

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

**Seventy-fourth Session  
February 19, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:37 p.m. on Monday, February 19, 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 Maurice E. Washington, Chair  
Senator Barbara K. Cegavske, Vice Chair  
Senator Dennis Nolan  
Senator Joseph J. Heck  
Senator Valerie Wiener  
Senator Steven A. Horsford  
Senator Joyce Woodhouse

**GUEST LEGISLATORS PRESENT:**

Senator Randolph J. Townsend, Washoe County Senatorial District No. 4

**STAFF MEMBERS PRESENT:**

Marsheilah D. Lyons, Committee Policy Analyst  
Joe McCoy, Committee Policy Analyst  
Sara Partida, Committee Counsel  
Shauna Kirk, Committee Secretary

**OTHERS PRESENT:**

Alexander Haartz, M.P.H., Administrator, Health Division, Department of Health  
and Human Services  
Elizabeth MacMenamin, Retail Chain Drug Council  
Lawrence P. Matheis, Executive Director, Nevada State Medical Association  
Bryan Gresh, University of Southern Nevada

Renee Coffman, Dean, Ph.D., RPh, College of Pharmacy, University of Southern Nevada

Susan L. Fisher, AstraZeneca Pharmaceuticals; City of Reno

Ronald P. Dreher, Peace Officers Research Association of Nevada

Cotter C. Conway, Deputy Public Defender, Public Defender's Office, Washoe County

Jason Frierson, Deputy Public Defender, Public Defender's Office, Clark County

Kristin L. Erickson, Chief Deputy District Attorney, Criminal Division, District Attorney's Office, Washoe County

Frank Adams, Executive Director, Nevada Sheriffs' and Chiefs' Association

Robert Roshak, Sergeant, Office of Intergovernmental Service, Las Vegas Metropolitan Police Department,

Gary Peck, Executive Director, American Civil Liberties Union of Nevada

Cynthia Lu, Chief Deputy Public Defender, Public Defender's Office, Washoe County

Patrick Gilbert, Deputy Public Defender, Public Defender's Office, Washoe County

Michael Capello, Director, Department of Social Services, Washoe County

Thomas D. Morton, Director, Department of Family Services, Clark County

Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education

Karen Gray

Ruth L. Johnson, President, Board of Trustees, Clark County School District

Mary Beth Scow, Clerk, Board of Trustees, Clark County School District

Terri Janison, Vice President, Board of Trustees, Clark County School District

Shirley Barber, Board of Trustees, District C, Clark County School District

Dell Ray Rhodes

Calvinia Williams

Esteleen Westby

Caroline Rangen

Constance Kosuda

Sharla Hales, Board of Trustees, Douglas County School District

Gena Grison

Dr. Dotty Merrill, Executive Director, Nevada Association of School Boards

CHAIR WASHINGTON:

I now open the meeting on Senate Bill (S.B.) 5, S.B. 6, and S.B. 8.

**SENATE BILL 5:** Requires the establishment of the Cancer Drug Donation Program. (BDR 40-19)

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

This measure requires the Health Division of the Department of Health and Human Services to establish a Cancer Drug Donation Program. The measure further requires that the Health Division adopt regulations to implement the Cancer Drug Donation Program. The Program will accept, distribute and dispense donated drugs that are used to treat cancer or the side effects of cancer or other cancer drugs. Any person may donate a cancer drug to the Program at a participating pharmacy, hospital or health clinic.

The measure authorizes such entities to charge a handling fee to the patient receiving the drug in accordance with regulations adopted by the Health Division. The donated drugs must be in their original unopened package, not adulterated or misbranded and bear an expiration date to be accepted, distributed or dispensed by the Program. The donated drugs may only be dispensed pursuant to an authorized prescription by a registered pharmacist. The measure prohibits donated drugs from being resold or designated by the donor for a specific person. The measure also provides immunity from civil liability under certain circumstances for a person who donates, accepts, distributes or dispenses a cancer drug donated to the program.

Cancer is the second leading cause of death in the United States according to the American Cancer Society. However, according to the National Cancer Institute, the "Annual Report to the Nation on the Status of Cancer" indicates a continued decline in overall cancer-death rates for all races and both sexes combined. The study attributes the decrease in death rates, in part, to increased efforts to reduce exposure to tobacco, earlier detection through screening and more effective treatment. Many uninsured or underinsured Nevadans cannot afford cancer treatment. According to the National Institutes of Health, the direct medical cost for cancer treatment nationally was an estimated \$78.2 billion in 2006. According to the *Atlanta Journal-Constitution*, the "amount of drugs wasted annually is unknown, but it's potentially enormous, possibly \$1 billion or more." The Cancer Drug Donation Program helps to mate

drugs that would otherwise go to waste with patients who need the drugs most.

SENATOR CEGAVSKE:

Drug recycling and reuse programs are more prevalent than some might think. According to the Health Program of the National Conference of State Legislatures, in 2006, legislation that allows for the reuse or recycling of certain prescription drugs was adopted by 23 state legislatures. The possibility of reusing certain unused medications has come to the attention of major federal health care programs as well. For example, in March 2006, the Center for Medicaid and Medicare Services ordered state Medicaid programs to require nursing homes to return unused medications to pharmacies and to ensure Medicaid is repaid for unused treatments when nursing-home patients die, are discharged or have their prescriptions changed. The Cancer Drug Donation Program provides access to lifesaving drugs for individuals who cannot afford private insurance and may not be eligible for state and federal health insurance or prescription drug coverage programs.

Senator Mathews asked to be a cosponsor on S.B. 5. We also received an amendment which would be inserted on page 3, line 34 of this bill. It is not Legislative Counsel Bureau (LCB) language. It was given to me by the Director for the State Government Affairs of Johnson & Johnson. I will read it to you briefly.

In the absence of bad faith, pharmaceutical manufacturers shall be immune from civil or criminal liability for any claim, injury, death, or loss to personal property arising from the transfer, donation, dispensing or acceptance of any prescription drug donated to this program. Pursuant to the provision of this act, including, but not limited to, liability for failure to transfer or communicate product or consumer information regarding the transferred drug, as well as, the expiration dates of the transferred drug.

I talked with Lynn Kowalski, M.D., who as an oncologist/gynecologist in Las Vegas has a number of patients on cancer drug medicines. They spend a lot of money on the drugs only to find out they are allergic to them. While waiting in the doctor's waiting room, patients talk about the drugs and their allergic reaction. The patients wanted to know if they could transfer or give someone the medication that they could no longer use. She explained to them that her

waiting room was not an exchange office, and she did not want to be liable. There are so many people who cannot afford the drugs for treatment. Dr. Kowalski is in support of S.B. 5.

CHAIR WASHINGTON:

Did you notice the fiscal note at the end of the document prepared by the Department of Health and Human Services? It is \$276,000 over the biennium. Is the State Board of Pharmacy the one that will set up the regulations?

SENATOR CEGAVSKE:

Yes. I have not looked at it in the back of the document.

ALEXANDER HAARTZ, M.P.H. (Administrator, Health Division, Department of Health and Human Services):

The Health Division was named in S.B. 5, and was required to put a fiscal note on it. The main cost would be for obtaining pharmacist and pharmacy expertise in terms of all the management-related regulations, monitoring and inspecting to make sure that those participating facilities are complying with Nevada regulations. As currently written, it would require the Health Division to adopt regulations. It seems that the Health Division may not be the best equipped in terms of expertise. We would have to find someone with the expertise which would create a cost. The State Board of Pharmacy may already have the regulations and the expertise to do the work.

CHAIR WASHINGTON:

Do you want to pass it on to the State Board of Pharmacy to develop the regulations?

MR. HAARTZ:

As currently written, S.B. 5 would require the Health Division to have expertise that we do not have. It would create a cost to obtain that expertise.

CHAIR WASHINGTON:

Would the pharmacy industry be willing to take donated cancer drug medicines?

ELIZABETH MACMENAMIN, (Retail Chain Drug Council)

The way I read this bill, it is a voluntary program. I do not have a definite answer. I concur that the State Board of Pharmacy would be the proper place to put this for the regulatory process.

CHAIR WASHINGTON:

Most cancer drugs or treatments are not actually dispensed by pharmacies. They are done by the oncologists, in their office, at a given point in time.

MS. MACMENAMIN:

Some of this is addressed in the original, unopened, sealed packages. Some of our concerns are addressed in this regulation. I would be glad to work with Senator Cegavske and the Committee on this bill.

CHAIR WASHINGTON:

Could you find out for us what compounds are sold by pharmacists?

MS. MACMENAMIN:

Yes. I would be glad to get that information for you.

SENATOR HECK:

If the donated drugs were turned in to a retail pharmacy, what would be the procedure? Would the next person that comes in with a prescription, get a new drug off the shelf and be billed or given the donated drug? It might be better to restrict it to hospital pharmacies or oncologists' offices.

CHAIR WASHINGTON:

In S.B. 5, section 6, subsection 5 states that any cancer drugs donated cannot be resold.

SENATOR HECK:

I understand they are not going to resell it. How will the pharmacist know whether or not to give the donated prescription? Is it first-in, first-out? If I have a donated one on my shelf, I have to give that to the next person who comes in. Should it be restricted to those people who really deal with oncology-type medications on a daily basis?

CHAIR WASHINGTON:

I agree with you. If we process S.B. 5, I would prefer an amendment that states the donated drugs are actually collected and distributed by those who prescribed the drugs.

SENATOR WIENER:

Previously, I had a bill on the drug-recycling issue. We made a strong policy statement about the State of Nevada recycling pristine drugs. This was for the Department of Corrections, mental health services, and nursing homes. We added rural nursing beds. I do not recall the exact language, but the drug would go back to the original pharmacists so that integrity would be protected. We have made a strong statement in Nevada, not once, but twice. It was a law; I refined it because there were more drugs in the marketplace. We need to amend S.B. 5.

LAWRENCE P. MATHEIS (Executive Director, Nevada State Medical Association):

We support S.B. 5. The intent is to help people who are going to be facing tremendous costs. The Board of Pharmacy has adopted the regulations to implement the bill that Senator Wiener discussed. While most of these will not come directly from a pharmacy to a patient, the Board of Pharmacy writes the regulations for dispensing, compounding, sales and distribution in all of the various settings. That is the universal group for this category of controlled drugs. There are technical issues that need to be examined. If the drug is covered under Medicare, there are some special rules about whether they can be redistributed. I am sure the Board of Pharmacy is aware of that. They have had to work through the nursing homes and mental health services part of the previous bill. On the whole, any of the technical issues can be worked through. Physicians who work with patients who have cancer have all commented that this is a real issue.

BRYAN GRESH (University of Southern Nevada):

Dr. Coffman who is the Dean of the College of Pharmacy, University of Southern Nevada, is in support of S.B. 5 and would like to answer some of the questions that have been raised.

RENEE COFFMAN, PH.D., RPH (Dean, College of Pharmacy, University of Southern Nevada):

The medication patients take for cancer is some of the most expensive on the market. To establish a program that would allow unused cancer medications to be donated by a patient or by a patient's family to help mitigate the drug costs of the cancer patient is a very positive step. I want to make sure there are mechanisms in place to safeguard the patient to whom the medication is being donated, and they are there. The bill requires the medication to be in its original-unopened packaging, to have an expiration date later than 30 days after

the date of donation, and to be dispensed pursuant to legal description. I support S.B. 5. I would like to address some of the other questions. There are quite a few oral-medication drugs now available for cancer treatment that could be dispensed in a community pharmacy. With the provision that these pharmacies are volunteers, you could find some community pharmacies willing to participate and accept these medications. The majority of compound medications may not fall into the provisions of this bill. When they are compounded, the expiration dates tend to be very short. Most of those drugs are in a solution, and because of that, they tend to expire in a shorter time frame.

Regarding Senator Heck's question about who would receive the donated medication, I have seen some legislation in six other states that specifically addresses cancer drug donation programs. Patients actually have to sign up to be part of this program in other states. When pharmacies sign up to volunteer, the patients also sign up. The pharmacies that volunteer have a list of the patients and make them aware when those medications were donated.

SENATOR HECK:

Dr. Coffman, agents that are now being prescribed, are they being prescribed in blister packs or unit dose packs, or are they coming out of a stock bottle into a vial? I would have concerns about those coming back into the system.

DR. COFFMAN:

In the community pharmacy, they will probably come out of a stock bottle. A lot of times those stock bottles are coming in 30-day supplies. That is typically how they are going to be dispensed. If you had some purchased where the bottle was unopened and not tampered with, those would be candidates for donation. Hospital pharmacies certainly do repackaging in blister packs and hospital pharmacies would also have the capability of participating.

SUSAN L. FISHER (AstraZeneca Pharmaceuticals):

AstraZeneca Pharmaceuticals fully supports this bill. We were concerned about some of the language and appreciate the addition of that friendly amendment to the bill.

CHAIR WASHINGTON:

Do we have a motion to amend and do pass as amended with Senator Cegavske's amendment, Senator Heck's request dealing with oral



medications, Dr. Coffman's suggestion for patient sign-up and regulations to be adopted by the State Board Of Pharmacy?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 5.

SENATOR HECK SECONDED THE MOTION.

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

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CHAIR WASHINGTON:

We will close the hearing on S.B. 5. I will open the meeting on S.B. 6.

**SENATE BILL 6**: Includes marijuana in the provision which prohibits persons from intentionally allowing children to be present at certain locations where certain crimes involving controlled substances are committed. (BDR 40-223)

SENATOR JOSEPH V. HECK (Clark County Senatorial District No. 5):

During the last Legislative Session, this body passed A.B. No. 465 of the 73rd Session which made it unlawful for a person who, in violation of the provision of chapter 453 of the *Nevada Revised Statutes* (NRS), allows a child to be present in any conveyance or upon a premise, wherein, a controlled substances is being used, sold, exchanged, bartered, supplied, prescribed, dispensed, given away, administered, manufactured or compounded. Simply stated, with A.B. No. 465 of the 73rd Session you cannot use, sell or manufacture an illicit substance in the presence of a child. Assembly Bill No. 465 of the 73rd Session encompassed all controlled substances, including those which are prescription medications with the specific exception of marijuana. Senate Bill 6 includes marijuana in the list of controlled substances that is subject to the provisions of the prior legislation as it pertains to selling and manufacturing in the presence of a child. It does not include the increased penalties associated with the use of marijuana in the presence of a child. I would like to offer some marijuana facts. Marijuana is the most commonly used illicit drug. According to the 2005 national survey on drugs and health, an estimated 97.5 million Americans, aged 12 or older, have tried marijuana at least once in their life. That represents

40.1 percent of the United States population in that age group. The number of past-year marijuana users in 2005 was approximately 25.4 million, and the number of past-month marijuana users was 14.6 million. More than half, 52.7 percent, of users who bought their marijuana purchased it from inside a residence. This is an important fact to remember. Secondly, there was a total of 1,846,351 state and local arrests for drug-abuse violations in the United States during 2005. Of these arrests, approximately 5 percent, or a little over 90,000, were for marijuana sale or manufacturing. Third, in 2002 and 2006, voters overwhelmingly rejected attempts at legalizing marijuana sending a strong and clear message to the Legislature that marijuana use will not be tolerated in our State.

Why is this legislation needed? It is well documented that there is an increased likelihood of violence associated with drug dealing regardless of the actual drug. I can personally attest to this fact from my experiences supporting tactical law-enforcement operations where children were frequently present at the premise where a warrant was served. Even if we were to discount the potential for physical injury to these children, what are the physiological and emotional injuries that result from seeing a parent taken away in handcuffs? Additionally, the very behavior of small children puts them at an increased risk if they are around these materials including marijuana. As any parent knows, the first place a toddler places any object they find is in their mouth. What if this object was a marijuana plant? What if a child had been present in the recent case reported last week where an individual from Pahrump had 750 marijuana plants? Recall the fact I presented earlier, 52.7 percent or 13,385,800 users in 2005 obtained their marijuana from a seller inside a residence. Due to the physical, psychological and emotional danger associated with drug dealing and manufacturing, it is my opinion that it was a mistake to not include marijuana in the original legislation in 2005. As a result, children in Nevada have continued to be placed at risk. This legislation is needed to protect our most vulnerable population, our children, and I respectfully request your support of S.B. 6.

RONALD P. DREHER (Peace Officers Research Association of Nevada):

We request your support in the passage of S.B. 6. With the Chair's permission, I am going to dispense with my prepared statement and read into the record one prepared by Mike Neville who was my partner for years when I worked undercover in narcotics ([Exhibit C](#)).

COTTER C. CONWAY (Deputy Public Defender, Public Defender's Office, Washoe County):

The Washoe County Public Defender's Office stands in opposition to S.B. 6.

JASON FRIERSON (Deputy Public Defender, Public Defender's Office, Clark County):

The Clark County Public Defender's Office also stands in opposition to S.B. 6. We do not stand in opposition, in principle, but take seriously, crimes involving drugs around children. It is clearly something that we need to take seriously. We do not advocate for a lesser penalty for manufacturing or growing marijuana in the presence of children. It is important there be an escalated penalty for the manufacturing of methamphetamines and those types of drugs in the presence of children. Our reading of the statute suggests the reason that was put together is because methamphetamine labs have a tendency to explode. The chemical components are the reason there was a greater penalty for the manufacturing of drugs such as methamphetamine around children. We do not believe there is the same implication with respect to marijuana, and as drafted, it is treating the growth of one marijuana plant the same as the existence of a methamphetamine lab within the presence of children. In these times where methamphetamine is such a serious situation, it deserves to be treated separately, and the increased penalty for the manufacturing of those types of drugs in the presence children is appropriate. For those reasons, we oppose this bill.

CHAIR WASHINGTON:

If I understand you correctly, you are not in opposition to the bill. You are in opposition to the degree of penalty or punishment placed upon the use, growing, producing or distributing of marijuana around children.

MR. FRIERSON:

Yes. We are open to treating the growing of marijuana around children seriously. We feel the way the bill is drafted in its present form is a concern of ours.

CHAIR WASHINGTON:

I do not know if the sponsor would entertain an amendment to make the penalty less or leave it the way it is. I would offer to you to meet with him to discuss your concerns so we can process S.B. 6.

SUSAN L. FISHER (City of Reno):  
The City of Reno supports S.B. 6.

KRISTIN ERICKSON (Chief Deputy District Attorney, District Attorney's Office, Washoe County):

The Washoe County District Attorney's Office believes that at any time when drugs and children are together it is a dangerous combination, whether it is selling drugs or having plants in or around the home where they are accessible to children. We do support this bill.

FRANK ADAMS (Executive Director, Nevada Sheriffs' and Chiefs' Association):  
Nevada Sheriffs' and Chiefs' Association is in support of S.B. 6. We were active last session supporting the prior bill. I can tell you that Nevada voters have voted twice to not legalize marijuana. That is a good policy statement. When I was a younger officer working the street, it was not unusual to find many children in places where we served search warrants. A number of years ago, we had a huge marijuana grower that was selling out of the house. He stored the marijuana he sold in the refrigerator next to the baby's milk. We support S.B. 6.

ROBERT ROSHAK (Sergeant, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

The Las Vegas Metropolitan Police Department is in support of this bill, and we mirror many of the previous comments.

SENATOR HORSFORD:

Do any of you have the projected impact of incarceration of individuals between 5 and 20 years if this law is enacted?

MR. ROSHAK:  
No. I do not.

GARY PECK (Executive Director, American Civil Liberties Union of Nevada):

It is important not to conflate or confuse the fact that the voters of the State of Nevada have twice voted not to support decriminalizing marijuana with the notion that we should be passing laws that are going to put more people in jail for longer periods of time for using it. The debate was more complex than that. It is dispiriting in a context where the Department of Corrections is asking for over \$300 million to build more prisons to house more prisoners. That will be money that cannot be spent on other important programs that no one who is

testifying in support of the bill can actually talk about the implication with respect to incarceration rates.

Lastly, Mr. Frierson is right. The way the bill is currently drafted, someone could be growing marijuana plants for personal use and not for the purposes of distributing it, or selling it and would be treated as if they were engaged in those activities, and, thereby, creating an enhanced risk for children. I would urge at the very least, Mr. Frierson, I would be glad to participate, but I have great confidence in Mr. Frierson's ability to work with Senator Heck to tighten up the language so you are going after the right people and the consequences are not unintended ones that are going to exacerbate the problems the Department of Corrections keeps telling you about when it asks for those hundreds of millions of dollars.

CHAIR WASHINGTON:

It is the Chair's intention to move this bill. I will wait until Senator Heck and Mr. Frierson have an opportunity to get together to alleviate some of the concerns as far as the penalties that are associated with S.B. 6.

CHAIR WASHINGTON:

We will close the hearing on S.B. 6 and open the meeting on S.B. 8.

**SENATE BILL 8**: Provides that the repeated misuse of alcoholic beverages or controlled substances by a person who is responsible for a child's welfare constitutes prima facie evidence of negligent treatment or maltreatment of the child under certain circumstances. (BDR 38-245)

SENATOR RANDOLPH J. TOWNSEND (Washoe County Senatorial District No. 4):

Senate Bill 8 is brought to you as a result of a number of things that occurred in our press over the last five or six years that started to touch home. When I found out New York and Illinois had bills to help address this problem, I put in S.B. 8. You are familiar with the negligence laws, or, as they call them, maltreatment of children. It constitutes neglect under our statute. This bill is simple. It simply says that repeated misuse of alcohol or controlled substances by a person who is responsible for a child's welfare constitutes prima facie evidence of negligent treatment or maltreatment of the child under certain circumstances. That is all it does. You will hear from important people today about their concerns regarding its fiscal impact on local government. It does not do a lot of the things I have heard it will. If it does, then the Committee has the

right and responsibility to make sure that it does not do those things. This is not about someone having a barbeque on the Fourth of July weekend, and after they have a couple of beers, their child falls off a bike and skins their knee, and they get their child taken away. That is not the intention of S.B. 8. It states those who misuse alcohol or any kind of drugs are going to have the burden of proof placed on them to prove they were not negligent in their treatment of the child.

CHAIR WASHINGTON:

I noticed in the language of the bill, any person who is actually being treated in a certain program for alcohol or drug abuse would be exempt from any provisions of this bill.

SENATOR TOWNSEND:

The purpose of that was if someone is making an attempt to right their lives, they should be given the benefit of the doubt. This can be pretty tough on these people.

CHAIR WASHINGTON:

Child Protective Services (CPS) has a federal mandate to terminate parental rights within 12 months. With this bill, would this speed up the process in determining whether or not the parental rights should be severed?

SENATOR TOWNSEND:

I do not have a specific answer to that question. This shifts the burden of proof over to those individuals who have misbehaved. I do not think it changes anything else. I could be wrong.

CHAIR WASHINGTON:

I know that CPS is obligated to put together either a reunification plan or a plan that would sever their rights. I wonder if this would be one of those provisions plugged into the plan.

SENATOR TOWNSEND:

I do not know.

MR. MATHEIS:

The Nevada State Medical Association supports S.B. 8. Over the past few years, we have focused on the impact of driving while under the influence and

the costs to our society. This begins to focus on other problems we are identifying. The relationship between substance abuse and domestic violence is increasingly being documented, placing a focus on the extended areas where the abuse of alcohol and controlled substances can have an impact. These violators need to be in recognition that they have a problem that affects the family. It is also a way of making sure that our domestic-violence numbers do not get worse than they are already. I do not know if this is the best way to do it. The issue being addressed is an important one we have not pursued.

CHAIR WASHINGTON:

There are a few concerns, but they are more procedural in dealing with the family court and CPS than anything else.

MR. DREHER:

The Peace Officers Research Association of Nevada requests your support and passage of S.B. 8. In my past years, I was the major-crimes detective in a robbery/homicide unit for the Reno Police Department. During last 11 of my 12 years at the Reno Police Department, I had the unfortunate experience of investigating a lot of murders of small children and babies. This bill is about protecting the children and taking the parents with these problems and creating evidence that they are responsible for the children and making them prove "reunification." I buried some nice little guys who would have fallen under this classification, and they would have gotten help much sooner with a bill like this. I am asking for your support, not to put more people in prison but to put the responsibility of raising the children on the parent.

CYNTHIA LU (Chief Deputy Public Defender Public Defender's Office, Washoe County):

The Washoe County Public Defender's Office opposes the bill in its current format. It establishes prima facie evidence of negligence or maltreatment. It would allow the removal of children from their home without the requirement to establish any type of imminent or actual harm to the child which potentially contradicts other sections of the NRS 432B. The terms used are subjective which could create litigation in defining these terms. These terms could potentially be litigated over and over again since the NRS 432B cases are not appealable via Nevada Supreme Court case *August H. vs. State of Nevada*. Because of that case, we continually have to re-litigate issues in front of the judges. We do not have case law that judges can follow to define these terms for us. There is the potential fiscal impact due to more removals from the home

which will increase court cases. This would lower the standard of removal. It also shifts the burden to the defense, and that creates longer, more contested hearings which would create a fiscal impact upon the courts.

CHAIR WASHINGTON:

Let me ask our legal counsel if the NRS 432B deals with the severance or developing a plan for parental rights, or reunification, based on prima facie evidence? Does it put the burden of proof on the parent, as opposed to the State, to prove that the parent is fit? Ms. Partida, what does the NRS 432B include?

SARA PARTIDA (Committee Counsel):

Chapter 432B of the NRS generally deals with the protection of children from abuse and neglect. You are correct. This would put the onus on the parent and not on the State.

Ms. Lu:

The *Nevada Revised Statute* 432B cases are the initiating cases for the removal of children. If they do not reunify within the 12 months, the NRS 432B case will trigger a NRS 128 case to determine parental rights. If the parents are not successful in reunifying with their children, then it could be an initiating case under Adoption and Safe Families Act and lead to a determination of parental-rights case. I also have concerns with section 1, subsection 3 which only exempts programs certified by the Health Division of the Department of Health and Human Services. The Health Division only provides grant funding to the Bureau of Alcohol and Drug Abuse (BADA) approved programs. Those are formalized treatment programs. Subsection 3 would not exempt people who are attending informal programs such as Alcoholics Anonymous, Narcotics Anonymous, or church programs. These informal programs are recommended by the formal programs to assist in their continued sobriety but not exempt like the formal programs. This bill is unnecessary. If a person is intoxicated to the extent that they cannot care for their children, the NRS 432B already covers it. If a child is in imminent harm due to a parent being under undue influence to the point they cannot care for or supervise their children, the NRS 432B already allows for the removal of the children from the home. Our office does not feel this added language is necessary to protect them. While S.B. 8 is not supposed to apply to the family on the Fourth of July where a child gets harmed, it is so discretionary that it could. That is not the intent. Once the NRS 432B case is



open, the parent already has to prove to the court, once the initial allegations have been found to be true, that the children should be returned to the home.

SENATOR NOLAN:

First, there has to be some allegation of mistreatment or neglect that would initiate an investigation. What are the guidelines for misuse? We are not sure what repeatedly means. Do the physical effects of that repeated misuse have to be substantial, or if it just takes one time to be falling down drunk and the person be considered guilty of negligent treatment? Is that how you understand this?

Ms. LU:

Yes. That is how we are reading this bill. We have concerns with the term misuse as it is not a treatment term. Because of this misuse, they could be potentially guilty of negligence or maltreatment of the child without negligence or maltreatment about to happen. The way we read S.B. 8 and the way others may read the bill, is that repeated misuse is negligent in and of itself.

SENATOR NOLAN:

Would you not want to indicate a number of convictions for being intoxicated or under the influence of some drugs, and this maltreatment would be another charge?

Ms. LU:

If a parent is being arrested by the police and children are in the home and there is no other caretaker in the home, the children are removed from the home under the NRS 432B. If the purpose of the statute is to go for a person who has repeated misuses, you do not need the number of convictions. It helps prove there is repeated misuse, or this is a person with a continuing issue with alcohol or addiction. However, the NRS 432B already allows for any further incidents, because the children can be removed on that basis. This history of the parent is already given to the family court judge and taken into account. We believe the goal of this bill is already being met by the NRS 432B. The terms used here will create more confusion.

SENATOR NOLAN:

The proposed language just states controlled substances. What about legal narcotics or prescribed medications people may take in excess? Excessive alcohol use to the level where one cannot physically function should already be

covered in a statute somewhere that allows the same cause of action to be taken.

PATRICK GILBERT (Deputy Public Defender, Public Defender's Office, Washoe County):

The *Nevada Revised Statute* 432B requires the State prove by a preponderance of evidence that a child is in need of protection due to the abuse or neglect of the caretaker. The *Nevada Revised Statute* 432B.140 defines maltreatment. If you meet the provisions in the NRS 432B.140, you have established maltreatment, and that is one of the definitions of neglect. If a person is falling down drunk all the time, their house is a mess and their children unsafe, the children get removed. I do not understand the purpose of subsection 2. If you can prove the elements in subsection 2, you have met your burden in paragraph 1. You do not need subsection 2.

CHAIR WASHINGTON:

I believe Senator Townsend is flipping the burden of proof from the State to the parent.

MR. GILBERT:

I agree. I think that is improper. Once you have proven harm to the child, the burden shifts to the parent in the NRS 432B process.

CHAIR WASHINGTON:

The burden of proof is on the State to determine whether the parent is fit to take care of their children. Once the court has proven that, then the burden is flipped back to the parent to comply with the court's recommendations.

MR. GILBERT:

The prima facie case would allow a social worker to go into a home and remove a child without anything but a report of long-term abuse of alcohol. At the time the child is removed, all that is needed is probable cause. You do not need to establish the harm at that point. You only have to establish the probability. We talk about the need to protect children, but at some point, we have to protect children from being removed from their home and out of their parents' arms. We should not be taking children out of the home all the time to protect them. We should be coming up with other alternatives. We should not be looking for ways to make it easier to take children away from their parents. We should be looking for ways to make the family stronger.

CHAIR WASHINGTON:

I think that the burden is on the State. At the point they enter into the court system, for whatever reason, the State can step in at that point to determine whether a child is safe, or if there has been maltreatment of the child, and determine whether or not the child could be reunified or their rights severed. The statute states it is the habits of the parents. Senator Townsend is enumerating those habits, whether it is abuse of alcohol or controlled substances. The courts can already determine if that habit is abusive to that child. There may be some duplication.

MR. GILBERT:

I agree.

SENATOR CEGAVSKE:

What else would help to encompass all formal and informal programs?

Ms. LU:

A Senate bill was passed a few sessions ago where a broader term encompassed informal groups not licensed by the BADA. I want to indicate the Adoption and Safe Families Act (ASFA) enacted by the NRS 432B.393 subsection 1, paragraph (2). This requires the social services agency to make reasonable efforts to prevent removal of the child from the home. It would really need to be consistent with all the other requirements of the ASFA that require reasonable efforts to prevent removal because of the recognized trauma that children have from being removed from any home to which they are accustomed.

CHAIR WASHINGTON:

There may be a conflict with the ASFA.

SENATOR HORSFORD:

What if one parent meets this criterion but the other parent is totally fine? How does the court deal with that? Is there any language to be included to protect maintaining the family structure in those instances?

Ms. LU:

We echo those concerns. Senate Bill 8 does not address those circumstances.

MR. PECK:

I have no doubt the motives and intent behind the bill are good ones, but I have to express the American Civil Liberties Union's (ACLU) strong opposition to the bill. We joined with the Youth Law Center which is one of the leading child welfare advocacy groups in the United States. We have been in negotiations with the Clark County government and State officials regarding what we consider to be a badly broken child-welfare system. This bill will exacerbate those problems and cause considerable harm to children who otherwise would not be harmed. It is important the State have the power to intervene when a child is abused or neglected. It is equally important that the power only be used when it is necessary to protect children. I could give you a long list of socially irresponsible behaviors that might conceivably cause harm to children from mismanaging money to failing to put on seat belts. I do not think anyone is going to propose that we should place the burden on parents to prove they are not being abusive or neglectful because they engage in those behaviors. There needs to be a connection. The law already provides for that. In other words, if you can show the abuse, neglect or probable cause to believe that abuse or neglect has occurred, the child can be removed. It is important to understand the experience of removal from a home is itself profoundly traumatic and harmful to children. It should only be done when it is absolutely necessary. I urge the movement of this bill out of Committee.

MICHAEL CAPELLO (Director, Department of Social Services, Washoe County):

The Washoe County Department of Social Services has similar concerns about the parental behavior connecting to a risk of harm or actual harm to the child. This is a very important connection to be made. If we could develop S.B. 8 to have the risk of harm connected to the parental behavior, the bill could be workable. As it is written, I tend to agree with some of the previously mentioned concerns. We could have a situation where the parental behavior occurs over here; we have the child over here; and there is no connection between those two. It would be important that the connection be made to protect the child, because that is what we are talking about. The bill makes an assumption that the parent is actively responsible as the primary caretaker for the child while they are in that set of circumstances. If that is the case, we have authority under existing statute to take action.

SENATOR HORSFORD:

Are you saying if a parent recognizes they have a problem with drugs and/or alcohol, they ask the grandparent to care for the child, and because the parent

still has custody, and based on this law, the child could be removed from those circumstances?

MR. CAPELLO:

Under the most extreme circumstances, the law could be interpreted to allow that. I find it difficult to believe that, in my particular agency, we would remove the child because we would still be looking for that connection of harm to the child. As this is being presented, could that be done? It would be possible.

THOMAS D. MORTON (Director, Department of Family Services, Clark County):

The Department of Family Services would still have the burden of proof to establish that the parent repeatedly misuses substances. It is not going to deprive us of that responsibility. The Nevada Supreme Court has repeatedly affirmed the property rights of parents in regard to their children. Amendments IV and XIV of the U.S. Constitution protect them. There are things in place to prevent us from exercising an impromptu defacto removal of children simply based on this particular part of the statute. That is not to say it would not occur, but theoretically, it should not occur. Because of the NRS, the standards for substantiating maltreatment, and the standard for taking protective custody, are different. Nevada has the lowest standards for taking protective custody in the United States. There are a couple of other parts in the construction of the bill which I would like to make you aware. The phrase "responsible for a child" is broad in its construction. It is not clear to me whether this would include teachers, day-care workers and any number of people who assume some responsibility for the welfare of a child through their professional role. In fact, these people can be subject to institutional-abuse complaints. Would this apply to a teacher who habitually misuses substances?

The present construction does not specifically say whether or not this has to be done in the presence of the child or while actually caring for a child. Those issues have been previously raised. Subsection 3 raises a question about children that come into our care specifically through a provision of paragraph 2. If we have a parent with children in our care for other reasons and that parent engages in active treatment, and at the same time, endangers the child through repeated misuse of something, would the fact that the parent is in treatment exempt the parent?

CHAIR WASHINGTON:

We will close the hearing on S.B. 8. We will go a presentation by Dr. Rheault.

KEITH W. RHEAULT, Ph.D. (Superintendent of Public Instruction, Department of Education):

You should have received a couple of packets as a handout for you today. One is entitled, "General Overview of Education Issues Fiscal Years 2007-2009" ([Exhibit D](#), original is on file in the Research Library). I would like to start with the general overview document. If you will turn to the second page, I will start with "School District and Student Demographics." I also want to present three issues that I presented to the finance committee which I see as issues that need to be looked at closely for the 2007-2009 biennium. I have a little bit on the full-day, at-risk kindergarten program. I have status reports on the programs for innovation, prevention and remediation. I wanted to point out a couple of enhancements that are not in there that were funded as one-shot expenditures this past biennium as I quickly go through some demographics.

CHAIR WASHINGTON:

There are a lot of questions on issues that we are not going to have time to address. I want to reschedule for March 5, 2007. Before we start getting into the education bills, I would like to continue this overview to that date.

KAREN GRAY:

In my written testimony, when I refer to the term "policies," I mean all policies and regulations, regardless of whether they are created by the school board or the school district. It encompasses all of them. Some school districts have policies under the school board and are considered school board policies. In Clark County, we have school board policies which are their governance policy, and we have school district policies that regulate school uniforms and discipline.

Today, I would like the Committee to look at page 4 of my proposal for language changes to the NRS 386.365. The reason for the policy change is that this past summer the Clark County School District attempted a policy change whereby they would only have to approve legally mandated policies. The superintendent would then create the policies and regulations for our school district. In delegating that responsibility to the superintendent, who is not subject to Open Meeting Laws, issues will not come before the board. They will be policies of the superintendent and not the school board. I want to make sure the people of Nevada and Clark County have the opportunity to always be a part of policy development. I will read from my written testimony ([Exhibit E](#)). I beseech the Committee to protect the public, their ability to participate in policy development for their children, and to keep the public in public education.

SENATOR CEGAVSKE:

Thank you for coming in today and giving some concrete comments and bringing in some amendments. We do not always get citizens that come forward that well prepared.

RUTH L. JOHNSON (President, Board of Trustees, Clark County School District):  
I will read from written testimony ([Exhibit F](#)).

MARY BETH SCOW (Board of Trustees, Clark County School Clerk):  
I will read from written testimony, [Exhibit F](#).

TERRI JANISON (Vice President, Board of Trustees, Clark County School District):  
I will also read from written testimony [Exhibit F](#).

Ms. JOHNSON:

Our increased communication with constituency is a vital point in answering Ms. Gray's concern about public input and public process. We set strict goals throughout the year, and we reserve the right to monitor anything at any time in the district. We have provided you a copy of the community linkage schedule, what our plans are for the next year and a monitoring schedule for the board. Ms. Scow has brought part of an evaluation for the last school year from the superintendent ([Exhibit G](#)).

Ms. SCOW:

First, one of the greatest things to come from policy governance is the monitoring of the superintendent. The reporting from No Child Left Behind also requires a great deal of data. This initiated the implementation of a data management system which allows superintendents, principals, teachers and parents, to look at data which shows where individual students, classes, schools or regions are strong or weak. It shows exactly where the needs are in the curriculum. Carrying out the evaluation of the superintendent has become objective and data-driven. The first few years I was on the board, we held a subjective conversation about the superintendent's merits. The difference between now and then is very dramatic. The superintendent knows exactly what is expected. It is in policy. The board then monitors those qualities throughout the year, requiring data to prove compliance. The board sets desired results for student achievement. Test scores in the last two years have risen slightly. All but two of our schools have had an increase on test scores. The pass rate on the High School Proficiency Exam has risen, and the drop-out rate

is slowly decreasing. We are not where we want to be, but progress is being made. We were told constantly that we should run like a business, and now we do.

Some constituencies during school board elections, have complained that the board is giving away power and shutting the community out of decisions, while not requiring prescribed data from the superintendent. We firmly feel the board is in a position of more authority by acting instead of reacting. We are stating what results should be met for students instead of having staff make those plans. We are going to the community for their input and using our time in board meetings to talk about those values. We are asking for data that directly shows whether the superintendent is compliant with those policies.

Ms. JOHNSON:

In response to Ms. Gray's specific concern, we do have in our policies and governance Policy No. 3, that the Board will approve all Clark County School District's policies and regulation. We do comply with the NRS that requires the 15 days' notice of intent. If we take it off-line from a regular meeting, we reconstitute to the notice-of-intent process. If we are about ready to complete the hearings on an amendment that we were ready to make, we would restart that notice-of-intent process again in order to have the public aware of everything we do. We still reserve the opportunity to take that to a regular meeting. Any policy discussion that we have, even if it results in something we agree on, we take it to our Website, post it and go through the regular notice of intent in a regularly posted board meeting. We are probably the only elected board in the State of Nevada to conduct self-evaluations. We critique many of our meetings in order to improve ourselves, and we have been invited to present in national conferences on the policy-governance model. We do not think that it works for everyone. We are not advocating that what we do in Clark County will work for everyone.

SENATOR CEGAVSKE:

Would your board be willing to accept anything from the public? You could make those changes as well.

Ms. JOHNSON:

This is a discussion that happened several months ago with our board. As a result of hearing from the public and the people who became involved in that public policy process, the board responded by making sure that the language



that we retained in our policy was crystal clear. We have had an opportunity to engage the public on that public process. As a result of that, we have made several changes. We now make the policy process start far earlier. The superintendent cannot engage in a change to policy until he has posted that as a notice of intent for his own people to discuss until he has put that on the Website. As soon as staff feels there is a change that needs to be made in policy, it has to be posted on the Website. Then it goes to the superintendent's cabinet for review. Those changes, whatever they may be, are recommended to the board and the board carries the notice of intent, as required by law, which gives us that long, drawn-out conversation with many opportunities to engage the public. That process came about as a result of this conversation with members of the public who were concerned about how we were dealing with that process.

SENATOR CEGAVSKE:

What I was talking about are the specific changes we have been given today. We will get you a copy of it, and we will wait to hear from you.

CHAIR WASHINGTON:

There are some things deleted in the proposed language. When I read the copy, it says the copy of notice of intent of the terms of each proposed policy, regulations, or changes in the policy or regulation must be, and then it strikes out the existing language of publicly posted at the principal's office, school board, or if there is not a principal, at the office of the superintendent of the school district at least 15 days before its adoption. Subsection 4 has some new language which refers to dismissal or personnel issues, and it strikes out attendances, rules, zoning, grading, district staffing patterns, curriculum and programs, pupils and discipline issues. Does this stay with the spirit of what you are already doing, or do you see a necessity for us to make a change to aid and assist Ms. Gray? Is this in the spirit of what you are already doing in your public-policy notice?

MS. JOHNSON:

The changes that I see here are in accordance with the action of the board and the district already. We still notice every policy change under each one of these even though it is not required by law. That is at the discretion of the Legislature. I would not change how the board conducts its business.

CHAIR WASHINGTON:

The other question would be for the other districts. Would it hinder them from doing their job and meeting their obligations, or would it stay within the spirit of their public notice as well?

Ms. JOHNSON:

Having served as the president of the Nevada Association of School Boards, I do not believe so, but I would not want to speak for other school boards.

SENATOR NOLAN:

Do you receive reports from the district's staff in regard to the attrition of teachers with some type of summary of the reasons they cite for leaving. If you have received that kind of information, can you share that with us?

Ms. JOHNSON:

We do receive an updated copy of that confidential information in our regular agenda backup. We get the list of reasons they post as to why they have left the district. Staff could give you a breakdown. We see pieces of it, and we do not have a summary. The reasons they leave the district are widespread.

Ms. SCOW:

I am certain our Human Resources Department could provide that information.

SENATOR WOODHOUSE:

I would like to make a comment about policy governance. As a 40-year employee at the Clark County School District, I had the experience of being an employee in the district before and after they went to policy governance. It was one of the most positive things the board had done. One of the greatest changes I saw as a teacher, and as a principal, was the strong movement away from micromanaging by the board.

SHIRLEY BARBER (Board of Trustees, District C, Clark County School District):

I have some concerns about policy governance. I am not sure it is policy governance itself. We as a board do not completely follow it the way we should. My greatest concern is the evaluation not done. How do we know how we are doing if we do not evaluate? We have to evaluate. We are supposed to evaluate in the public. Two years ago, we evaluated in private meetings. Unless we evaluate, and evaluate properly, we will never know how we are doing or how our students are doing. I do not put it on the policy governance; I put it on

the board members; board members must make the difference. I would like to come back. I would like to come in April and bring in a PowerPoint presentation and talk to the Committee to make sure our students get an education. I am seriously concerned about what we are doing with policy governance and evaluations.

DELL RAY RHODES:

I am here to support Karen Gray. The Clark County School District accepts the bulk of my property taxes, and I have been coming to Clark County School Board meetings for over 20 years. This is bordering on taxation without representation. If the Clark County School District wants to eliminate me and my voice in the decision making with Guide Principles 3 (GP3), they need to stop taxing me. When the superintendents sat on the floor level with the public, they were accessible to the public. Now that the superintendent sits on the podium with the board, he does not feel connected with the public. I have been to the school board and brought up black history. There is a law on black history being in the curriculum on a consistent basis. This is not happening in the Clark County School District. African-Americans are not in the school district only in February. They are here all year-round. They need to teach about our history year-round in every class.

CALVINIA WILLIAMS:

As a parent, I am ashamed of the comical display and blatant disregard concerning our children in the Clark County School District. As a parent, I want to keep my ability to be part of the policy process. I want my voice heard. Karen Gray is, and has been, a breath of fresh air. She is committed, dedicated and involved. For the parents of Nevada, she continues to keep watch. It is important to us to keep watch, inform and fight for the cause of our children. We applaud her efforts to afford our children the right for a better education.

ESTELEN WESTBY:

I have raised one son in the Clark County School District. He is now serving in the U.S. Air Force. I have three other children still in the Clark County School District. As a concerned citizen, I attend many of the Clark County School District Board meetings. Every second Thursday of the month, I witness citizens dismissed, ignored and misinformed by our board members after waiting up to four hours to be heard. I tell you this so that you can hear a few examples of the disrespect they bestow on the very people who elected them to serve. Our most vulnerable population is our children. Our children are constantly held to

standards that our own board members and superintendent cannot meet. Our board needs accountability, as the board is the body responsible for making the decisions that cost our children and society of Las Vegas. They campaigned for this honor; we voted for them; and we want them to be responsible and accountable with what they burden their citizens. I am in disagreement with the GP3.

CAROLINE RANGEN:

I am a parent of three children who are in the Clark County School District. I am part of the community; I am a taxpayer; and I care. I care about how our elected officials are trying to give away their accountability by handing their responsibility to an appointed administrator. During a school board meeting, other parents, as well as myself, were expressing our concerns regarding what was going on with the 15-day notices. Our school was changed to an empowerment school. Our curriculum was changed. Staff and contract changes were made under the NRS 385.365 policy. We were not given the 15-day notice before it was adopted and implemented. Another parent and I were requesting answers, and we were being denied by the school board and the district. We expressed how we felt as parents. We were told by our own school board trustees that we do not represent the community. Our officials refused to hear what we had to say. Ms. Gray brought the GP3 to our attention as parents. We could not let that happen. We helped educate our community. We went to the malls, the Department of Motor Vehicles, the Young Men's Christian Association (YMCA), and our churches.

My husband, a union organizer, helped Ms. Gray educate the unions to obtain their support in opposing any changes in the GP3. We were able to reach out to our community leaders. We went to the Spanish language radio, television and newspapers and held rallies opposing any changes in the GP3. The letters and 800 signatures were presented in a school board meeting and entered into the public record. We are a voice in the community. We are parents, taxpayers and voters. We want to be heard. We want to make sure our rights are preserved. We want to stay in our children's education. Please help us with the NRS 385.365.

CONSTANCE KOSUDA:

I have been going to the Clark County School Board meetings for eight months, and I speak at every meeting. I come to the meetings from a different perspective. I see, and it has been documented, that the schools are part of

what has been referred to as the "cradle-to-prison pipeline." This is a national problem. I will be faxing to the chair, and members of the board, an article published in the November/December 2006 issue of *Crisis* which is the magazine of the National Association for the Advancement of Colored People (NAACP). It was written by Marian Wright Edelman, the Founder and President of the Children's Defense Fund. She points to the disparity in the allocation of school resources as a major factor in the prison population that we now have in this State, as well as across the country. It is one of the key factors that leads to our children going to jail. Thirty percent of our young black men, nationally, will end up in prison. One of the key reasons is that the schools fail them. I brought this to the attention of the school board months ago.

I have been asking since day one to participate in the school board meetings and in discussion groups. I have asked to be invited. I have never been invited to participate in discussion groups. I did a poll of the people in the room, and two of them had been invited. We are concerned about school safety. There was a meeting several months ago that dealt with school safety. There was a massive turnout by the police and some parents when two children were shot. I pointed out to the board that racism and the disparate allocation of resources is another aspect of the lack of school safety. We needed to be included in those meetings. I asked for that specifically, and it was not given to us. We were not included in those meetings. This is a big problem. I am unwilling, in my declining years, to allow another generation of children to be destroyed by people who do not care about them.

I will be appearing before the Select Committee on Corrections, Parole and Probation. They actually paid a national expert, Dr. Austin, to study how to keep children out of prison. He said that children go to prison when they see the disparity in what he referred to as the have/have-not society around them. Incarcerating people does nothing to reduce our crime rate.

SHARLA HALES (Board of Trustees, Douglas County School District):

Douglas County does not have a policy governance model, but that is how we do business. We keep our eye on student achievement; we keep our eye on evaluating the superintendent; we keep our eye focused on the policies that are in front of us. We have tried to follow the key work of school boards as we have been trained. Part of that includes community engagement. We take that seriously. I know when school boards listen to factions and knee-jerk reactions,

they inevitably end up hurting one group while they are trying to help another. That is no way to do business as a school board. I support policy governance.

GENA GRISON:

I ask the members of this Committee to understand that none of us would be sitting here this long if this was not an issue. We would not be here today if this was not an issue. Karen Gray has done a fine job of presenting this to the public here and has gotten a great response. I am the founder of the Kids About Safety Coalition. I am the director of Nevada Voters for Animals. I am involved in my community, and I am a parent. We did go to the top. We went to the school board; we went to the superintendent, and we did not feel we were heard. When this spirited event took place several months ago, during elections, we were told that no changes would be made to the GP3. We were also told at that time that this was not a sword to die by. Because it was an election time, those changes would not be made. We felt that the door would be left open for those changes to come after the elections. Now we come to you, and we ask you for a complete transparency in the way things are done. If this is in the spirit of what they are already doing, then what is the problem with changing the language?

DR. DOTTY MERRILL (Executive Director, Nevada Association of School Boards):

I did not sign up to testify, but I want to respond to Senator Washington's question. Our school board members get in-depth training about the key work they are required to perform. One element is community engagement. Community engagement takes place in many forms and through many vehicles and not just at the school board meeting. The school board meeting is a public meeting, and as a public meeting, is governed by the rules of the NRS 241. If an individual believes that the Open Meeting Law is violated, the individual has recourse to the Office of the Attorney General about the violation of the Open Meeting Law. In our school districts, our local boards are doing a fine job of keeping the public informed, and utilize the meetings they have prior to the time they formally consider an issue. When they are reaching out to learn what members of the community see as issues of importance, there can be lots of testimony in support and opposition of those decisions. Each person has the opportunity to pursue the Open Meeting Law if they believe that their local board is in violation.

MS. GRAY:

In the past few minutes, we have heard a lot about policy governance. I want to say that I am not here today to have you look at policy governance or all the little details or problems that we have in Clark County. What I would like is this Committee to stay focused on what I have presented to you. Currently, the school districts retain the ability to have final approval power over school district policies. That triggers Open Meeting Laws. The superintendent is not subject to open meeting laws. It is in the Open Meeting Law Manual, section 3.02 that you will find he is not subject to open meetings. The public would not have recourse through Open Meeting Laws if the superintendent adopted a policy and did not have a hearing without proper notice. All we are asking is that you take this statute and make the legislative intent clear. It was created for the citizens who are bound by these regulations, and to provide an adequate change for notice for hearing for citizens. That is from the April 6, 1977, Senate committee hearings.

The public does not have protection of the Open Meeting Laws for anything that does not go in front of the board. Whether we participate or not is up to the public. As President Johnson stated, "That is what the board does now." My fear is that the board has already attempted once and made it clear that they will try again to take away their powers and duties which state that they will approve all school district policies and regulations. They have said that they will try again when it is not political suicide. I am beseeching this Committee to shore up the language and the intent put into place in 1977 and bring it up-to-date. It will not change the way school boards operate; it will not cost any more money. It will prevent school boards from abdicating their powers and thereby relinquishing the public's rights.

MS. JOHNSON:

We are not speaking for or against Ms. Gray's amendments. We want to assure you that we do have a process that meets the law and exceeds that law. Since we resolved the language in the GP3 which does say that the board will approve all Clark County School District policies and regulations, we have not had a single complaint against that process.

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CHAIR WASHINGTON:

The meeting of the Senate Committee on Human Resources and Education is adjourned at 4:59 p.m.

RESPECTFULLY SUBMITTED:

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Shauna Kirk,  
Committee Secretary

APPROVED BY:

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Senator Maurice E. Washington, Chair

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