired upon judicial proceedings was a new area to us and one that we need to be sensitive to.

TODD BUTTERWORTH, (M.B.A., Social Service Chief III, Office of Disability Services, Department of Health and Human Services):

I am with the Office of Disability Services. We are with the Department of Health and Human Services, and we are honored to have been entrusted with the important work that is outlined in S.B. 473. We look forward to working with the community in implementing the bill. This was a team effort and will continue to be as we move forward to work on the regulations.

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BETTY HAMMOND, M.S.W. (Office of Disability Services, Department of Health and Human Services):

I serve as the telecommunication program specialist for the Office of Disability Services. I am also a certified sign language interpreter. I have given my written testimony ([Exhibit G](#)).

SENATOR HECK:

I see that in the statute we are taking out all the requirements for interpreters and leaving that up to regulations. What is the reason for that?

MR. BUTTERWORTH:

Currently the statutes are problematic in that, for example, if an individual interpreter is currently employed by the school district and does not meet certain qualifications, they are breaking the law and subject to fines. We think the statute needs to be fixed. If it is in regulation, it will be easier to be responsive to the needs of the community rather than outlining those items which are currently in statute. Much of what is being struck in the statute will be rebuilt in regulation in a more detailed way.

SENATOR HECK:

Are you moving this from statute to regulation to be more flexible? Perhaps by setting the statute standards too high, the school system is unable to find individuals that meet those standards and to fill the needs of the students.

MR. BUTTERWORTH:

We believe that the people interpreting in the school system need a hand and some encouragement to get to the appropriate level of skills. We hope to build that into the regulation.

SENATOR HECK:

I see that we are now using the terms registered interpreter and registered legal interpreter. There is another bill in the Senate Committee on Judiciary using the term "qualified" interpreter or just "interpreter." Has there been any coordination with the Judiciary Committee to make sure those terms are consistent?

MR. BUTTERWORTH:

Absolutely, we have worked with David Gordon from the court system; he is here on S.B. 165 which was a back-up bill to this bill. The court administrators support S.B. 473.

SENATE BILL 165: Revises provisions governing the use of interpreters in judicial proceedings for persons with certain disabilities. (BDR 54-650)

CHAIR TOWNSEND:

The other concern came about in regard to a similar bill about the school district's need for qualified individuals they could not find or afford. Is it your belief that S.B. 165 can be combined and we do not need to pass both bills? Since this Committee is involved with telecommunications, would you mind outlining the relay system you mentioned?

MS. HAMMOND:

I administer the Relay Nevada program which includes a contract we have with the Sprint Nextel Corporation. They provide all types of relays with telecommunication access for the deaf and hard-of-hearing disabled in Nevada. This is all paid for by a surcharge. They also provide advocacy and equipment distribution for the deaf and hard-of-hearing community. Sprint is Nevada's provider for all types of communication services. With the advocacy and the help of the public utility commission, we have been able to offer amplified phones and Captioned Telephone Service.

DAVID GORDON (Court Interpreter Program Coordinator, Administrative Office of the Courts):

Please see my written testimony ([Exhibit H](#)).

JACK MAYES (Executive Director, Nevada Disability Advocacy and Law Center):

I had the pleasure of serving on this interim committee. The Nevada Disability Advocacy and Law Center is in support of S.B. 473. I do have a concern, which could be addressed by the Nevada Supreme Court rules, that when an individual is represented by an unlicensed interpreter that fact should be entered into the court record for the possible appeal due to communication access. I serve as chairman of the strategic plan and accountability committee, and they are also concerned about the needs and issues of persons with hearing impairments and do endorse this bill as well.

CHAIR TOWNSEND:

Mr. Gordon, is that request of Mr. Mayes something you can achieve through court policy? It helps us at this point in the session if we do not have to amend bills, but if we need to do so, we will consider it.

MR. GORDON:

My understanding is S.B. 473 requires that the court document that they made an effort to find a certified interpreter before using a noncertified interpreter. It is also requires that they conduct a voir dire to establish the qualifications of the interpreter that they use.

CHAIR TOWNSEND:

Mr. Mayes is nodding in the affirmative and that is sufficient.

DANELL FANNING:

I wanted to address Senator Heck's comments regarding the educational standards for the interpreters. Ms. Matteoni and I both served on this interim committee this summer. We worked diligently to develop a tier system that will address the needs of the interpreters as they enter into the system and advance ([Exhibit I](#) and [Exhibit J](#)). This would be addressed through the regulations that Mr. Butterworth's office has proposed to write. This is a fair system and gives interpreters two years to reach a level of certification that is satisfactory to a student's education.

SENATOR HECK:

Thank you, and I appreciate that explanation. I am sure with the level of expertise here today that will be accomplished.

JACQUE MATTEONI (Special Education Area Administrator, Washoe County School District):

I appreciated the leadership of the Chair, Senator Cegavske, Senator Mathews, Karen Taycher and the committee that I worked with. This bill is a collaborative effort that will benefit the Washoe County School District. We continue to strive to provide services that benefit our deaf and hard-of-hearing population. I would be happy to try to address any of your concerns within the education community.

SENATOR SCHNEIDER:

How much more does it cost to educate a child with a hearing impairment? Is it substantially more money than it costs to educate the average child?

MS. MATTEONI:

In the area of special education services, given that hearing is a low-incident disability, the needs are great. It costs a substantial amount more than what is

needed for a student with a learning disability. A deaf child needs more people to help him. Certified interpreters, certified teachers, aides and note takers are needed to accommodate those students. For the Washoe County School District we have 124 students classified as aurally handicapped, and we have three different types of programs to meet those needs.

CINDY FRANK:

I am here representing myself. I am culturally deaf, but I can speak even though I have a severe hearing loss. I would like to testify that these children are really in need of help. When I came to Nevada, I was shocked, but we have made great improvements. I would like to thank everyone who served on the committees. We had representatives from the courts, the deaf community, vocational rehabilitation and the school districts. Jacque Matteoni gave up a lot of her time and all of us came together with no conflict. Danell Fanning worked very hard on this. In section 27, subsection 4, of S.B. 473; concerning a person who does not speak English, I would like to ask that we strike lines 31-34. Most deaf people are fluent enough to read and write in English.

CHAIR TOWNSEND:

The part that you are concerned with is not part of the amended bill. It is already in statute.

SENATOR CARLTON:

If we take this part out, what would we be doing to someone who does not speak English? I believe this section does not apply to hearing-impaired persons.

SENATOR HECK:

I believe Senator Carlton is correct. If you look at that section, the last sentence states "the above does not apply to someone with a communication disability."

WIL KEANE (Committee Counsel):

The last sentence of that subsection, lines 34-36, indicates that the definition does not apply to person with a communication disability. Actually what the prior language only applies to, is someone who does not speak English.

Ms. HAMMOND:

That is good news.

JEAN IRWIN:

I am a teacher of the deaf for 25 years. I work for the Washoe County School District but I am not representing them today. I have a handout that outlines some of my concerns ([Exhibit K](#)). This interim committee did not ask for input from any educators of the deaf. I believe that this policy and the promotion of American Sign Language (ASL) are putting the schools on a collision course with what is being required of me as a teacher. I am required by the No Child Left Behind Act to teach my students well enough to pass their proficiency exams. Yet, you are only proposing to use ASL. At my school I could not get a Manually Coded English (MCE) interpreter. I was actually told that it is against the law to sign MCE. I would like the language in this bill to be clear, and appropriations made based on other types of sign language, not just ASL. Whatever signing programs such as Signing Exact English (SEE2) or MCE sign language that helps a child to learn per federal law, should be included along with ASL. We have been unable to obtain interpreters that sign using MCE, because the current law only supports ASL.

You had Michele Van Geel on this committee as a representative of the Legislative Counsel Bureau and I asked to be part of the recommendation committee, but I was not included. Ms. Matteoni, who spoke this morning, is an administrator, but she is not a teacher or an expert on communicating with deaf or hearing-impaired students. Ms. Matteoni has consistently told our parents that she is not an expert in this field and yet she is the one making the recommendations on our behalf in regard to future programs. My point is that ASL is not conducive to literacy. Among the programs noted in my handout ([Exhibit L](#)), MCE and SEE2 are used in the deaf community and at Gallaudet University, the Ohlone College that trains interpreters of the deaf and the California School for the Deaf. If you look at the proficiency exam results, only 5 percent of the students passed. In California, 35 percent of the students passed their proficiency tests. Of the students that I have taught, 80 percent have passed the math test and 100 percent have passed the reading and writing sections of the exam. I am concerned that two of the committee members have sign language businesses, which I consider to be a conflict of interest.

The technology of the future is going to be voice-recognition software; it is already here, and yet we are investing money and resources into the promotion of ASL. There are statistics that say that 90 percent of parents cannot communicate with their deaf children. I can tell you that 100 percent of my students are able to communicate with their parents, because they have been

taught using MCE. Using ASL is not the only avenue. My recommendation is to teach MCE.

SENATOR SCHNEIDER:

Thirty-nine percent of current students are Hispanic and some of those are hearing-disabled. What would happen to these students if you taught MCE only?

MS. IRWIN:

American Sign Language is not English. You get a foreign language credit when you take it at a University. American Sign Language is as different from English as is Russian. There is no relationship with English; the verb is in the movement. A lot of people misunderstand and think that the interpreters are signing the English language. They are interpreting in ASL. Since you chose not to have anyone on the committee that understands the difference, there is confusion about ASL, which is based on concept, and exact English, which is MCE. Recommended legislation is then based on the premise that all sign language is expressed as ASL. Deaf students do not typically read above the fourth grade level and it is for that reason these students do not go on to college.

As Legislators, you have raised the bar for requirements to graduate. I do not have the ability to teach my deaf students properly. My hands are tied, the proficiency exams are not signed in ASL, and they are not interpreted. How are my students supposed to pass their required exams if you do not allow us to sign MCE?

SENATOR HECK:

Thank you for educating us, since we know nothing about the differences in sign language. Do you have a place in the bill where ASL is specifically mentioned?

MS. IRWIN:

Look at page 9, line 37 about registered interpreters. I should have brought a copy of the federal Individuals with Disabilities Education Act (IDEA.) They have determined if the student needs cued speech that should be provided, but my school will not let me request SEE2 interpreters, and they cite their reason for not being able to use that kind of an interpreter as this current statute. State law should recognize MCE and SEE2, in addition to ASL as acceptable sign language.

SENATOR HECK:

My point is that there is nothing in this statute that includes, or excludes, certain types of sign language.

MS. IRWIN:

If it is to be left up to the Office of Disability Services; they favor ASL only.

SENATOR HECK:

That office will adopt regulations by holding public workshops and forums; this bill does not favor one language or another.

MS. IRWIN:

My concern is that the interim committee did not include any educators or interpreters that have the ability to sign in any language other than ASL. Will this upcoming public workshop listen to anyone about the benefits of MCE? How do we insure that we get a fair consideration for MCE? I think that the language of this bill should include language used in the federal IDEA law, [Exhibit L](#).

CHAIR TOWNSEND:

We are able to codify State statutes to mirror federal law. I would like someone to tell me who were the members of the committee and how it was designed.

MS. HAMMOND:

I understand the concerns of Ms. Irwin. I want to clarify that "registered interpreter" means that they have registered with the Office of Disabilities. Certified interpreters using ASL will be used more in the community within the proposed tier system. There are also interpreters who are certified by the Educational Interpreter Performance Assessment (EIPA). That test can be taken in ASL or MCE. I know because I have taken the test.

I am not aware of a certifying body for SEE2. If there is one, we would have no problem putting that into the regulations. We are not trying to dissuade anyone from teaching children in the modality that their parents have chosen.

SENATOR HECK:

Could you address the comments about being prohibited from using the different form in schools?

MS. HAMMOND:

Unfortunately, an interpreter who does not understand the law has caused a misunderstanding. Currently, as chapter 656A of the NRS stands, it is illegal for most of the interpreters working in the school district to be doing so. The law states you must be certified at a 4.0 level and most of them are not

That is the situation we are trying to rectify with S.B. 473, which includes the proposed tier system. We have an incredible shortage of all kinds of interpreters in all kinds of areas. We are trying to find a more realistic way to deal with the field of interpreting and we feel regulatory, rather than statutory, is the way to accomplish this. If this is put into statute, we will be before you every two years to make changes.

SENATOR CARLTON:

I have a concern about taking all the requirements out of statute and leaving it up to regulations to decide. Normally we would not let you build the regulations without any input from us, but I know that you will come back before the subcommittee on regulations for approval. If someone registers and you find out that person is not doing a very good job, what authority do you have to unregister them? The license should be a privilege.

MS. HAMMOND:

We plan on building a grievance process into the regulations. It will detail steps on how to remove someone from the register. Certified Interpreters are also registered with a certifying body such as Registry of Interpreters for the Deaf (RID).

Let me speak to my experience. I was certified as a level 4, community interpreter by the Nevada Association of the Deaf. I was not aware of the NRS chapter 656A. When it came time for my certification to renew, I went with another body of certifiers who told me if I got a letter that stated that I had been practicing in my community, I would not have to take a test, just pay a fee. After that my certification would be extended. When I did that I found out I was illegally practicing the art of interpreting according to chapter 656A of the NRS. I have a full-time job, so I am not dependent on earning a living as an interpreter but in not offering my services, it would hurt the deaf community. The statute NRS 656A is too rigid, and creates a lack of people who can provide these services.

SENATOR CARLTON:

I learned that regulatory process can be more difficult than a legislative session. I might be more comfortable if I could see the framework that you are working to draft these regulations to fit. Again, how will we unregister someone?

MS HAMMOND:

We have a packet of information that the committee came up with. I can get you that information. We have not come up with the exact process to unregister anyone as of this time.

MR. BUTTERWORTH:

The subcommittee consisted of Caroline Bass who is an interpreter from Las Vegas; Dr. Mick Coleman, an administrator of the Rehabilitation Division; Kelley DeRiemer, interpreter; Gloria Dopf, Deputy Superintendent for the Instructional, Research and Evaluative Services, Department of Education; Danell Fanning, interpreter; Rhonda Fellman from Las Vegas; Cindy Frank who is deaf and an interpreter; David Gordon from the court system; Jacque Matteoni, administrator from the Washoe County School District; Betty Hammond who has been speaking; Jack Mayes from the Disability Advocacy and Law Center; Gary Olsen with the Deaf and Hard of Hearing Center, who is also deaf; Sally Ramm from Aging Services Division; Linda Raymond from Clark County School District, who is deaf; Gayle Sherman from the Rehabilitation Division and Karen Taycher who was the chair, and she is with the organization of Nevada Parents Encouraging Parents.

Our idea of this bill was to make it a sunshine law. I do not know if we would actually unregister someone. We want to provide information to the community so they can make their own decisions on whether or not to use someone. One example is that sometimes there are children of deaf adults who are excellent interpreters for their parents. They are very fluent in sign language but are not certified. In an environment where there are not enough interpreters, should we really tell these people that they cannot help out in the community because they are not certified? Our goal is register everyone in the community and list their qualifications, if any. The community should have the option of making their own decisions.

There is definitely framework within this bill that answers some of Senator Carlton's concerns. There is language that provides for a complaint process to be developed. It also provides for an administrative fine of up to \$5,000 if

someone is not performing their job correctly. We already have an existing body of professionals that hear complaints and then, if needed, the complaint is moved to a larger committee to be adjudicated. The bill also addresses the issues of educational, medical and legal interpreting and it forces us to look at each of these disciplines differently.

SENATOR CARLTON:

I understand that this is not a licensing procedure. However, if you send an interpreter out into the community that is not qualified, you could put your office at risk. If there are no guidelines or procedures on how we equitably evaluate and process grievances, that is putting your office in a bad position. I just do not want you to end up putting regulations together, thinking that you have covered all possible problems, to find out that you have to use people who are registered but not qualified. A lawyer will tell you that if it is not in statute, it is unenforceable.

MR. BUTTERWORTH:

Just to clarify, we are not offering to qualify or refer the interpreters. We are simply putting together the information and enabling people to make that choice independently.

SENATOR CARLTON:

However, people will think that you are endorsing them by referring them through a State office. I just want to be very careful to give you all the tools you need to accomplish the task.

GARY OLSEN:

I have an interpreter speaking for me since I am deaf. I am from the Deaf and Hard of Hearing Advocacy Resource Center. I am concerned about the impression that is being given in regard to certifying people as interpreters. Mr. Butterworth mentioned that we have the situation of children of deaf adults who interpret for them which works in areas of established populations. In Las Vegas we have lots of certified interpreters. In the rural areas, we cannot find any certified, let alone qualified, interpreters. We support the tier system because it allows a progression of one's skills to eventually become a professional interpreter.

I would like to make it clear that Signing Exact English is also not a language; it is simply a signing system. The other issue I have is that the committee working

on the regulations should include people that are deaf as 51 percent of the members. After all, we are the consumers of the services, so we should have the majority within the process.

LINDA RAYMOND:

My name is Linda Raymond and I am going to talk and sign at the same time. I work for the Clark County School District in the deaf and hard-of-hearing program. I was born deaf, but I use English, ASL and MCE to communicate.

I have been in this field for 37 years and 31 of those years were in an administrative capacity. I would like to second Mr. Olsen's comments. I do not know why that person was emphasizing using a SEE2 interpreter. I have never used a SEE2 interpreter in all these years. We do have English-based interpreters that are available, depending on what the deaf consumer is comfortable with. No one is asking for ASL to be the only sign language recommended. Even Gallaudet College does not recommend using only ASL. The majority of deaf people do use ASL or English-based signing. It depends on the situation. On the issue of learning to read English instead of signing, the emphasis should be on teaching deaf people to read well. If we use ASL to teach the writing of English rather than vocalizing, that is true of everyone learning to read. Being able to speak and read English opens up your world of knowledge.

We have 375 students who are deaf and an additional 500 students who are hard-of-hearing. That makes a large population of students to whom we offer many different options. We offer aural, auditory verbal, and a signing program which calls on different modalities including ASL and MCE.

I think S.B. 473 is good with just some minor changes that were proposed by Mr. Olsen and the others that worked on the committee.

PAM PEARCE:

My son is a deaf student in the Washoe County School District. Everyone seems to be missing the point Ms. Irwin was trying to make. She is not advocating SEE2 signing. She is advocating for students to learn English because that is what you need to pass the proficiency exams and go on to college and function in the outside world.

I am here because my son was denied an English-based interpreter and your committee is the one making those decisions. He is being forced to have an

interpreter that may be not be qualified, possibly only in ASL. I am not deaf and my son was not born deaf, he became deaf as an infant due to illness. He is very oral, but still needs some interpretation. Deaf people miss a lot of meanings, particularly words that have a double meaning. I became aware of this law when I requested an interpreter for my son during football practice so he could understand the plays. I was told that because of this law there is a shortage of interpreters. I want to know if the district is going to be allowed to use this law as an excuse for denying my son the services he needs to succeed.

MS. PEARCE:

In my opinion, the school district has known about this shortage for years and they have stuck their heads in the sand and not moved forward. My son needs an English-based interpreter. My son had a cochlear implant. He is learning how to hear and how to use the English language. He speaks well but what you are requiring is like asking you and me to learn Chinese quickly. I am not the only parent with a child in the aural program, as they call it, but I am one of the only parents who has asked for this particular kind of interpreter. According to federal law, my son is entitled to have an interpreter that signs in the language that he speaks, which is English.

SENATOR HARDY:

Is there anyone here from the school district? Since this is on the record, I would like to give you the opportunity to respond to this parent's concerns.

MS. MATTEONI:

I know Ms. Pearce; I have worked with her son through the interpreters' program. What she states is correct. There is definitely a shortage of interpreters. I would not say that the Washoe County School District is using this as an excuse not to fill those needs. As the committee is well aware, there is a significant shortage nationwide. I am hoping that this bill, by building in a tiered system, will provide a way for interpreters or those wishing to become interpreters to accomplish certification at different levels.

SENATOR HECK:

Does Washoe County currently have both types of interpreters for their students?

MS. MATTEONI:

The Washoe County School District has interpreters who are certified under the EIPA. There are three who have passed at level four or higher and it was in the problem solving environment (PSE) modality.

SENATOR HECK:

Let me rephrase that because I have no idea what you just said. I understand that there are two types of sign language that we are discussing here today. Yes or no, does the Washoe County School District have both types available to their students?

MS. MATTEONI:

Yes, I would say that we have the ability to do that.

SENATOR HECK:

So, it would be fair to say that the availability is there, but it is not available to the degree that is needed due to the shortage nationwide of interpreters. Is that fair? I would encourage you to include the IDEA language from Ms. Irwin.

CHAIR TOWNSEND:

Generally speaking, when we put together a legislative committee for a particular purpose, the goal is to have as many hearings as necessary, with input from everyone in order to iron out the issues. Is this meeting today turning out to be an extension of those meetings, because people did not get an opportunity to testify in the interim?

MS. FRANK:

All of our meetings were public. The agendas were all public, and there were many opportunities for everyone to attend.

CHAIR TOWNSEND:

Is there anyone here, or in Las Vegas, that did not have an opportunity to testify and articulate your concerns? For the record, there was no response to that question in southern Nevada.

JAMES WOMACK (Instructor, Community College of Southern Nevada):

I have been trying to get through; I think my response may be belated. I am a professor at the community college in southern Nevada, I also teach ASL. There

were no deaf students at the college for almost 20 years because of the lack of interpreters.

KAREN TAYCHER:

I was the chairperson for the interim committee. I want to respond for southern Nevada, no one raised their hands. Our process was inclusive. We heard many sides of the argument. The conclusions we reached are before you today.

CHAIR TOWNSEND:

How many meetings did you have?

MS. TAYCHER:

Numerous, I am not sure of the count. In addition to the meetings of the general committees, we split off into work groups and the work groups also requested outside participation from any interested parties.

MS. FRANK:

I was the chair for the tier committee and we are the ones who made the recommendations. Everyone who registers on the Website will get a card that explains what modality they sign in, such as ASL or PSE or MCE. I am a teacher for the deaf who has a master's in linguistics. What Ms. Pearce is asking for, the ability for some students to use a MCE or English-based interpreter, is already covered in this proposed statute.

MS. IRWIN:

I am in Reno working in this field. Wherever these meetings were and however open or public the committee thought they were, I never received an e-mail about it. I never saw any advertising. I would have liked to have input. It seems to be largely comprised of interpreters, not of educators.

JOYCE HALDEMAN (Executive Director, Clark County School District):

I am with the Clark County School District; we are in support of this bill. Please see my written testimony ([Exhibit M](#)).

SENATOR HECK:

Does Clark County have both types of interpreters available?

MS. HALDEMAN:

Yes, I believe they are available. I would need to check with Ms. Raymond.

MR. WOMACK:

I will continue on with my comments. I am using a sign language interpreter. I would like to speak about sign language as a language. What is classified as a foreign language would be more of an indigenous language, such as Navajo or Cherokee, which is native to the land the individuals live in. The identity of deaf people, particularly children, needs to be focused on a language foundation, whatever type of sign language they choose to learn from. Children become confused and do not know what language they should use, and therefore the student never develops a strong foundation on which to build his education.

MR. OLSEN:

I want to bring up another point. My concern is the legal issue of a magistrate deciding for a deaf individual what interpreter the deaf person can use in the court. I feel that the decision to pick their own interpreter should be left up to the deaf consumer. The language in the bill should so reflect that choice.

MS RAYMOND:

I wanted to clarify for Senator Heck that students do have a choice of the type of interpreters that can be requested.

MICHELLE VAN GEEL (Principal Policy Analyst, Legislative Counsel Bureau):

I just want to answer your question regarding the number of meetings the interim committee had. They had seven meetings and the additional advisory committee met three times throughout the interim.

CAROLINE BASS (Nevada Registry of Interpreters of the Deaf):

I teach interpreters preparation at the Community College of Southern Nevada and the proposed tier system is a very important issue for our graduates. With this system, they have an opportunity to move into the career of interpreting while practicing and preparing to take the national certification. We are in support of this bill.

MS. FANNING:

I am going to address several of the Senator's questions. Ms. Irwin stated that two people on the committee had a sign language business that provided monetary gain. I know of one person on the committee who does have such a business, but she was not representing that business while working on the committee. As a former test administrator for the EIPA, there are three forms of sign language available as you can see, [Exhibit J](#). The interpreter is asked to

pick her choice in which language modality they would like to be tested in. They are given the option of the level of education they would like to work, elementary or high school. At that time they are given test materials to review, just as interpreters would be given, if they were preparing to interpret for a classroom. They are then given 40 minutes to prepare. They then have the opportunity to sign the test and voice for the deaf student in what modality the student uses. The results are then sent off to the EIPA Diagnostic Center at the Boys Town National Research Hospital in Nebraska for evaluation. Nobody on that board that evaluates deaf interpreters has less than a master's degree and the person who grades the test must be a deaf person who uses that same modality. The reason that the EIPA was chosen was because it fairly represents all of the language bases that children are provided in school.

MS. FANNING:

The federal laws IDEA and ADA, which govern interpreters, state that an interpreter must be qualified to readily produce and receive the language most readily accessible to the deaf individual. States, however, can codify and clarify what is meant by readily accessible. That is what Nevada has attempted to do since 2001. Senator Carlton asked if there are regulations in other states which we looked at. We looked primarily at Nebraska, led by Boys Town Research Hospital, because their focus is on deaf children. In April of 2006, Nebraska passed regulations that the committee studied in depth. That state would be ideal to model, because of their large urban and rural populations, similar to Nevada. Nebraska is also experiencing the same shortage of interpreters as are we. Other models available are Colorado, Iowa and Arkansas. Nebraska's regulation is beautiful, all the, "who", "when", and "why" is clarified, and they use a registry similar to what we are proposing.

In regard to a certification system for signing exact English, there is a test provided by an organization in California referred to as educational sign skills evaluation (ESSE). In my experience, many people have passed the ESSE at a level five for MCE but are not able to pass the EIPA. The reason for that is not that they cannot sign but because the interpreter cannot voice appropriately for the deaf person for whom they work. That means that the person is being given language, but has no ability to express their thoughts, because the interpreter cannot put voice to the deaf person's words. For those reasons ESSE was not considered as a standard in 2001, 2003 or 2005.

MS. FANNING:

Regarding Mr. Olsen's concern about a courtroom judge assigning an interpreter, we went back and forth about this issue with Mr. Gordon this summer. Asking for voir dire would follow the national center's recommendations for state courts. We have been a member of the National Association of State Courts for ten years and the model legislation that is enacted in several states already addresses sign language interpreters and their shortages in the court system. We also consulted the RID's legal counsel. The direction for a clear voir dire that asks the interpreter to list their qualifications is noted. The deaf person must also be asked if he can understand the interpreter and they are asked on the record, if the person signing can articulate that they are readily and knowingly giving up their constitutional rights under the fourth and fifth amendments to a certified or qualified interpreter.

SARAH CALE:

I have grown up in Nevada and I have experienced many qualified and unqualified interpreters. Senate Bill 473 affects my life and I really want to let you know, please, that Senate Bill 473 would improve so many things regarding interpreting for the deaf. With the tier system, we can make our own decisions. Right now we do not have that opportunity.

MS. PEARCE:

In a response to the gentleman from Las Vegas, who advocated 51 percent of the committee be deaf, I would like to see 51 percent of the committee comprised of deaf children's parents.

CHAIR TOWNSEND:

Good point, we will close the hearing on S.B. 473. As a general comment, this has been a great learning experience for all of us. We feel we owe the public a consistent policy. With that in mind, Senator Carlton and Senator Cegavske will work together to make sure concerns are addressed in a regulatory atmosphere and we will get back together in a couple of days. We will open the hearing on S.B. 474.

SENATE BILL 474: Limits the liability of a public agency that pays for the services of a personal assistant for a person with a disability. (BDR 54-600)

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MARY WHERRY (Deputy Administrator, Division of Health Care Financing and Policy, Department of Health, Human Services):
I am presenting for the Division because my administrator, Charles Duarte, had to leave. Please see the ([Exhibit N](#)) written testimony.

GRAHAM GALLOWAY (Nevada Trial Lawyers Association; Citizens for Justice):
Traditionally we are opposed to expansions of limitations on liability but in looking at the proposed amendment we see no problems with that expansion. We have no stand on that issue.

Our concern is with the existing language of the statute. I am mindful of what the Chair related to Ms. Irwin in regard to the previous issue about the ability to change existing law. If you look at subsection 5 of the NRS 629.091, it provides a gross negligence statute for the provider of the health care making the decision on the appropriateness of the personal assistant. It should be a simple negligence standard. By making it a gross negligence standard, you are using wanton language. That starts down a slippery slope and places a burden on the person who may have had a particular problem with a personal assistant.

CHAIR TOWNSEND:

In looking at this bill and the language I am not sure that it is in the correct committee, it is chapter 629, but negligence statutes normally fall to the Senate Committee on Judiciary. That may be the committee who should be looking at this. I will get with Senator Amodei to work through some of the overlapping issues. I know you want to get it heard today, but we have to respect each committee's issues. We may need to rerefer. We will close the hearing on S.B. 474.

KAREN YATES:

In answer to your question regarding realtime close captioning, I am a court reporter and that technology is covered in S.B. 473 also. There are court reporters who use voice recognition and that technology is improving.

CHAIR TOWNSEND: We will open the hearing on S.B.159.

SENATE BILL 159 Revises provisions governing collection agencies
(BDR 54-541)

JOHN P. SANDE, IV (Nevada Collectors Association):

You have before you a letter I prepared ([Exhibit O](#)) which is outdated in light of the most recent change. If you remember from the last hearing, the main concern the credit union had was the requirement for physical presence in this State. The other issue was implementation and due process concerns for people that had been operating under an exemption. We have had discussions that have addressed those issues. With this new draft ([Exhibit P](#)) you will see that we have agreed there will not be a physical presence requirement for licensing but they must be an office location in one state or another.

That was the understanding from Commissioner Kondrup from the Division of Financial Institutions, Department of Business and Industry that requirements for licensing includes keeping a qualified manager that will be available to the state where the complaint is being made in regards to collection activities. There also needs to be a provision to allow for the Division of Financial Institutions to accept service on behalf of any out-of-state collection agencies that have minimum-presence requirements in order to establish jurisdiction. To avoid any due process concerns, we thought it would be better to phase in this bill. Section 1 will be effective July 1, 2007 and implementation of section 2 will be a year later, so that anyone who is currently operating under exemption to take the time and opportunity can apply for a certificate of foreign registration or to become licensed in Nevada.

SCOTT YOUNG (Senior Policy Analyst):

I think that we need to change the way the sections become effective. It may be more appropriate to do passage and approval, but I will defer to Mr. Keane.

MR. KEANE:

My understanding of the effective dates is that this will become a three section bill. Section 1 which is already in the bill is 649.075 which is the current exemption is the one that will become effective on January 1, 2008. The remaining two sections, 649.171 and the new section 649.085, are the sections regarding either the licensing or registration requirements and those are the ones we discussed and you recommended for effective passage and approval. The reasoning being that people could register or license immediately under the new requirements but their exemption would not go away until January 1, giving them effectively, a six to nine month period to get registered or licensed.

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RANDY ROBISON (Nevada Credit Union League):

On behalf of the Nevada Credit Union League, I distributed a copy of some different language that allows a credit union to contract with an out-of-state collection agency for their regular collection activities here in Nevada except it exempts having to have an office in this state but they must have an office location somewhere. In other words, you have to be licensed in this State and not running your collection agency out of the trunk of your car in a parking lot in South Dakota. We are in support of this amendment and this bill.

CHAIR TOWNSEND:

I was hoping to avoid waiting on a mock-up to motion this bill out of committee. If we vote to include both amendments we can make a motion on this today. The section's effective dates will be as Mr. Keane so stated earlier.

SENATOR CARLTON MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 159.

SENATOR HARDY SECONDED THE MOTION.

CHAIR TOWNSEND:

Under discussion, when both of these amendments are reconciled, the collection agency would no longer be required to have a place of business here in this State.

MR. SANDE:

Yes, that is correct. They need to have an office somewhere but not necessarily in Nevada.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:

There being no further business before the Senate Committee on Commerce and Labor, this meeting was adjourned at 10:29 a.m.

RESPECTFULLY SUBMITTED:

Lori Johnson,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____