

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND EDUCATION**

**Seventy-fifth Session
March 11, 2009**

The Senate Committee on Health and Education was called to order by Chair Valerie Wiener at 3:22 p.m. on Wednesday, March 11, 2009, in Room 2149 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 Valerie Wiener, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Steven A. Horsford
Senator Shirley A. Breeden
Senator Maurice E. Washington
Senator Barbara K. Cegavske

COMMITTEE MEMBERS ABSENT:

Senator Dennis Nolan (Excused)

GUEST LEGISLATORS PRESENT:

Senator Bob Coffin, Clark County Senatorial District No. 10

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Mindy Martini, Committee Policy Analyst
Sara Partida, Committee Counsel
Maureen Duarte, Committee Secretary

OTHERS PRESENT:

Sheila Moulton, Trustee, Nevada Association of School Boards
Dotty Merrill, Executive Director, Nevada Association of School Boards

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Judy Cox, American Civil Liberties Union of Nevada
Mary Jo Parise, Nevadans for Quality Education
Bryn Lapenta, Senior Director, Public Policy, Accountability & Assessment,
Washoe County School District
Mark Coleman, Deputy Director, Clark County Association of School
Administrators and Professional-Technical Employees
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of
Education
Frankie McCabe, Director, Special Education, Elementary and
Secondary Education and School Improvement Programs
Scott Reynolds, Assistant Superintendent for Special Education and Student
Support Services, Washoe County School District
Tim Tetz, Executive Director, Office of Veterans' Services
Jane A. Nichols, Vice Chancellor, Academic and Student Affairs, Nevada
System of Higher Education
Ed Gobel, President, Council of Nevada Veterans Organizations; Southwestern
States Regional Director, Chapel of Four Chaplains
Linda West Myers, Council of Nevada Veterans Organizations; Chapel of Four
Chaplains; Go West Institute, Higher Education Division
James D. Earl, Executive Director, Nevada Technological Crime Advisory Board
Bart Mangino, Clark County School District
Joshua Martinez, Detective, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Julie Whitacre, Nevada State Education Association
Lonnie Shields, Assistant Executive Director, Nevada Association of School
Administrators

CHAIR WIENER:

The meeting is now open, and I am requesting a Committee introduction of
Bill Draft Request (BDR) 40-1135.

BILL DRAFT REQUEST 40-1135: Establishes provisions relating to
chronic obstructive pulmonary disease. (Later introduced as
Senate Bill 220).

SENATOR CEGAVSKE MOVED TO INTRODUCE BDR 40-1135.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR WIENER:

We are going to take the bills out of order in regard for a couple of witnesses who need to appear upstairs. Senator Coffin, please come forward to present your legislation.

[SENATE BILL 135](#): Requires pupils enrolled in certain grades in public schools to wear school uniforms. (BDR 34-662)

SENATOR BOB COFFIN (Clark County Senatorial District No. 10):

Senate Bill (S.B.) 135 is a bill which I have had in mind for 20 years or so. It was introduced once and was opposed by the same people who oppose it this year. A new bill is coming, not the same bill you see in front of you. When I requested the bill, it was not long before I became ill and spent five or six months recuperating. I did not really have a chance to pay attention to my duties, and I have made your job a little tougher because I have not given you a clean bill. What I have given you now is an amended bill ([Exhibit C](#)), in essence, a dummy copy you can work with.

You will hear the same opposition to this bill amended as you would unamended, but I see it differently. Thank you again for allowing me to testify on a bill which has a lot to do with the youth of our time and, if I thought it was appropriate 20 years ago, it is not only appropriate but necessary in today's environment. I do not think that the schools really enjoy being in loco parentis for the true parents, but in fact, they are in this society, and they are held responsible for so many things. We did not have school police forces 20 years ago; today, we do.

Look at the way you dress and the way people in this audience are dressed. What do they wear, what do they think about you and themselves, and how is that expression made? It is a sign of respect, not only for you and others, but respect for themselves. There was an old saying many years ago "in a man's world," that, "clothes make the man." Let us just say that it is outdated but not really out of mind because clothes do something for you. I am not talking about expression; I am talking about the concept of self-respect and respect for others.

Something happens to people, to their mindset, depending on how they dress. We all know when we feel rebellious, we dress in a rebellious fashion. I have young children still, and when they want to upset me or make a statement, they have a way of dressing or not dressing. The same holds true when they want a little different mindset from me or from their friends. This is not rocket science; it is pure psychology. People who choose to think better of themselves reflect it; not only in the way they dress but also in the way they behave. I must say that their behavior is strongly affected by the way they dress. I do not know if that is a given with you, but it is a given with me. Most of the public feel the same way. When they see young men and women dressing or underdressing in public and in the school environment, they wonder what has happened to the parents of that child. The parents give in frequently. In a sense, if they were to process legislation like this, it would seem the parents would be greatly relieved. There are arguments about expense that are grossly overinflated. There are poor people, poor parents and students who want this legislation.

I am presenting to you a petition signed by 200 students and parents from Valley High School ([Exhibit D](#)) which pulls most of its students from my district. My district is one of the poorest in the State of Nevada, largely Hispanic with thirty or forty other minority languages and ethnic groups; literally, it is a real mixed salad of the State in my district.

These students, on their own, elected to "gin up" this petition and deliver it to me; I did not ask them for it. They simply read a little story in the newspaper last year, and on their own, felt they needed to do this. I propose that the bill be changed. The one that you read was limited to kindergarten (K) through Grade 3. I propose that all students, in all grades, wear uniforms. I am not talking about dull khaki or olive green drab, or black or brown. Let us use a little imagination.

I propose that a school in the district, subject to the guidelines set forth by a district, be allowed to design their own uniform taking into account the local mores of the neighborhoods, keeping in mind gang colors and the things they want to avoid. Let a school design its own uniforms and add a flash of color. I am serious about trusting the schools to do a good job of this so they retain their identity, pride and esprit de corps that goes with belonging to a school. If they want to put logos on them, that is fine, but these are not parochial schools. We want these uniforms to be worn anytime, and in essence, to become part of their regular clothing if they choose.

Let us not look upon it as something of a drag. I grant you that most schools would not choose fuchsia pink or something odd, but many parents want to dress their children that way. I have heard from one of them—that is freedom of expression in that family and I cannot answer the objection from that parent. Young men and women, particularly in high school, should not be treated as Barbie and Ken dolls but basically treated as adults. They are expected to behave as adults, and one of the things that we can help them with is a sense of belonging to a community which comes from wearing a uniform.

They are not expensive; frankly, they are a lot cheaper for the parents to purchase than today's \$100 jeans and \$150 sneakers. From top to bottom, a youngster's wardrobe costs a lot more than something that might be designed by a school or by the students in that school through a design competition; whatever that school wants to do. Good taste would be part of the guidelines established by the district. There really does not need to be any control removed from the district.

There are some who say putting uniforms on children is suppression of their right to free expression. I must say the present law, according to the people, is working. There are a number of schools that are putting uniforms on their students, and no lawsuit has been filed, to my knowledge, to stop the suppression of free expression of a student who might not have wanted to wear the uniform. There was a majority vote under some guidelines in that school, but certainly, of the 49 percent that did not vote for it, if there was a case for a lawsuit, why has there not been one? My point is, maybe it is just a red herring, something to keep people busy. They have a right to their own free expression also, even if it is to sue.

In front of you are letters and names of the students of Valley High School. I will read a letter from David Alexander Lopez ([Exhibit E](#)). David, I am proud to say, and as you know, Madam Chair, is my representative in the Nevada Youth Legislature, your creation. He is the Clark County Senatorial District 2 representative.

I really do not think there is a need, but for certain people, to help buy uniforms. Perhaps there could be a uniform allowance for students who meet a certain poverty level. The fiscal note from Clark County School District (CCSD) indicated \$22 million would be necessary because 42 percent of the students would need help. I really do not know if that is true or not; I would argue with

their numbers. The point is that I really do not think the cost of uniforms is that much. I do not think they had this bill in front of them, or they might then say because it is not just K through 3, it would cost \$270 million. I really do not know what they think the fiscal note would be. I can tell you that frankly, if I had my druthers, I would put it on the parents and let them pay the whole bill and not worry about it. It is their responsibility to clothe their children.

You heard from Mr. Lopez and you heard my testimony. Anyone who is a parent knows how expensive it is to clothe their children, and how glorious it would be if they did not have to buy all that expensive stuff to keep up with the other kids and the other kids who are wealthy.

SENATOR CEGAVSKE:

In the twenty-plus years I have been around, this has been bantered about. I agree with you that school uniforms would help in so many different ways. Look at the private schools; there is a lot of good in uniforms. Parents are responsible for clothing, but as we know, they do not even give their kids supplies to go to school. That is a tough one. What about the teachers? We have wonderful teachers who are great role models, and we have some that do not dress very well and are not very good role models for the kids. Would you be willing to have a dress code for the teachers if you have one for the kids? I am serious, because if students are dressed in uniforms, some of the teachers are wearing what, in my opinion, is not appropriate. You are right; when we send our kids to school we want them to look up to the teachers. I go to some schools and sometimes cannot tell the difference between the students and teachers. I am curious how you feel about that.

I do want to hear from the school districts because I know there are some schools that have done it; not whole districts, but schools have done pilot programs. I would like to hear what happened and how they did it. Would you be amenable to having a pilot program in a high school? I do not think we have uniforms in any high schools. Perhaps we could use Valley High School as one of the schools to test for the high schools. I would like to hear the report on how that goes. I would like to see a pilot program at a school where the student population is willing to do it. I think it would be wonderful to see the results and what the costs were. There is also the community base that would love to help do a clothing drive or something to help offset the cost of that. In our society, there are the "haves and have nots," we all know that. At the impressionable age of the teenager, they want the clothes advertised on the models and a

uniform does help defray that. The sagging and bagging that they do with clothes, and even the open-toe issue with sandals and flip flops are concerns.

When dressed appropriately, there is a difference in the behavior of people. I do not disagree with a lot of the things that you have stated today. I did look at the fiscal note, and I am glad that you went into a little more detail about it. Would you be amenable to having perhaps Rancho School as a pilot and then having us address this in two years?

SENATOR COFFIN:

The suggestion I really do not want to touch too closely is uniforms or clothing standards for faculty. The students who would dress well would set an example for the faculty. It should be the other way around, but you can understand there would be a lot of self-imposed restraint when people begin to see how nice things are looking at a school.

As far as a pilot program, I would not take the signatures from Valley High School to be representative of the entire campus. I would not want to impose an unfair or inaccurate statistical sample of a school of any kind. One would probably have a lot of fun polling the schools to find out who would like to do this, as there is an election being held in the younger schools to determine if they are going to wear uniforms today. Why not poll the students and their parents? I do not know whether the school district will then say that is going to be very expensive to do. It is not easy to do, but I am sure it can be done. There are schools that might want to do this, and one of those could be a pilot program. It would be an example, so I could go along with what you are saying, but I do not know what the Committee will decide.

SENATOR CEGAVSKE:

That would be a very good suggestion to the schools which would be able to respond to that. I think they already can. If the schools decide to do that, the schools can do it. Again, we will hear from the districts because the pilot programs have been done there.

SHEILA MOULTON (Trustee, Nevada Association of School Boards):

I am a ten-year veteran of the Clark County School Board. I am here to address S.B. 135. I certainly appreciate the comments of Senator Coffin and his experience. I am going to tell you a little about our policy. It will give insight and possibly answer some of the concerns that have been brought up.

I speak in opposition to this bill but would like to share current policy. Several years ago, CCSD answered the question of school uniforms by a policy that allowed for students, parents or staff to take, by survey, to their school population, the decision to wear uniforms. After many months of public input and discussion at school, region and cabinet level, we found out that not necessarily everyone was in favor of it. There were a lot of different feelings on it. With the help of our legal department, we have produced CCSD Regulation 5131—Dress and Appearance. Senator Coffin has been given his copy.

This regulation allowed for a survey of the parent population to determine whether school uniforms would be worn on campuses. This survey needed only a majority of 55 percent of those who returned the survey. There was a lot of discussion because sometimes there would be few surveys coming in, and 55 percent was easy to get. If the school met that trigger of 55 percent of those returning the survey having a desire for the uniforms, the uniforms were had. A survey can be taken again the next year if the school did not pass that point of 55 percent. Also, it is reevaluated every four years, which allows for new students and families to address this issue.

What we found is several elementary schools and three high schools which come quickly to mind, Desert Pines, Liberty and Del Sol, have taken the opportunity to have uniforms. Certainly, Valley High School, if it had 200 students who had that desire, could bring about this policy.

One of the concerns that we have had is that it would be costly. Senator Cegavske mentioned a lady, Mrs. Wade, whom we both know, who called me this fall. Her daughter had been in a financial bind, had to move into a budget-hotel situation and had to transfer schools. All of a sudden, they were transferred into a school that required uniforms. She had to have that money and did not have it. The school did provide the uniforms, but Mrs. Wade has had various concerns over that over the years.

That really reaches to the cost. In changing that number from K through 3 to the entire school district, at approximately \$200 per student, and using the 42-percent free and reduced-cost lunch population as a baseline, which is our district average, it would cost close to \$25 million. Some parents may find a way, and maybe some stores could help us, but it is a significant fiscal impact.

I mentioned a family starting in a school that has the traditional wear then moving to one which mandated school uniforms. They have already spent money and are requested to do that again. I would ask you to research our regulation 5131. There is the example of case law, where any student who enters into a mandatory school-uniform environment has the option to "opt out." Case law demanded that.

I would encourage you to review the regulation 5131 policy that we have, and in doing so, I would hope you would see that the work we have done would accommodate the desire to have school uniforms. We have had uniforms from elementary up through high school. Our hope was that perhaps by introducing them to elementary schools, students would get familiar with wearing them and have that desire. I will tell you that the schools that have uniforms have found that behavior improved and, for the most part, uniforms have been very effective .

CHAIR WIENER:

You have mentioned several elementary schools and the three high schools. How many schools and how many students would be affected and by what grade category? At this point, I understand there are two or three ways to get a uniform environment into the schools, and the different ways to do that. I happened to see how it works at Wiener Elementary, so I know that not all the students, but probably half the kids, are in uniforms.

Right now, based on current law and policy with the regulations that you have developed, we will be able to compare what is being proposed to what is already occurring.

SENATOR WOODHOUSE:

Philosophically, I like the idea of school uniforms for the reasons that Senator Coffin brought forth. I am concerned about the fiscal part of this and the transiency, which I had not remembered, though I should have, having been a teacher and a principal. The information you can provide will be helpful.

CHAIR WIENER:

When I first started visiting schools in my district, and that goes back to when I was first elected, I visited Orff Middle School. It was an eye-opener for me when the principal said that in the year prior to that he had a 110-percent turnover. If you have anything that would track the transiency rate and

attendance, that would help. Even though they can opt not to have it, there is the social pressure for students not in school uniform which creates a potential dilemma for the child, and in a way, creates an outcast system for the child. If we could somehow get a sense of the transiency, that will certainly affect the decision making here.

DOTTY MERRILL (Executive Director, Nevada Association of School Boards):
Although I had not seen Senator Coffin's revised bill until just a moment ago, the problems that school board members saw in the first bill would still exist in the revised bill. The first of those issues is that both bills would require the trustee to establish a policy that requires students to wear the uniform, and school board members believe that this is a local control issue. The issue of school uniforms has not arisen in every school district around the State. It certainly has not arisen in every school around the State, so there are two pieces to this picture, at least in the policy area. Moreover, there are concerns with the requirement that the school board must facilitate the purchase of uniforms for students who need financial assistance.

Ms. Moulton has described for you the process in place in Clark County. If Senator Coffin wanted school boards to establish a policy that included a procedure for schools to follow, and if the school community wanted to implement the uniform requirement, then certainly we would be happy to do that. All of our school boards could develop a procedure for schools to use, and that is certainly doable; however, the problem remains of the unfunded mandate.

We took a look at the original bill and the number of K through 3 children in the State. There are 135,000 children in those four grade levels. Of those, 46 percent qualify for free and reduced-cost lunches. That is a huge percentage; just under half of 135,000 children now qualify for free and reduced-cost lunches. We know that there are schools in our State where 100 percent of the children qualify for free and reduced-cost lunches. The fiscal impact of requiring the uniforms and then also requiring the school board to provide the financial assistance would be quite large.

I would also like to bring to your attention those families that do not qualify for free and reduced lunches, but perhaps in the current economic times requiring them to purchase uniforms would present a special challenge. We know that there are many families who are close to qualifying for free and reduced-cost

lunches, but they do not. There are families who qualify but choose not to participate for various reasons. Although perhaps we have a number of families that do not technically live in poverty, we still have families for whom the purchase of a school uniform would be a difficult economic choice. If it comes to those parents and those families to make decisions about rent or food, then perhaps the decision for school uniforms would be one that they would need to opt out of, economically speaking. We previously provided to Senator Coffin a couple of suggestions that we would certainly be willing to work with him on, and we would certainly be willing to work with you if you choose to move this bill forward.

CHAIR WIENER:

Where you said, "implementing a policy to expedite or facilitate," my thought would be in Clark County, because it is a school-based decision, when 55 percent of the survey is returned, there must be a policy in place. Was that the regulation you were talking about; how do they facilitate the implementation, school by school?

Ms. MOULTON:

I have to tell you, in all honesty, why it was built the way it is, and it is not simple; it is because of case law. This has been taken to the Supreme Court and other litigation, and that is why it was developed the way it was.

CHAIR WIENER:

Do you mean the Nevada Supreme Court?

Ms. MOULTON:

I believe the federal Supreme Court.

CHAIR WIENER:

Do we have case law in Nevada?

Ms. MOULTON:

I am not sure; I just know that we were very careful to follow case law.

CHAIR WIENER:

So you did not go to the Nevada Supreme Court.

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MS. MERRILL:
Exactly.

CHAIR WIENER:
I get it.

SENATOR WOODHOUSE:
This is an addition to our previous request for information. On the list that you are going to develop for us, of how many in elementary, middle and high school, could you also give us the numbers of how many of those are at-risk schools? That would help us with the fiscal part of it and the transiency.

SENATOR HORSFORD:
I would like some information about the teacher and other support-personnel dress policy.

MS. MOULTON:
We can do that as well. Some of that is developed, and some is not as strong as I had anticipated it to be, so we will certainly get you those policies, as well.

MS. MERRILL:
Do you want that for each school district, Senator Horsford?

SENATOR HORSFORD:
Yes, unless there is a State policy; but if not, I would like to see it for all 17 counties.

CHAIR WIENER:
Are there any other proponents for S.B. 135? Are there any in opposition? In Las Vegas, please come forward and identify yourself for the record and proceed.

JUDY COX (American Civil Liberties Union of Nevada):
I am here on behalf of the American Civil Liberties Union of Nevada to testify in opposition to S.B. 135. I have submitted a copy of my testimony in opposition to requiring pupils enrolled in certain grades in public schools to wear school uniforms ([Exhibit F](#)).

MARY JO PARISE (Nevadans for Quality Education):

Our focus is on the child in the classroom. We spend countless hours in our schools in Clark County and in Washoe County. From firsthand knowledge, there is no way that anybody is ever going to level the playing field using school uniforms. I attended a Catholic school as a child, and even though we had our plaid skirts and our gray tops, we knew who had the expensive socks and the expensive earrings. So as far as leveling the playing field, I do not see that happening.

Clark County School District does have a dress code. I do not think that the dress code they have is unacceptable. I think it is enforcement. Bare stomachs, piercings and all those things are not supposed to show, and I do not know if that is enforced; I think that might alleviate some of the concerns that are behind this bill. In the school I am talking about, the standard student attire was put into place, and it became a very negative thing at the school. It was almost to the point where the kids would "bait" and push that dress code to the very limit, saying, "I have to wear a polo shirt with a collar, but it cannot be pink," so they would wear a peach color. It got to the point where there were more kids being suspended or put on probation for pushing these dress code limits because it became a cat and mouse game. I was really happy last year when we revoted on it, and it failed.

The sad thing is, as Senator Coffin used Valley High School as an example, this school has an enrollment of about 2,961 students right now and only 200 kids signed the petition. When we survey families, we survey students, and we do not get very many back. So it is not a good example of what people really want.

School climate is vital, and if we are going to have school uniforms, it has to be done by and for that student population and their families. If you do not have them supporting this, they are going to do the things that I saw at the school that I am most familiar with, and it will become a very negative thing. The kids really hated to go to school because of it.

There is absolutely no link to student achievement and dress code. Safety possibly, is a factor, but if we enforce the dress code that we already have and do not allow oversized, baggy clothing, that, is fair. Once again, this is something that the school district should have the authority and autonomy to do if they so choose. I really do not want to see this legislation.

CHAIR WIENER:

Please identify yourself for the record and proceed.

BRYN LAPENTA (Senior Director, Public Policy, Accountability & Assessment, Washoe County School District):

Everything has been said by Dr. Merrill and Ms. Moulton. We too have a procedure in place for our schools in which the parents and the staff make the decision together to have school uniforms. I believe we have it in two schools; I know we have it in one elementary and one middle school. Both are very successful programs, and part of the reason they are successful is that the parents were involved in making the decision to have the school uniforms.

MARK COLEMAN (Deputy Director, Clark County Association of School Administrators and Professional-Technical Employees):

For all the reasons you have already heard, we actually do not support the bill. I will add one other dimension. Prior to coming to the position I am in now, I worked in the CCSD as principal of Silverado High School until two years ago when I retired. The year before I retired we had held conversations with our student body and our community. We had considered possibly going to uniforms. In the beginning of that year, we took a look at our students who showed up for the first day of school, and although time-consuming, we tracked who we had at the end of the year. We had experienced a turnover of over 400 students. If we had gone in the direction of uniforms voluntarily, we would have forced roughly 400 families to buy uniforms, move on to another school, not use those uniforms and have wasted the money. Clearly, they would have had clothes but still would have wasted the money.

My experience in the district after 28 years was the higher transient rate reflects the lower socioeconomic students. We would have placed an unfair financial burden on the families of over 400 students. Families who buy \$500,000 to \$600,000 homes are not the ones that are moving all over the district. So, for that reason as well as our position now, we do not support S.B. 135.

CHAIR WIENER:

That was my concern when I heard about Orff School and the 110-percent turnover. How do you teach a population you did not know the first day of school? That is a big challenge for many other reasons. Are there any others in opposition to S.B. 135? According to the sign-in sheets, that is everyone.

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SENATOR CEGAVSKE:

I was hoping that Dr. Jane Nichols would come up to talk about the uniforms on the university campuses.

CHAIR WIENER:

We will close the hearing on S.B. 135 and open the hearing on S.B. 62 which revises provisions governing special education.

[SENATE BILL 62](#): Revises provisions governing special education. (BDR 34-426)

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

Senate Bill 62 came about, and the Department of Education (DOE) requested this bill through discussions with school districts where they asked if there was some way to get flexibility in some of the State special education units. In the introduction of the bill, the federal Individuals with Disabilities Education Improvement Act of 2004 (IDEA) does allow up to 15 percent of federal funds currently to be used for intervening services. What S.B. 62 does, particularly in sections 3 and 5, is allow special education units provided through the State formula to use up to 15 percent for intervening services.

Earlier you had a presentation on the response to intervention and the question came up, why could you not serve non-special education students? Part of it is because only a certain percentage of the federal money could be used, and currently the State units cannot be used. The definition of students needing intervening services reads, "They are non-special education students, but they need some specific help to be successful."

I think the real issue with the bill is, no matter how you look at special education funding, there is not enough to go around to begin with. Even though the federal law allows it, it is optional that they may use some for intervening services, and that is what this bill would do; still make it optional.

I did submit an amendment ([Exhibit G](#)) for consideration on behalf of the DOE. We did not want to force any district or parent to feel that this was going to be mandated. The amendment basically allows flexibility for districts and counties whose population is less than 400,000. I do not want to speak for Clark County, but the issue is, "is there enough special education funding to fund the special education programs to begin with, currently?" I do know there

are districts here that can give you the details of why this flexibility would be helpful, and why they would support the bill. If there are any specifics as far as the program, and what it can or cannot do, Frankie McCabe is here to answer your questions.

SENATOR CEGAVSKE:

You cannot use more than 15 percent of allocations for early intervening services. Do we have a cap now?

DR. RHEAULT:

For the State-funded special education units, there is no authority to even use any percentage; it is all for special education students. Only the federal IDEA money can be used.

SENATOR CEGAVSKE:

Would the 15 percent be allowable for intervening services?

DR. RHEAULT:

Yes, from the special education State-supported units.

SENATOR CEGAVSKE:

Are you doing this for autism? Is that part of what this is?

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

Yes, we are doing it to help districts develop their identification systems for students who have specific learning disabilities. In 2004, the federal IDEA amendment allowed districts to choose how they wanted to identify students with specific learning disabilities and one way is through a response to intervention systems. Districts are now, for the past few years, implementing intervention systems for students prior to being identified as special education students.

SENATOR CEGAVSKE:

Can this be used for private sources or interventions that may be a service like Easter Seals?

MS. MCCABE:

It is conceptualized that it be used for students currently enrolled in the K-12 system.

SENATOR CEGAVSKE:

Unfortunately, sometimes we do not have the services, and there are alternative services out there. Would that behoove us to allow other services to be utilized?

MS. MCCABE:

There is a certain amount of services allowed, a proportionate share, under IDEA. Districts are obligated to use some of their federal funds to serve students that are in private schools. It is a process mandated under IDEA.

CHAIR WIENER:

It is not about students in private schools. This is about students in public schools that might be able to access that service at their school but could through a nonprofit service like Easter Seals.

SENATOR CEGAVSKE:

I was just curious because I know that we do not have all of the services all of the time through the school districts, and I was wondering if there were any provisions that could allow for that. What about the Department of Health and Human Services (DHHS) under Director Willden? There are intervention services there. Can this money be used for programs there?

MS. MCCABE:

No, this is strictly for services that are education-related.

SENATOR CEGAVSKE:

But, the services of DHHS are educational. That is why I am having a hard time.

MS. MCCABE:

The whole intent at the federal level, and we are trying to create it at the State level, was to help the identification process for students with specific learning disabilities. Many students who are struggling learners end up in special education because there is no other intervention system to help them. This was meant to help students who struggle academically, or behaviorally, and allows some funding to be used for that. Not every student that struggles ends up with a special education label.

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DR. RHEAULT:

In section 3, [Exhibit G](#), for example, there is specific money that is part of the basic support guarantee for special education students that we distribute to school districts. Those funds have to go there because it is part of the basic school distribution formula.

SENATOR CEGAVSKE:

Thank you. Please explain to me how you came up with the 15 percent and that rationale. In doing that, is there going to be less money available for what we have already been doing? Is that an issue for you?

Ms. McCABE:

The 15 percent is merely a parallel off the "up to 15 percent of federal funds" allowable by IDEA to be used for intervening services. Nobody would be required to access this flexibility and, if they choose to, they could only use up to 15 percent. The maintenance-of-effort requirement still applies to the State funding, so districts could only use excess money once they have met their maintenance-of-effort requirement.

CHAIR WIENER:

Is anyone else in support of S.B. 62?

SCOTT REYNOLDS (Assistant Superintendent for Special Education and Student Support Services, Washoe County School District):

I am here in support of S.B. 62. I have submitted a copy of my prepared text ([Exhibit H](#)).

CHAIR WIENER:

Have you reviewed the amendment that was provided by the DOE, [Exhibit G](#)? Have you reviewed that and are you okay with that?

SCOTT REYNOLDS:

Yes.

CHAIR WIENER:

Is anyone in opposition to S.B. 62? We will close the hearing on S.B. 62, and we will proceed with S.B. 148.

SENATE BILL 148: Authorizes the Board of Regents of the University of Nevada to waive tuition and certain fees for certain members of the Armed Forces of the United States and their spouses and dependents. (BDR 34-198)

TIM TETZ (Executive Director, Office of Veterans' Services):

There is a military mantra that says a good battle plan is only good until the first bullet is fired, and then it changes. That is what has happened to us today. I want to give you a little background on how S.B. 148 ended up on your desk today to better understand the proposed route that I hope you will take with it.

In February, prior to every session, we sit down with the veterans, statewide, and ask what the issues are, and what they would like us to address in the coming two years. This last February, the veterans provided a list to us that was 62 issues long. We went through that list with them and prioritized the list to get a general consensus from the veterans' community of where we should be spending our efforts and time in pushing for bills. This year we had an Interim Study on Issues Relating to Senior Citizens and Veterans. That interim study gave us another opportunity to educate legislators and others about the issues that are out there. Through that study, then Senator Heck, who sat on the committee, listened to many of the issues and developed the bill draft request that became S.B. 148.

When we met as veterans, the veterans said, "We would like to have educational benefits similar to California for disabled veterans. We would like to put into law some of the benefits that are offered through the university system right now for widows, widowers and their dependent children. We would look toward further enhancement and education opportunities for veterans." Your counterpart, Senator Care, was there and briefed us on the fiscal nature as we knew it a year ago, and, as we all know, it has changed since then. Thus, we were surprised by S.B. 148. His advice to us was to basically hold off on the partial disability and not ask for that waiver now; to hold off on that until better times and then maybe readdress that, but to try to proceed on a couple of the other issues.

This bill basically contains four sections of substance. Section 2 puts into law what the Board of Regents is already doing, granting a waiver to widows, widowers or dependent children of Nevada National Guardsmen killed in the line of duty. This is something they currently do, and they also extend it to prisoners

of war and persons missing in action. This is already addressed through this Session's Assembly Bill (A.B.) 188.

ASSEMBLY BILL 188: Authorizes the Board of Regents of the University of Nevada to waive certain fees and tuition for certain persons. (BDR 34-915)

That bill passed out of the Assembly Committee on Education and is waiting for final passage in the Assembly. If it passes, section 2 is ultimately not necessary.

Section 3 is that piece of the bill that Senator Care advised us to delay for better times. This would grant a waiver of tuition charges for dependent children, spouses or those who are partially disabled. This is for a veteran who served, has come home and the Veterans' Administration says, "because of your service and injuries resulting from your service, you have a disability rating of anywhere from 0 to 99 percent." This would grant a tuition waiver to their dependents. This obviously has a fairly steep price tag. One of the veterans with me today always presses me on this and says, "My kids got a great education in California because of this." This is certainly an opportunity to do what they do in California, but we agreed, as veterans, that this section is certainly too costly at this time.

Section 4 basically grants a tuition waiver for a spouse or dependent children of veterans who are totally disabled, those veterans that have been granted a 100-percent disability through service to their country. It also adds widows and widowers of those who have been killed in active duty. The second half of this section is already done by the Board of Regents through a waiver that they applied to survivors of those killed in service to their country. This would merely put this into law. Many of those dependent children are already eligible under the federal statute for survivor benefits.

Section 5 allows the waiver of tuition that is currently allowed for the Nevada National Guard to any member of the Reserve components of the Armed Forces of the United States. This is then opened to all the reservists, basically nationwide, of the five military branches. That is where we are, and that is why the bill is in front of you today. What I would propose is that you hold this bill. Let us see if we can get A.B. 188 out of the Assembly and over to the Senate Committee on Health and Education.

We will only then be sacrificing for better times the ability to have the partially disabled veterans' tuition waiver, which is a reasonable thing to do by anyone's account. If for some reason A.B. 188 gets caught up, I would like to come back to you and ask that this bill only include sections 2 and 5. Section 5 needs to be changed to read Nevada Reservists and not wide open to any reservists in the United States.

CHAIR WIENER:

Please keep us informed as to how things are moving in the Assembly. You have mentioned section 2 and section 5 with some amendatory suggestions. If indeed this were the one to move forward, we would need you to provide that specifically to this Committee for consideration.

JANE A. NICHOLS (Vice Chancellor, Academic and Student Affairs, Nevada System for Higher Education):

I had a long testimony planned, and I want to express my appreciation to Mr. Tetz who has really taken care of these issues. The Board of Regents has been very active and involved in trying to make sure we have policies to support veterans to the best of our ability. After September 11, 2001, we passed a policy extending benefits, particularly to those who had served in Iraq and Afghanistan. We have made every attempt to make it possible for those enrolled in our institutions who are called to active duty to have a seamless process, not be kept behind in their studies and be able to return to campus to continue their studies.

We are here to be very supportive of all policies that support veterans, and whatever the State wants to do on this. However, we did write a fiscal note on those portions of the bill that would extend Nevada residency, or cover both tuition and fees for in-State residency, for the military and veterans from across the United States. The State of Nevada cannot afford to do that now, and Mr. Tetz, in his testimony, indicated that. However we go forward, we want to limit this to Nevada residents or to dependents and spouses who are Nevada residents.

We are all on the same page. We certainly would be happy to come back to the Legislature when money is available to extend those benefits to Nevada residents who have disabilities. The only sticking point on the issue of Nevada residency seems to be the cost now. As far as the other categories, I have submitted a summary of the Board of Regents current policies concerning

servicemen and servicewomen ([Exhibit I](#)). We do have a tuition waiver as requested at the federal level. All active-duty military stationed in Nevada are not charged tuition; they are in-State residents. Their dependents and their spouse are in-State residents. We work very closely with the bases in our State to make sure that the door is open for all military stationed in Nevada who attend our campuses.

Also, if the active-duty military member is reassigned elsewhere, the spouse and dependents who have started attending our institutions continue that residency, even after the member leaves, which is only fair.

We also have the National Guard fee waiver, [Exhibit I](#), which Senator Care worked on with you and with us, and we put that in place in 2005. That has been a very successful program. We also have a line-of-duty death grant which we put in place particularly for dependents of those killed in the line of duty to have a portion of the registration fees waived as allowed us by the Legislature.

We are certainly eager to work with you, but we are very thankful that the fiscal note has been taken into account. We certainly want to do all that we can afford to do now.

CHAIR WIENER:

Anyone in support of S.B. 148 please come forward. Is anyone in opposition to S.B. 148? Please come forward.

ED GOBEL (President, Council of Nevada Veterans Organizations; Southwestern States Regional Director, Chapel of Four Chaplains):

I am not speaking for those organizations today. I am a little confused as to what the bill is before you today. Has an amendment deleted various sections, or do we still have the bill? I want to testify, but I do not want to waste your time if there have been sections officially removed. If not, I will speak to them, and we can save them if they are reconsidered later.

CHAIR WIENER:

Tim Tetz has suggested that we put S.B. 148 on hold. We have had the hearing although you certainly are invited to participate. There is a bill processing, A.B. 188, in the Assembly that addresses many of these concerns in the version that Mr. Tetz outlined for us, removing certain pieces. If this one were to proceed and found to be erroneous, then only section 2 and section 5 would

move forward in this bill, and that would be only for Nevada residents. That is what was proposed, and that is what the consideration was; however, we would certainly need to see a draft of the amendment before we would proceed. Feel free to enter your remarks for the record.

MR. GOBEL:

In most of the sections here, we have a duplication of benefits already. For anyone who is 100-percent service-connected disabled, their family and dependents receive benefits for tuition, etc. My daughter has two masters degrees because I am a 100-percent, service-connected disabled veteran. I am wondering how the bill would deal with the duplication of the federal and State benefits for the same items.

As to the partial disability, that is what we would oppose because the partial disability would have to be more clearly fleshed out. As a serviceman, I could go from Nevada to Hawaii and serve in Hawaii, and then one evening go out with my buddies scuba diving and injure my leg, or whatever, while on active duty. When I got out, I probably would get a rating of 10 percent disability for the scar I got while I was in the service, and that would qualify me as well as all my family for free tuition. That is not fair to anybody, especially in these times when people are losing their homes, trying to put their kids through college when they cannot afford the fees, etc., and they cannot go to college because I went scuba diving. That is why I do not think partial disability is a fair qualification for free tuition. If you want to say all veterans who serve in the military are entitled to free tuition, so be it, but not for just a minor injury.

We would support the other provisions of sections 2, 4 and 5 because they are not duplicated in federal law. It would not be fair to duplicate both of those, but the university has bent over backward to help all veterans. I have sent many people there who have been treated with the dignity and respect they have earned.

This bill is rather interesting given the fact that we have received such tremendous testimony from people on another bill that we considered, S.B. 71, nicknamed the "tattoo-man bill." In that bill, we talked about not having an honorable discharge, and you notice in every section of this bill, the requirement is that the person have an honorable discharge.

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LINDA WEST MYERS (Council of Nevada Veterans Organizations; Chapel of Four Chaplains; Go West Institute, Higher Education Division):
My brother has covered all of our concerns at this time. If you do decide to proceed with this, then we will come back and readdress the shape of the bill at that time.

CHAIR WIENER:

We will put this bill on ice as we watch the process unfold. Mr. Tetz will stay in touch with the Committee, and Dr. Jane Nichols as well, to let us know what is proceeding, and how to go forward with this particular legislation.

We will close the hearing on S.B. 148. I will pass the gavel to Vice Chair Woodhouse as I move forward to testify on S.B. 163.

[SENATE BILL 163](#): Revises provisions governing safe and respectful learning environments in public schools to prohibit cyber-bullying. (BDR 34-28)

VICE CHAIR WOODHOUSE:

Please identify yourself, Senator Wiener, and proceed.

SENATOR VALERIE WIENER (Clark County Senatorial District No. 3):

For the record, I am State Senator Valerie Wiener, representing Clark County Senatorial District No. 3. Today, I appear before you to seek your support for S.B. 163. I have submitted a copy of my prepared testimony ([Exhibit J](#)) to be labeled as such.

As you know, the DOE is already required to prescribe a policy for all school districts and public schools to provide a safe and respectful learning environment for our children. This means an environment that is free of harassment and intimidation. Several sessions ago I was part of the legislative team that defined the language for this requirement. The S.B. 163 expands these provisions for a safe and respectful learning environment to include a prohibition on cyber-bullying. Section 10 of S.B. 163 requires the Council to Establish Academic Standards for Public Schools (CEASPS) to expand the standards of content and performance for courses in computer education and technology. The expanded content would include a policy for the ethical, safe and secure use of computers and other electronic devices. The specifics of this expanded policy are listed on page 5 of the bill.

In the requirements listed, you can see the far-reaching effects and potential damage of cyber-bullying. For example, on page 5, lines 31-39, entitled, "The secure use of computers ...," you will note the inclusion of references to identity theft. These along with other provisions demonstrate how important it is to teach our children about the expansive threats as soon and as often as possible. The article titled, "*STOP Cyberbullying*" ([Exhibit K](#)), references more of "What is cyberbullying, exactly?"

The S.B. 163 requires each school district to adopt a policy to address cyber-bullying in its policy provisions about safe and respectful learning environments. Current law prohibits a person from using any means of oral, written or electronic communication to knowingly threaten, cause bodily harm or death to a pupil or school employee with the intent to, (1) intimidate, frighten, alarm or distress the pupil or school employee, (2) cause panic or civil unrest or (3) interfere with the operation of a public school. The S.B. 163 specifically adds the use of cyber-bullying to this list of legally prohibitive acts.

That sums up S.B. 163, and though my remarks only highlight the reasons and provisions of this legislation, I cannot stress how essential it is to enact this measure. When I first proposed this bill, I knew the problem was real, but I had no idea as to how big it had already become, and how fast it is escalating. Today, we can take an important step toward addressing this pervasive problem, and it is for these reasons that I seek your support for S.B. 163.

SENATOR CEGAVSKE:

You want this to go to the Council to Establish Academic Standards for Public Schools then to each school district, or each school, to input its own policies. Do you want input from all 17 school districts?

SENATOR WIENER:

It would mirror how we are already developing standards for safe and respectful learning environments. This would be adding a piece that was not even contemplated when we first developed policies about harassment and intimidation. I have talked with some of the school district representatives. We are probably already 90 percent of the way there with the work that has been done. This is adding the piece that has evolved since we first established these policies.

SENATOR CEGAVSKE:

It sounded like there was a missing part, and that would be how to enforce something. You do not want this to happen, but if it does happen what are the consequences? I do not see anything in here, so that would be a policy that would say, "You are suspended," or it would be up to the school districts.

SENATOR WIENER:

I did mention California. The California bill allowed administrators to address enforcement. This particular legislation is focused on the education component to teach the young people what to look for, and how to be wiser in their use of electronic devices.

SENATOR CEGAVSKE:

I do not disagree with anything you are doing, but what I hear whenever we add one more thing is the teachers' association asking what do we get rid of in order to put this in. If you say we are 95 percent ...

SENATOR WIENER:

We already have training developed for the intimidation and harassment piece. Again, I have talked with one of the CCSD representatives and we are about 95 percent there. If I may address the bill, there are some fiscal notes that are attached to this. I have done a lot of homework on this. Much of that could be addressed by changing the implementation date to no later than the same month of 2010 because materials for these training programs have already been published and printed. That is where a lot of the cost had been and we would go forward from there.

SENATOR CEGAVSKE:

Out of curiosity, as the Chair of the CEASPS, when did you want that policy back to you?

SENATOR WIENER:

As Chair of this Committee, these are pieces I am learning to put together.

DR. RHEAULT:

The timing of the bill actually would work very well. We currently have draft-revised technology education standards being developed, and we are just going out for public comment. It is scheduled for a draft review the first time by the CEASPS on June 17 or June 18.

SENATOR CEGAVSKE:

Will we be amending if this passes?

DR. RHEAULT:

I have had staff look at the general requirements of S.B. 163, section 10, subsection 2. I did not have them look at the specifics, but I know, for example, the full standard for a policy on ethical, safe and secure use of computers. It almost mirrors a standard that is in our draft standards already. I know they have specific objectives for each one of those. What I must have them look at are the real specifics; for example, everything in subsection 2 (c) under secure use is in our standards already.

What they have not looked at yet, as we specifically mentioned, under subsection 2 (a), is cyber-bullying in the standards. We will provide the bill to the CEASPS to consider it for public input just as any other input we will get to consider it for revision. As in the past, I hope to have them pretty well matched before it even gets to the CEASPS. If the bill does not pass, then it would be for the CEASPS to consider taking out or leaving in the standards.

We can support the bill. When I did the fiscal note on this, there was no existing note because we were already doing the work on the CEASPS. It was within the time line, and I did not see any additional work. The modifications to the policy will take some work, but that is standard procedure, then we will send them to the school districts. Looking at the time line in the last section, section 12, the date to establish the policy was on or before January 1, 2010: We will be well within the time line. If they look at the drafts in June, that gives us six months if we need to modify them.

SENATOR WIENER:

That would work well with moving the implementation date out by the year 2010.

DR. RHEAULT:

Yes, the districts would need time to take on the new standards anyway. We usually give them a year to work on that, to get it into their curriculum. The implementation date may be best moved to January 1, 2011, but we will have the academic standards done no later than September 2010.

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VICE CHAIR WOODHOUSE:

Moving on, we do have a number of people who wish to speak in favor of this bill.

JAMES D. EARL (Executive Director, Nevada Technological Crime Advisory Board):
My advisory board is a joint executive and legislative agency. The present elected Chair of that group is Attorney General Catherine Cortez Masto. The Vice Chair is Senator Wiener. I am here today representing the Attorney General.

This morning, the Attorney General is in Las Vegas and cannot be with us today, but she signed the following letter addressed to Senator Wiener. The text of this letter is presented to the Committee ([Exhibit L](#)).

MS. LAPENTA:

I am representing the Washoe County School District, and we are in full support of this bill. We support not only the provisions that will allow a child to feel safe and respected while in school, which we embrace wholeheartedly, but also the fact that we will be educating children and teachers on preventative measures against the outside influences that want to come in to harm our children. Thank you very much for this bill.

BART MANGINO (Clark County School District):

Our district also is in support of this legislation. It mirrors and improves upon CCSD's existing policy and reinforces the commitment to provide a safe and respectful learning environment for our students. It might be a good time now to mention, for clarification purposes, the fiscal note that originally was attached to this. Upon a closer look, we understand now that the bill's primary focus is on education. The initial fiscal note was based on expenses of monitoring. That has been explained, and I would like to clarify that for the record.

JOSHUA MARTINEZ (Detective, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

We support the bill.

SENATOR WIENER:

With the new understanding of the intention of the Legislation, and probably moving the implementation date out, would you tell us what you anticipate the fiscal note might be now?

MR. MANGINO:

It would be substantially reduced. It provides us with additional time in which to change the documents that you refer to in your testimony and also the opportunity to address the changes in the academic standards. With regard to current policy in the CCSD, for lack of a better term, enforcement, we would stay within the guidelines that we currently have. To attach a dollar amount to that, I would have to go back to our chief financial officer and get that information for you.

VICE CHAIR WOODHOUSE:

Are more in support of S.B. 163?

MR. GOBEL:

I represent the Southwestern States Regional Chapel of Four Chaplains. I just received the authorization to say on their behalf that they wholeheartedly support this bill. Although in most cases they would not take a position, they think this issue is one of freedom. It sounds restrictive, but it is a matter of freedom to those who have been harassed by cyber-bullies who are able to do their work anonymously with the equipment we purchase for them. Thank you for bringing this forward.

MS. WEST MYERS:

As a lay chaplain with the Chapel of Four Chaplains and a volunteer, I have assisted with suicide hotlines, guiding people through difficult times. I have seen the impact of cyber-bullies. Preteen-agers and teenagers are the most vulnerable to cyber-bullying, and they deserve our protection. In fact, it is our responsibility to protect those who cannot defend themselves.

As an educator, I understand the importance of a safe learning environment. I would also say it is now time to update the *Nevada Revised Statutes* for technology that has been present for years utilizing equipment through the authorization of this legislative body. I appreciate this legislation being brought forward at this time.

JULIE WHITACRE (Nevada State Education Association):

We are also in support of S.B. 163 for all of the reasons of the previous speakers. We are 95 percent successful toward completing and implementing standards for creating a safe learning environment. The other 5 percent of the work yet to be done was not even contemplated when we first established

these policies. A growing problem that most people are not aware of is cyber-bullying of educators by students and postings of false information on social Internet sites. We are glad to bring this language forward and address some of those concerns, as well.

SENATOR CEGAVSKE:

Are you already teaching 95 percent of the bills content, and then the 5 percent coming on board will be additional?

MS. WHITACRE:

The districts can probably better respond as it is different in every district. As far as I am aware, all districts are teaching some form of harassment education already. We just need to implement the cyber-bullying part into it.

SENATOR CEGAVSKE:

I know that over the years, we hear requests to not give the schools more because they cannot teach what they already have. I wanted to clarify that.

MS. WHITACRE:

It is already being taught; it just adds a little more to the curriculum. Cyber-bullying is a growing problem not only for our students but for our educators as well.

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

We are in full support of this legislation. Having been a principal, having worked through the bullying problems of old, the bullying problems that are new pose a greater challenge, and we have got to find ways to correct that.

SENATOR CEGAVSKE:

When my son was a substitute teacher, he commented to me that some kids create Websites about the teachers. They take pictures of the teachers with their cameras in the classroom and post them on the Website. The kids not only enter their comments, but other kids make comments as well. I do not know if this has been addressed or if this is a huge problem, but I was shocked to learn of unauthorized cameras in the classroom with teachers subjected to having their picture taken at any time. Is that being addressed? This is another form of harassment. Have you heard how they are dealing with this?

SENATOR WIENER:

In the digest of the bill, lines 16 through 19, and I also refer to them in my testimony, it is noted: "Existing law prohibits a person ... knowingly threaten to cause bodily harm ... pupil or school employee" Of all of those provisions, I am adding cyber-bullying to them.

SENATOR CEGAVSKE:

It is not illegal to take a teacher's picture in the classroom. There is no law that prohibits that or putting a Website up about your teacher. How do you teach that a student may not take a teacher's picture and put it up on a Website? I am concerned about that.

SENATOR WIENER:

I am not an educator, but I have worked on books that involve young people, particularly teenagers, and their behaviors. I am not sure that by teaching not to do something the first time they will hear it. I am not sure that is a suggestion they might not have already heard. As I said in my testimony, it is a first step and maybe that is something that can be addressed more specifically in the group that you chair. This bill does add cyber-bullying to that long list of prohibitions so teachers would add the protection of students and teachers.

SENATOR CEGAVSKE:

How do you prosecute some who do it to themselves? There were conversations about kids taking nude pictures of themselves and texting them to other kids. The pictures go all through the school and get put on Websites. They are doing it to themselves.

SENATOR WIENER:

It is time for us to do something about taking that step which is why I brought the bill. That will be part of the conversation if I am privileged to be able to work this through to final passage. That will be part of that dialogue in establishing what your Council will do.

VICE CHAIR WOODHOUSE:

I would add to what Senator Cegavske has said. The problem is growing with students.

MR. EARL:

The problems you cite include the harassment of teachers and "sexting." That particular word entered the computer-Internet vocabulary perhaps six to nine months ago. The phenomenon was observed prior to that, but once awareness had gotten to a certain level, it developed its own name.

Sexting is problematic in a number of different ways. It formed the basis of discussions that members of the Attorney General's staff had with law enforcement and with prosecutors, both in the north and south, on another bill that deals with some of the changes to Nevada's child porn statutes. One of the problems with sexting, aside from the problems associated with interaction among students, is that the taking and sending of a picture of one's self, if you are under age, is production of child pornography. Sending it to someone else is dissemination of child pornography. The person who is the initial recipient and promulgates further, with or without the consent of the original sender, is also promulgating child pornography.

This is one of the problems faced by Nevada law enforcement, particularly the Internet Crimes Against Children officers. They are required to begin investigation of these complaints because this is, in fact, sexting, even if done by pre-teens and teenagers. If the production is a self-picture, the promulgation and distribution of that photograph potentially runs afoul of Nevada's child pornography laws.

We thought about whether it was possible to come up with a modification of Nevada Statutes, so this was not potentially criminal behavior. Our first brush with this during the last interim session was that we did not know a way to do it. We would have to draw some very fine distinctions that would not be appropriate, necessarily, in all cases, because quite possibly there are some types of sexting that should be criminal depending on the circumstances, ages and so forth. This is one of the reasons for the Attorney General's letter. She indicated that the various topics which the bill addresses including the ethical use of Internet telecommunications, as well as safety and security, are all interrelated.

Sexting and harassment of teachers are patterns of conduct that have a couple of different dimensions to them. They can be viewed as both Internet safety and Internet ethics in terms of what is appropriate to what is inappropriate with the variety of different telecommunication devices that we have.

The problems that you identify are well recognized. The Technological Crime Advisory Board (TCAB) has received information from law enforcement about all of these topics. Prosecutors, law enforcement and members of the Attorney General's staff have considered whether such things as sexting are an innocent type of dissemination of child pornography. Is it essentially kids who are engaged in that pattern of behavior where they do not really recognize the consequences? One of those consequences is that once a picture of any type makes it to the internet, potentially it survives forever. The age-appropriateness of the instruction which this bill contemplates, and the interrelationship between safety, security and ethics would allow teachers to address all of these concerns in an age-appropriate way in the classroom.

I would like to add that beginning about three years ago the TCAB received not one, but two different briefings from the teacher who was responsible for introducing the student Internet Safety Program in CCSD. She made several different presentations to the Board, outlining what the program was and giving an update in terms of the implementation stages.

During the period I was planning for her presentations to the Board, I went to some of the national programs which are designed to assist educators and parents with regard to these related topics of ethics and safety in student interactions. Some of those organizations retain records of who they have trained and who has become a part of their program. I was surprised to learn about a year ago the number of Nevada law enforcement agencies and school districts that had received Train the Trainer instruction from either i-SAFE or NetSmartz. This goes to concerns that you voiced about whether this legislation involved something that was wholly new to school districts. As my own research demonstrates clearly, it is not.

SENATOR CEGAVSKE:

One of the things we can do with this bill is let the students know they can be charged with child pornography. That would have to send a little red flag. On Parent Night at schools, what a great opportunity to hand out a little brochure, "Your Child Can Be Charged With ... "

MS. WHITACRE:

Cameras in the classroom are really some of the least of our problems. You do not need a camera in order to harass the teacher. There have been instances in Nevada, on more than one occasion, where a student will edit the head of the

teacher onto somebody else's body, not necessarily clothed, and put it on My Space or another social Internet site. They will also make fake pages about educators, list hobbies and activities that are not necessarily legal either. Other students will see this as well as parents. Parents then come to the teachers and ask what they are doing, why they are posting that sort of information and pictures. This is causing problems for teachers and diminishing their ability to do their job effectively.

MR. SHIELDS:

The same problems apply to administrators, and I am sure we have had the same kinds of things happen. I want to make the Committee aware that the problems are out there and known. There is a television special tonight on sexting. I just want to make you aware that it is widely known in northern Nevada.

VICE CHAIR WOODHOUSE:

Are there any other comments on S.B. 163? Hearing none, we will close the hearing on S.B. 163 and call for public comment.

SENATOR CEGAVSKE:

The other thing that was brought up is students just going on line and Googling the teachers. They learn teachers' addresses and any other information they can pull up. It is getting pretty scary out there.

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VICE CHAIR WOODHOUSE:

There being no other business, this meeting of the Senate Committee on Health and Education is adjourned at 5:28 p.m.

RESPECTFULLY SUBMITTED:

Maureen Duarte,
Committee Secretary

APPROVED BY:

Senator Valerie Wiener, Chair

DATE: _____