

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

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

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 12:36 p.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 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 Warren B. Hardy II, Clark County Senatorial District No. 12

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Betty Ihfe, Committee Secretary

OTHERS PRESENT:

Brian M. Patchett, M.P.A., M.S., President/Chief Executive Officer, Easter Seals Southern Nevada
Jessi Torrero, Senior Director of Child Services, Easter Seals Southern Nevada
Cyndy Ortiz Gustafson, Nevada Blind Children's Foundation
Kevin Spilbury

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Tom Pierce, Ph.D., Chair, Department of the Special Education, University of Nevada, Las Vegas
Richard Whitley, M.S., Deputy Administrator, Health Division, Department of Health and Human Services
Amy L. Roukie, M.B.A., Administrative Services Officer IV, Health Division, Department of Health and Human Services
Tiffany Kostelec, Supervisor, Bureau of Early Intervention Services, Health Division, Department of Health and Human Services
Carol Matrone
Leslie Tolbert, Ph.D., CCC-SLP
Renee Shilstone
Thomas Duval
Kelly Stringer
Courtney Holton
Caren Jenkins, Esquire
Carla Ledesma
Susan Pintar, M.D.
David K. Schumann, Vice Chair, Nevada Committee for Full Statehood
Sharron Angle, Former Assemblywoman
Frank Schnorbus, Chair, Nevada Homeschool Network
Gina Anderson
Elissa Wahl, Nevada Homeschool Network
Kimberlie King-Patcrow
Barbara Dragon, Nevada Homeschool Network
Irene Rushing
Kent Anderson
Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
Julie Whitacre, Nevada State Education Association
Bryn Lapenta, Ed.D., Washoe County School District
Thomas Morton, Ph.D., Director, Clark County Department of Family Services
Ron Dreher, Government Affairs Director, Peace Officer Research Association of Nevada
Fernando Serrano, Administrator, Division of Child and Family Services, Department of Health and Human Services
Michael Capello, Director, Department of Social Services, Washoe County
Jo Bottenberg
Steven "Captain Truth" Dempsey
Craig Kadlub, Ed.D., Clark County School District

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Dotty Merrill, Ed.D., Nevada Association of School Boards
Bodi Wallace
Jan Crandy, Vice Chair, Strategic Planning and Accountability Committee
Jeff Stringer
Theresa Hagerty
Janice Graham, R.D.
Jan Marson, O.T.
Oran McMichael, American Federation of State, County and Municipal Employees

CHAIR WASHINGTON:

We will open the hearings on all five bills before us today. Those measures are Senate Bill (S.B.) 356, S.B. 377, S.B. 399, S.B. 400, and S.B. 404.

SENATE BILL 356: Revises provisions relating to the protection of children from abuse and neglect. (BDR 38-1059)

SENATE BILL 377: Enacts provisions relating to early intervention services for infants and toddlers with disabilities. (BDR 40-12)

SENATE BILL 399: Requires the Division of Child and Family Services of the Department of Health and Human Services to coordinate with and assist each agency which provides child welfare services in recruiting, training and licensing providers of family foster care. (BDR 38-86)

SENATE BILL 400: Establishes the Scholarship Program for Children in Foster Care. (BDR 34-875)

SENATE BILL 404: Revises provisions governing homeschooled children. (BDR 34-738)

CHAIR WASHINGTON:

We will begin with S.B. 377.

SENATOR WARREN B. HARDY II (Clark County Senatorial District No. 12):

This is a "green" letter day for me because this is the first time I have introduced a bill that has inspired a T-shirt. I brought the bill forward because I was approached by a constituent/friend/colleague whose child participates in these early intervention programs for disabled children. He was concerned about

whether or not the services would be provided in perpetuity to our citizens who need them.

When I hear from a constituent, my usual course of action is to contact the department, the division or the agency of government involved to find out the situation. When I did that this time, I found, as part of the Health Division's budget request, a 20-percent privatization of their early intervention services (EIS). That information prompted me to work with the Division to draft S.B. 377. The purpose of the bill is to be certain that funding for EIS is provided. Language is included in the bill saying that if, for some reason, individuals or organizations are unable to provide the privatized services, the State will again provide them.

Unfortunately a Web page was created, possibly by an employee of one of our State agencies, with a significant amount of misinformation on it. It has generated more misinformation than I have experienced in my 18 years in these halls, and I would like to see the Legislature investigate how this happened. Without verifying the information, the Web page indicated instead of the 20-percent privatization, there would be a 100-percent privatization of the program. That is the reason so many people are here in the Committee room today wearing green T-shirts and saying "no" to S.B. 377.

While every citizen in this State and in this country has the right to disseminate whatever he or she wants, it is the dissemination of false information that could harm others which concerns me so intensely.

CHAIR WASHINGTON:

If you could provide staff with the Web page information, perhaps the Legislative Counsel Bureau's information technology experts can investigate its origin. As you know, the chairs of the Senate committees want our legislative process to be as transparent as possible. We all want the policy or procedure decisions founded on facts and truth.

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

During the 2005-2006 interim, the Legislative Committee on Persons with Disabilities studied the issues addressed in S.B. 377 and prepared a "Summary of Recommendations." That Committee agreed to include statements to support contracting with private agencies to provide EIS. The first of our two statements of support, recommendation 26, urges the Department of

Health and Human Services (DHHS) to transition 20 percent of the EIS caseload to private agencies and to have an independent evaluator gather data on the effectiveness of all EIS provided. Since its consolidation, Nevada's Bureau of Early Intervention Services (NEIS) has struggled to provide timely and quality services to young children with disabilities. The second statement of support, recommendation number 27, urges the DHHS to continue the practice of using the NEIS staff vacancy savings to contract with private provider agencies. This practice is to be continued until at least 20 percent of the NEIS caseload is being privately served. In fiscal year 2006, the NEIS had several unfilled staff vacancies that made it difficult to fully serve their client base. In an effort to remedy the problem, the NEIS proposed a work program to use their staff vacancy savings to contract with private provider agencies.

In S.B. 377, page 3, lines 15-20, it states if the private sector cannot provide the contracted services, the State agency has to provide them. There is a proposed three-part amendment ([Exhibit C](#)). Item 3, states the responsibilities will be completely removed from the direct services provided by the NEIS and placed in the office of the director of DHHS. Because this will be good for disabled children and their families, I ask your support of S.B. 377 and the proposed amendment.

BRIAN M. PATCHETT, M.B.A., M.S. (President/Chief Executive Officer, Easter Seals Southern Nevada):

Easter Seals is a provider of disabilities services to children and adults and has been providing services to them since 1919. We are a nonprofit organization and currently provide services to 40,000 children in 91 early intervention programs in 26 states. We are a contract entity with the NEIS to provide services for up to 60 children this year from birth to 3 years of age. We have distributed a handout with more information about Easter Seals ([Exhibit D](#)).

We support S.B. 377 and the proposed amendment which states that an evaluation of services would begin 6 months after the 20 percent goes into effect. As an entity along with REM Nevada in southern Nevada, we support that evaluation. Our two goals are to have enough providers to meet the need of our growing communities and to provide choices to parents for their children's services.

JESSI TORRERO (Senior Director of Child Services, Easter Seals Southern Nevada):
Along with the Easter Seal information you received, we have included letters from parents, [Exhibit D](#), expressing their gratitude to Easter Seals and for being able to have a choice of providers. Those of us involved with Easter Seals are involved because we chose to spend our lives helping the children of Nevada who need our services.

CYNDY ORTIZ GUSTAFSON (Nevada Blind Children's Foundation):
For the record, Nevada Blind Children's Foundation will not be a recipient of any of the monies allocated to private contractors to provide direct therapeutic services. We do collaborate with the Division but not in that capacity. I would like to draw a distinction between the NEIS as a service provider and the EIS as mandated by the federal government. By the Division's own admission, approximately \$1 million has not been used for the past few years and are called "vacancy savings." If we look at those saved dollars as children and we take the \$8,700 per child that the Division has agreed upon as a community provider rate, there would be 114 children sitting here today that were not served.

I have provided some information to you ([Exhibit E](#)). We are supporting a bill rather than an administrative allocation because in order to grow the community capacity, we need direction to utilize the social, intellectual and community provider resources that already exist. An administrative decision made by the administration that is actually failing and has failed over the past three years is not sufficient. The debate is not should we nor should we not, because not serving these children is unacceptable. The question is, "How do we serve them?" We think we have a solution with S.B. 377 and the proposed amendment.

KEVIN SPILBURY:

As a parent with a three-year-old child who went through early intervention, my perspective of trying to access services and to navigate those services to get the care my son needed was very frustrating. Having to engage the early intervention system, I was baffled at the lack of delivery and/or coordination of services. I am here today to support S.B. 377.

TOM PIERCE, PH.D. (Chair, Department of the Special Education, University of Nevada, Las Vegas):

As a founding member of the Strategic Planning and Accountability Committee (SPAC), I have been asked to bring you two recommendations from that committee. After a 2-year, thoughtful process of investigating the children being served, we support the 20 percent to be used outside the NEIS system. Federal law requires that a legal Individualized Family Service Plan (IFSP) be completed in a 45-day period. We know that 717 children did not have their plan within the required time. We know that children in southern Nevada wait an average of 78 days for services to begin. We know that while autism is increasing all over the country, the NEIS actually served ten less children this year than they did last year. We know the NEIS cannot meet the demand.

As a committee and staff, we decided to ask for the 20-percent privatization. Nevada is one of only two states that provide these services in this way; other states manage it either through the Department of Education or through private providers. This is a very unusual arrangement in this State. The second SPAC recommendation is that compliance and monitoring be moved out of the NEIS because compliance and monitoring was actually working with the NEIS and, therefore, there was no independent compliance and monitoring.

RICHARD WHITLEY, M.S. (Deputy Administrator, Health Division, Department of Health and Human Services):

I will read my testimony into the record ([Exhibit F](#)). In April 2006, when the Purchasing Division released a request statewide for qualifications for community-based EIS, only two providers responded. Those two providers are Easter Seals and REM, both of southern Nevada. The total amount of funding contracted with the two community providers is \$1,640,552. This represents 9.3 percent of the total NEIS budget for direct services. With or without S.B. 377, we are committed to continue to work with these providers. The Division supports 20 percent of the NEIS funding being dedicated to the private sector.

SENATOR HECK:

Along with 9.3 percent of your direct services budget, do you know what percentage of your caseload is represented by the contract services?

AMY L. ROUKIE, M.B.A. (Administrative Services Officer IV, Health Division, Department of Health and Human Services):

To assist you with the evolution of the NEIS, a handout has been distributed to you ([Exhibit G](#)). Prior to July 1, 2003, five separate early intervention programs operated within the DHHS. In addition, the Office of Part C of the Individuals with Disabilities Education Act (IDEA) was located within the Community Connections Unit of DHHS, Director's Office. The NEIS was created to consolidate all these programs in order to provide a unified approach in providing EIS, to avoid confusion for families and to ensure consistency of services. The NEIS has made accomplishments both in reducing waiting times and increasing the number of children served.

Easter Seals and REM have a capacity of 60 children each. Easter Seals is currently serving 42 children, and REM is serving approximately 30 children. As of March 31, 2007, our Division is serving a caseload of 2,465 children. The 9.3 percent of the budget is funding with direct service delivery only. The administrative and IDEA Part C oversight costs are calculated against the \$1.6 million we contract to those organizations.

SENATOR HECK:

Can you give me the total number of cases you are currently serving?

Ms. ROUKIE:

The number I gave was the unduplicated count of children served with an IFSP. I can get the exact number of children we are currently serving to you.

SENATOR HECK:

Please provide the breakdown from each agency and the total caseload information to the members of this Committee.

Ms. ROUKIE:

I will.

TIFFANY KOSTELEC (Supervisor, Bureau of Early Intervention Services, Health Division, Department of Health and Human Services):

I will address two misconceptions. The first concerns our waiting list. We no longer have a waiting list of 500 children. We are meeting 98.9 percent of all our referrals, and 98.9 percent of them are receiving their IFSPs within 45 days. The current count of all children is 1,026 in the south, 510 in the north and

84 in the northeast. As of March 30, 2007, we show Easter Seals serving 35 and REM serving 2. All these numbers reflect children who have active IFSPs. This means each child has a service provider who is actually providing services. The other misconception is that children are waiting an exceptionally long time for the 30-day implementation of their services. As of last week, every child who was waiting for speech and language pathology or physical therapy services had been assigned a therapist. The only areas close to compliance, but not in compliance, are nutritionists and occupational therapists. Nevada has a shortage in terms of these pediatric therapies.

Four years ago we were granted the opportunity to provide comprehensive services to children in the State. It was a challenge, and our staff continues to respond to the changing needs. We have expanded our options with community members with play groups, collaborations with hospitals and the university. We are concerned about losing 20 percent of our budget as it will affect the services we are able to provide.

CAROL MATRONE:

I am from Las Vegas and have a 16-year-old daughter who has cerebral palsy. I am also a family specialist for the NEIS services in southern Nevada. I have accessed services all over this State including private, state and school district services. The most success I have had with accessing services for my daughter is when I have partnered with the agency.

As a consumer, I have a grave concern about the State being able to meet the need again if the privatization fails. We are taking the most fragile population in our State and taking a risk with them. No one has any problem with using community providers to increase capacity, but to reduce the State's ability to care for more children by diverting 20 percent to other providers, does not increase capacity. I am for privatization, but I caution you that it may not be workable for all populations such as these children or special education children. Without the structure of the State and those services already in place, I am concerned about services being provided in the future for these children.

LESLIE TOLBERT, PH.D., CCC-SLP

I am a doctor in speech language pathology, a contractor with the Office of Disability Services, a contractor with the University of Nevada Department of Speech-Language Pathology and several entities in the

community who are always desperately in need of speech and language services.

I am here primarily on behalf of the families of our youngest and most vulnerable citizens. I have a number of concerns on their behalf. I have described ten objections to the passage of S.B. 377 in my handout ([Exhibit H](#)). While not devoid of problems that come with any large organization, particularly in light of Nevada's current population explosion, we can be proud of the NEIS. Nevada is in need of professional developmental specialists in all the areas to serve the needs of these children up to three years of age. The prospect of privatization is disconcerting whether it is to the nonprofit or to the for-profit sector. Irrespective of what other states have done with respect to privatization, I respond with, "May we in Nevada not rise to the least common denominator, but remain leaders in this area of public health."

RENEE SHILSTONE:

I am a mother of a special needs child who is currently enrolled in the NEIS program. My family and I moved to Las Vegas a year and a half ago after enduring Hurricane Katrina. As a first-time concerned mother, when our son was 18 months old, I took him to a behavioral psychologist. The psychologist added us to his two- to three-year waiting list, but suggested we might want to take him to the NEIS in the meantime. The necessary tests could not be done expeditiously in Las Vegas, so we flew our son to Dallas, Texas, for the tests and to see a pediatric neurologist. After that I contacted the NEIS and was sent a packet of information immediately.

The details of our son's progress from his six-month-old evaluation until now are in my written testimony ([Exhibit I](#)). Our son is almost three years old and has reached a level just a few months behind where he should be relative to his age. I cannot express to you what a wonderful job the NEIS has done for our family. Please do not pass S.B. 377. No child with special needs should be denied the same great opportunities my son has had available to him through the NEIS.

THOMAS DUVAL:

My son was born prematurely at 23 weeks' gestation. They called him the miracle baby at Valley Hospital in Las Vegas. He was diagnosed with retinopathy of prematurity and as developmentally delayed. We were referred to the NEIS. Our son's needs and our needs as parents were taken care of by the NEIS. Our son is now six years old. He has integrated into the first grade, fits in

extremely well and is achieving at grade level. I thank the NEIS for that. Organizations like Easter Seals should be supported by private donations and not by monies diverted from the public's funds.

KELLY STRINGER:

I had a child with disabilities who died when she was eight years old. I, too, went through the NEIS. I am a family specialist and have worked for them for the last four years. I want to clarify that the referral service comes through a one-line, referral line. That line comes directly to the NEIS. When Easter Seals tells us they want 10 more children, we give them the next 10 referrals. Unfortunately, Easter Seals does not tell parents what services or what support the NEIS has available, so parents are not given a choice as to providers. It would be wonderful if Easter Seals and REM would be collaborative partners. If Easter Seals is a nonprofit organization, why are they not using their monies instead of asking for funds from the State's budget?

COURTNEY HOLTON:

I am here asking you not to pass S.B. 377. My written testimony ([Exhibit J](#)) has the details of my daughter, Chase and her high-functioning autism and our journey with the NEIS. Chase is now three years old, is doing wonderfully and thanks to the NEIS, will begin school soon. Please do not take the NEIS away from other families who are forced into the world of children with disabilities. The NEIS is hope. There is no cure for special needs children, but the NEIS is the hope that keeps us going.

CAREN JENKINS, ESQUIRE:

I echo what the previous speaker said. What the NEIS does, they do exceedingly well. I am not here to say that Easter Seals, REM or other agencies in southern Nevada could not do an equally good job, but my two children and I live in Carson City. To my knowledge, we do not have Easter Seals, REM or other service providers here and Carson City is over 50,000 people. My pediatrician told me my "hand-flapper" son, Dean, was just "excited." Unfortunately, that is the level of health care and that is the level of developmental enhancement that is available to those of us outside the Las Vegas area. Southern Nevada, do what you will, but the rest of the State counts, too, and the NEIS is doing a fabulous job.

VICE CHAIR CEGAVSKE:

Do I recognize Barbara Vucanovich, former Congresswoman and Patty Cafferata, former State Treasurer in your photograph?

MS. JENKINS:

Yes, you do. It is my family. The bills for 71 visits for Dean totaled \$8,770.72 and were rejected by my health care provider. We are hoping to recover some of these monies for the NEIS. As an attorney, I am a person of means and I can pay for some health care, but I cannot pay \$8,700 a year for services for each of my two sons. When I provide legal services to people who need services and they are unable to pay me in cash, but they own a children's store, for instance, they give cribs, clothes and toys to the NEIS. The NEIS needs more funding, so if you give 20 percent to other service providers, then give the NEIS more funding, so they can continue their work.

CARLA LEDESMA:

Who in this room would know what to do if life delivered them a disabled child? I did not know what to do, but the NEIS did. There is no book or college course that can give a parent the resources we need when we are given a child with special needs. The NEIS has given me so much more than any doctor has ever offered me. On my lap is my daughter, Alexia, who is the first and only case of her disease in the entire State. It is a blistering disease where a touch can rip skin off her body. The NEIS, while totally unfamiliar with this disease, overwhelmed me with information and assistance. Not only are the needs of the child vitally important to the NEIS, but the NEIS is vitally important to parents. Keep this enlightening experience for all others who have a special someone who may one day need a special someone for their little one. A child does not choose how he or she will be born, but you have the power to choose how they receive the vitally important care they need.

SUSAN PINTAR, M.D.:

I have practiced as a private pediatrician here in Nevada, my home state, for 19 years. Along with my pediatric practice, I am the medical director for Eagle Valley Children's Home, a residential and therapeutic facility for severely disabled children and young adults, and I was a consultant to the NEIS from 2001 to 2005.

I will briefly describe my concerns to you, but they are more fully described in my written testimony ([Exhibit K](#)). I am concerned about access to

developmental pediatric services in a private context. With the shortage of pediatric specialists, many children are not able to be evaluated on a private basis. I do not think a private agency has the resources to recruit or retain the specialists needed to guarantee access to all children, especially to those children in the outlying areas. Nor do I think they would have the access to the specialized university departments which are funded by the State.

I am also concerned about access to special services for children outside the metropolitan Las Vegas and Reno areas. A private agency is likely to pick a service area where all their resources are concentrated, and leave the State to service the rural populations especially when more costly services are required. Finally, I am concerned about the regulatory burden. A private agency may not have the expertise, or more likely, would have to pay for the expertise to maneuver through the Part C regulations of the IDEA.

CHAIR WASHINGTON:

We will leave the hearing open on S.B. 377 and take more testimony today after we hear testimony on S.B. 356, S.B. 399, S.B. 400 and S.B. 404.

We will open the hearing on S.B. 404.

SENATE BILL 404: Revises provisions governing homeschooled children.
(BDR 34-738)

DAVID K. SCHUMANN (Vice Chair, Nevada Committee for Full Statehood):

Janine Hansen with the Nevada Eagle Forum and the Independent American Party asked me to state they are also in support of S.B. 404. I have distributed a packet containing a variety of articles (Exhibit L, original is on file in the Research Library) with supporting information about the failure of government schools. The quote in "Characteristics of Empowering Mathematics Programs" from the *Mathematics Framework for California Public Schools (1992)* states, "Teachers are facilitators of learning rather than imparters of information." Students in government schools are getting information; they are not getting knowledge. In this bill, you have created a freedom for homeschoolers to learn.

SHARRON ANGLE (Former Assemblywoman):

In 1981, I put my son in a public school kindergarten. He failed. He was beaten up on his way home from school, and he said he did not want to go to school any more. He was a kindergarten dropout. I began to look for alternatives.

Because of a 60-year-old law, there could be no homeschooling for my son due to a stipulation about distance. I founded a private, exempt school, but pressed this Legislature to relax the regulations on homeschooling. When my son returned to public school in the sixth grade, he excelled through all the grades, through university and in earning his master's degree. He has done well for a kindergarten dropout.

This demonstrates to me that parents need to have choices for their children. Homeschooling is a good choice. Senate Bill 404 modernizes the homeschooling law, so we are no longer under a 1947 law. This bill centralizes homeschoolers and codifies in law those things that we have fought so hard for over the past 20 years. Parents who want their children homeschooled now have the freedom to do that; they have options and choices.

FRANK SCHNORBUS (Chair, Nevada Homeschool Network):

For S.B. 404, we have submitted some friendly amendments ([Exhibit M](#)). Through the years, we have worked with the State Board of Education, the Department of Education and with the local school boards, to try to understand their concerns, problems and issues. Unfortunately, we did not have a chance to talk with them before the bill was drafted as there are some changes and additions we would like to see made. In the bill, page 4, line 19, is the beginning of the homeschool law where a child is exempt from compulsory education. Compulsory education is the State law, and we would like homeschoolers to be exempted from this law.

GINA ANDERSON:

I had a friendly amendment faxed to S.B. 404 to you ([Exhibit N](#)). On page 2, lines 42-45, my concern is a child who would be out of school for 30 days prior to notifying anyone they are being homeschooled. That number should be changed to 10 days. The rationale is that it fits with the public school's absentee policy of allowing 10 absent days before class credit is lost and with the truancy regulations. On page 3, lines 18-20, it would be reasonable to specify within 10 days.

ELISSA WAHL (Nevada Homeschool Network):

I am representing our Northwest Las Vegas Homeschoolers group of 165 families. We are in favor of S.B. 404 with the proposed amendments. This bill will mean less paperwork for the average homeschooling parent. For those of us who have chosen to monitor various districts and boards, it will be less

monitoring of those districts and boards and more time to actually homeschool our children.

KIMBERLIE KING-PATCRAW:

We have 78 families in our Life Learners Homeschool group here in Las Vegas. We want to share our support of S.B. 404.

BARBARA DRAGON (Nevada Homeschool Network):

You have before you a rebuttal to the fiscal note on S.B. 404 ([Exhibit O](#)). Rather than go through it line by line, I will answer any questions.

IRENE RUSHING:

I represent 175 families in the Home Educators of Faith and am here to support S.B. 404.

KENT ANDERSON:

I have been a homeschooling father for 15 years and support S.B. 404.

KEITH W. RHEULT, PH.D. (Superintendent of Public Instruction, Department of Education):

We can meet the requirements S.B. 404 if we get the proposed fiscal note. There will be some time and money involved receiving and processing 4,000 applications and responding to agencies. The State Board of Education has this on their next agenda, and we will get a position on the bill at that time.

As Superintendent of Public Instruction, I do have some concerns with the bill. My first concern is on page 9, lines 7-11. This eliminates all the regulations that are currently in law. That gives some clarifications of homeschoolers; in particular it is the *Nevada Administrative Code* (NAC) 392.027. There are three items not in this bill that we currently ask of the homeschoolers when they submit a letter of intent to homeschool. We ask for a statement of the educational plan indicating what is going to be taught to the child, proof of the identity of the child and the name of the public school or other entity where the child previously attended. My second concern is on page 2, lines 42-45. This would allow 30 days after beginning homeschooling to get the information to the school district. Currently in regulation, there is a stipulation that allows for that time period, but it is only when students move into the State. All the other requirements should be completed before homeschooling begins.

CHAIR WASHINGTON:

The proposed amendment presented earlier, [Exhibit N](#), suggested 10 days. Would that be agreeable to you?

DR. RHEAULT:

It would seem to me that if a child is going to be homeschooled, a parent would know that well before school starts or if it happens during the year, the notification could be made immediately. That would avoid the child being considered truant.

My third concern is the reference made earlier to eliminating the "middle man," namely the school districts. The Department of Education is actually the middle man. If a child is picked up for truancy, calling the Department from Pershing County or Clark County to find out whether the child should be in one of their schools, puts us in the middle as we end up calling the county. The student lists are maintained in the school districts, so an officer knows whom to contact. It would be an unnecessary loop to call the Department. My fourth concern is the bill has such limited wording on who can be given confidential information. It appears I can release very limited information. My last concern is about record management. The proposed amendment says homeschoolers would submit only one application which would be in effect for life. The way people relocate, there is no way the Department could maintain an accurate contact list after two or three years. A simple application annually would give us an accurate list.

CHAIR WASHINGTON:

I would like to have a meeting on Monday at 9 a.m. with those who want to work on this bill, so it will be ready for our work session Monday evening.

JULIE WHITACRE (Nevada State Education Association):

We want to be on the record to say we are not opposed to homeschooling, but we also go on the record saying we share the concerns expressed by Dr. Rheault on behalf of the Department.

BRYN LAPENTA, Ed.D. (Washoe County School District):

We have the same concerns expressed by the State Superintendent of Schools.

CHAIR WASHINGTON:

We will close the hearing on [S.B. 404](#).

CHAIR WASHINGTON:

We will open the hearing on S.B. 356.

SENATE BILL 356: Revises provisions relating to the protection of children from abuse and neglect. (BDR 38-1059)

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):

As S.B. 356 revises the standard used to determine whether a child may be placed in protective custody without consent of their parent or guardian. Current law states that a child can be removed from the home based on a "reasonable" belief that immediate action is necessary to protect the child from injury, abuse or neglect. This bill sets a new standard that states a child may be placed in protective custody without the consent of a parent or guardian if child welfare and law enforcement agencies believe the child is in "imminent" danger of serious harm. The Division of Child and Family Services (DCFS) would have to develop uniform and reasonable regulations to carry out the provision of this new standard. Those regulations must consider the availability of treatment and services to help prevent further abuse or neglect and to improve the environment of the child, the potential harm to the child in remaining in the home, the potential harm to the child if removed from the home, the nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof, and any other relevant factors the DCFS may determine. Nevada law is very broad giving much discretion to government to remove a child based on a reasonable belief that immediate action is necessary to protect the child from injury, abuse or neglect.

I have supplied the Committee with information from Casey Family Programs that show the typical life of a child in foster care compared to a typical child in his or her own home ([Exhibit P](#)) entitled, "A Great Divide: Are We Doing Right by Our Children in Foster Care." Current Nevada law places most of the emphasis on removing the child from the home. There is a lack of sufficient effort to supply resources to the family to allow the child to remain with their legal parent or guardian while addressing issues that may be considered harmful to the child. The provisions in S.B. 356 allow this to take place.

SENATOR HORSFORD:

The second handout ([Exhibit Q](#), original is on file in the Research Library) is essentially a compilation of statistics regarding child welfare in Nevada. This issue is a difficult one as all of us believe we should always protect the interest

of children. Sometimes we pass laws with that intention, but in many cases the opposite occurs, and we do more harm to children. On page 2, [Exhibit Q](#), it shows that as of September 2006, there were more than 600,000 children in Nevada. There were 4,377 child abuse cases: 84 percent related to neglect, 18 percent to physical abuse, nearly 4 percent because of sexual abuse and 5.2 percent because of psychological or other maltreatment. In many of these cases, because of the current standard of reasonable neglect and abuse, the child was removed from the home. In 2006, there were approximately 3,600 children in foster care. If more emphasis were placed in providing the resources necessary to families to begin with, we could prevent the children from being removed at all. Senate Bill 356 allows the child welfare system to focus on those abuse and neglect cases that do pose imminent danger to the child.

CHAIR WASHINGTON:

We have worked on child welfare issues for years to set standards in the best interest of the child. There are some ongoing issues, but we want to do as much as we can to protect children including providing the necessary resources to follow the child.

THOMAS MORTON, PH.D. (Director, Clark County Department of Family Services): Sponsoring this bill is a courageous act. If enacted, S.B. 356, it will help protect children from the silent, less visible killer of their souls and of their hope which is the trauma of being taken from the only family they know. In Clark County in 2006, 64 percent of all substantiated child victims experienced a home removal. That is compared with a national average, according to the National Child Abuse and Neglect data system, of approximately 20 percent. Our number is about 44-percent higher than the national average. If one looks at the percentage of Clark County child victims who end up with a disposition of foster care, it was about 20 percent in 2006. This suggests as many as 44 percent of all child victims may experience a removal, and many are returned home within 45 days or less. Obviously, we do not cure significant issues of mental illness, substance abuse and other major issues in this period of time; therefore, it raises the question as to whether other things could have been to prevent the child's removal.

The DCFS has adopted a safety standard of "immediate or impending danger" as a standard for needing a safety intervention. Removal is a safety intervention. This bill if passed would match this safety standard. With removal,

we are mostly talking about young children, and we take this action with the hope and idea that we will make things better. Often the case is not that way. Shortly after I came to this position in Clark County, I visited a courtroom. The case involved a 17 1/2-year-old boy who had come into the custody of Clark County at the age of 6 months. In the last 3 years of his life, he had experienced more than 15 placements. He had never returned home, never been adopted and never gone to guardianship. I can hardly imagine that the 17 years of his life in foster care were better than what he might have experienced if he had remained at home. Damage to a child comes in two forms. One is child maltreatment and the other is the emotional harm done during and subsequent to removal. It is imperative that we balance the potential harm to a child of remaining in a family with the almost certain psychological harm we will inevitably inflict with removal from the family. The level of potential harm due to child abuse and neglect should exceed the level of trauma and related harm, experienced by even the shortest removal period from the child's family.

RON DREHER (Government Affairs Director, Peace Officer Research Association of Nevada):

In the early 1970s, I was a charter member of the Northern Nevada Task Force on Child Abuse and Neglect. At that time, I worked in the homicide division with the Reno Police Department. In 1989 and 1999 when I went to major crimes, I experienced some horrific child abuse deaths and tortures. In 1994, a little girl, Mailin Stafford, was in and out of the system a number of times. When Mailin was crying not to go back with her parents, the system was one of reunification. Even with her grandparents asking us not to put her back, we did return her to her "home." After she endured unspeakable tortures, her stepfather murdered her. We finally removed her, but it was her remains we removed from Los Angeles.

Taking the ability away from officers, law enforcement professionals and our child service professionals to remove a child, even on a suspicion, would tie our hands. It is not something I think you intend. Children in the worst abuse cases still love their parents more than anything. They do not want to be removed, but it is up to us as their protectors to remove them to ensure their welfare. I am empathetic with the children in foster care, because it can be a tragic experience for them. But even a short-term removal at the right time, may save them.

Imminent harm means I have to show that child abuse is going to occur. We had the two children here in Carson City who were starved. We had the mother who threw her three little babies into the San Francisco Bay. I want to go on record to ask you not to tie our hands. Sometimes we need to remove these children from their environment until there is an investigation. Sometimes there is too much reunification and not enough protection of these victims. Our role, all of our roles, is to do all we can to ensure their safety.

CHAIR WASHINGTON:

We have worked to meet the Adoption and Safe Family Act regulations pertaining to unification. We have tried to provide a balance of services, including unification, for the protection of the children. We are cognizant of this evolution that has been taken place. Mailin Stafford was the trigger case for action. There is merit to Senator Horsford's bill; there is merit to law enforcement's position. We will continue to look for that balance to protect the children.

MR. DREHER:

Mailin was the trigger because every social agency around including law enforcement dropped the ball. It was my case, and it still hurts. I do not want to see another child go through anything like that.

FERNANDO SERRANO (Administrator, Division of Child and Family Services, Department of Health and Human Services):

We are supportive of anything that will increase the efficiency of the system we have in place. Senate Bill 356 pertains to definitions and standards. We currently have a group studying the issue, and if this legislation is passed, we certainly will work together to provide standards that would make it very clear to social workers throughout the State how best to protect children.

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

Certainly, we must balance assessing the safety of children and determining whether or not there is a need to place them into protective custody. This bill is aligning the statute with where our practice is heading. It is not a simple change. There is no easy science about assessing when a child is at risk for abuse or neglect or assessing when a child is at risk of imminent serious harm. Definitions and standards will be put in place and training of the child welfare staff will take place.

I agree we need to do everything we can to prevent removal. The trauma of removal is well-documented and cannot be disputed. We can all tell stories about children who have languished in foster care; we can tell stories as Mr. Dreher did when children are returned home when they should not have been. Tragically, sometimes these children die at home because they were not removed. We need the resources to be able to provide services to support children at home when they are not in imminent danger of serious harm. We all have been working toward these things. I am supportive of S.B. 356, but I do not want to diminish in any way the substantiveness of this change. It is going to be challenging, but it is intended to make the system better.

JO BOTTENBERG:

This is a wonderful bill. It will take more thought because it is not a simple thing; it is a challenge. I was in a difficult childhood. I appreciate that I stayed with my family, and I was not punted around.

As you will see in the handout ([Exhibit R](#)), about the Rios children in Carson City, I do not believe there were any child protective services involved in their case before the discovery was made in 2006. However, there was an incident in 2001 where the girl, who was 11 years old at the time, had run away. She was picked up by the police, and since she did not appear to be abused, she was returned "home." The girl had never been enrolled in school. If it were required for law enforcement to check whether or not children are enrolled in school, whether it is a public or a homeschool, perhaps this case and many others would have been discovered sooner. She and her brother endured five more years of starvation, being kept prisoners in a small bathroom, before this case became public.

If a requirement for law enforcement to check on the school status of children could be put into S.B. 356, this kind of abuse and neglect could be prevented. It may be as simple as inserting a sentence on page 2, lines 13 and 14.

CHAIR WASHINGTON:

We will put S.B. 356 into a work session, so if those who are concerned will meet with the sponsor of the bill, we will consider it again at that time. We will close the hearing on S.B. 356.

We will open the hearing on S.B. 399.

SENATE BILL 399: Requires the Division of Child and Family Services of the Department of Health and Human Services to coordinate with and assist each agency which provides child welfare services in recruiting, training and licensing providers of family foster care. (BDR 38-86)

SENATOR BARBARA K. CEGAVSKE (Clark County Senatorial District No. 8):
Since I sit on the Nevada Advisory Board for The Adoption Exchange, I am particularly interested in bringing you S.B. 399. In addition to my written testimony ([Exhibit S](#)), one of the reasons I sponsored this legislation is because of my son's friend, Tommy. Tommy is now 23 years old. He had been in 18 different foster care homes and numerous schools in Nevada. Tommy was transferred, not for behavioral problems, but because the system transfers children from home to home depending on various situations. Tommy is a true success story, and he is a wonderful example of what can be achieved in spite of our foster care system. Tommy has worked with individuals, groups and agencies to improve the system. One thing most professionals along with Tommy know is regardless of their educational and/or economic background, not all people should be approved as foster parents. I urge your support for S.B. 399.

MR. SERRANO:

As part of my written testimony today ([Exhibit T](#)), I will point out that S.B. 399 is consistent with existing federal child welfare program performance requirements. For federal funding purposes, specifically Title IV, Part E and Title IV, Part B, sections 422(b)(7), 471(a)(22) and 471(a)(24) of the Social Security Act require the State to ensure that efforts are made to recruit foster and adoptive families, that foster parents are provided with the initial and ongoing training needed to properly care for foster children, and that State standards addressing the quality of care provided to foster children are developed and implemented.

For purposes of program monitoring and federal requirements, each agency that provides child welfare services is required to develop and submit written foster home recruitment plans to the DCFS. They are also required to provide foster parent training. The DCFS works with the agencies that provide child welfare services to meet these requirements. The DCFS provides grant funding to support foster and adoptive parent recruitment and training efforts. Senate Bill 399 could further enhance these collaborations.

CHAIR WASHINGTON:

After we have taken action on these bills, and when we receive the bills from the Assembly on these issues, would you, Michael Capello and others in your agencies give us an overview of the provisions of the child welfare and foster care system, update us on the situation at Child Haven in Las Vegas and give us an overall view of what is happening in the State?

MR. SERRANO:
Absolutely.

SENATOR HORSFORD:

Are there community-based organizations that help provide training, recruiting or licensing of foster care families?

MR. SERRANO:

Yes. That is correct. There are foster family organizations that assist, so it is a collaborative effort.

SENATOR HORSFORD:

Is the sponsor of the bill willing to accept a potential amendment to expand it to include community-based or other nonprofit organizations?

SENATOR CEGAVSKE:

Absolutely I am, as long as there are qualifications such as being licensed or certified by the State for those groups or organizations.

STEVEN "CAPTAIN TRUTH" DEMPSEY:

Abuse within the child welfare system is rampant. Children are victims of all kinds of abuse. They even end up missing or dead. There is not enough money in the world to fix this problem, so why do you think it can be fixed by a "nanny-state?" A potential solution can be found by doing research on the Website. Go to Google.com, click on the video section, type in America, Freedom to Fascism.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 399.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR WASHINGTON:

We will open the hearing on S.B. 400.

SENATE BILL 400: Establishes the Scholarship Program for Children in Foster Care. (BDR 34-875)

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

In my written testimony ([Exhibit U](#)), I have provided some background for this bill. In 2006, the Arizona Legislature recognized the need to provide for students in foster care by creating the Displaced Pupils Choice Grant Program which assists with tuition in private schools within that state. While Arizona's program differs in structure from S.B. 400, theirs was the first law enacted in the nation to allow students who were previously in foster care to attend a participating nonpublic school.

Senate Bill 400 would be an opportunity for the State to enhance the educational experience of Nevada students in foster care as well as to supplement the efforts of families who are striving to provide foster children with a healthy and stable environment.

SENATOR HORSFORD:

In S.B. 400, page 4, lines 28 and 29, it is my understanding that private schools and religious organizations are exempt from the antidiscrimination and civil rights hiring practices. Would this section impose a restriction on them to which they would not want to comply?

SARA PARTIDA (Committee Counsel):

The legal intent was for it to apply to the pupil.

SENATOR HORSFORD:

I understand it is intended for the enrollment of the child, but if the school receives public money for this private purpose, would they still be exempt from their hiring practices?

MS. PARTIDA:

I will look into that aspect and get back to you with a response.

CRAIG KADLUB, ED.D. (Clark County School District):

Consistent with the Clark County School District's (CCSD) Board of Trustee's standing position on what we see as vouchers, I am speaking in opposition to S.B. 400. It is inconsistent there are so many rules and regulations applied to public schools such as No Child Left Behind, Nevada Education Reform Act, IDEA, civil rights laws, licensure, multiple testing requirements and on the other hand there is contemplation to fund schools with absolutely no expectations of accountability. Essentially, the Board appreciates private schools believing they have a definite position in the overall education picture, but they think they should remain private and privately funded.

SENATOR HORSFORD:

I know the CCSD has reached out to serve homeless students. Has anything been done about foster youth trying to maintain a consistent school site for them rather than transferring them to another school each time they have a new placement?

DR. KADLUB:

I know we do work with students in shelters, but I will have to get the information to you on foster children in the CCSD schools.

DOTTY MERRILL, ED.D. (Nevada Association of School Boards):

I am responding as a former employee of the Washoe County School District (WCSD) to Senator Horsford's question about foster children. The WCSD allows the children in foster care to either remain at the school where they have been enrolled prior to the time that they were placed in foster care or to move into a school of greater proximity to their foster care parents.

CHAIR WASHINGTON:

If we excluded the private schools from this bill, would the school districts have a problem with that?

DR. MERRILL:

On behalf of the Nevada Association of School Boards, as long as the schools involved in the scholarship program are subject to the assessment and licensing requirements for public schools, the Association would be fine with it.

SENATOR HORSFORD:

I would like to know the amount of money that would otherwise be allocated for that student? The school districts allocate on a different formula than we allocate for the Distributive School Account (DSA). If a student is entitled to special education, for instance, and whatever that additional amount is outside of the DSA, would that student be entitled to that amount? That gets more to the point of what these children need.

DR. MERRILL:

Based on Senator Horsford's comment and question, perhaps I should retract my previous answer as I would need to review the language in the bill more closely to be sure if it were to apply only to public schools.

JULIE WHITACRE (Nevada State Education Association):

This would seem amenable, but I would like to look into it further as well.

MR. DEMPSEY:

This is just another attempt to establish a nanny-state. You and your colleagues were elected to investigate stuff like this and to do something for these children.

CHAIR WASHINGTON:

We will hold S.B. 400 for the work session and request the concerned people contact the sponsor of the bill as soon as possible. We will close the hearing on S.B. 400.

The hearing on S.B. 377 is still open for testimony.

SENATE BILL 377: Enacts provisions relating to early intervention services for infants and toddlers with disabilities. (BDR 40-12)

BODI WALLACE:

The hospital experience my wife Shelia and I had here in Clark County was not a positive one. Our fourth child, a son, Jackson, was born with Down's Syndrome. We were given no resource information except there was a support organization in southern Nevada. Child Find is a component of IDEA and is

required. It is my understanding the NEIS Child Find had not had a meeting in two years. My son did not receive any physical therapy for a year because he does not have an IFSP in place. He now has an IFSP but cannot get therapy until he has an evaluation. It took 11 months for him to get an evaluation.

I wish we were one of the families who had a positive experience with the NEIS, but we are not. As a parent member of the Interagency Coordinating Council (ICC), I see some of the data that is given to us. The data shows us that community providers are doing a great job at providing early intervention. We know the number of children needing early intervention services is going up, and we know we need increased capacity. I urge you to pass S.B. 377 because the NEIS does not or should not have an exclusive right to provide these services.

DR. PIERCE:

We must understand that the data given by Ms. Kostelec in earlier testimony today came from the NEIS. The fact is we have thousands of children who are duplicate counts waiting for services. They cannot change the numbers again. That is why the SPAC has taken such a strong stand on this particular issue. I believe with the exception of one, all the people who you heard today, are employees of the NEIS or spouses of the NEIS employees. Regarding these conflicts of interest, we have asked them to tell that to the Committee when they get up and before they pull at people's heart strings with stories. I have been in this field for 30 years, and there is no one more compassionate about people with disabilities than I am. This is not about closing the NEIS; it is about expanding and making services better.

JAN CRANDY (Vice Chair, Strategic Planning and Accountability Committee):

Earlier we heard from the NEIS that children have been "assigned" a speech or physical therapist. The key word here is assigned. It is doubtful if that child who has been assigned a speech therapist has actually seen a speech therapist. We need to look at the data carefully. They reported on their Caseload Evaluation Organization (CLEO) report for the first quarter of fiscal year 2007: statewide there was 23.5 percent waiting past 45 days; southern region there was 29.9 percent waiting past 45 days. That is why we came up with the 20 percent in S.B. 377. If there are children waiting, we need to be able to get them services somewhere else. Parents should be able to have a choice.

MS. GUSTAFSON:

The first of my four points is the most important part of this bill. It is the request for an independent evaluator. We need actual numbers for what is happening in the system. Second, we have an issue of a deficit in the numbers of children being served. To date, the NEIS has not been able to do it all. Third, we need to make a change and parents need to have a choice. Fourth, there are benefits to public/private partnerships which allow us a larger capacity to care for these children.

JEFF STRINGER:

I am against S.B. 377 because I have lived through the challenges of having a child with special needs. I believe this bill is poorly conceived, impossible to manage effectively, and it will do nothing to provide better choices with families with children with disabilities. This is a waste of taxpayer dollars, and it is fiscally irresponsible. When my wife and I had our fifth child 18 years ago, it was our daughter, Karlin. She was born with severe physical and mental handicaps. We have served seven years on the ICC. We have worked in Nevada and nationally to improve situations for families. My wife is a family specialist at the NEIS. This bill could weaken or destroy the current system. The transition has been difficult, but the result is that we have the NEIS. The money being spent to privatize the system is diluting the system. I do not believe people are being told the truth. I do not believe parents will have more choices.

THERESA HAGERTY:

Although I work for the NEIS, I am speaking as a parent of a premature child who was medically fragile and had lots of issues. The NEIS came to the hospital right away and began services. Because of the early intervention services, my son is now in first grade and not costing the taxpayers any extra money. I am opposed to S.B. 377.

JANICE GRAHAM, R.D.:

I am a registered dietician. I work for the State, and I provide services at the NEIS. We have a full-time dietician in southern Nevada and one here in northern Nevada. We also have two physicians with the State who provide services at the NEIS. I personally see 64 children and their families every 2 months. I am concerned that services not mandated by the federal government such as nutritional counseling will be taken away from the NEIS. Keep in mind, we are actually the resources these private companies that are providing services come to when they have questions or need assistance.

JAN MARSON, O.T.:

I am an occupational therapist. I have worked with the State for 13 years. I am a contractor with the NEIS, and I have a clinic. My two-fold concern is for the children in the rural areas of the State not receiving the appropriate care. The driving, the reimbursement and dealing with Medicaid are all problematic. My other concern is about recommendations for services being made on the basis of whether or not they would be profitable to the provider. Competition is good, but when there are so few professional people available to provide care, it complicates the issue and suggests a conflict-of-interest situation.

MR. DEMPSEY:

For the past 25 years, I have studied the immune system. I am sympathetic with Mr. Stringer's testimony. Perhaps we should be looking at the causes of these disabilities in children such as required immunizations for children.

ORAN McMICHAEL (American Federation of State, County and Municipal Employees):

We ask that you take into consideration the stories you have heard today and look at the history of privatization such as in the prisons. You will find it does not usually work out to the benefit of those being served.

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CHAIR WASHINGTON:

We have received 1 letter in support of S.B. 377 ([Exhibit V](#)), 13 letters against the bill ([Exhibit W](#), original is on file in the Research Library) and 1 letter that did not specify a position ([Exhibit X](#)). All of these letters will be included in the record as part of today's testimony. We will close the hearing on S.B. 377.

With no other issues to come before the Senate Human Resources and Education Committee, the meeting is adjourned at 3:31 p.m.

RESPECTFULLY SUBMITTED:

Betty Ihfe,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____