

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

**Seventy-fourth Session
April 2, 2007**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:30 p.m. on Monday, April 2, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 Bob Beers, Clark County Senatorial District 6
Assemblyman David Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Nicholas Marquart, Intern to Senator Nolan
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Shauna Kirk, Committee Secretary

OTHERS PRESENT:

David A. Byerman, Chairman, Advisory Committee on Participatory Democracy
Judith Simpson, Nevada Project Director, Campaign for the Civic Mission of Schools

Sean D. Griffiths, M.P.H., Office of the Director, Department of Health and Human Services, National Center for HIV/AIDS and TB Prevention, Centers for Disease Control and Prevention

Margaret Lampe, R.N., M.P.H., Department of Health and Human Services, U.S. Centers for Disease Control and Prevention

Mary Guinan, M.D., Ph.D., Dean, School of Public Health, University of Nevada, Las Vegas

Denise Tanata Ashby, J.D., Executive Director, Nevada Institute for Children's Research and Policy, School of Public Health, University of Nevada, Las Vegas

Mary Ellen Harrell, M.S., R.N., Public Health Nurse Manager, Southern Nevada Health District

Carl Allen, M.D., Medical Director, Southwest Medical Associates, Incorporated

Jerry Cade, M.D., Director, HIV Services, University Medical Center

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services

Lawrence P. Matheis, Executive Director, Nevada State Medical Association

Belinda Thompson, Goshen Community Development Coalition

Jennifer Stoll-Hadaya, M.P.A., Public Health Program Manager, Washoe County District Health Department

Melva Thompson-Robinson, Faculty, School of Public Health, University of Nevada, Las Vegas

Caroline Ciocca, Executive Director, Aid for AIDS of Nevada

Echezona Ezeanolue, M.D., HIV Specialist, University of Nevada School of Medicine; Latin Chamber of Commerce

Michelle Gorelow, March of Dimes

Irene Battle, Community Partners for Better Health

Christina

Lynn Chapman, Vice President, Nevada Eagle Forum

Lynn Warne, Nevada State Education Association

Nancy Hollinger, Washoe County School District

Dr. Craig Kadlub, Clark County School District

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

Lonnie Shields, Assistant Executive Director, Nevada Association of School Administrators

Hilarie Robison, Nevada Public Education Foundation

Dr. Gene Hall, Professor, University of Nevada, Las Vegas

Milana Winter, Principal, Jim Bridger Middle School, Clark County

Joyce Haldeman, Clark County School District

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Donna Hoffman-Anspach, Nevadans for Quality Education
Rene Cantu, Board of Directors, Latin Chamber of Commerce
Dr. Bryn Lapenta, Interim Assistant Superintendent, Washoe County School District
Janine Hansen, Nevada Eagle Forum
Gloria P. Dopf, Deputy Superintendent for Instructional, Research and Evaluative Services, Department of Education
David K. Schumann, Vice Chairman, Nevada Committee for Full Statehood
Debra Jacobson, Southwest Gas Corporation
David S. Noble, Assistant General Counsel, Public Utilities Commission of Nevada
Douglas M. Brooks, Assistant General Counsel, Nevada Power Company; Sierra Pacific Power Company
Jason M. Frierson, Clark County
Frankie McCabe, Director, Office of Special Education, Elementary and Secondary Education and School Improvement Programs, Department of Education

CHAIR WASHINGTON:

Before we hear the many bills we have today, we have a presentation from Mr. Byerman.

DAVID A. BYERMAN (Chairman, Advisory Committee on Participatory Democracy):
It is my pleasure to present our biennial "Advisory Committee on Participatory Democracy Report to the 74th Session of the Nevada State Legislature" ([Exhibit C](#), original is on file in the Research Library).

JUDITH SIMPSON (Campaign for the Civic Mission of Schools):
We have completed a great campaign on voter registration among high school seniors. The creative director at the Rose/Glenn Group in Reno designed posters for us that have won awards locally and nationally.

MR. BYERMAN:

If you would like to view those posters, you can see them on <www.myspace.com/iwant2vote>. That address is on page 9 of my presentation.

VICE CHAIR CEGAVSKE:

We will now open the hearing on Senate Bill (S.B.) 266.

SENATE BILL 266: Requires the performance of tests for the human immunodeficiency virus for pregnant women and newborn children. (BDR 40-1063)

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

I had the opportunity to participate on a panel for World AIDS Day last year that was organized by the Centers for Disease Control and Prevention (CDC) and the University of Nevada, Las Vegas (UNLV), School of Public Health. During the panel discussions, I learned some disturbing facts about the rate of infection and affection of pregnant women who often did not receive prenatal care and subsequently passed along the human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) virus to their unborn child. Approximately 40 percent of the mothers of the estimated 280 to 370 HIV-infected infants born in the year 2000 did not know that they were infected with HIV prior to delivery. The CDC and many in the health care industry are now recommending the use of a rapid HIV test in certain circumstances to increase the rate of testing. Currently, traditional HIV testing requires two visits. One visit to take the test sample, and a second visit to receive the results. According to the CDC, nearly 31 percent of those who tested positive for HIV at a CDC-funded site never returned to receive their results. Therefore, they do not have access to counseling, treatment and other supportive services. I support S.B. 266. It will reduce the rate of transmission of the HIV virus, and it will give children who are exposed to it a chance to live without the disease.

SEAN D. GRIFFITHS, M.P.H. (Office of the Director, National Center for HIV/AIDS and TB Prevention, Centers for Disease Control and Prevention):

On September 22, 2006, the CDC published our revised recommendations and reports through the *Morbidity and Mortality Weekly Report* entitled "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings." I am going to read a portion related to regulatory and legal considerations ([Exhibit D](#), original is on file in the Research Library).

MARGARET LAMPE, R.N., M.P.H., (U.S. Centers for Disease Control and Prevention):

I will be doing a presentation from the federal Department of Health and Human Services. In the first slide, we see that the reduction of perinatally acquired AIDS cases marks an important public health success in the 25 years of HIV and AIDS in the United States. However, to maintain this success and further

reduce perinatal HIV transmission in the United States, sustained ongoing efforts are required. For women who have the HIV infection and are pregnant, there are specific interventions to dramatically reduce the risk of HIV to their infants. For these interventions to be available and effective for all pregnant women with HIV, knowledge of a woman's HIV infection early in her pregnancy is essential.

SENATOR CEGAVSKE:

What is being done now in the delivery room?

MS. LAMPE:

The rapid testing has been recommended by the CDC and the American College of Obstetricians and Gynecologists for several years. It is becoming a standard of care.

SENATOR CEGAVSKE:

Does each state do it differently?

MS. LAMPE:

It varies.

SENATOR CEGAVSKE:

If I went to the doctors now, would they ask me to take this test?

MS. LAMPE:

It would be offered, and they would recommend it.

SENATOR CEGAVSKE:

Are insurance companies covering this test?

MS. LAMPE:

Generally, there is sufficient reimbursement for those who have health insurance or Medicaid.

SENATOR CEGAVSKE:

Will the doctor have to document it in my file if I opted out of the testing?

MS. LAMPE:

We are recommending it be documented when women decline testing. If there is any complication, it is important to document whether the woman was tested or not. If there is no documentation that she declined, you would not know if she was tested and the results have not been located. It helps to rule out HIV when trying to diagnose the mothers or their children.

SENATOR CEGAVSKE:

Is this information for the doctor to keep and does it not go anywhere?

MS. LAMPE:

It is only for the doctor when the patient presents for delivery and for the pediatrician for follow up of the infant if they have health issues.

SENATOR HORSFORD:

On page 2, section 6 of the proposed amendment to the bill speaks to women who, in their first trimester, would receive the HIV test as part of the normal set of screenings ([Exhibit E](#)).

SENATOR CEGAVSKE:

Are they asked now, or is it just done routinely?

SENATOR HORSFORD:

It varies. In the proposed amendments for S.B. 266, under section 6, subsection 1, it is asked during the normal screening. Under subsection 2, during the third trimester, if the woman has received prenatal care, it would be a normal follow-up screen using the traditional test. Under section 6, subsection 3, in the event the woman did not receive prenatal care and had not been tested or cannot confirm that they have been tested, the rapid test is administered.

SENATOR CEGAVSKE:

Section 6, subsection 3, on line 26, it states "shall." Are you mandating that it be done?

SENATOR HORSFORD:

Correct. That is based on the recommendations that you will hear from health care providers.

SENATOR CEGAVSKE:

If you keep "shall," they cannot opt out of it.

SENATOR HORSFORD:

In all cases, the woman can opt out.

SENATOR CEGAVSKE:

I am worried about the word "shall," and the fact it has to be on your record and the costs of the tests to patients.

SENATOR HORSFORD:

It is a set of standard screening done already. Under the *Nevada Revised Statute* (NRS) 442.010, the standards are in place for examination of pregnant women for other diseases.

MARY GUINAN, M.D., Ph.D. (Dean, School of Public Health, University of Nevada, Las Vegas):

I am here to speak in support of the bill. We would like to have the rapid HIV tests be used to test women in labor when HIV status is unknown. We do not ask that the refusal be put on their chart. We would like to have the HIV tests as part of the routine tests now being done.

DENISE TANATA ASHBY, J.D. (Executive Director, Nevada Institute for Children's Research and Policy, School of Public Health, University of Nevada, Las Vegas):

I have provided you with a Policy Brief ([Exhibit F](#)) and the Nevada Institute for Children's Research and Policy are in support of S.B. 266.

MARY ELLEN HARRELL, M.S., R.N. (Public Health Nurse Manager, Southern Nevada Health District):

I will read from my written testimony in support of S.B. 266 ([Exhibit G](#)).

CARL ALLEN, M.D. (Medical Director, Southwest Medical Associates, Incorporated):

As a medical director and practicing obstetrician and gynecologist, I see S.B. 266 as an important, necessary and reasonable way to protect women, their children, medical providers and the general public from the spread of HIV. The American College of Obstetricians and Gynecologists supports the Institute of Medicine's recommendation for universal HIV screening, with patient notification, as a routine component of prenatal care.

JERRY CADE, M.D. (Director, HIV Services, University Medical Center):

I am also in support of this bill. In the last two years, we have gone from no reports of perinatal transmission in Clark County to four, and maybe more, transmissions. What this bill asks for is already policy for us at the University Medical Center.

SENATOR CEGAVSKE:

Is this part of the screening you are currently doing, and is it with their consent?

DR. CADE:

It is always with consent and an explanation.

SENATOR CEGAVSKE:

What would the regular routine test be, and what would the rapid test routine be?

DR. CADE:

The rapid test uses a swab of your saliva; the routine is a blood test.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

The Division of Health Care Financing and Policy supports S.B. 266. There is no fiscal note.

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

The Nevada State Medical Association supports the bill and the mock-up amendment.

BELINDA THOMPSON (Goshen Community Development Coalition):

The Goshen Community Development Coalition supports the bill.

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JENNIFER STOLL-HADAYIA, M.P.A. (Public Health Program Manager, Washoe County District Health Department):
The Washoe County District Health Department supports this bill and also has no fiscal note.

MELVA THOMPSON-ROBINSON (Faculty, School of Public Health, University of Nevada, Las Vegas):
I support this bill.

CAROLINE CIOCCA (Executive Director, Aids for AIDS of Nevada):
The Aids for AIDS of Nevada also supports S.B. 266.

ECHEZONA EZEANOLUE, M.D. (HIV Specialist, University of Nevada School of Medicine):
I support this bill.

ASSEMBLYMAN DAVID R. PARKS (Assembly District No. 41):
I would echo the statements made by Dr. Cade, and I support this bill.

MICHELLE GORELOW (March of Dimes):
The March of Dimes strongly supports the passage of S.B. 266.

IRENE BATTLE (Community Partners for Better Health):
The Community Partners for Better Health supports S.B. 266.

CHRISTINA:
I would rather not say my last name. I was tested, and it came back negative. However, six to seven months into the pregnancy, I had infections and other health issues. At three months of age, my son went into the hospital and was diagnosed with an AIDS-defined illness. I am in support of this bill. I did not think that it could happen to me, and there are a lot of other women who do not think it can happen to them.

LYNN CHAPMAN (Vice President, Nevada Eagle Forum):
We are not against this bill but wanted to make you aware that the voluntary opt-out clause is sometimes ignored, we would like to know if there will be any penalties. Page 3, section 3, discusses the parent objecting "contrary to the religious beliefs." We would like it to read, "sincerely held beliefs" because we do not know what "contrary to the religious beliefs" means.

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CHAIR WASHINGTON:

If there was a provision that a pamphlet be issued to the participant informing them of the opt-out clause, would that satisfy you?

Ms. CHAPMAN:

Do you mean for the "sincerely held beliefs"?

CHAIR WASHINGTON:

No. I mean for the women who do not want to take the test to receive a pamphlet informing them of their option.

Ms. CHAPMAN:

That would be sufficient.

CHAIR WASHINGTON:

We will close the hearing on S.B. 266 and open the hearing on S.B. 328.

SENATE BILL 328: Revises provisions governing educational personnel.
(BDR 34-473)

SENATOR BOB BEERS (Clark County Senatorial District 6):

You have my proposed amendment for S.B. 328 ([Exhibit H](#)). I will talk about that document. Essentially, this bill would require that administrators teach one day in a semester, and the amendment requires administrators to observe teachers for an hour before making their evaluations. This is important to keep the administrators current on what it takes to teach.

SENATOR CEGAVSKE:

Is this evaluation for an hour a year, and is an hour enough?

SENATOR BEERS:

Yes.

SENATOR CEGAVSKE:

I would like this to include substitute teachers.

SENATOR BEERS:

I do not have a problem with that.

LYNN WARNE (Nevada State Education Association):

We believe for administrators to remain educational leaders in the schools, they should be in touch with the educational process. I have given you some examples of evaluation instruments from the Washoe County School District and the Clark County School District ([Exhibit I](#)). I would suggest it be 60 minutes consecutively in order to adequately complete these forms. In the bill, there is a piece regarding deficiencies that may be identified in a teacher's performance. There needs to be a description of action to be taken to help correct those deficiencies. I would turn your attention to the top half of the last page in [Exhibit I](#). This deals with a probationary teacher in Douglas County and some of the recommendations given in an unsatisfactory evaluation. There needs to be more specific intervention and utilization of a variety of strategies and activities to keep students engaged and on task. How would a teacher in their first three months of teaching know where to find the resources to address the goals made for them to remedy any deficiencies noted in their evaluation and observation? In the bottom half, you will see the language from Clark County to learn and use the components of an effective lesson in the principles of learning. We would like to see the administrators provide specific resources to the teachers so they can remedy the deficiencies that have been noted. The Nevada State Education Association supports S.B. 328.

SENATOR CEGAVSKE:

Would you be opposed to videotaping the teacher and using that as a tool for evaluation?

MS. WARNE:

We would support that kind of thing. There needs to be support from the administrators.

SENATOR CEGAVSKE:

Senator Beers, what do you think about it?

SENATOR BEERS:

That would be great, but it might carry a fiscal impact.

SENATOR CEGAVSKE:

I am thinking about doing the hour as well as videotaping.

CHAIR WASHINGTON:

We should leave that to the school districts to determine how they want to administer the evaluations.

MS. WARNE:

We are not looking to replace these evaluation instruments with the videotaping of a teacher. The videotaping would help address deficiencies that may have been identified. I cannot offer an opinion on the substitute teachers.

NANCY HOLLINGER (Washoe County School District):

We support the concept of having the administrators spend time in the classroom. Our concern is with the newly hired administrators as a condition of employment, because that would exclude worthy candidates from consideration. We would suggest that, if approved, it be amended to refer only to reemployment.

SENATOR BEERS:

I would approve of the 60 consecutive minutes and to delete, "employ or ... " on lines 3 and 4 of page 2.

DR. CRAIG KADLUB (Clark County School District):

The Clark County School District supports this bill. However, we have offered amendments to make it more effective and still functional. We believe school-level administrators are already overloaded with day-to-day teacher, parents and student interaction and request that they be exempted. Administrators should be familiar with our primary mission, and we support the idea of having central office administrators teaching a class for a day. We would, however, like to reduce that requirement from one day in a semester to one day a year as some unlicensed administrators did not go into education and may have gone into law, engineering or transportation. It may be more appropriate for them to participate in some other activity such as read during Nevada reading week or be a guest speaker in a class related to their area of expertise. We would support the bill with those amendments. We support the idea that a person should be observed no less than an hour a year, but classes are only for 50 minutes so consecutive minutes would not be functional for us.

SENATOR BEERS:

I would prefer not to see the first two suggestions implemented. I am less concerned about the third. My concern is that the administrator's function is to

be the principal teacher. As far as the 50-minute class, the remaining time should be spent observing the interaction between classes.

DR. DOTTY MERRILL (Executive Director, Nevada Association of School Boards):
The Nevada Association of School Boards' members are concerned about the increasing responsibilities for all of our administrators. The School Board Association would support a licensed education administrator providing instruction in an academic subject for one day during the year. We believe educational administrators who are not licensed be given other opportunities to provide genuine assistance for schools that could be more helpful to them and the schools that they serve. We support the suggestion from Clark County regarding school-site administrators. We support the other proposals within the bill. Our primary concern is in section 1, as written.

Lonnie Shields (Assistant Executive Director, Nevada Association of School Administrators):

The Nevada Association of School Administrators supports the proposed changes and suggestions provided by the Clark County School District (CCSD) and the School Board Association. We do not have a problem with 60 minutes; however, I like to see elementary school teachers doing a variety of subjects which cannot be done in an hour. In the high schools, I do not see the value of observing the passing period between classes.

CHAIR WASHINGTON:

We will close the meeting on S.B. 328 and open the hearing on S.B. 312.

SENATE BILL 312: Revises provisions relating to education. (BDR 34-604)

SENATOR HORSFORD:

Senate Bill 312 has been brought forward after more than 2 years of work by nearly 100 community organizations, educators, parents and students in response to a sobering fact that Nevada ranked second in the nation for students who are successfully completing high school. Hilarie Robison and Dr. Gene Hall will be providing the "Ready for Life" presentation.

HILARIE ROBISON (Nevada Public Education Foundation):

I am here to provide background information about the process that lead to some of the discussions around policy related issue. We have a vision that young people are ready for life supported by a community ethic that values

education. As Senator Horsford said, I will go through the "Ready for Life" PowerPoint presentation ([Exhibit J](#), original is on file in the Research Library).

SENATOR HORSFORD:

Senate Bill 312 is consistent with the other measures this Legislature has supported to increase standards and to ensure that all students have the skills they need to compete in the twenty-first century workforce. The provisions in S.B. 312 create multiple pathways for students to demonstrate proficiency that are research based and utilized in many other states. Sections 1 and 2 of S.B. 312 expand the grade levels that local districts are required to report to the Department of Education for the purposes of drop-out students. Currently, we only report ninth through twelfth grade, and S.B. 184 recommends dropping it to eighth grade. As you can see from the statistics in [Exhibit J](#), the problem is starting in the sixth grade. Dr. Gene Hall will touch on sections 4 and 5.

SENATE BILL 184: Revises provisions governing education. (BDR 34-419)

DR. GENE HALL (Professor, University of Nevada, Las Vegas):

I am highly supportive of S.B. 312 and its features. Whenever you are involved in high-stakes testing, the research community will strongly advise that you do not rely on any single test. Any decision that is going to be as significant as deciding whether someone graduates from high school should be based on multiple measures. You also have to worry about the quality of a test and whether or not it will assess the specific skills and knowledge of each student. The multiple measures are particularly important. Some students will do their work and show what they know using other forms a lot more effectively. There are costs in how we are doing business today. A student that has not graduated from high school will earn much less annually. There are 17 states that have multiple pathways to high school graduations, and all of them have higher percentages by far of placing high school graduates in college than we do currently.

SENATOR HORSFORD:

Standardized testing is not the only way to measure proficiency. I have seen the negative impacts our children are experiencing when they fail these high-stakes tests. I have seen the students who are falling behind because of a culture of testing that exists primarily due to the "No Child Left Behind Act of 2001" (NCLB). What other states have learned that Nevada has not is there should be multiple pathways for a student to demonstrate proficiency. If we develop these

approaches and allow teachers and administrators to apply them correctly, we may be able to increase the rate in which our students succeed in school and life.

MILANA WINTER (Principal, Jim Bridger Middle School, Clark County):

Like many middle schools at the end of each school year at Bridger Middle School, there are approximately 60 eighth graders at my school alone who are not able to move to high school due to lack of semester credits. Most are for one credit. Our middle school offers credit-retrieval intervention classes during an entire school year in order for them to be promoted to high school. Many of these students do not return to school the next year if they do not retrieve their credits. Even if they do, and we can get them caught up, as they move at midyear to high school, they are already behind for high school graduation. National trend data speaks to the fact that as students do not move onto high school with their peers the chances for high school graduation diminishes drastically. The idea of providing a model of enrollment that supports catching up and still being accountable for middle school standards and at the same time earning high school credit is appealing and it is a high priority for high school success. I support this bill.

SENATOR NOLAN:

Do you know the reasons for the students not achieving those credits?

MS. WINTER:

Most of the schools that retain that many students every year are impoverished schools. The students have a lot of responsibilities at home as well as school. My counselors are telling me that many of the 150 students enrolled in retention classes have a hard time getting to school. The poverty level and focus on education from the parents is an issue.

SENATOR HORSFORD:

In section 8 of the bill, the goal is to still require that students earn the necessary credits from middle school but allows those students to advance into high school with their peers while on academic probation. This model has been developed in Clark County. Fortunately, we have a middle school that also has a high school component which is the Preparatory Institute School for Academic Excellence of West Hall, formerly West Middle School. We have been able to see an 82-percent increase in the rate of students going from middle to high school simply because they are still being pushed to meet their high school

credits. Some students are in their second or third year of being retained in the eighth grade. These are 15- and 16-year olds, and it is not appropriate nor safe to keep them in a middle school environment. These students can succeed in a high school environment if given an opportunity. Section 9 of the bill increases the compulsory age of school attendance from 17 years to 18 years of age. The Harvard University Civil Rights Project demonstrates that students are not just dropping out; they are being pushed out of public education across America. The provision in section 9 simply states that students need to stay in school until 18 years of age if they have not earned the necessary credits to graduate.

SENATOR CEGAVSKE:

What do you think was not beneficial in the NCLB education policy?

SENATOR HORSFORD:

There are a lot of good provisions in the NCLB. Educators and parents say to emphasize only testing as an outcome to demonstrate proficiency has created anxiety among children. Because we do not provide alternative avenues as 17 other states, we are creating an atmosphere where students do not enjoy learning.

SENATOR CEGAVSKE:

My children had more than enough credits to graduate in the tenth grade, but by law, they had to go through the twelfth grade. I think we are watering down what it means to have a high school diploma. The needs have not been met for students who are not being challenged enough, and the needs for ones that are challenged have not been met.

SENATOR HORSFORD:

Section 5 allows students to test out of those courses in which they have proficiency. This goes to the brightest of our students who are sitting in classrooms not being challenged. That provision would allow students to test out, move on and take the courses that are relevant to them. I do not believe this would lower our standards. In section 4, it states demonstrate proficiency in those areas using multiple pathways. We still want them to pass high school proficiency exams. If they do not pass all four and there is an alternative way for them to demonstrate proficiency, then it still maintains the standards. In section 4, subsection 3, it states that the State Board of Education shall adopt

regulations that prescribe the alternative criteria for students to receive a standard diploma utilizing these multiple pathways.

There is a way to implement this criterion where you are still maintaining the same high level of standards and are just providing these students an opportunity to demonstrate their proficiency in another way. I have just passed out information listing the 17 states ([Exhibit K](#)). The first column represents the young adults enrolled in or completed college. The second column is the state ranking. Nevada is fiftieth in the nation for students that are enrolled in college and twenty-sixth for students enrolled in or completing college. Those seventeen states listed are the ones that also provide the multiple pathways.

SENATOR NOLAN:

Because Nevada ranks at the bottom of every list in our public education, we should be looking at alternative ways to improve the education of our students.

JOYCE HALDEMAN (Clark County School District):

The CCSD is supportive of this bill, particularly of the efforts that would help eighth graders move to the ninth grade and be on academic probation until they prove they can handle high school curriculum. We are not in favor of making the requirements easier for students and are not looking to dump them down. We think there needs to be another way to measure proficiency than the single high school proficiency exam. It is important for students to be assessed in different ways.

SENATOR NOLAN:

I am interested in seeing some direct correlation of the proposed measures here to the performance of the states that incorporate these multiple pathways.

CHAIR WASHINGTON:

The Committee Policy Analyst, Joe McCoy, will help you with that.

DONNA HOFFMAN-ANSPACH (Nevadans for Quality Education):

Nevadans for Quality Education supports S.B. 312. I have written testimony that I will read ([Exhibit L](#)).

RENE CANTU, (Board of Directors, Latin Chamber of Commerce):

The Latin Chamber of Commerce does support this bill.

DR. BRYN LAPENTA (Interim Assistant Superintendent, Washoe County School District):

The Washoe County School District currently has many examinations in place to demonstrate competency, also known as credit by exam. We have them in all levels of mathematics, foreign language and in computer literacy. We believe that local control of the exams to demonstrate competency is key. Students should be able to test out of courses they have mastered and should have adequate exams. The board of trustees at the Washoe County School District believes the high school proficiency exam is an adequate means of demonstrating competency for graduation from high school, and we are not in support of an alternative method to earn a diploma. We have no opposition to the additional but separate reporting of sixth-, seventh- and eighth-grade dropouts. For your information, we know there has been interest in the eighth-grade dropouts. We did have 13 eighth-grade compared to 110 ninth-grade drop outs.

BELINDA THOMPSON (Goshen Community Development Coalition):
The Goshen Community Development Coalition supports S.B. 312.

CHAIR WASHINGTON:
We will recess at 3:38 p.m. until 5 p.m.

JANINE HANSEN (Nevada Eagle Forum):
I am concerned about raising the school age to 18-years-old. My son was pulled out of public school in the fourth grade and was homeschooled. By the time he was 15, he was attending Truckee Meadows Community College. Some of these students have completed their study and are ready to be out of the system by the time they are 17 years of age.

CHAIR WASHINGTON:
There is a home-schooling bill that is coming to us that we have not seen yet. That bill may be able to clarify your concerns.

CHAIR WASHINGTON:
Will close the hearing on S.B. 312 and open the hearing on S.B. 284.

SENATE BILL 284: Revises provisions governing sports in the public schools.
(BDR 34-50)

SENATOR DENNIS NOLAN (Clark County Senatorial District No. 9):

This bill is intended to apply to Clark County middle schools where for the last five or six years there has been no funding to pay for middle school sports. The only sport that exists in middle schools in Clark County is basketball. The intent is to allow school districts to reestablish a program of middle school sports where parents, if they elect to have their children play in sports, would pay a reasonable fee. The fee would go directly to offsetting the costs of establishing competitions, transportation and coaches in that sport. After talking with the Clark County School District, director of athletics, they said they would be willing to put on a sport that can be organized easily like soccer. Schools are letting out Clark County middle school students about 1:45 p.m., and a lot of people would like the benefit of their children being involved in a healthy and constructive organized activity. The coaches at the high school level are disappointed that the students coming into high school have not had the opportunity to participate in an organized sport. I have given you a proposed amendment ([Exhibit M](#)). The amendment limits this to Clark County and would not be used to supplant any funding or programs that are currently being funded and only applies to middle schools. The Nevada Interscholastic Activities Association (NIAA) is not going to have to participate, but some parents or sponsors may want to give a lot of money to one school. That would put the rest of the schools in any sport at a disadvantage. We need to try to create something to help the program should a major sponsor give \$5,000 to one school. It could be said that two-thirds of that money should go to that school and one-third to the program overall to help offset the costs of administering the program. That would help with some funds to the other schools.

NICHOLAS MARQUART (Intern to Senator Nolan):

I have a written testimony that I will read ([Exhibit N](#)).

SENATOR HECK:

You said that the NIAA was not going to be involved anymore; does that mean the appropriation to them is also gone?

MR. MARQUART:

It would be amended out.

CHAIR WASHINGTON:

I will take a motion on S.B. 284.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 284.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR WASHINGTON:

I will take a motion on S.B. 266 to amend and do pass to include a pamphlet informing them of the opt-out option.

SENATE BILL 266: Requires the performance of tests for the human immunodeficiency virus for pregnant women and newborn children. (BDR 40-1063)

SENATOR HORSFORD MOVED TO AMEND AND DO PASS S.B. 266 AS AMENDED WITH INFORMATIONAL PAMPHLET REGARDING THE OPT-OUT CLAUSE.

SENATOR WIENER SECONDED THE MOTION.

SENATOR CEGAVSKE:

The "shall" is already present in the statute for the other tests being done. If she chooses not to do the tests, does that allow her to opt out of all of them?

SARA PARTIDA (Committee Counsel):

If we were to amend to require the notice of the option, it would apply only to the tests in this bill and not apply to anything that is already in statute.

SENATOR CEGAVSKE:

In statute, can they opt out of the other tests?

Ms. PARTIDA:

Yes.

SENATOR CEGAVSKE:

Is this for the rapid test only or both the normal testing and the rapid test?

Ms. PARTIDA:

The notice requirement can apply to any of the sections.

SENATOR CEGAVSKE:

Can they opt out of both tests?

Ms. PARTIDA:

Yes.

SENATOR CEGAVSKE:

In the CDC's testimony, they mentioned the documentation in the file. I understand that it is not in this bill or in the amendment. They were referring to the documentation as if it was a part of the bill. I wanted to clarify that for the record.

SENATOR HORSFORD:

That was based on the CDC's recommendations. Not all of the recommendations were included in the bill.

SENATOR HECK:

Is there a specific penalty for failure to draw the test?

Ms. PARTIDA:

I will have to get back to you on that.

SENATOR HECK:

No one will argue that this testing is unnecessary. It will save lives and tax dollars. My concern is if we are getting into the habit of dictating physician care in statute based on a guideline that is current now but may not be current years from now. I am concerned that if the physician fails to offer the test, if there is going to be some penalty associated with that.

CHAIR WASHINGTON:

Ms. Partida, will you look into that, and we will come back to it before we adjourn.

CHAIR WASHINGTON:

I will open the hearing on S.B. 313.

SENATE BILL 313: Revises provisions relating to the enrollment of certain pupils in kindergarten in a public elementary school. (BDR 34-605)

SENATOR HORSFORD:

It came to my attention that currently existing law prohibits a parent from requesting to have their child enrolled in kindergarten even if they would choose to do so. Existing law requires that a child who is five years of age on or before September 30 of the school year can be admitted into kindergarten, but if their birthday falls after that date they are not permitted to do so. Senate Bill 313 authorizes a principal of a school to give permission to a parent who wishes to have a child enrolled if the child will be five years of age on or before December 31 of the school year. I have passed out a Social Policy Report ([Exhibit O](#), original is on file in the Research Library). Children who possess basic skills that include reciting the alphabet, shapes, colors and numbers should be permitted at the request of the parent and with the permission of the local principal to allow their child to be enrolled in kindergarten where applicable. In my opinion, September 30 is an arbitrary date. It is a date that does not take into account when a child is ready to learn.

I did receive an amendment from Dr. Merrill, and I am open to consider the amendment that she is going to bring forward.

CHAIR WASHINGTON:

Is it at the discretion of the principal to make the determination as to whether a child is ready to enter kindergarten?

SENATOR HECK:

Yes.

MS. HALDEMAN:

We do have some problems with the bill in its current form. Why change of the date, there will have been someone that is born 30 days later. The CCSD feels very strongly that you have to have a date that is not a subjective date. Whatever is done to this bill, please do not put the principal at the mercy of the parent who will come with an argument as to why their child should be an exception to the rule and allowed into kindergarten. Should you decide that you are going to leave something to the discretion of the principal or have some wiggle room with the date, then we would strongly urge that you have some kind of an assessment that measures the readiness of the students. There are

other states that have assessments that are used to measure whether or not a child is ready.

DR. DOTTY MERRILL (Executive Director, Nevada Association of School Boards):
If a child is zoned to a school which is already above capacity and the child is born between September 30 and December 31 that child will not be admitted through no fault of the child or his family. A child who is similarly situated and zoned to a school that is not above capacity will likely be admitted at the discretion of the school principal. We think the issue of equal access is important. Our suggestion to Senator Horsford has been to look at those states that have such policies that allow school boards to develop regulations, procedures, conditions and standards for early admission to kindergarten. The School Board Association agrees with Ms. Haldeman that no alternative to the existing date is going to remedy every concern. My written proposal will address a number of concerns from families having children born very close to the admission date ([Exhibit P](#)).

CHAIR WASHINGTON:

Based on the assessments within the amendment that you provided us, the principal would be able to make the determination whether that child is ready to enter into kindergarten. Does the parent also have to sign off on it?

DR. MERRILL:

Our suggestion is that the school boards adopt procedures, conditions and standards for this process so that principals have something they need to follow in order to consider whether a child is ready and that will establish a consistent equal playing field. The existing law states that all children who are five before September 30 would go into kindergarten. It would still be optional for the children in this little window of opportunity.

GLORIA P. DOPF (Deputy Superintendent for Instructional, Research and Evaluative Services, Department of Education):

Dr. Rheault wanted the Committee to know that this is one of our largest phone call issues when we have parental communication regarding admitting children into kindergarten. We do support the amendments that are being submitted by Dr. Merrill. If it is left up to the principal, we would be getting an extraordinarily larger number of calls as to the decision the principal is making. We support a procedure that creates some uniformity that the principals can measure against that relates back to a school district policy.

LONNIE SHIELDS (Assistant Executive Director, Nevada Association of School Administrators):

Please listen to what Ms. Dopf just said. We need some form of an assessment to be able to make those kinds of judgments fairly and openly with the parents.

SENATOR HORSFORD:

Kindergarten is optional regardless. If you do not feel your child is ready, you can choose not to enroll them.

MR. SHIELDS:

That is correct.

SENATOR HORSFORD:

I just wanted to make distinction that this provides the choice to parents who feel that their children are ready.

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

The combination of a good higher-education system and a substandard primary and secondary education is a source of widening income disparity in the United States. I can defend myself in high school from teachers with notions like mankind-caused global warming, but when you are in kindergarten you have no way to defend yourself. Let them stay with their mothers who have an interest in their welfare.

MS. HANSEN:

I have a degree in child development, and child development has been my passion in life. We need to realize that in developmental theory of children there are certain developmental aspects with readiness tests. These are very critical and cannot be hurried. Dr. Raymond Moore in his landmark book reviewed about 6,000 different studies about how going to school later is far more beneficial to children than going to school earlier. I would like to read from page 3 of the *Education Reporter* ([Exhibit Q](#)).

CHAIR WASHINGTON:

What do you think about the testimony of Dr. Merrill, Ms. Haldeman, and Ms. Dopf regarding the criteria testing?

MR. SCHUMANN:

The parents, as well as the children, can be victims of the "professionalism" here. There is a message going out to the parents that early and full-day kindergarten is a good thing. The attachment of the mother and child will result in far more focused attention to furthering that child.

MS. HANSEN:

The biggest problem I see is the discrimination it creates against little boys. Little boys are at least a year behind girls developmentally. When they go to school earlier, they end up in remedial classes with behavior problems and learning disabilities.

CHAIR WASHINGTON:

Ms. Partida has an answer for us on S.B. 266.

SENATE BILL 266: Requires the performance of tests for the human immunodeficiency virus for pregnant women and newborn children. (BDR 40-1063)

MS. PARTIDA:

I was unable to see anything in S.B. 266, or in those chapters that would apply a penalty for failure to comply. I would note the Board of Medical Examiners, State Board of Osteopathic Medicine and similar licensing boards for professionals do have in their respective chapters certain procedures for disciplinary action which I am not sure in practice how they are applied.

SENATOR HECK:

With the sponsors' permission, is it possible to put a disclaimer that it does not create any civil, criminal, liability or grounds for disciplinary action?

CHAIR WASHINGTON:

Senator Horsford, would you like to rescind your motion on S.B. 266.

SENATOR HORSFORD:

I will withdraw the motion on S.B. 266.

SENATOR WIENER:

I will withdraw the second on S.B. 266.

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CHAIR WASHINGTON:

I will take a motion to amend and do pass S.B. 266 with pamphlet, the disclaimer, and the original amendment.

SENATOR HORSFORD:

I need to understand Senator Heck's amendment as it pertains to other malpractice. Will this lift all levels of immunity only pertaining to testing, or in all other ways?

SENATOR HECK:

My intent would be that if the provider of health care, for whatever reason, did not order the test at the time the patient presented, the provider of health care would not be criminally or civilly liable or held accountable for any disciplinary action by their professional licensing board.

SENATOR HORSFORD:

Based on the intent of the bill being preventative in nature, I would support the amendment. I would like to see the amendment as written when it comes back from the Legal Division to ensure that it still meets that intention.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 266.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WASHINGTON:

Mr. McCoy, will you make sure that Senator Horsford and the Committee get an opportunity to review the amendment.

CHAIR WASHINGTON:

We will now open the hearing on S.B. 396.

SENATE BILL 396: Revises provisions relating to subsurface installations.
(BDR 40-1386)

DEBRA JACOBSON (Southwest Gas Corporation):

I am here today as the spokesman for a collaborative group responsible for the language you see before you in S.B. 396. The language addresses the issue of damage prevention to subsurface or underground installations. The language comes from everyone who does work or has something related to underground lines. The reason we are taking the lead on this is the issue of accurate location of underground facilities is taking on an increased importance with changes in improvements within the industry. Specifically, the increased use of a technology called boring. This is used for the installation and replacement of facilities. I have given you pictures of some examples of situations we are trying to prevent ([Exhibit R](#)). These pictures show gas lines which are usually the lines we are cutting though. For Southwest Gas Corporation, this is a very important issue. This bill does four things, and I will go over three of the sections. David Noble will explain the fourth section.

Section 1, of the bill changes the approximate location of a subsurface installation tolerance level from 30 inches to 24 inches. Currently, when we locate the pipe, we have to hand dig 30 inches on each side of the pipe. This reduces the amount of space they have to hand dig. This is at the request of the contractors.

Section 2 clarifies that subsurface installations also include service laterals. That is the service line that goes from the main to either the property line or the house depending on the type of utility that you are talking about. For Southwest Gas Corporation, we go all the way to the house.

Section 3 amends the time in which a person or an excavator can call in to the one-call service. Currently, it is at least 2 working days and up to 14 days before their planned excavation. This amendment would extend that to 28 days.

We would like the Public Utilities Commission of Nevada (PUCN) staff to file complaints and take action when we have situations where people are not complying with the law.

DAVID S. NOBLE (Assistant General Counsel, Public Utilities Commission, State of Nevada):

Section 4 broadens the scope of who may file a complaint if they believe there is an imminent problem that needs to be rectified. Currently, the district attorney, the PUCN or the city attorney can file a complaint. This would

broaden it to include the Attorney General, an operator, an excavator or a person engaged in demolition. It also eliminates subsection 2 which limits the complainant to seek relief by way of a 5-day temporary restraining order. We felt it was limiting and we do not want to hamstring the complainant to relief they would be seeking from the court. Section 5 puts the enforcement action to the regulatory operations staff. They are the investigative arm of the PUCN. They are closest to what is going on in the field. I would like to give you a little additional information on the first two sections.

There are currently 45 states that have a limit of 24 inches or less. Nevada is one of only 5 states in the nation that still requires 30 inches or more. It is our belief that all service laterals need to be marked as in section 1, which reduces the hand dig limit from 30 inches to 24 inches.

It is the PUCN's belief that all service laterals need to be marked. How far they need to be marked depends on the type of service. Southwest Gas Corporation wants to mark it all the way to the customer's meter at the house. With water, it is generally a meter box which goes into the customer's property. The problem with sewer is some operators have not been marking their sewer laterals. Their reasoning is that they do not know their location. They are the operators of these underground facilities. If they do not mark them someone else will have to do so. We do not think it was the intent of this Legislature to make every individual homeowner responsible for marking their own sewer lateral. Companies like Southwest Gas have had to locate the laterals themselves by bringing in cameras. We believe strongly the sewer laterals need to be marked by the operator of underground facilities.

SENATOR CEGAVSKE:

The only way you find out about these is if there is an issue.

MS. JACOBSON:

Those are pictures of some that were not located. That is the problem we are trying to address. You do not know until you have bored through it, and that is what we are trying to prevent. We are trying to be proactive in this regard. It is a serious problem and the industry as a whole is trying to tackle this one state at a time.

SENATOR CEGAVSKE:

Do you mark where your lines are?

Ms. JACOBSON:
That is correct.

SENATOR CEGAVSKE:
Do the people that are coming in on top and boring down have that knowledge?

Ms. JACOBSON:
If the line is not located, we do not know that it is there.

DOUGLAS BROOKS (Assistant General Counsel, Nevada Power Company; Sierra Pacific Power Company):
Our companies participated in the process along with Southwest Gas Corporation. We support this bill.

JASON FRIERSON (Clark County):
We can all agree that this is a concern. The Clark County Water Reclamation District is different than the other utilities in that we do not own the line that goes directly to the property. We own the main line, and that is why we do not know the exact location of the lines. The issue is someone needs to find where the sewer lines are when boring is going to be done to avoid any accidents. The issue, however, is not whether someone should locate them. The issue is who should locate them. Should it be the person who is doing the boring or should the Reclamation District go back through years of sewer lines established before any of the requirements we have now. Most of the other lines have a wire that allows them assistance in locating those lines. Existing sewer lines do not have those wires and no way to precisely locate those lines.

We have a concern regarding reducing the distance from 30 to 24 inches because that even further narrows the amount of space we would have to locate those because we do not have a precise location. We do not have electronic monitoring for the existing sewer lines. We have manholes. That is why we need the distance to be general enough to have some room to make sure that we are not making a mistake.

The Reclamation District in Clark County expressed a concern because they respond to those calls to make marks within two days of a call. At 14 days,

they have 12 remaining days, at 28 days it would be 26 days. There is a concern that whatever markers were there may be gone by the time someone comes out to deal with it.

We do not have an issue with changing the individuals who can file a complaint. It appears the goal is to allow for more than five days for there to be a restraining order. It is our concern that deleting the first sentence removes the authority to have any action before there is a hearing. If the five days is the goal, I would suggest leaving the first sentence in so there is statutory authority to have a restraining order in the absence of an evidentiary hearing.

CHAIR WASHINGTON:

Explain to this Committee how the one-call process works and if Clark County Reclamation is part of that one call.

MR. FRIERSON:

I do not know, but I can find that out.

MS. JACOBSON:

The statute already defines operator as any person who owns, operates or maintains a subsurface installation.

CHAIR WASHINGTON:

The lateral lines that actually go to the property are owned by whatever utility services that installation and provides the service for that property such as Southwest Gas Corporation and Sierra Pacific Power Company.

MS. JACOBSEN:

The question that comes up with the sewer lines is their position that they do not own the line. The way the statute reads currently it owns, operates or maintains the subsurface installations.

MR. FRIERSON:

We did look at that. The Reclamation District staff that I spoke with indicated that typically they do not maintain or repair those lines either, and by a Clark County resolution, the homeowners own that service lateral. When there is an issue like this, it is either the contractor or the developer that put stamps on the concrete and that is how they have a general idea where it is or they have to contact a plumber. They do not maintain or repair those service laterals.

MR. NOBLE:

An excavator may dig in an area they believe will be utilities. They call a company called Underground Service Alert, North (USA, North) and alert them as to where they are going to dig. We may start anywhere from two to fourteen days out. That excavator will go out and mark in white the location of where they are going to dig. The USA, North company will transmit that call order to all of the operators that own underground facilities in that area, and they will go out and see the white marks and locate their facilities that are within those white marks. As the markings over a 28-day period sometime disappear, there is in the *Nevada Administrative Code* now that if the markings are no longer there they must call in again to have them refreshed.

CHAIR WASHINGTON:

Is Clark County a part of the call?

MR. NOBLE:

According to statute, they are all supposed to be a member of that organization. My understanding is that Clark County recently has joined.

CHAIR WASHINGTON:

How recently?

MR. NOBLE:

I believe it was within the last six months. There are many operators who are not members of the USA, North. That is something we currently are addressing.

SENATOR HORSFORD:

I wonder about section 3 and the change of the date. What, if any, impact that would have on delaying the progress of construction projects.

MR. NOBLE:

When the excavator gets to their 14 days, they need to stop their work and call in another ticket. The hope was to actually reduce the amount of paperwork administrative time spent on calling this in. If they can call in work for 28 days, then they would be able to do that. Some smaller excavators will not be able to get much work done over 28 days, but if you have someone like Granite Construction, you can get miles and miles of work done.

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CHAIR WASHINGTON:

Would you be willing to discuss this matter with each other and come back with some suggestion on Wednesday for a work session?

MS. JACOBSON:

In order to move this bill today, we are willing to delete our of clarification service laterals.

MR. FRIERSON:

I would feel comfortable going forward with that and the recognition that the changes in subsection 2 were designed not to decrease the ability to have a restraining order in the absence of a hearing but to expand it.

SENATOR CEGAVSKE:

Does this Committee need a letter of intent for the county to make sure they stay onboard and are participating on the one call?

MR. FRIERSON:

If that is the Committee's direction, but I have no indication of the intention of not moving forward with this group.

CHAIR WASHINGTON:

I will take a motion to amend and do pass.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 396.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MARSHEILAH D. LYONS (Committee Policy Analyst):

Did the amendment in section 2 remove the service lateral?

CHAIR WASHINGTON:

Yes.

MRS. LYONS:

Did it also include an amendment to section 4, subsection 2?

CHAIR WASHINGTON:

No.

CHAIR WASHINGTON:

We have a presentation dealing with special education in the State.

GLORIA P. DOPF (Deputy Superintendent for Instructional, Research and Evaluative Services, Department of Education):

I will take you through the packet and make some brief comments. In your packet, you have a summary of the presentation which includes the questions that were transmitted by staff on behalf of the Committee ([Exhibit S](#)). You also have a research document that is a summary of the impact of response to intervention (RTI) or instructional consultation on the disproportionate placement. There is the child count which is the December 1 count of special education students served in this State by disability and age categories. Included in the packet is another copy of a document that has been previously shared with the Legislature and is the special education funding document which is the summary of issues on special education as it relates to how special education is funded in the State.

CHAIR WASHINGTON:

Can you talk about the placement of minority children based on academic and behavioral needs on page 7 of the "Presentation on Special Education Inquiries?" It is the last paragraph called "Statewide Initiatives."

Ms. DOPF:

We did not have red flags to show disproportionality in the State based on statistics. We do not have a pattern as other states with significant disproportionality just looking at it from an incident perspective. We are now required to look at it with some other indicators, and even with that, the statistics in some rural areas may be two children representing 50 percent so the numbers do not identify significance. We are looking at it more specifically. We generally do not follow some of the national trends for disproportionality and have some required specific tracking that we do, and we will talk about that. This paragraph talks about the RTI. In this State, we call it the consultative instruction model which is employed in this State in order to improve the

identification, intervention and referral of the children in the front end toward improving the instructional strategies to deal with the youngster's learning and behavioral interventions. In building that model, we expect that there will be a reduction in general education referral as well as any potential disproportionality that many exist because the focus is on improved instruction. Frankie McCabe will take you through the rest of the presentation.

SENATOR HORSFORD:

Can you give me some reference as to what is the definition for disproportionate? What is that threshold? In one of the charts for African Americans, it is 16 percent. The overall school population is 9 or 10 percent. What standard is disproportionate based?

FRANKIE MCCABE (Director, Office of Special Education, Elementary and Secondary Education and School Improvement Programs, Department of Education):

Question 3, page 2, [Exhibit S](#), will answer that question about disabilities.

SENATOR HORSFORD:

I am pleased to hear there is that level of focus around this issue. Did that come from an internal review that identified the need to implement these type of practices with the Department supporting the school districts in reviewing whether there is disproportionality or not.

MS. MCCABE:

It was a two-pronged approach. We had a change in the federal statute. We had collected this data in the past and reviewed it from a state level perspective. There is a lot more research on what it is we are looking for. We sought the assistance of some of the national technical assistance groups on the best approach. Clark County has done a lot of disproportionate placement work prior to it being required.

SENATOR HORSFORD:

On one of the reports, you have it broken out by the number of students with disabilities who earn an adjusted diploma or a certificate of attendance. That number is significantly higher in that category than the earned standard diploma. One of the concerns that I have heard from parents and teachers is that they are putting on an Individual Education Program (IEP) that never allows them to meet the standards that are in place based on state law or having certain

classes that prepare them to take the proficiency exam. What review has been done of the IEP and why the students suitable for special education are still not being given the academic rigor that is necessary for them to get a high school diploma?

Ms. McCABE:

Until 1997, students with disabilities were not required to be exposed to or allowed access the general curriculum. The students were removed and given a curriculum that did not match the curriculum that all other students received. From 1997 to the present, we have been working as a State to train educators and districts. I see change in the area. More students are being exposed to the general curriculum. The State now has 80 percent of our students with disabilities receiving instruction for 40 percent or more of their school day.

Ms. DOPF:

I would like to add that the whole information on the State performance plan for 2005 to 2010, which is the time frame we are required to submit it to the Office of Special Education in Washington, D.C. is on the Department of Education's Website. That will tell you all the details of what indicators have been set and what the 2005 and 2006 baseline data is regarding not only this issue of disproportionality of representation but the other indicators that we must assess and report on an annual basis to the federal government.

CHAIR WASHINGTON:

Are those indicators listed in the information you have provided?

Ms. DOPF:

No.

Ms. McCABE:

We did not provide a full set of indicators. We are now held to 20 indicators statewide. Our data systems are immature and we do not have data in all of the systems. We do have in our performance plan all 20 indicators that I can get for you.

CHAIR WASHINGTON:

Please get us that information. Based on the indicators that you are currently listing, who initiates the process to begin the IEP? Is it the teacher, or the teacher and parent?

Ms. McCABE:

Districts are required under the federal and state statute to have an IEP meeting annually once the student is determined eligible. At any point in time, we train the districts that the document is a living document so as the student needs change, the parent, teacher or anyone that is a member of the child's IEP team or one of the child's teachers can call a meeting if they believe that there is a need to call and discuss the current program.

CHAIR WASHINGTON:

There are some parents that have come to me and have not fully understood the implications or design for the IEP and have been confused as to the tenets of that IEP. How do you overcome that concern?

Ms. McCABE:

The parents are given their bundle of rights at almost every junction. We are required to put so much information in it, and we have to conform to what the federal government tells us. It is a 20-page document and probably overwhelming for most parents. We cannot put it in parent-friendly terms. Part of the problem is that parents may not fully understand everything they have access to. The other piece that we work with is the parent training and information center. If parents call us and need assistance, we refer them to Nevada Parents Encouraging Parents and try to work with them.

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CHAIR WASHINGTON:

We will now adjourn the meeting of Senate Committee on Human Resources and Education at 7:06 p.m.

RESPECTFULLY SUBMITTED:

Shauna Kirk,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____