

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Seventh Session
March 27, 2013**

The Senate Committee on Education was called to order by Chair Joyce Woodhouse at 5:12 p.m. on Wednesday, March 27, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 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 Joyce Woodhouse, Chair
Senator Aaron D. Ford, Vice Chair
Senator Ruben J. Kihuen
Senator Barbara K. Cegavske
Senator Donald G. Gustavson

GUEST LEGISLATORS PRESENT:

Senator Joseph P. Hardy, Senatorial District No. 12
Senator Moises (Mo) Denis, Senatorial District No. 2

STAFF MEMBERS PRESENT:

Pepper Sturm, Policy Analyst
Sara Weaver, Committee Secretary

OTHERS PRESENT:

Coraleigh Bales, Intern for Senator Joseph P. Hardy
Chelsea Capurro, American Diabetes Association
Lisa Murdock, Director, State Government Affairs, Nevada Chapter, American Diabetes Association
Irene Smith, Chair, Nevada Chapter, American Diabetes Association
Jeanie Richardson, American Diabetes Association
Ruben Murillo, Jr., President, Clark County Education Association

Bobbi Shanks, RN, Elko County School District; Director, Nevada State Association of School Nurses
Sheila Story, Chief Nurse, Carson High School, Carson City School District; President, Nevada State Association of School Nurses
Diana Taylor, Chief Nurse/Director, Health Services, Student Support Services Division, Clark County School District
Dana Balchunas, Director, Student Health Services, Washoe County School District
Fred L. Hillerby, State Board of Nursing
Chris Moore
Khanh Pham
Crystal Abba, Vice Chancellor, Academic and Student Affairs, Administrative Services, Nevada System of Higher Education
David Perlman, Administrator, Commission on Postsecondary Education

Chair Woodhouse:

The Committee will hear Senate Bill (S.B.) 320.

SENATE BILL 320: Revises provisions governing medical care in schools.
(BDR 34-831)

Senator Moises (Mo) Denis (Senatorial District No. 2):

Senate Bill 320 ensures that students with diabetes have access to the care they need to participate in school activities. Federally, children with diabetes are protected by several laws including section 504 of the Rehabilitation Act of 1973. This civil rights law prohibits discrimination based on a disability, and it requires schools to provide accommodations to students with some disabilities, including diabetes. Under section 504, schools are required to develop a 504 plan that specifically states the child's needs and the services required to meet these needs. Schools are required by law to provide accommodations for students with diabetes, but this is sometimes problematic for the school and the student. Many schools do not have full-time nurses. For schools that have nurses, the nurses are often unavailable because they cover multiple schools. Nurses are not present before or after school or to accompany students on field trips. This bill assists schools to meet their obligations to students with diabetes. By training unlicensed school personnel to serve as alternates to nurses, the care of students with diabetes is not interrupted when the nurse is not present. Too often, parents of students with diabetes are told to come to school to care for their child or that their child cannot attend field trips if the

parent is not in attendance. The American Diabetes Association (ADA) seeks to resolve problems students are having in accessing care during school hours. We want to ensure diabetic students can participate in school in a medically safe way while giving school districts the ability to make decisions that best use existing resources.

This bill accomplishes two things. It allows students with diabetes who are able to self-manage their disease to do so in the classroom or during school-sponsored activities such as field trips. Physician and parental consent is required currently. This change will prevent students from having to leave the classroom to test his or her blood glucose levels. It is estimated this change could save the student as much as 30 minutes per day in lost instructional time. In addition, this bill allows nonmedical school personnel to volunteer to be trained to administer insulin in cases where school nurses are not present.

Nineteen other states have adopted this policy. They have done so because the policy is safe and is supported by leading organizations concerned with the care of children with diabetes. Unlike other diseases that are managed by health care professionals, diabetes is a disease usually managed by the patient or layperson. Nurses and diabetes educators have successfully trained people how to manage diabetes every day. Medical technology has advanced making diabetes management easier than it once was. Blood glucose levels can be checked accurately within seconds. Insulin delivery systems such as insulin pens and pumps are commonly used by school-aged children. This technology was designed and approved by the FDA for use by laypeople.

This bill does not ask to train school personnel to make any assessment about dosing but to follow a plan prepared by the child's physician. All school personnel must be trained before they can care for a student with diabetes. Resources and training materials are available for school use free of charge. This bill is not a mandate. This bill allows schools to train school personnel to care for students with diabetes when a nurse is not present. Under this bill, school districts and school personnel are immune from civil liability. I ask for your support of S.B. 320.

Senator Cegavske:

Will volunteers be trained to identify diabetic shock?

Senator Joseph P. Hardy (Senatorial District No. 12):

Yes, they will be trained to recognize the symptoms of diabetic shock as opposed to situations where the child is unconscious. When a person with diabetes is unconscious, he or she must be hospitalized. The volunteer will not be allowed to administer medications to persons who are unconscious.

Senator Cegavske:

Are children with asthma allowed to carry inhalers on campus?

Senator Hardy:

Yes, they are allowed to carry inhalers, and students self-medicate as needed.

Coraleigh Bales (Intern for Senator Joseph P. Hardy):

The Committee has been presented the proposed amendment ([Exhibit C](#)) to S.B. 320. [Exhibit C](#) addresses diabetes care aides, diabetes management plans, medications and physicians for existing public school employees.

Chelsea Capurro (American Diabetes Association):

I support S.B. 320 and submit my written testimony ([Exhibit D](#)). We are willing to work with the stakeholders to address their concerns and to ensure clarity of the bill.

[Exhibit C](#) proposes to remove the language about glucagon and ketone testing in sections 6, 9, 14, 15, 29 and 30. Glucagon is only administered by medical personnel to patients who are unconscious. Ketone testing is performed by physicians or physician personnel. [Exhibit C](#) proposes revision of the language in section 8 to the recommended language submitted by Clark County School District (CCSD). We agree with this recommendation.

[Exhibit C](#) proposes inclusion of language in sections 15 and 30 to ensure the parent or guardian is notified if a child's right to self-administer medication is revoked for any reason.

Senator Cegavske:

The bill states that pupils with diabetes will not be prohibited from attending public school. What is the circumstance under which a child would not be allowed to enroll in public school?

Ms. Capurro:

We want to ensure that diabetic students are not prohibited from attending public school.

Lisa Murdock (Director, State Government Affairs, Nevada Chapter, American Diabetes Association):

We have received reports from parents stating they have decided to homeschool their diabetic child. Parents have reported they have been asked by school personnel to take their child to a different school because the child has diabetes.

Senator Cegavske:

Is this occurring in our public schools?

Ms. Murdock:

Yes.

Senator Ford:

Under what circumstances can a principal revoke parental authorization for their child to be allowed to self-administer medication?

Ms. Capurro:

This addresses those students with behavioral problems. Diabetic students usually use discretion to check their insulin levels, so this is not typically an issue. However, we want to give the school flexibility to address those students who may be disruptive in the classroom.

Senator Ford:

Section 504 of the Rehabilitation Act requires that certain accommodations be made for people with some disabilities, and diabetes falls under the definition of those disabilities. Do most diabetic students who self-administer medication have 504 plans?

Ms. Capurro:

Yes. They all have 504 plans.

Senator Ford:

Arbitrary decisions, specifically those of the principal, are prohibited under section 504.

Ms. Capurro:

Yes. We have had some instances where school personnel have been concerned whether a student has the right to self-administer medication. This concern has not been addressed in statute, and this bill provides clarification for school personnel.

Senator Hardy:

Principals may have safety concerns with diabetic students who do not handle their needles appropriately. Principals must be able to intervene in these instances. However, it is incumbent on the principal to involve the parents to resolve these issues.

Irene Smith (Chair, Nevada Chapter, American Diabetes Association):

I support S.B. 320. The ADA has received calls from parents who have had problems in public schools with the diabetes management for their child. Parents experience many hardships when they learn their child is diabetic. They have to manage medications and changes in diet of their child. We often receive calls in our office from parents who encounter difficulties with school personnel over their child's diabetes management. We educate parents and schools about 504 plans, and we advise them to have a plan in place to protect their children's rights. We continue to receive calls in this regard. I had a case approximately 2 years ago where the parents argued with the school nurse for over 5 years concerning their child's diabetes management. The ADA intervened in this case to resolve the issue. Many parents have expressed that they will homeschool their child or move out of the State to avoid these issues with public school personnel. It is incumbent on school nurses to follow the physician's orders under a 504 plan. We have received reports from parents indicating their child has not been excused from the classroom to visit the restroom, to have liquids or to visit the school nurse because he or she is not feeling well. There have not been satisfactory changes in the State for self-administration of insulin even though there have been advances in insulin and the delivery systems for insulin. We ask for your support for S.B. 320.

Jeanie Richardson (American Diabetes Association):

I support S.B. 320 and submit my written testimony ([Exhibit E](#)). I am the parent of a diabetic child. My daughter was recently diagnosed with the disease. Following my daughter's diagnosis, I visited the school and met with several school officials. I was told a 504 plan was not necessary. However, I insisted that a 504 plan be in place. The need for trained diabetes care aides in schools

is imperative for children to have a safe educational environment. I urge the Committee to support S.B. 320.

Chair Woodhouse:

The Committee has received a written statement ([Exhibit F](#)) from Joyce Malaskovitz in support of S.B. 320.

Ruben Murillo, Jr. (President, Clark County Education Association):

I oppose S.B. 320. There are liability issues related to this bill. When teachers were asked if they would be wary of supervising the self-administration of medication or ensuring students follow a dietary plan, they overwhelmingly said they were concerned because something might go wrong. When things go wrong, teachers are made the scapegoats. School staff has many medical challenges they must deal with on a daily basis. This bill should include a number of medical issues, not only diabetes. The recordkeeping for school staff will be a burden. We are concerned about all children. Our proposal is that every child receives quality medical treatment from qualified health care professionals at every school. We support having a recognized school nurse or health assistant assigned to every school. We encourage and support the development and implementation of 504 plans for students with medical challenges.

Senator Ford:

Is there different language you would like to have included in the bill to better shield teachers from liability?

Mr. Murillo:

I need to review the proposed language before commenting.

Bobbi Shanks, RN (Elko County School District; Director, Nevada State Association of School Nurses):

I oppose S.B. 320 and submit my written testimony ([Exhibit G](#)) to the Committee. There are existing laws requiring accommodation for the special health care needs of students, including diabetes. In addition, statutes require having a chief nurse at schools to oversee student care. These statutes include the diabetes care recommended in the bill with the exception of insulin administration. School nurses cannot delegate insulin administration to a non-licensed person according to the State Board of Nursing (SBN) and the Nurse Practice Act in *Nevada Revised Statute* (NRS) 632. Diabetic students are

allowed and encouraged to self-manage their illness. I am saddened that parents have chosen to homeschool their diabetic children rather than have them attend school. I hope the State Board of Education, Department of Education, is holding school districts accountable because statutes require accommodation of the special health care needs of children with diabetes. Students have the right to have this care while in school, and school nurses are there to assist students. The Nevada State Association of School Nurses opposes this bill in its entirety.

Sheila Story (Chief Nurse, Carson High School, Carson City School District; President, Nevada State Association of School Nurses):

In 1990, SBN developed school nurse regulations and an advisory opinion. These regulations were adopted in 1991, and they were revised and approved in 2010. School nurse duties are outlined in NRS 632.120. This statute also specifies to whom school nurses can delegate duties, and the statute requires that nurses follow administration of medications procedures. The SBN has given nurses guidelines of practice and a list of duties. Qualified individuals are either certified or licensed and/or one who possesses the competence and knowledge base to practice safely. Nurses can delegate duties to these individuals. A principal may not delegate nursing duties and/or advise medical care of students. The roles, duties and responsibilities of a school nurse must comply with NRS 632. The school nurse is responsible for developing, implementing, evaluating and revising individual health care plans for students with special health care needs. In addition, school nurses are required to train certified, licensed and qualified individuals.

We have three concerns regarding this bill. First, we are concerned about safety. We want to ensure students are safe, healthy and academically successful at school. Second, we want to ensure that delegation is performed by a school nurse, not by a principal. Third, we are concerned about training provisions contained in this bill. Training must be comprehensive because diabetes is a serious disease. There will also need to be training on record keeping. The SBN's advisory opinion does not allow an unlicensed individual to administer insulin because of safety concerns. We encourage families to have a 504 plan. Unfortunately, not all schools within the State have nurses on staff. We need to have nurses at every school.

Senator Ford:

Do you have any issues with diabetic students self-administering medication?

Ms. Story:

We allow students to self-administer medication in the classroom. We allow students to check their blood glucose levels in the classroom. We provide sharps containers in the classroom for those students who need them. At the beginning of each school year, we send out health alerts to teachers notifying them of students within their classrooms who may have special health care needs. Students are allowed to drink liquids and are allowed to visit the restroom at any time throughout the day. We have 504 plans for students with special health care needs. If a diabetic student's blood glucose level is too high or too low prior to an academic test, the student is not allowed to take the test. These are just some of the accommodations we make for students.

Senator Ford:

You do not have concerns with the self-administering provisions of the bill?

Ms. Story:

I do not have concerns with those provisions. However, the age of the student must be taken into account. Students must demonstrate competency and ability.

Diana Taylor (Chief Nurse/Director, Health Services, Student Support Services Division, Clark County School District):

I oppose this bill as it is written. However, we want to work with the bill sponsors to revise some of the language. Our primary concern is the delegation provisions of the bill. We want the school nurse, not the principal, to have the responsibility of delegation of care. School nurses are professionally trained. Our students have 504 plans. In CCSD, students are allowed to self-administer medication in the classroom.

Dana Balchunas (Director, Student Health Services, Washoe County School District):

We want a qualified delegate or school nurse to be involved in the care of children with chronic conditions. I agree with the statements of the American Diabetes Association representatives regarding the rights of children. Students with chronic conditions have a right to interact with their nondisabled peers in safe environments. We have approximately 200 students in Washoe County School District (WCSD) who receive diabetes-related services daily. Those services take place wherever a child needs those services.

The spirit of the bill is to serve children. However, I oppose the bill because some of the provisions are misguided. First, because a person is willing to volunteer does not mean the person is qualified to volunteer. The responsibility of delegation lies with the school nurse as stated in NRS 632. The school nurse ensures that duties are delegated to a qualified person. School nurses do more than train persons in the mechanics of diabetes care. Delegation of services is a process. Delegation begins with training and continues throughout the school year to ensure the care complies with physician orders. Nurses perform observations. Under NRS 632, the school nurse is responsible in the event there is an error in treatment. The bill is well intentioned, but it diminishes the health and safety of children by placing the care and decision making in the hands of principals. We would like to collaborate with the bill sponsors to ensure students receive quality care. We want to ensure those delegated are monitored throughout the year and deemed competent.

Senator Gustavson:

The funding is not there to have a nurse in every school. In addition, there is a shortage of nurses. Do you have a remedy to this situation?

Ms. Balchunas:

We have a nurse-trained, deemed-competent school employee and a backup in every school. This is a federal mandate. In WCSD, there is a trained and qualified person to care for students with diabetes. Our mission is to ensure students with disabilities have access to education with their nondisabled peers.

Fred L. Hillerby (State Board of Nursing):

I am concerned about principals being involved in the delegation of health care. The SBN is willing to work with the bill sponsors and the stakeholders to develop a process to ensure diabetic students get the quality care they deserve. The continued observation by nurses of trained volunteers is critical.

Chair Woodhouse:

The Committee has received written statements ([Exhibit H](#) and [Exhibit I](#)) from Deborah Pontius and Carol Banghart, respectively, in opposition of S.B. 320.

Chris Moore:

I support the bill as written if my concerns are addressed. My primary concern is unlicensed personnel caring for diabetic students. School nurses will have to implement the training of unlicensed personnel in coordination with the SBN.

Nevada needs to be innovative. We have not heard about a possible third alternative such as telenursing and telemedicine. We have these capabilities.

Parents deserve to have licensed personnel to oversee the treatment of their child. Insulin is not a benign drug. In hospitals, there must be a second nurse to sign off on the administration of insulin to a patient. When insulin is administered to a child, there should be a second person to screen the procedure. Self-management is appropriate for those who can self-manage.

I read the bill as a first aid process, but there is an ongoing care process. Language regarding ketone testing should not be removed from the bill since that testing is performed in CCSD. Diabetes has many different variables, and we must have trained individuals within school districts to ensure children are safe.

Khanh Pham:

I am neutral on this bill, but I would like some of the language in the bill revised before it is moved forward. I am a certified trainer in the use of insulin pumps. Use of insulin pumps requires training. In addition, insulin should be administered by a licensed nurse.

Senator Hardy:

We are anxious to work with all stakeholders to resolve their concerns.

Senator Denis:

I agree with Senator Hardy. This bill will provide consistency in the care of children.

Senator Ford:

Is this bill duplicative of existing statutes?

Senator Hardy:

We teach people, including children, how to self-administer medication. If a child can self-administer medication in schools, we can train adults to be diabetes care aides.

Chair Woodhouse:

The Committee will begin the work session with S.B. 125.

SENATE BILL 125: Revises provisions relating to rules and regulations of the Nevada Interscholastic Activities Association. (BDR 34-871)

Pepper Sturm (Policy Analyst):

The Committee has received the work session document ([Exhibit J](#)). This bill requires the Nevada Interscholastic Activities Association (NIAA) to adopt rules and regulations for the approval of all-star events by the NIAA without requiring the approval of other organizations. The bill requires the NIAA to amend its rules and regulations consistent with the bill prior to December 31, 2013.

There is a proposed amendment ([Exhibit K](#)) to this bill. The proposed amendment revises the language in the bill to clarify that the NIAA rules and regulations include the criteria used to determine the approval or disapproval of requests to the NIAA for staging all-star events. In addition, the proposed amendment revises the date the NIAA must amend its rules and regulations from December 31, 2013, to December 31, 2014. This change will allow the NIAA an additional year to go through the regulatory process.

Senator Kihuen:

Stakeholders have expressed concerns regarding the date the NIAA has to comply with the provisions of this bill. In changing the compliance date in the proposed amendment from December 2013 to December 2014, those wishing to promote an all-star game will not be able to do so until 2015.

Senator Ford:

We have come to an agreement on the substance of the bill. The desire is to give the NIAA the authority to revise rules and regulations, but not the requirement that they approve an activity or approve an entity relative to an all-star event.

Regarding the proposed amendment, the NIAA has concerns about revising rules and regulations prior to December 31, 2013.

Senator Cegavske:

I propose the bill language be changed to October 1, 2013. The NIAA will have between now and October 2013 to revise their rules and regulations.

Senator Ford:

I am amenable to any date decided by the Committee.

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Senator Kihuen:

October 1, 2013, gives NIAA 3 full months to revise their rules and regulations.
I approve of this proposed date.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS AS AMENDED
S.B.125.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Woodhouse:

The Committee will begin the work session on S.B. 163.

SENATE BILL 163: Requires certain schools in this State to provide pupils with instruction in civics. (BDR 34-667)

Mr. Sturm:

The Committee has received the work session document ([Exhibit L](#)). This bill requires that pupils be provided with instruction in the essentials in civics including the Declaration of Independence, the United States Constitution and the Nevada Constitution in addition to instruction already specified within statute.

SENATOR GUSTAVSON MOVED TO DO PASS S.B.163.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Woodhouse:

We will hear S.B. 446.

SENATE BILL 446: Revises provisions governing education. (BDR 34-1077)

Crystal Abba (Vice Chancellor, Academic and Student Affairs, Administrative Services, Nevada System of Higher Education):

I support S.B. 446 and submit my written testimony ([Exhibit M](#)). The history of this bill can be found on NELIS.

The purpose of this bill is to allow the State, via the commissioners of the Western Interstate Commission for Higher Education (WICHE), to opt into the WICHE State Authorization Reciprocity Agreement (SARA). In October 2010, the U.S. Department of Education (USDE) issued its program integrity rules. These rules provide that all institutions of higher education must comply with state authorization rules governing higher education. This means that an institution in Nevada providing distance education to at least one student in another state must seek authorization to provide those services in the other state. This creates an administrative burden. In issuing the program integrity rules, the USDE stated that institutions were at risk of losing their Title IV federal financial aid eligibility, under the Higher Education Act of 1965, if states did not comply with these rules.

The program integrity rules were contested in court, and the court overturned them. After an appeals court upheld the lower court's decision, the USDE vacated the program integrity rules in July 2012. However, we continue to be obligated and bound by state regulations in other states. Today, each of Nevada's institutions must monitor those states in which we are providing services to ensure we are authorized to do so in that state. We must comply with state regulations within another state or pay a fee.

This is an issue for all institutions of higher learning throughout the Country. As a result, the regional education compacts across the nation have been working on agreements. In November 2011, WICHE authorized its staff to develop a reciprocity agreement for WICHE states. This was an effort to make it easier for accredited institutions delivering distance education in states beyond their home borders to gain state authorization in other states in which they provided education services. In November 2012, WICHE approved, in concept, a SARA agreement. The WICHE is not alone in its development of a SARA. Each of the four regional education compacts will adopt their own language for SARAs. They will be harmonized by a national coordinating council led by the four compacts. In April 2013, there will be a national meeting where each state will send a delegation to discuss this issue. Nevada will be sending three representatives. At the national meeting, a consensus document will be

presented for consideration by each state. It will become the guiding document for all institutions of higher learning throughout the Country.

This bill allows the State to opt in the SARA. Once the State opts in, individual institutions can opt in the SARA. We anticipate all Nevada institutions of higher learning will choose to opt in. When institutions do so, they will have to pay an annual fee. The fee will vary based on the size of the institution.

David Perlman (Administrator, Commission on Postsecondary Education):

I am not opposed to this bill. However, I do have some concerns. Schools across the Nation have not stopped seeking authorization even though the federal legislation was overturned. The Commission on Postsecondary Education (CPE) has authorized 23 institutions outside of Nevada. My concern is that WICHE will determine if an institution outside the State meets the criteria of WICHE, not the criteria of the State commission. I recommend that the Nevada commission be the party that enters into the SARA. We are a go-to agency where students can level complaints about institutions outside the State. We resolve issues on behalf of students. We require outside institutions to provide financial statements. In addition, institutions must post a surety bond of \$10,000. We check the institution's accreditation and their ability to operate in other states.

Ms. Abba:

The matter of consumer protection is important. We need to ensure the rights and services for students are protected. The WICHE SARA requires there be consumer protection processes in place at the State level. Institutions authorized to provide distance learning in this State as individual institutions would continue to operate in the State. They will seek authorization through the CPE, independently. We anticipate the provisions of this bill will minimize the administrative burdens for public institutions of higher learning.

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Chair Woodhouse:

The meeting is adjourned at 6:47 p.m.

RESPECTFULLY SUBMITTED:

Sara Weaver,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE: _____

<u>EXHIBITS</u>				
Bill	Exhibit		Witness / Agency	Description
	A	1		Agenda
	B	6		Attendance Roster
S.B. 320	C	3	Coraleigh Bales	Proposed Amendment
S.B. 320	D	2	Chelsea Capurro	Written Testimony
S.B. 320	E	4	Jeanie Richardson	Written Testimony
S.B. 320	F	1	Joyce Malaskovitz	Written Statement
S.B. 320	G	7	Bobbi Shanks	Written Testimony
S.B. 320	H	2	Deborah Pontius	Written Statement
S.B. 320	I	3	Carol Banghart	Written Statement
S.B. 125	J	1	Pepper Sturm	Work Session Document
S.B. 125	K	3	Pepper Sturm	Proposed Amendment 7736
S.B. 163	L	1	Pepper Sturm	Work Session Document
S.B. 446	M	2	Crystal Abba	Written Testimony