

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Seventh Session
May 1, 2013**

The Senate Committee on Education was called to order by Chair Joyce Woodhouse at 3:55 p.m. on Wednesday, May 1, 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 and to Room 102 of the System Computing Services Building, UNLV, 4505 S. Maryland Pkwy, Las Vegas, Nevada 89154. [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:

Assemblyman Andy Eisen, Assembly District No. 21
Assemblyman James Ohrenschall, Assembly District No. 12
Assemblywoman Melissa Woodbury, Assembly District No. 23

STAFF MEMBERS PRESENT:

Pepper Sturm, Policy Analyst
Asher Killian, Counsel
Sara Weaver, Committee Secretary

OTHERS PRESENT:

William O. Voy, District Judge, Department A, Eighth Judicial District
Jennifer Henry, Domestic Violence Commissioner, Eighth Judicial District
Tara C. Raines, Ph.D., Assistant Professor, Department of Educational Psychology and Higher Education, University of Nevada, Las Vegas

Margherita Jellinek, Director of Field Education, School of Social Work,
University of Nevada, Las Vegas
Janine Hansen, Nevada Families Association
Lynn Chapman, Nevada Families Association
John Wagner, State Chairman, Independent American Party
Nicole Rourke, Clark County School District
Calli Fisher, Washoe County School District
Juanita Clark, Charleston Neighborhood Preservation
Jon Sasser, Legal Aid Center of Southern Nevada; Washoe Legal Services
Anne Rhu, Children's Attorneys Project
Gary Olsen, Leadership Education Advocacy Designs, through Gerianne
Hummel, Sign Language Interpreter
Chris Miller, Nevada Association of School Boards
Steve Canavero, Ph.D., Director, State Public Charter School Authority
Mary Pierczynski, Ed.D., Nevada Association of School Superintendents
Paul Moradkhan, Las Vegas Metro Chamber of Commerce

Chair Woodhouse:

We will hear Assembly Bill (A.B.) 386.

ASSEMBLY BILL 386 (1st Reprint): Establishes a pilot program for the administration of mental health screenings to pupils enrolled in selected secondary schools in the Clark County School District and the Washoe County School District. (BDR S-1022)

Assemblywoman Melissa Woodbury (Assembly District No. 23):

Assembly Bill 386 establishes a pilot program for the administration of mental health screenings in at least one volunteer secondary school in Washoe County School District (WCSD) and one volunteer secondary school in Clark County School District (CCSD). Parents must opt in the pilot program. The school districts must report outcomes to the Legislature.

This legislation addresses two key points. First, there is a growing epidemic of untreated mental illness that often manifests itself in unfortunate ways for both the individual and society, including but not limited to acts of violence. Second, early identification and intervention is the key for best outcomes. If treatment begins before self-destructive and outwardly destructive behaviors are manifested, the individual has a high chance of recovery. In addition, the social and financial costs to society are reduced.

I will read from my written testimony ([Exhibit C](#)) some excerpts from national publications regarding mental health issues.

Assemblyman James Ohrenschall (Assembly District No. 12):

For the last year, I have worked as a deputy public defender in juvenile court. Many of the children I see in custody have undiagnosed mental illnesses. I have spoken to parents who expressed they were hopeful their child would be arrested and receive needed mental health treatment.

The goal of this bill is intervention and prevention. While the bill mandates establishment of a pilot program in WCSD and CCSD, this is a voluntary, opt-in program. The parent would have to sign a written agreement allowing the child to be screened. Screenings such as these are being performed around the Country.

The Fond du Lac School District in Wisconsin has established a voluntary program for mental health screening. Of 6,000 children who were screened over a 10-year period, 1,000 were given referrals to mental health professionals. Numbers like these are troublesome.

An analysis in 2012 showed that of all the children who were arrested and brought into Clark County juvenile hall, 64 percent were found through assessment to have mental health issues. If this bill can help those children avoid juvenile detention and avoid being runaways, we will help children.

Senator Ford:

I do not want children ending up in juvenile detention. However, I do not want them to be arbitrarily tracked. What safeguards are in place to protect the students' screening results?

In addition, you indicated these screenings are being performed around the Country. Who else is performing these, and what has been the reception from the communities?

Assemblyman Ohrenschall:

There are valid concerns about privacy issues. Professionals have indicated to me they feel the Health Insurance Portability and Accountability Act (HIPAA) prohibits the release of this information.

Senator Ford:

Do school districts already comply with HIPAA?

Assemblyman Ohrenschall:

School districts comply with HIPAA.

Regarding your question about other school districts that perform mental health screenings, we looked at the Fond du Lac School District example often. It is a voluntary program in which parents agreed to allow their children to be assessed. We did not review any mandatory programs.

Chair Woodhouse:

Is this an opt-in program?

Assemblywoman Woodbury:

That is correct. Each school district is required to have at least one school participate. However, the participating schools will volunteer to be part of the pilot program. As we worked on the bill, WCSD and CCSD advised us they currently have programs similar to what is called for in the bill. The districts have performed some mental health screenings in some schools. We want to put this in statute to ensure the districts report their results to the Legislature. The Legislature will determine if the pilot program is successful. In addition, we want to add the community collaboration component in the bill. This will enable school districts to work directly with the judicial system to develop screenings that cover more than suicide and depression issues. Community partnerships will help all involved parties. The school districts that have successfully implemented mental health screenings are receiving pro bono work from the community.

William O. Voy (District Judge, Department A, Eighth Judicial District):

Violence and mental health are the primary issues of this Session. The juvenile justice system has been the triage for children with mental health issues. Typically, children are not diagnosed when they enter juvenile detention. Mental health issues may not be the direct cause of children being in juvenile detention, but they may be contributing factors. In some cases, the child has been diagnosed with a mental health issue, but the family may not have the ability to obtain treatment.

If you want to make strides in helping our children and our communities, this bill is an option. Some may say mental health issues are family affairs. However, untreated mental health issues do not stay within the family. Society has to deal with the results of untreated mental health issues.

Jennifer Henry (Domestic Violence Commissioner, Eighth Judicial District):

Two professors from the University of Nevada, Las Vegas (UNLV) School of Nursing have pledged their resources and assistance in this effort. In addition, I speak on behalf of Dr. Latricia Coffey who is a board-certified psychiatrist in child, adolescent and adult forensic psychiatry. Dr. Coffey advised me there are ways to approach how the screening is performed by using the schools as portals to get to the students and their parents. We can ensure the school records do not reflect any medical information. School records can include behavioral information, which is already in the records of students with individualized education programs (IEPs) or behavioral plans. We would not allow the school to have unfettered access to anything determined to be of a medical nature.

Tara C. Raines, Ph.D. (Assistant Professor, Department of Educational Psychology and Higher Education, University of Nevada, Las Vegas):

For the last 6 years, I have been working with a grant to implement universal mental health screening in elementary, middle and high schools in the Los Angeles Unified School District and in multiple school districts in Georgia. One of the schools in Georgia that was not part of the grant requested the screening. We have been collecting data from this school district's middle and high schools to guide school data planning, intervention planning and teacher training to ensure they are using intervention resources.

Screening for behavioral and emotional risk is a sticky wicket. However, it is necessary that we do this work. We screen regularly for vision and hearing. We would not tell students that their poor vision is a family affair. We know that mental health disorders in early childhood and adolescence can affect student achievement, student performance and student social and emotional relationships just as much as having poor vision would impair a student's ability to read. This is about creating a system to identify students who are in need and supporting them before the disorders develop further. This is a prevention program to give students and families the resources they need to head off these disorders.

Senator Ford:

What is the appropriate age to begin mental health screenings?

Dr. Raines:

We have screened students as young as 8 years old. We have found that students are able to predict their behavioral and emotional functioning. Middle school is a transitional period for students. There have been studies that show Grade 6 academic and behavioral performance greatly influences high school graduation rates. If we can intervene during early adolescence, we can improve the overall educational trajectories.

Senator Cegavske:

It has been stated that a parent must ask to have his or her child evaluated. What is the process if a recommendation is made by a teacher or staff member of the school?

District Judge Voy:

The school is the perfect place to initiate the process. The school will send a notice to parents that mental health screenings are available. The parents are given an option to approve or disapprove of the screening. The notice is sent, and the parents must opt in before a mental health screening is performed. The opt-in provision was a compromise to get the pilot program started. Schools will be able to educate parents on the pilot program.

Senator Cegavske:

If a teacher or a staff member of the school recommends a child be screened, how will that be handled?

District Judge Voy:

In my conversations with the CCSD, that occurs now. If the CCSD discovers an issue, the teacher can send the student to the nurse.

Dr. Raines:

I worked as a school psychologist in the Gwinnett County Public Schools in Atlanta, Georgia, for 4 years. Their mental health screening system was already in place. I currently work with the CCSD. When teachers recognize there may be difficulty with the student, there are systems and procedures in place. We are attempting to take pressure off the teachers and administrators. Teachers and administrators are not trained to be mental health professionals. By the time

a teacher or administrator recognizes mental health issues, the issues are severe. We want to intervene before problems escalate.

Senator Cegavske:

What is the procedure now, and does this bill enhance or further the current process?

Dr. Raines:

Students who are having behavioral and emotional issues at school would most likely be identified through special education services. To become identified through special education services, the student has to demonstrate an inability to respond to different levels of intervention within the general education setting. For example, if a teacher suspects a child has an emotional difficulty, the teacher brings the issue to the school-level team. The school-level team is usually comprised of the teacher, administrator, counselor and psychologist. The school-level team tries to determine ways to intervene and help that particular student. The school-level team documents whether or not the student responds to various interventions. Should the student not respond to the interventions, the process would begin to obtain parental consent to perform a diagnostic evaluation by a school psychologist to determine if the student meets the eligibility criteria for special education services.

By adding universal mental health screening, we address behavioral issues at the first tier. There are three tiers. Tier I includes general education, background information and best practices in teaching. Every student receives Tier I attention. When a student begins having difficulties, the school moves to Tier II interventions. Tier II tends to be more directed than Tier I. Tier II might include such things as a student meeting with the counselor or a meeting with a particular faculty member. Tier II is a little more than what all students receive, but it is not restricted. Tier III is special education. What we are offering through universal mental health screening is more support toward Tier I. Universal mental health screening of all students will allow us to use data to determine which students are moving to Tier II instead of using assumptions or observations of particular behaviors or violent actions. This will allow us to know to whom we should direct services. This also allows us to catch internalizing students.

Senator Cegavske:

This bill is going much further than I envisioned.

Senator Ford:

Section 1, subsection 4 of A.B. 386 states that the school district shall provide the parent or guardian of the pupil with the results of the mental health screening. The school district will know the results of the screening. You stated that the school would not have medical data.

Dr. Raines:

The instruments we have used in screenings do not give diagnostic criteria. The results state either that the student has an elevated level of risk or that the student has an extremely elevated level of risk. This is behavioral information protected under the Family Educational Rights and Privacy Act (FERPA). Therefore, the diagnostic information would not be included in the student's records. Schools can only diagnose an educational, emotional or behavioral disturbance. Students would have to be evaluated by an outside agency to receive an actual diagnosis. The parents are involved at that point, and the parents determine whether or not to give the diagnostic information to the school.

Senator Ford:

Inevitably, teachers and others find out about results. Is that contemplated in the bill?

Ms. Henry:

We can craft the bill in a way so that stakeholders drive the issue of mental health screenings. The school districts are the portal to get to the students so there is no discrimination. We can craft the bill to ensure the school does not receive the results of the screening and only allow the stakeholders to have access to the school district information. The information would be passed to the parents through the school district. The school does not need to see the screening results.

The bill has been written broadly. The community will select the persons who belong in the pilot program. The bill can be fashioned to exclude protected information.

Senator Ford:

Does the bill pertain only to secondary schools?

Assemblyman Ohrenschall:

That is correct. The bill pertains to middle and high schools.

Senator Ford:

Inevitably, people find out about results. Are we contemplating training teachers to deal with students who have been diagnosed with elevated mental health issues?

Assemblyman Ohrenschall:

A test called "Signs of Suicide" is being administered in WCSD, CCSD and some of the less populated school districts. I imagine that school districts have safeguards to protect mental health information.

Chair Woodhouse:

Do you deal with students who are bullied because they are in special education?

Assemblywoman Woodbury:

Teachers are trained to work with Tier I children. We have various degrees of training to deal with Tier II and Tier III children. We have mentally ill children in our schools. However, we may not know we have mentally ill children. These screenings can aid parents in obtaining help for their children. With treatment, we would see fewer problems.

Margherita Jellinek (Director of Field Education, School of Social Work, University of Nevada, Las Vegas):

We should not trivialize the emotional life of children. The nature of mental illness in children is complex. It is difficult to discern mental illness in children largely because it is difficult for adults to recognize the symptoms. We must keep in mind the complexity of the children, the complexity of understanding symptoms and the difficulty for adults to recognize symptoms in children.

A screening tool would be the most honorable way of approaching the issues of the child while respecting the child's complexity. The notion of stigma is something with which we have to live. If the bill is crafted properly, one can guarantee that the exchange of information will exist between the stakeholders and the parents. Teachers do not have to know anything about the level of intensity of the information. I do not believe it is respectful of the children to

think that anyone with any training can discern the intensity of a child's behavioral problems.

Senator Cegavske:

There are issues with assessment tools and resources. In Las Vegas, we have very limited resources to have children assessed for mental health issues. I am concerned we are opening this issue even wider. We do not have the mental health facilities for adults. Few services are available in Nevada for people with mental health issues. In addition, parents may have to contend with financial issues.

Dr. Raines:

University of Nevada, Las Vegas recently opened a clinical practice. We have been able to provide assessments to people in the community. The cost of these assessments is based on a sliding scale. We also offer therapeutic services for children and adults.

There is an assumption we are opening Pandora's box with this bill. Possibly 5 percent of children will have grave mental health issues that need immediate intervention. In all probability, 15 percent of children would need a low level of counseling. Not everyone will need psychodynamic therapy.

Regarding resources and support, I have colleagues at other universities who have offered their services once this screening is in place. There are people who believe in this and support Nevada in its efforts. This will allow the project to be scaled up in time.

Senator Gustavson:

I recognize the need to help people with mental health issues. However, I am concerned about the schools being the place to start. Schools already have an enormous amount on their plates.

What percentage of students could be helped with therapy alone without placing them on prescription drugs?

Dr. Raines:

It is not the intent of this pilot program to place children on psychotropic drugs. In other programs, students have been able to get the support they need through the schools. We want to include the community and include

professionals. I worked in one school that created professional development training for teachers.

I estimate that very few children would be moved from the screening and placed on medication.

Ms. Henry:

Part of the reason we want to run this program is to determine what the problems are, how large the problems are and what sort of resources we need to take this project further. This pilot program is important for us to have a simple and effective way to determine where the problems are and how large the problems are.

I agree that schools have a lot on their plates. That is why we are putting together community stakeholders to devise the system.

In regard to the question of resources, I analogize this pilot program to what we are doing in juvenile court in Clark County. We are running a diversion court on a voluntary basis. Diversion courts address children who are on the fringe of coming into the juvenile justice system. We are seeing success with this effort.

This pilot program would have a board of directors that determines how the program works.

Ms. Jellinek:

The concerns that have been expressed are shared by others. We want to put a data collection system in place. Currently, we do not know what we do not know. This is an effort to determine what mental health issues we are facing. The pilot program will be monitored to see to what extent the concerns are valid.

Senator Gustavson:

I have received many messages from constituents concerning A.B. 386. My constituents are concerned this is just another foot in the door to get at our children.

Dr. Raines:

In my experience, we have not used inflammatory questionnaires in mental health screenings. Suicide-specific questionnaires are developed to look for

students who are at risk for suicide. We are looking for global markers for the potential development of mental disorders. We have an ethical obligation to inform families if their child indicates he or she is suicidal, but this has never come up in the particular screening instruments I have used.

Senator Ford:

I have received communications from constituents that are concerned about this bill. However, this is an opt-in program. We are not forcing any child to be screened. We are allowing parents to ask for their child to be screened. That should alleviate many of these concerns.

Assemblyman Ohrenschall:

That is correct. Parents will have to return signed agreements to allow their child to be screened. If the form were not returned, the child would not be screened.

We want to ensure this is not a burden on the schools chosen for the pilot program. Addressing a child's mental health issue will be a benefit to the schools.

Senator Ford:

Will mental health screenings be part of students' permanent files?

Assemblyman Ohrenschall:

As I understand the bill, it simply provides information about elevated scores to the parents. Any other statistical information would be in the aggregate of the report that is presented to the Legislature.

Senator Ford:

Are mental health screening results placed in the permanent files of students?

Assemblywoman Woodbury:

That is not the intention of the bill. We only want the screening information sent to the parents.

Chair Woodhouse:

If a child is identified through the screening as having mental health issues, are the parents notified? In addition, will the community organizations step in to work with the child?

Assemblywoman Woodbury:

The school districts are required by statute to perform hearing, vision and scoliosis screenings to children in certain grade levels. School districts do not diagnose vision problems. School districts notify the parents when their children's vision problems have been detected. The results of hearing, vision and scoliosis screenings are not kept on file.

Ms. Henry:

It is apparent that the term "mental health" continues to be a sticking point for constituents. Perhaps we need to change the wording of the bill to indicate this pilot program addresses behavioral and emotional risk screening. That might destigmatize the bill. In addition, it may help parents understand that medical information is not in the hands of the school district.

Assembly Bill 386, section 1, subsection 4 is broad-based language. The school district is a means for us to get across-the-board access to children and their parents. The school district is a portal for us to screen students and to provide screening results to parents. We could go around the school district so they never know there is an elevated screening score. The stakeholders can deliver the screening results to parents so school districts never see the confidential contents of the screening.

Janine Hansen (Nevada Families Association):

For many years, the National Eagle Forum worked diligently to get FERPA passed because there were so many abuses in schools regarding the right to privacy of parents. In addition to getting the federal law passed, we worked diligently to have a statute similar to FERPA in the State. This bill is of particular concern to us because we foresee problems with privacy.

This bill is a precursor to universal screening in all of our schools. Although this is a pilot program, we know this is only the beginning. In 2002, this effort was initiated by the President's New Freedom Commission on Mental Health at the direction of President George W. Bush. The Commission recommended routine and comprehensive mental health screening and testing for every child in America. The Commission proposed using electronic medical records for mental health data which would be integrated with the electronic medical health data. The Commission stated that schools were in a key position to screen 52 million students and 6 million adults who work in schools. We have heard today that this is the "portal" to go through the schools to obtain this information. The

Commission further recommended linkage of mental health examinations with state-of-the-art treatment using specific medications and specific conditions.

There has been linkage of mental health screenings to the pharmaceutical industry. There have been charges that the translation of normal human emotions into symptoms of mental illness is driven, not by a genuine concern for children, but by a profit motive. TeenScreen is a major promoter of mental health screenings. TeenScreen was developed and promoted by persons with deep financial ties to makers of psychiatric drugs. Watchdog groups have noted TeenScreen's leadership ties to pharmaceutical firms. When looking at this as a pilot program for Nevada only, we also should look at what is happening nationally. Mental health screening programs are in 43 states. Many of these programs are heavily financed by the drug educational grants.

The issue of tracking is a serious concern. We should look at the track record of TeenScreen. Although TeenScreen's Website explicitly states that questionnaire results are not linked to student academic records, in 2003, Illinois found this may not be true. The Illinois Children's Mental Health Act calls for the statewide data reporting system to track the results of periodic social and emotional development screenings for students in kindergarten, Grade 4 and Grade 9. The Act also calls for report cards on social and emotional development. These records may be available to government officials and special interest groups without parental consent.

The National Eagle Forum has opposed TeenScreen for over a decade. We have come to call it the "No Child Left Unmedicated" law because of the connection with psychotropic drugs and the pharmaceutical industry. We are significantly concerned about the privacy risks. It was stated earlier that only 5 percent of students are on these drugs. The TeenScreen creator conceded in a 2004 article that a test known as the "Columbia Suicide Screen" would result in 84 non-suicidal teens being referred for further evaluation for every 16 teens correctly diagnosed. Between 2005 and 2009, a national publication stated that nearly 20 percent of participating students in the Fond du Lac School District mental health screening on which this proposed pilot program is based, were deemed at risk for mental illness or suicide.

There have been issues in the courts regarding mental health screenings. A high school student in Indiana was given the TeenScreen psychological assessment. The Indiana student was told she had an obsessive-compulsive disorder for

cleaning and social anxiety. She was stigmatized by being diagnosed with this disorder. There were problems with the questions asked on the assessments.

If we change the name of the screening, it does not change the intent of this bill. The testimony has concerned me because it proposes to take the authority out of the hands of the Legislature and place the authority with "stakeholders." What accountability do stakeholders have to the Legislature? What accountability do stakeholders have to parents? The stakeholders will not have accountability, and they will be the persons designing the program. We are significantly concerned about the screening results. We do not want this implemented as a pilot program because we know it is a precursor to have mandatory universal mental health screening.

We oppose A.B. 386.

Senator Gustavson:

What are some of the results you have found in other states?

Ms. Hansen:

There have been lawsuits because of the violation of parent and student rights. An inordinate number of students have been labeled as being at risk, and they have been placed on psychotropic drugs.

Senator Ford:

Are you arguing there have been misdiagnoses of mental health disorders?

Ms. Hansen:

No, I am not indicating that individuals have been misdiagnosed. However, I am concerned about so many children being placed on drugs. This effort of mental health screening has a connection to the pharmaceutical industry. There are many instances where psychotropic drugs are used, but they are not used appropriately.

Lynn Chapman (Nevada Families Association):

How many times have efforts such as this started off as voluntary but end up as mandatory? The effort is called a pilot program today. I am concerned it will become a mandatory program in the future. I am also concerned with the opt-in and opt-out provisions of the bill. There is another bill this Session that has had an opt-in provision in the existing statute. The bill calls for changing the opt-in

provision to an opt-out provision even though it has a 95 percent participation rate. Why is this being changed? It is already working with 95 percent participation. I am afraid this is what is at work with A.B. 386.

An article about Albert Einstein reported he was a very poor student. Today, he would likely be diagnosed with dyslexia and attention deficit disorder. The article contemplates what would happen with Einstein in today's world. He might have been sent by the school to be tested for social, emotional, mental and physical disorders. The article imagines that drugs would have been prescribed and data would have been compiled. He likely would have been dependent upon the government. Thomas Edison was our premier inventor in the last century. When Edison was 6 years old, he was kicked out of school. Edison's teacher told his parents he was mentally retarded and he would make nothing of his life. As a result, Edison's mother homeschooled him.

I am concerned about the confidentiality of records. In addition, I am concerned these records will follow the child throughout high school and college and follow the individual into the workforce.

We have been told that stakeholders will absorb the costs of this pilot program. It is unknown how long that will last. The people of Nevada may likely be required to pay for this effort.

I oppose A.B. 386.

John Wagner (State Chairman, Independent American Party):

I am interested in the questions that would be asked during these screenings. In 1947, I was in Grade 6. My school gave diagnostic personality tests. As I recall, one of the questions was, "What would you rather do on Saturday afternoon: go to an opera; read a book to a sick friend; or go to a hanging?" I answered that I would rather go to a hanging. That question came up several times during my school years. I do not believe the tests proved anything. I am concerned about the validity of the questions that will be asked during these screenings.

There was testimony that some schools are already performing mental health screenings. If screenings are already being performed, what is the purpose of this bill?

I oppose A.B. 386.

Nicole Rourke (Clark County School District):

The CCSD is neutral on A.B. 386. We currently use a mental health assessment in 11 of our schools. This assessment looks for signs of depression, anxiety, suicidal ideation and alcohol abuse. After initial implementation in four schools during the 2011-2012 school year, the district decided to expand the program for the 2012-2013 school year for additional schools. We have shared this program with various community partners including the Clark County Children's Mental Health Consortium.

While the mental health of our students is a concern for us, it is essential that we remain focused on our core mission of educating our students. Any additional programs must be evaluated to determine the financial and human capital resources required and the impact on student achievement. We look forward to strengthening our relationships with community partners such as the Clark County juvenile justice system as we work together to determine a pilot program to fulfill the requirements of this bill.

Calli Fisher (Washoe County School District):

In WCSD, we are piloting mental health screening in several of our middle schools. This involves active parent permission and is possible through a community grant. Through this process, we rely on our community partners to make the screening and referral process a success.

We value early identification and referrals for mental health issues. However, there is a fiscal impact with A.B. 386. Our board has universally opposed unfunded mandates and has set a platform for us to focus on our core mission.

The WCSD is neutral on A.B. 386.

Juanita Clark (Charleston Neighborhood Preservation):

The Committee has received my written testimony ([Exhibit D](#)). The Charleston Neighborhood Preservation is opposed to A.B. 386.

This bill empowers certain persons to use a program called TeenScreen. As many as a third of students who have been tested using TeenScreen are determined to have some sign of a mental health problem.

The interpretation of the answers to these questions is what is critical. The President's New Freedom Commission on Mental Health recommends routine

and comprehensive mental health screening for every child in America, including preschool children. This mental health data will be integrated with electronic health records.

This bill establishes pilot programs in selected schools in WCSD and CCSD. However, we know this is only the beginning of the expansion of the program.

Assemblywoman Woodbury:

No screening is specified in A.B. 386. The stakeholders would determine what screening is performed.

I was asked if this pilot program has an expiration date. We can add the expiration language to the bill.

Assemblyman Ohrenschall:

There is apprehension whenever the topic of mental health is raised. However, I believe this is a well-crafted bill. The pilot program is voluntary, and the results of the program would be reported to the next Session of the Legislature.

Chair Woodhouse:

The hearing on A.B. 386 is closed. The hearing on A.B. 210 is open.

ASSEMBLY BILL 210 (1st Reprint): Revises provisions relating to pupils with disabilities. (BDR 34-989)

Assemblyman Andy Eisen (Assembly District No. 21):

Assembly Bill 210 revises provisions relating to pupils with hearing impairments. The bill defines with specificity the items that should be considered in the development of individualized education programs (IEPs) for children with hearing impairments. This bill does not address the content of an IEP for a particular student. The intent of the bill is to outline the subject matter to be included in the conversation and development of the program. It sets the agenda for the IEP team to consider.

For example, section 1 proposes to include: the subjects that are to be considered in the development of an IEP; the services and options that provide the pupil with the appropriate and equal opportunity for communication access; the pupil's primary communication mode; and the availability to the pupil of a sufficient number of age cognitive, academic and language peers of similar

abilities. This is not a deference in all cases to parents, although the parent preferences should be taken into account. In addition, this section proposes assisted technology to provide an opportunity for communication for these pupils.

Section 1, subsection 2 provides additional items that would be considered in addressing students with hearing impairments.

Section 2 includes definitions within the bill.

Section 3 specifies the delivery mode of a particular communication mode. It would prohibit a district from denying the pupil a communication mode solely because it was not the original mode chosen by the pupil. This is based on what is feasible for the pupil. We will be providing an array of communication modes.

Section 3, subsection 8 would require that data be maintained by the NDE and posted on the Internet.

Senator Cegavske:

Section 2, subsection 1 contains several proposed components including American Sign Language (ASL) and lip reading. Is this the new norm?

Assemblyman Eisen:

Section 2 of A.B. 210 provides definitions. The items to which you are referring are different modes of communication that may be used. This is not a list intended to limit modes of communication. These are five communication modes that may be included; there maybe others. This is an effort to define the term clearly.

Senator Cegavske:

Parents have differences of opinions. Some parents prefer ASL while some parents prefer lip reading.

Why are you making changes to the bill? Where is the issue with the bill, and why are you adding language to the bill?

Assemblyman Eisen:

The issue here is one of consistency. The concern is about all subject matter being discussed in the development of IEPs for those individuals with hearing

impairments. This bill ensures there is consistency in discussion. It is not an obligation that a school provide a particular communication mode or provide every conceivable communication mode. We need consistency from pupil to pupil to make sure we are going through all the relevant subject matter. This bill provides future opportunity. If the determination is made during IEP planning that ASL would be useful, it may not be feasible. It is not a requirement that we have additional resources today, but it would be a more complete plan for students in the future.

Senator Cegavske:

There is an issue in finding qualified, certified interpreters in Nevada. We need training in Nevada for teachers and interpreters of ASL. We have a small pool in the State who are qualified and certified to interpret.

Assemblyman Eisen:

That is not the driving force behind A.B. 210. However, that is a potential benefit that can be drawn from this bill.

The idea of bringing this bill forward is to strike a balance. The long-term potential benefit is for districts to use the resources they have to benefit the most students.

Senator Gustavson:

How many students do we have that need this program?

Assemblyman Eisen:

I do not have that number with me.

Senator Gustavson:

I am unaware how serious a problem this is in our State.

Jon Sasser (Legal Aid Center of Southern Nevada; Washoe Legal Services):

The idea for the bill originated in the Legal Aid Center of Southern Nevada and was based on our experience representing parents who were frustrated trying to acquire their deaf and hearing-impaired children the tools they needed. We have researched other states and their initiatives to address the issues of hearing-impaired children. We decided to incorporate the Individuals with Disabilities Education Act (IDEA) into the Nevada statutes and to use some of the concepts of the interpretation of IDEA for special considerations that should

be considered when dealing with deaf and hearing-impaired students. This is not to require anything above and beyond IDEA but to ensure we incorporate IDEA in the Nevada statutes.

Anne Rhu (Children's Attorneys Project):

The Committee has received my handout ([Exhibit E](#)) that includes two letters from relatives of deaf children and a comparison chart of A.B. 210 in relation to IDEA, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, the NDE Policy Guidance and the No Child Left Behind Act.

I support A.B. 210. I have had the opportunity to be involved with parents and children who are deaf or have hearing disabilities.

The federal statute that governs students with disabilities is IDEA. Those corollaries are codified in *Nevada Revised Statutes* Chapter 388. Each child who is eligible for special education services receives an IEP. The IEP outlines and drives the services provided to the student based on that child's individual needs. Oftentimes, the IEP is called the roadmap. An IEP team and the parents develop the IEP document cooperatively. Parents have certain procedural rights that allow them to disagree with school districts through due process hearings, through state complaints and through other means. When developing a plan for a deaf or hearing-impaired student, the IEP team must consider special factors which include the communication mode of that child. There is a variety of communication modes outlined in A.B. 210. American Sign Language, aurality and lip reading are the most prevalent modes used in school districts. We have had parents who disagreed with the IEP team's recommendations. These parents and their children have left the school district because the district would not bend on the mode of communication. Passing a bill of rights has been accomplished by 12 states. We are not requesting a law mandating that parents be the persons who choose the mode of communication. We want to give parents choice and serious consideration. In addition, we want to have this information to be respected by the school districts.

Assembly Bill 210 places more emphasis on the issue and gives parents a document to take to an IEP meeting to assist in communicating the best communication mode for their child.

Senator Cegavske:

Currently, an IEP can be written with any or all of the items listed in A.B. 210. When we review legislation, we look at purpose, meaning and need. If I had a child that was deaf, I could list all these sections in an IEP. Do school districts have the means to provide the services?

Ms. Rhu:

This document was prepared for parents who attend an IEP meeting. Parents can state what communication mode they want for their child. It is akin to a bill of rights. These things exist in statute. This document gives parents a better understanding and gives parents the ability to communicate this understanding to an IEP team.

Gary Olsen (Leadership Education Advocacy Designs, through Gerianne Hummel, Sign Language Interpreter):

I am a deaf advocate. I have been deaf since I was 7 years old. I have attended college, and I have been a professor and a school superintendent.

My goal has always been to see people like myself receive an equal education. Currently, the IEP does not cater to the needs of deaf people. Deaf students lack the language and communication exposure because of school regulations. The bill of rights, so liked by deaf people, gives parents and their deaf children the opportunity to pick the mode of communication they want.

Schools continue to hamper ways in which deaf students can access language. There are a lot of language-deprived deaf students based on the lack of communication. Communication comes from quality interpreters, from quality communicators, from people who are skilled and fluent and from people who can lip read or sign. We do not have such people in this State. We have a system called an Educational Interpreter Performance Assessment (EIPA). The EIPA is an exam, but one cannot receive certification through the exam. Schools have difficulty recruiting ASL interpreters and teachers to come to Nevada. For example, schools will allow students to have classes taught in sign language, but there are not qualified teachers who understand sign language.

Assembly Bill 210 is a step in the right direction, and I hope the Committee will support the bill.

Senator Cegavske:

Section 3, subsection 5, paragraph (a) requires minimum standards. Is this provision a mandate?

Assemblyman Eisen:

We added the word "solely" to clarify the expectation of section 3, subsection 5, paragraph (a). A student cannot be denied the opportunity for instruction in a particular communication mode solely because it is not the mode originally chosen.

Section 3, subsection 5, paragraph (b) was added for clarity. The determination as to what is feasible is the charge of the district board of trustees.

Senator Cegavske:

Section 3, subsection 5, paragraph (a) states, " ... a pupil cannot be denied" Is that verbiage a mandate?

Asher Killian (Counsel):

No, that is not a mandate.

Senator Cegavske:

We still do not have the deaf programs or the deaf instructors we need in the State. We have not addressed this issue. Is there anything on the horizon to address this issue?

Assemblyman Eisen:

It is not within the scope of this bill to create those kinds of programs. However, the hope is that in the long term we will drive the issue. We may trigger the development of the kinds of training programs of which you speak. We must know what the problems are before we address the problems properly.

Mr. Olsen (through Gerianne Hummel, Sign Language Interpreter):

In the future, we are hoping to see changes. However, there are many schools in many states that currently have what is being discussed here. Communities are beginning to have these programs in areas with large populations. I recommend that during the interim we have a workshop on training and seek a way to work with the school districts to see what can be done to change things for the better.

You have discussed mental health issues frequently. Deaf people have mental health issues because they have gone through the school system. These people have not learned how to survive in the community. Many end up in the jail or on the streets. Nevada must address this issue.

Ms. Rourke:

The CCSD is neutral on A.B. 210. We still believe that the needs of students can be met under federal law outlined in IDEA. The bill continues to require the IEP team to consider services beyond the scope of IDEA. However, those services are limited to what the board of trustees determines to be feasible.

Ms. Fisher:

The WCSO is neutral on A.B. 210. We always strive to accommodate our students and their needs. We understand the intent of this bill and appreciate the work that has been done on the bill.

Chris Miller (Nevada Association of School Boards):

The Committee has received my written testimony ([Exhibit F](#)). The Nevada Association of School Boards is neutral on A.B. 210.

Assemblyman Eisen:

This bill provides a standard of what the conversation will be in IEP planning. I am available to work with anyone to make this bill the best it can be.

Chair Woodhouse:

The hearing on A.B. 210 is closed. The hearing on A.B. 205 is open.

[ASSEMBLY BILL 205 \(1st Reprint\)](#): Revises provisions governing charter schools. (BDR 34-200)

Steve Canavero, Ph.D. (Director, State Public Charter School Authority):

The Committee has received my presentation ([Exhibit G](#)) regarding A.B. 205. This body has empowered the State Public Charter School Authority to model best practices. The language in A.B. 205 is built on models from across the Country from the National Alliance of Public Charter Schools, the National Association for Charter School Authorizers and the U.S. Department of Education Non-Regulatory Guidance on the lottery provisions.

Section 8 revises language to require a performance-based charter contract. This is a significant shift from the current practice. Currently, an application submitted by a charter school and a written agreement are combined to equal the charter. The shift would require that the legal contract between school and sponsor address what the school will become rather than the application which describes what the theories are behind the school. The contract clearly articulates the rights and responsibilities for both parties, and it identifies the level of materiality that has subsequently been absent in the application and the written agreement. It becomes a performance-based contract when we incorporate a performance framework.

Charter schools, like other public schools within the State, are subject to the State's model to measure academic achievement. All charter schools within the State receive a star rating. Section 3 of the bill specifies the minimum composition of indicators. A sponsor may rely solely on the Nevada School Performance Framework (NSPF) to gauge performance of the charter school's academic program. However, section 3 does not prohibit a sponsor from adding academic elements to a framework if a sponsor determines them necessary. The NSPF does not measure all aspects of a charter school's performance that are material to a sponsor's determination around performance and compliance. Section 3 adds financial performance and performance of a governing body. Section 3, subsection 3 allows charter schools to propose mission-specific goals to be incorporated in the framework.

Senator Ford:

The charter school evaluation criteria is the NSPF. However, a charter school could add to the framework criteria. At a minimum, charter schools will be evaluated under the Nevada School Performance Framework. Is that correct?

Dr. Canavero:

Yes, that is correct. All schools operate under the NSPF. A sponsor may add to that framework.

Section 3, subsection 1, paragraph (b) provides for the financial and organizational performance. The school-based, proposed mission-specific goals are included in this section. This is specifically dedicated to a charter school that may, upon approval of the sponsor, incorporate goals into the performance framework.

The NSPF is the “what.” Slide 5 of [Exhibit G](#) illustrates the “why.” This slide shows the shift from a compliance-based model to a performance-based model for sponsors of charter schools. Slide 5 illustrates a simple view of the performance-management cycle. We establish expectations and incorporate those into the contract. When the contract is agreed upon, the contract includes expectations. The sponsor monitors performance and conducts interim reviews, intervenes as necessary and determines contract renewal based on the overall performance related to the established standards.

Slide 6 addresses merit-based decisions as stated in section 9 of the bill. There are some proposed revisions around the renewal process. The sponsor issues a performance report in year 5. The sponsor identifies deficiencies that may impact renewal. Charter schools have the opportunity to submit clarifications. Charter schools may submit the application for renewal thereafter. Ultimately, the decision for renewal or nonrenewal are based on the criteria of the sponsor and the performance of the school.

A sponsor engages in a thorough evaluation of charter school applications to approve those applicants that appear likely to open and sustain a quality school. A sponsor should approve a charter with a goal of making critical renewal and nominal decisions at the end of the 6-year charter term. However, sponsors have the right to close a school at any time with due cause through revocation or termination of the contract. Section 10 addresses the reasons for revocation such as: breach of contract; breach of material terms and conditions relative to the contract; fiscal mismanagement; failure to comply with statutes and regulations; and persistent underperformance relative to the academic, organizational or financial underperformance standards of the performance framework.

In addition, there is a provision in [A.B. 205](#) for default closure. Default closure sets a floor that may be incorporated into a contract and is identified as persistent underperformance. Section 3.5 of the bill allows for closure or termination of a charter contract for a charter school that receives 3 consecutive years at the lowest possible rating. Currently, the lowest rating is one star. A charter school that receives one star rating for 3 consecutive years will be closed. Slide 9 includes a conceptual amendment that clarifies the intent and timeline of default closures. There were general concerns that time is needed to roll out the NSPF and star rating for understanding of its predictability. Another concern was the State’s progress in defining alternative

education campuses and in developing an appropriate statewide performance framework to hold alternative schools accountable. In consideration of these concerns, there was agreement to delay the start of accumulation of star ratings that contribute to default closure. The language in section 3.5 of the bill proposes changes in the language that ties the rating to the school year rather than to July 1 of each year. I was concerned we would accelerate the implementation of default closure by 1 year sooner than the original intent of the bill. We propose the charter school's annual rating for any school year before the 2013-2014 school year must not be included in the count of consecutive annual ratings for the purposes of section 3.5.

Section 7 of A.B. 205 revises the application review process. Determining which applications to approve is critical. This requires a team interview; an in-person interview of the committee proposing to tour the school; adherence to policies and practices developed by the sponsor; and demonstrated competence that will likely result in a successful opening and operation.

Section 17 revises the provisions of the enrollment lotteries of over-subscribed charter schools. The restrictions of lottery exemptions to designated at-risk charter schools are eliminated. Lottery exemptions are extended to all charter schools. This section extends exemptions of children of the committee to form a charter school members and members of the charter school's governing body. This aligns exemptions to the requirements for each committee to form a charter school and each governing body to include a parent of a pupil enrolled in a charter school.

Chair Woodhouse:

Did this bill come from recommendations of the Legislative Committee on Education?

Dr. Canavero:

Yes. In addition, input that was received from the CCSD, the Nevada State High School, StudentsFirst and the Nevada School Education Association was included in A.B. 205.

Ms. Fisher:

The WCSD supports A.B. 205. We currently sponsor eight charter schools. As public schools, we hold them to the same high academic standards as our traditional public schools. We appreciate the ability to incorporate a performance

framework into our contracts with our charter schools to ensure all children receive a high-quality education.

Ms. Rourke:

The CCSD supports A.B. 205. We currently sponsor seven charter schools. We hold them to the same standard we hold our traditional public schools. In developing our growth model, we incorporated charter schools into the model.

Ms. Miller:

The Committee has received my written testimony ([Exhibit H](#)) in support of A.B. 205. The primary strength of the changes proposed in A.B. 205 is that the determination of the success of a charter school will be based on the academic achievement of its students using a written performance framework for the charter school.

Mary Pierczynski, Ed.D. (Nevada Association of School Superintendents):

The Nevada Association of School Superintendents supports A.B. 205. The bill is another step in supporting our charter schools.

Paul Moradkhan (Las Vegas Metro Chamber of Commerce):

The Las Vegas Metro Chamber of Commerce supports A.B. 205. We believe the proposed provisions in the bill are good policy because they will provide greater accountability and performance measures associated with charter schools. The implementation of performance metrics for charter schools are important. As we work together to provide education choices for our students and their parents, these provisions are important factors in determining a school's success and achievement. We have been longtime advocates for charter schools as part of our education efforts to improve the quality of education in our State.

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Chair Woodhouse:

The hearing on A.B. 205 is closed. The meeting is adjourned at 6:40 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	4		Attendance Roster
A.B. 386	C	3	Assemblywoman Melissa Woodbury	Written Testimony
A.B. 386	D	1	Juanita Clark	Written Testimony
A.B. 210	E	9	Anne Rhu	Committee Handout
A.B. 210	F	1	Chris Miller	Written Testimony
A.B. 205	G	12	Steve Canavero	Presentation
A.B. 205	H	1	Chris Miller	Written Testimony