

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
March 20, 2015**

The Senate Committee on Education was called to order by Chair Becky Harris at 3:30 p.m. on Friday, March 20, 2015, 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 Becky Harris, Chair
Senator Scott Hammond, Vice Chair
Senator Don Gustavson
Senator Mark Lipparelli
Senator Joyce Woodhouse
Senator Moises (Mo) Denis

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (Excused)

STAFF MEMBERS PRESENT:

Todd Butterworth, Policy Analyst
Risa Lang, Counsel
Betty Kaminski, Committee Manager
Beth Ann Reykers, Committee Secretary

OTHERS PRESENT:

Clayton Markin, Intern to Senator Don Gustavson
Janine Hansen, State President, Nevada Families
John Wagner, State Chairman, Independent American Party
Sharron Angle
John Eppolito, Nevadans Against Common Core
Christina Leventis

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Linda Buckardt, Nevadans Against Common Core
Lindsay Anderson, Washoe County School District
Jessica Ferrato, Nevada Association of School Boards
Craig Stevens, Clark County School District
Barbara Dragon, Treasurer, Nevada Homeschool Network; Home School Legal
Defense Association
Frank Schnorbus, Chairman, Nevada Homeschool Network; Home School Legal
Defense Association
William Estrada, Esq., Home School Legal Defense Association
Thomas Considine
Juanita Clark, Charleston Neighborhood Preservation
Jessie Kate Leventis
Todd Bailey
Haven Briske
Karen Briske
Brandon Briske
James M. Benthin
Bob Clifford, Nevadans for Local Control of Education; Fallon Tea Party
Brian Matthews
Jim Falk, Chair, Nevadans for Local Control of Education
Barbara Jones
Cara Strasser
Joy Trushenski
Julian Montoya, Interim Administrator, Office of Assessment, Data, and
Accountability Management, Nevada Department of Education
Barry Smith, Nevada Press Association
Seth Rau, Policy Director, Nevada Succeeds
Marla McDade Williams, Amazon.com.NVDC, Inc.

Chair Harris:

I will now open the hearing on Senate Bill (S.B.) 287.

SENATE BILL 287: Revises provisions relating to education. (BDR 34-849)

Clayton Markin (Intern to Senator Don Gustavson):

Senate Bill 287 reestablishes cursive writing as a required element in Nevada's elementary school curriculum. Cursive writing has a number of benefits, both as an age-appropriate activity for third graders and through the acquisition of skills that even adults require in an age of electronic communication.

Senate Bill 287 applies to the curriculum of third graders. These students are between 8 and 9 years old and are beginning to work on English vocabulary and communication skills. They are in the early developmental stage of learning, and cursive writing has been shown to be a useful developmental skill for children. Studies show that writing words by hand, as opposed to typing them, improves vocabulary retention, and sitting still and practicing small tasks improves the focus of young children. The fine motor skills cursive writing helps to develop will be important for these students later in life should they become surgeons, artists, mechanics or any other profession where dexterity is required.

While cursive writing may not top the list of skills required in everyday adult life, developing a good vocabulary and small task eye-hand coordination are. Cursive writing is also shown to improve block letter writing, which is what most of us fall back on when we do handwrite as adults. Teaching students cursive writing is not as much a day-to-day skill, as it is a useful developmental exercise.

If children cannot write cursive, they will be unable to read cursive writing. Students will not know how to affix their signatures to documents because they will not have developed their signatures. A student may not know how to perform research when the source documents *such as the Declaration of Independence* are written in cursive.

Cursive writing has largely been deemphasized in elementary school in favor of keyboarding classes, which seems more practical than handwriting. Facts suggest children ages 8 or 9, should be developing an educational foundation. Nevada's children will learn to type somewhere between using home computers and the myriad of other keyboards they will encounter in their daily lives as well as the classroom typing instruction. Typing skills and cursive writing proficiency need not be in conflict.

Cursive instruction is an in-class activity that does not require a computer. It develops small motor coordination and vocabulary and improves handwriting across the spectrum. This is an age-appropriate curriculum that has numerous benefits to Nevada students. Perhaps the greatest benefit is that it promotes perseverance in a young student. The ability to write in cursive will remain with the student forever. I urge your support for S.B. 287.

Senator Lipparelli:

Since we have begun meeting, this Committee has heard testimony requesting the addition of a physical education (PE) course mandate, an ethnic studies course mandate, a financial literacy course mandate and now a cursive writing course mandate. I am concerned we are not getting the basic core curriculum taught, yet everybody wants new courses added.

Senator Harris:

Will S.B. 287 be taught solely in third grade or will it be taught beginning in second grade, with proficiency expected by the end of third grade?

Senator Don Gustavson (Senatorial District No. 14):

I am not sure. In response to Senator Lipparelli's comments: I agree we keep adding new requirements, but cursive writing and PE, to me, are the basics. I am in favor of returning both of them to the curriculum.

Senator Woodhouse:

First graders used to be taught the Palmer Method of penmanship and block lettering. Cursive writing was taught in the third grade. However, later in my career, we changed from teaching the Palmer Method to teaching the D'Nealian Method, which is a form of Palmer that leads directly to cursive writing. We taught printing in first grade using the D'Nealian method, and cursive was taught in the second grade, again using the D'Nealian method. By third grade, students were writing their sentences and paragraphs in cursive.

Janine Hansen (State President, Nevada Families):

The *Education Reporter*, published monthly by Eagle Forum, discusses many education issues. In a recent article, Judy Willis, M.D., a neurologist and educator who is an authority on brain research and learning, was quoted from a 2011 article in Edutopia.

The neural activity or mental manipulation that transforms formulas, procedures, graphs and statistical analysis into words represents the brain's recognition of patterns. When this is also done in writing, the facts, procedures, and observations are processed symbolically in the writing process—giving the memory another storage modality and truly illuminating the patterns for the brain to follow as it adds new learning to existing concept networks.

Senate Bill 287 is a back-to-basics bill. Cursive writing has always been taught. We have seen a continual decline in educational excellence over the last 50 years. The benefits of handwriting also help to alleviate emotional and environmental pressures in the classroom. A multisensory handwriting program relaxes the emotional brain and reduces stress levels in students and improves learning.

As quoted in the National Math and Science Initiative blog, Eric Jensen, the author of *Teaching with the Brain in Mind*, states,

Two generations ago, 95% of people in America used handwriting. Today, most use keyboarding. Yet the skills of handwriting remain important. They are memory, focus, prediction, attention, sequencing, estimation, patience and creativity.

We encourage your support of S.B. 287. It is not an additional requirement. It is a back-to-basics idea where we can depend on the schools to teach our children foundational skills that they can use throughout their lives.

By learning to write in cursive, our children will also be learning to read cursive writing. This will enable them to read this country's foundational documents, like the *Declaration of Independence* and the *United States Constitution*.

John Wagner (State Chairman, Independent American Party):

The Independent American Party supports S.B. 287. When people are out and about, they do not always carry a computer. My daughter is a teacher in California and she informed me recently that they do not teach cursive writing either. How will children learn to write their signatures, which is required on legal documents such as checks? I think cursive writing is a necessity. It should not take much time to teach.

Sharron Angle:

I am in support of S.B. 287. Cursive writing is first and foremost a skill and should not be abandoned in our public schools. It is a skill used for note taking and can be done quickly. It also offers children one more way to remember curriculum. It reinforces memory. It is another tool children can be provided. It is nice to have a smart phone, iPad, or laptop computer, but it is also nice to use your mind in skillful ways so that you can reinforce the things that you are learning. Cursive writing is one tool that allows children to be in any setting and

take a quick note. Cursive writing is also a potential career path. Students in graphic design have to know calligraphy. If children are not exposed to cursive writing, they may never know that there is a career path associated with cursive writing.

Cursive writing is a core of American education and should be learned early on so that by the time students are expected to take notes, they have the skill to take notes quickly. I encourage your support of S.B. 287.

John Eppolito (Nevadan's Against Common Core):

I support S.B. 287. Research shows it is important for children to learn cursive writing. It develops synapses in the brain. *Psychology Today* published two articles, "What learning cursive does for your brain" and "Improve Reading & Hand-eye Coordination by Learning Cursive?" Both articles address the benefits of learning cursive writing on brain development.

Christina Leventis:

I concur with the testimony provided previously by Ms. Hansen and Ms. Angle, and I am in support of S.B. 287. I agree with Senator Lipparelli's statement that we are moving away from the core classes. This is a core subject.

Senator Hammond:

Is cursive writing included in the Common Core State Standards (CCSS)?

Ms. Leventis:

No. Cursive writing is not included in the CCSS. Some teachers are still teaching cursive writing, but most have eliminated it because there is just too much required curriculum.

Senator Hammond:

This Committee has been asked to implement several additions to the required school curricula. We would like to implement them all. However, it is hard to mandate coursework for teachers to implement when it is not an item included on the end-of-the-year exam. As teachers are being evaluated on their students' performance, it is difficult to mandate additional curricula without either extending instructional time or eliminating existing material. As much as cursive writing is important, I am opposed to adding another mandate to the curriculum. I cannot do it but I appreciate the testimony today. I believe in the importance

of cursive writing as a link to our past, but there is simply no room in the curriculum at this time.

Linda Buckardt (Nevadan's Against Common Core):

Instead of teaching cursive writing as an addition to the curriculum, I suggest children use it when writing in their daily journals. This could be a writing exercise and does not require a great amount of time. I support S.B. 287.

Lindsay Anderson (Washoe County School District):

The Washoe County School District (WCSD) is opposed to S.B. 287, not because it is unimportant, but because we oppose any unfunded mandate. Cursive writing was removed from the required course of study approximately 10 years ago. As others have said, the Standards are the minimum requirement. Teachers may choose to exceed the Standards.

Jessica Ferrato (Nevada Association of School Boards):

The Nevada Association of School Boards echoes the comments of the WCSD. We have concerns about any unfunded mandate. There are many requests for things to be added to the curriculum and Standards that must be met. The unfunded mandate to teach cursive writing by the completion of the third grade is problematic for the school districts in the State.

Craig Stevens (Clark County School District):

The Clark County School District (CCSD) has enough trouble teaching the material already included in the required Standards. The additional requirement as proposed in S.B. 287 would be challenging to implement.

Chair Harris:

According to S.B. 287, we will teach children to write in cursive by the end of Grade 3. What will happen beyond third grade? We can all agree there is value in students learning cursive writing. If we mandate that cursive writing be mastered by students by the completion of Grade 3, do we have a structure in place to build upon and reinforce that skill? I would not want to require a skill to be learned in Grade 3 and then have the skill be lost through lack of use and reinforcement.

Mr. Stevens:

That is part of the difficulty with an unfunded mandate. If something is added to the curriculum as a mandate, how do you measure student attainment, and

what happens if a child does not master the skill? It would then have to be addressed in the fifth and sixth grades as well.

Ms. Anderson:

English language arts are part of the kindergarten through Grade 12 academic standards (K-12 Standards). Writing is done at every level of education. Whether or not that writing is done by printing, cursive writing or electronics is at the discretion of the educator. We do not have an assessment tool for cursive writing. Many of our assessments are performed electronically. Cursive writing would be difficult to standardize throughout district classrooms; assessment would be almost impossible.

Senator Denis:

Are new teachers being taught penmanship as part of their curriculum? As we have new teachers entering the classroom, would they even be prepared to teach cursive writing if it were mandated?

Craig Stevens:

That is a great question. I will speak with our contacts at the colleges of education, and get an answer.

Senator Gustavson:

I appreciate the opportunity to present S.B. 287. This is a subject that many of us feel is critical to a child's ability to learn. I am open to amendments to delete any other curricula that are not as worthwhile. Some things that have been added to the curriculum in the last few years could be less important than cursive writing. I appreciate your support on S.B. 287.

Senator Hammond:

I understand the arguments for and against teaching cursive writing. What you are running up against is the ability to fit cursive writing into the standards we have established. The larger issue is one of local control over curriculum content.

There is only room in the curriculum to teach the items upon which students will be assessed. We have purchased an assessment instrument. Teachers' performance will be measured based upon their students' performance on this assessment. To ask teachers to include additional subject matter is overly burdensome.

Chair Harris:

I will now close the hearing on S.B. 287 and open the hearing on Senate Bill 228.

SENATE BILL 228: Revises provisions relating to the disclosure of personally identifiable information of a pupil by a school district or public school. (BDR 34-848)

Senator Gustavson:

Under current laws, school districts may release certain personally identifiable information (PII), including the names of pupils, their home addresses and telephone numbers, their dates and places of birth, their heights and weights and much more.

While it makes sense that the collection of aggregate information on students is a necessary tool to ensure that every student receives equal access to high-quality education and for ensuring that civil rights are enforced, it also makes sense that the privacy and safety of individual student educational records be safeguarded. The passage of S.B. 228 will ensure the confidentiality of the PII of schoolchildren in Nevada is secure.

I have submitted an amendment to S.B. 228 ([Exhibit C](#)).

Barbara Dragon (Treasurer, Nevada Homeschool Network; Home School Legal Defense Association):

Senate Bill 228, in its original iteration, is more restrictive than was intended. The amendment before the Committee ([Exhibit C](#)) suggests some changes to the language. The largest change outlined in the amendment is the premise that student data is the "property" of the student. The inclusion of the term "property" is noteworthy.

We understand there is a certain amount of data that must be transferred to the State from the local school districts. We think the data should stay at the local school. We also understand that the State must transfer data to the federal government. However, it is important that this data be encrypted and supplied in aggregate.

We also ask that any data breach be reported to parents or legal guardians, similar to the manner in which credit card companies notify people when their systems have been breached.

We also included language in the amendment that is identical to that contained in federal regulations, but took out the reference to U.S. Code in case it were to change in the future. By doing so, the Legislature would not have to revisit this law anytime the federal government makes a change.

Parents have a right to view their students' data anywhere it is housed, not only at the local school. If a child's data is also stored at the school district and the State Department of Education (DOE), a parent should have the right to review it at those locations as well.

Senator Hammond:

How does S.B. 228, as amended, compare with the law recently passed in California?

Frank Schnorbus (Chair, Nevada Homeschool Network; Home School Legal Defense Association):

California's law defined student data as the property of the state, not the property of the student.

Nevada Homeschool Network advocates for homeschoolers in the State. As an advocate keenly concerned about student data, I support S.B. 228 and appreciate that it includes all Nevada students. The form Notice of Intent to Homeschool makes reference to Federal Code, which has changed twice since the Nevada law in 2007.

I do not even know where my child's student data is located, and what rights I may or may not have pertaining to my child's information. It has changed at the federal level, and we have no impact on those changes.

Chair Harris:

I am going to ask our legal counsel to discuss how this proposed bill and amendment will work with the Family Educational Rights and Privacy Act of 1974 (FERPA).

Risa Lang (Counsel):

Under (the) FERPA, of course, (it) is written so that if we are not in compliance we would lose potentially, some Federal funding. I have not had a chance to compare this exactly to see where it is. But the changing definitions, changing them to be so that they could change over time could potentially pose a problem ... since we are required to comply with FERPA. As they change, we would probably need to change our law to be the same. So, we would have to just compare it to make sure that we are not doing anything that would violate FERPA. (The) FERPA does allow us to ... There are certain things that are required, but you can have more restrictions than what is put in them by the federal government, so you can require more ... privacy. ... But I would have to compare that.

Chair Harris:

Section 1, subsection 2, paragraph (a) in Exhibit C discusses a need "Not exceed in extent the minimum moral or academic purpose to facilitate the function of the publically funded education system," What is the intent of this section?

Ms. Dragon:

In addition to its six academic pursuits, "moral improvement" is defined in Article I, section 1 of the Nevada Constitution as the role of public education. The goal of this language is to ensure the law does not exceed the provisions of the Nevada Constitution. Looking into family structure and language and health conditions is not part of the role of public education, as defined in our State Constitution. There is a lot the public schools do today that we could question whether it academically helps the student to progress.

Mr. Schnorbus:

Senate Bill 228 as amended should not collect data in excess of the purpose of the public schools.

Chair Harris:

To borrow a legal phrase, you are asking that data collected at the school level must have a rational relationship to the educational process.

Is the intent of section 1, subsection 5, to comply with FERPA and to ensure some type of stability? Why would it not be better to refer to the FERPA regulations in statute as opposed to restating the FERPA language? We will be back here every 2 years updating this statute to comply with any changes made at the federal level if it is done as outlined in the amendment.

Mr. Schnorbus:

We do not know what will happen at the federal level. As parents, we are the ultimate guardians of our students' educational records. We are the ones who care the most. Decisions made in Washington, D.C., by bureaucrats who write the regulations with all the nuances, should be reviewed by Nevada's Legislature. If additional student data is required, Nevadans should determine whether we want the federal funds or whether the requirement for student information is more than we are willing to provide.

Senator Hammond:

Do you believe the Federal FERPA laws are getting less restrictive? Can you provide an example where FERPA is not requiring as much security?

Mr. Schnorbus:

In the 1970s, the federal government wanted seven data points pertaining to our students. It is my understanding that the federal government now requires over 400 data points. I do not understand why my child's progress needs to be reported at the federal level. I can understand why data should be reported to the local school district, and maybe some data needs to go to the state level, but I do not understand why 400 data points of information about my child needs to be submitted to the federal government.

Senator Hammond:

I am unclear as to how many data points are being reported to the federal government. If we do not send the data to the federal government, how much money will Nevada lose in federal funds?

Senator Lipparelli:

I would like to add to Senator Hammond's request. Has the federal government ever withheld funds from a state for noncompliance?

Chair Harris:

We will have our policy analyst research this topic and provide us with the information as to how many data points are being reported at this time.

Ms. Dragon:

I am with Nevada Homeschool Network, but I am also a liaison for the Homeschool Legal Defense Association in Nevada. In 2013, the Health Insurance Portability and Privacy Act (HIPPA) regulations governing patient information were upgraded. I was placed in charge of implementing the new policies and procedures for our office. It took me 6 months to implement the regulations. Data protection is very burdensome. In the beginning, I was resentful that the government was mandating procedures to protect medical records. My husband has operated a dental practice for 30 years. We are very careful with our patient's information. It occurred to me that all of these new regulations were in response to the electronic transfer of data. The government became concerned with where the data was going, how it was being transferred and who had access to the data.

Under the HIPPA, we are required to get a signature from the patient each time we share his or her information. There is a penalty for violating the privacy rights of our patients. When I began to hear concerns regarding children's privacy rights at school, I wondered why we did not afford the same privacy rights to our students. I support S.B. 228 as amended.

Chair Harris:

Are there penalties for noncompliance within the bill?

Ms. Dragon:

I cannot answer this question; we just want someone to have the responsibility for the safekeeping of our student data. We did not find it in the current law.

Chair Harris:

Senate Bill 228 requires that if a data breach occurs, parents and guardians shall be notified in writing. What happens if the parent prefers to be notified via electronic delivery?

Ms. Dragon:

We did not think that made sense. If there were a data breach, we believe that the parents should be notified by mail. I suppose this section could be amended

to include a parent's preference for notification. It should not be the school district's preference.

Chair Harris:

Is it the intention that S.B. 228 apply to private schools?

Ms. Dragon:

Private schools have been excluded in certain sections of the bill. I believe the *Nevada Revised Statutes* (NRS) section 394 addresses this topic. There is not a need to have private schools communicating with the DOE. Also, private schools have a contract with parents stating that before their children's' information is released to any entity, there will be written notification.

William Estrada, Esq. (Advocates for Homeschooling):

I am an attorney with the Home School Legal Defense Association. I will now read from my written testimony ([Exhibit D](#)).

Senator Hammond:

You mentioned there was a weakening of the FERPA in 2008, and referenced third parties. Can you provide a scenario where a third party would come into the State and ask for information about our students?

Mr. Estrada:

The third parties in the 2008 regulation are education businesses the State education agency contracts with to assess student performance. There are legitimate businesses that may need student data, but control has been virtually eliminated under the rewritten regulations. Senate Bill 228 will address this problem by mandating parental consent prior to releasing any student data. We want to prevent businesses from data-mining our student information for profit.

Ms. Angle:

I support S.B. 228. As a former Legislator, I understand the desire to protect your constituents. Privacy has become a concern to all of us since the problems with the National Security Agency where adults' data was breached and compromised because it was electronic. It is incumbent upon you to protect the data of our children. Senate Bill 228 does that, especially in the sections where the ownership of students' data is defined. I believe Nevada needs to assert local control of our students' information.

Thomas Considine:

I am a retired chief of police, U.S. Naval Security Forces, and a Certified Information Privacy Professional for government and private sector organizations. I am a business owner who, along with my partner, establishes policies and procedures regarding data security in accordance with international standard organization requirements and federal and state mandates. I am also a professor at Western Nevada College and Truckee Meadows Community College for the Information Protection Manager Program, teaching students to enter this high-demand career field.

I will be referring to my presentation provided to the Committee ([Exhibit E](#)).

Everybody is concerned about the security of information and the security of our children. Child identity theft is the fastest growing identity theft crime in America. Annually over 500,000 children become victims of identity theft; 15 percent of child victims are 5 years old or younger; 26 percent of child victims are 6 to 10 years old, and 59 percent of child victims are 11 to 18 years old. This represents a 105 percent increase from 2011. Experts report 1.5 children in each classroom are unknowingly the victims of identity theft.

Since data breach tracking began in 2006, education represents 13 percent of all data breaches. A child's identity theft is highly coveted because the children are so young, and nobody thinks to check their children's credit reports. Oftentimes, children do not know they have become victims of identity theft until after they apply for college loans or try to rent their first apartment and are denied. It is devastating to them. One such instance was a young woman who had her identity stolen when she was 9. By the time she found out, she was 19, \$1.5 million in debt, with four home foreclosures on her record. Her life was ruined.

In April 2014, it was discovered that 500 Polk County School District employees' social security numbers had been available online to the public for over 2 years. A middle school food-service worker stole the identities of 400 middle school students in Miami-Dade schools.

The Maricopa Community College District in Arizona is facing a class action lawsuit filed on behalf of 2.5 million students. The basis for the lawsuit is student information including names, addresses, e-mail addresses, social security numbers, dates of birth, demographic information, and other as yet

unspecified "enrollment, academic and financial aid information" was not adequately protected by the district.

Closer to home, in 2011, the Pershing County School District was the victim of an attempt to steal \$270,000 from a district payroll account. The University of Nevada, Las Vegas (UNLV) reported a security breach in 2008. The personal information pertaining to approximately 2,000 UNLV employees may have been accessed. In 2011, the WCSD suffered a break-in. Student information was stolen from unencrypted portable data storage devices, "thumb drives." In 2010, Churchill County School District improperly disposed of student records in a public landfill. This practice of dumping student records had occurred for many years.

Each school district in Nevada is responsible for its own information technology program. Larger districts have their own information technology departments; smaller districts may outsource their information technology services, while other districts may hire an in-house information technology specialist. This practice may work internally, but when we begin to discuss the transfer of data to the cloud to track students, it becomes a serious security issue. Nevada does not have the capability to do that securely. Nevada lacks a comprehensive, structured information security program for student data. The State should have a coordinated information security program that includes standardized and comprehensive policies and procedures.

The development and implementation of a written information security program that addresses the security of personal information, is critical. Each school district should have a security management committee with the DOE having overall oversight responsibility. One of the problems with data security is too much information is being requested, and when it is no longer needed, it is not properly purged from the system. Data are not segregated and placed into an archive.

Senator Hammond:

It is a concern that if someone has access to one system, the entire system could eventually be accessed.

Mr. Considine:

That is correct. If a small school district such as White Pine County has a weak security system, someone from the outside could potentially hack into the White Pine County School District, and eventually, hack into the DOE database.

Senator Denis:

Are you just talking about a district's accounting system?

Mr. Considine:

No. I am talking about the entire Internet and intranet information technology structure.

Senator Denis:

They are part of the State system that we have put together, so they are not out there all by themselves. They are part of a larger system, and the data is not kept all in one database. The data is stored in several databases, so a large breach is not realistic.

Mr. Considine:

That is not true. If a person can get in one place, they eventually will have access to all places. Had I known for example, that I was going to be unable to show my slide presentation, I would have brought one of my associates and we could have hacked into the closed circuit television system and shown the slides from there.

Mr. Eppolito:

I sent members of the Committee an email listing over 400 data points suggested by the National Center for Education Statistics (NCES) to be collected on all of our students. As you review the data requested, you will notice that there are seven questions about a child's bus stop. How does that improve education? In the same handout, I also include a link to the NCES, which shows how much money the federal government has spent to make this data collection system a reality. By my calculation, it is over \$612 million. In addition to the 400 data points requested, there are subsets, requesting additional student data.

As Mr. Considine pointed out, it is just a matter of time before a serious breach of security occurs compromising our student data information system. The local school districts and DOE are not protecting our students. It is incumbent upon

this Legislature to implement regulations to protect our students' privacy. This is one reason the Smarter Balanced Assessment Consortium (SBAC) is problematic. Nevada is required to provide "timely and complete access to any and all data collected at the state level" to the SBAC. The SBAC is not looking out for the privacy of our children either.

Last week in New Jersey during standardized testing, the superintendent's test director received a phone call at 10 p.m. He was told there was an alert. Pearson Education, the maker of the standardized test, told him a student had posted something about the test on social media. The school district looked into the allegation and discovered something was posted; it had been posted after school, and it was not a test question. It was a comment about the test. The student's parents were contacted. The parents wanted to know why Pearson Education and the New Jersey Department of Education were spying on their child. Pearson wanted the child punished; the parents wanted Pearson Education punished.

You may wonder what this has to do with Nevada. During the field test the SBAC gave pointers to our local school districts on how to monitor our students' Twitter, Facebook and Instagram accounts. We now have the SBAC and local education agencies monitoring our students' social media accounts.

We are the only state in the Country where its DOE has said it will cost \$10,000 for parents to see their children's data. That parent was I. I first went to the DOE to review the data housed there regarding my children. I was told I could not see it; I had to go to my local school district. I went to my local school district, the WCSD, and they said they had no idea what the DOE was uploading every night. I went back to the DOE and they said they would get back to me. When they got back to me a few weeks later, I was informed I could review the data for \$10,000. I spent 4 hours reviewing the data. I still do not know what is in there because a lot of it is coded.

I was able to ascertain there were over 30 erroneous addresses listed for my older children. When I asked the DOE about this misinformation, I was told the data came from the local school district. I was told to go back to the local school district. The local school district did have the over 30 erroneous addresses in their system. However, they were not associated with my children. The WCSD then went to the DOE and asked them to correct the data. The larger problem is I do not know if that coded information representing my

children's test scores, actually represents my children's test scores or if the data is also mixed up like the 30 erroneous addresses. There is no way for parents to check whether the data pertaining to their children is accurate.

There exists a petition signed by over 800 Nevada residents stating Nevada should allow parents to opt their children out of the Statewide Longitudinal Data System (SLDS).

Finally, the DOE has threatened every local school with a star rating of only one, if they do not get 95 percent participation on the SBAC. It is wrong. I support S.B. 228.

Juanita Clark (Charleston Neighborhood Preservation):

Yes is the vote we request on S.B. 228. Parents or guardians should not be prohibited from seeing their children's information, and they should not be charged money to review the data that has been collected by a State agency pertaining to their children. These data could be fiction. No declaration is included. Is it factual and or verified by anyone? Even if such were included, we are cognizant of our rogue, human-error factor.

Ms. Buckardt:

I strongly support S.B. 228. We need to be transparent and give parents and guardians the ability to verify the data being collected and reported about their children. There is no reason Nevada's student data should be compared with other states. It has nothing to do with improving student achievement in Nevada. Please protect our students' right to privacy.

Jesse Kate Leventis:

I am a senior at Coronado High School in Henderson. I chose to testify today because this issue is very important to all young people like me. I am very important to people when they want my data, but they seem to forget about me when my data is given out to everyone. I should have something to say about who receives my personal information and what is done with it. The only people who should be allowed to talk about me and my data and my personal information should be my parents and me. I respectfully ask that you support S.B. 228.

Ms. Christina Leventis:

I read through the "State Longitudinal Data Grant" last year, and was upset because one purpose of this grant program is to create and implement a system to pass data from the local school districts to the Nevada System of Higher Education (NSHE). My daughter chose not to apply to any of the NSHE schools, yet her information has been shared with them. I do not like that, and she does not like that. Her social security number, along with her family's information, has already been shared with the NSHE. We were never asked if that was acceptable, but it is on the SLDS. Sharing this data has no effect on her academic performance.

I echo the testimony provided by previous witnesses, Ms. Dragon, Mr. Schnorbus and Mr. Estrada. As Mr. Schnorbus testified, if the federal government wants additional information from Nevada, it should request it. The federal government exists to support the states and not the other way around. We twist ourselves around to accommodate the federal government. They need to accommodate us if and when we need them. I do not know how much money we receive from the federal government in education, but I do not think it is worth it. I hope that Mr. Schnorbus' point resonated with some of the Committee members.

There should be a penalty if student data is given out without permission. In Polk County, Florida, as children were getting on the bus, they had their retinas scanned without parental permission. The school district responded to parental concerns by apologizing. We should add consequences to the bill for releasing student information without parental permission.

Mr. Wagner:

I support S.B. 228 and the previous testimony provided.

Ms. Hansen:

We are the State affiliate of the National Eagle Forum. The National Eagle Forum was involved at the federal level getting the FERPA law passed. We worked very closely with former Senator Ann O'Connell to get the FERPA laws passed in Nevada because of so many abuses that were going on in the states, including very intrusive questionnaires. In 2009, United States Secretary of Education Arne Duncan said:

Hopefully, some day, we can track children from preschool to high school and from high school to college and from college to career ... We want to see more states build comprehensive systems that track students from pre-K through college and then link school data to workforce data. We want to know whether Johnny participated in an early learning program and completed college on time and whether those things have any bearing on his earnings as an adult.

This is a great concern. We need to be concerned about this data going to the federal government and even going out of our local schools. I really like this bill and support it. One of the things it talks about is our constitutional liberties. The Nevada Constitution, Article 1, section 18 mirrors the federal right-to-privacy identified in the Fourth Amendment of the U.S. Constitution. In addition, it says in section 20, "Rights retained by people. This enumeration of rights shall not be construed to impair or deny others retained by the people."

We are talking about those rights now and we are losing our privacy every single day and we have no way to protect it without your help. Please protect us from this invasion of families' and children's privacy. We cannot protect them on our own. We need you.

Todd Bailey:

I am a Nevada parent. I want to put a human face on the expert testimony that has been provided. Last year my child, a fifth grader, was compelled to take a computer-adaptive test in her class. A computer-adaptive test where a student is asked a question and if answered correctly, the questions become progressively, more difficult. The test will keep advancing to include material never covered in school. In other words, the smarter the child, the lower the score on the test. I went to the WCSD and requested to see the test. I was told I could review her answers, but was unable to view the questions that were asked.

There is no accountability in this computerized adaptive testing, because the WCSD signed a contract with a multimillion-dollar testing company that forbade the release of the test questions for longer than the universe will exist. I will never be able to see the questions that my daughter was asked.

People at the WCSD treated me unprofessionally. They wondered why I would be requesting such information and why I would even care about the questions

my daughter was asked on a test that was going to affect her academic future. In other words, I had no right to that information. This is happening in Nevada because of the laws that have been passed here at the Nevada Legislature.

I have two questions I would like you to ask your legal counsel. Does the WCSD, or any other school district in the State, have the right to sign away my rights, as a parent, to that information? Nobody asked me; nobody got my permission. Secondly, I think the school districts should have to answer the question, today, whether or not they will be spying on students in Nevada for the next few months while this computer-adaptive testing is taking place.

Parents have the right to know if school districts are allowing private companies to spy on their students as part of contracts they have signed for a multimillion-dollar test.

Chair Harris:

I would encourage you to step out in the hall with the school district representatives present and get answers to your questions.

Haven Briske:

I am 16 years old, and I support S.B. 228. I was recently withdrawn from a Nevada public school due to a privacy issue. My personal information was uploaded without permission.

At this point in my life, I am not sure what effect this will have on my future, but I do know that whether or not to release this information should have been a decision we were able to make as a family.

Last semester I took a government class and during this class, we learned about the Bill of Rights. This is a violation of my Fourth Amendment rights.

Karen Briske:

I am currently in the process of filing a complaint against a public school in the State of Nevada. The school uploaded documents containing very personal and confidential information regarding my minor child during an application process for a State-required test. This was done without my prior knowledge or written consent. While trying to determine who bears fiduciary responsibility for this violation of my child's privacy, I have consistently been referred between three different agencies.

For something that was so easily done, no one seems to want to accept responsibility. Senate Bill 228 will help clarify to whom the data belongs, as well as delineating the responsibility of the local school system to ensure that the PII is secure from use by people not involved in the academic progress of the child, and what information is considered as part of an “education record.”

Brandon Briske:

Earlier, Senator Hammond asked a question regarding the amount of money attached to the data. Mrs. Dragon testified regarding the time it took her to implement the HIPPA regulations. There is a reason so much money was assigned to this data. It speaks to the importance of the data to the federal government. If the data is that important to the federal government, how important is it to the parent? There is a reason it is called data mining. Here in Nevada we know how hard mining is, and we know how valuable the minerals we pull out of the earth are. They are pulling valuable information out of our children by mining our families.

Senator Hammond:

You mentioned that your daughter’s information was shared. Was that an accidental, student-specific incident?

Mrs. Briske:

Her information, including her Individualized Education Program (IEP) and psychological evaluation were uploaded to American College Test (ACT) without our permission. We were told it was her entire class. As I stated, I am in the process of filing a complaint with the State, but unfortunately, the form that I am required to fill out also asks intrusive questions I should not have to answer.

Senator Hammond:

The IEPs are confidential. I understand your concern.

Senator Denis:

How did you find out about the data breach?

Mrs. Briske:

I was concerned that our daughter was scheduled to take two ACT exams with her class this year. Since she is an IEP student, I wanted to make sure her accommodations were being provided for. In the process of filling out the ACT paperwork, we realized that there was a specific form for the parents to fill out

to acknowledge her data could be uploaded. We declined to allow that. When we contacted the school, they confirmed her information had been uploaded.

James M. Benthin:

I support S.B. 228 and everything that has been said here today. As a parent and taxpayer, I think parents have the right to keep their children's information private and confidential. If the data is needed, parents should be given the right to know the purpose for the data-sharing and then make an informed choice. This data is a newly manufactured product; it is important. There are a lot of special interest groups who want to access it. We are here today to protect the rights of students, parents and families. I urge you to support S.B. 228.

Bob Clifford (Nevadans for Local Control of Education; Chair, Fallon Tea Party):

The federal government has a contract with the SBAC that requires the SBAC to upload all of the data they collect. This is in violation with their contract with Nevada. Nothing has been done to resolve this contractual conflict. Senate Bill 228 needs to be very clear, we will no longer do business with SBAC unless they comply. Currently, they refuse to address their contractual conflicts. A lot of the PII is collected directly by the SBAC through the testing process. It goes out of the State. I wonder how you are going to get parental approval if every student is required to take the test. It gets a little bit complicated. Because the test questions are secret, any personal data collected within the test by the SBAC is also presumably secret. We would not even know what the children are being asked in the way of PII when they are taking an SBAC test. The SBAC should be required to disclose the information it is collecting. I support S.B. 228. I also support Mr. Considine's comments that once you hack into one system, you have the ability to hack into any system connected to that one system.

The SBAC assessments increasingly request social-type information. They could ask whether a child's family owns guns. It is not clear. It is secret. Not only that, NRS requires school districts to verify compliance of the course of study with the State Standards. How can you assure compliance if the people in the local school district cannot see the test questions?

Brian Matthews:

It has been pointed out today that once the data is collected, it is available forever. I do not have so much concern about today; it is the next day, and the day after that. People in this meeting are on their laptops and phones, accessing

any data they need. The data we are providing about our children will be available forever. It may be irrelevant right now, but it will be very relevant in the future. There was an information technology person who said in the future everyone will have to change their name because there will be so much data available, an employer will not hire them because he or she will know too much about them. I think collecting so much data on our children is not a good idea and we should stop it.

Jim Falk (Chair, Nevadans for Local Control of Education):

I support S.B. 228 and echo the testimony provided by Ms. Hansen. I suggest we look deeper into the corporations that are on the receiving end of our students' data. There is a conspiracy out there, and I hope you will look into it.

Barbara Jones:

I support S.B. 228 and echo the testimony provided by the previous testifiers. I encourage you to review the 400 data points provided during Mr. Eppolito's testimony. The data being requested is intrusive.

Cara Strasser:

I am here to support S.B. 228. I agree with the previous testimony. I would also like to state that the results from the SBAC testing are not received until the next academic year. How does that help my child's education when he will already be enrolled in the next school year before any of the information from these tests will be available? I agree there should be some type of penalty for releasing student data without parental opinion. Our children's information is being traded for money. I think it should be illegal.

Joy Trushenski:

I am with the Nevada Legislative Affairs Committee. I am a proponent of repealing the Nevada academic content standards in the CCSS. If they are not going to be repealed, we need to do things to improve them. That is why I support S.B. 228. The collection of data on students is wrong, and it is against our right to privacy. I hope that other bills will come forth because there is so much wrong with CCSS. It needs to be changed, improved or repealed.

Julian Montoya (Interim Administrator, Office of Assessment, Data and Accountability, Nevada Department of Education):

The DOE opposes S.B. 228 due to the impact the bill would have on the State's ability to comply with State and federal laws. The DOE supports student data

privacy and has protocols in place to protect it. This bill goes too far and perhaps, unintentionally, changes much of Nevada's law and puts the State at risk, federally.

Federal programs such as Title I of the Elementary and Secondary Education Act (ESEA) would be immediately and materially impacted should S.B. 228 be successful. Title I funding alone amounts to \$155 million per year for Nevada public schools. Other federally funded programs that would be affected could include: the State improvement plan, transcript requests for graduations, cohort graduation rate, count day for the Distributive School Account funding, the Nevada School Performance Framework, the Nevada Education Performance Framework, the Educator Performance Framework, the Accountability Report Card, the ESEA waiver, and all of the assessments could be impacted. Our growth model reporting and reporting on our subpopulations could also be affected.

It was stated earlier that S.B. 228 supports the FERPA, but the amendment shows everything related to the FERPA is deleted. The Department supports the FERPA.

Senator Denis:

How do we ensure those who need to have the specific information get it? There is a lot of data gathered, but not everybody needs to know everything.

Mr. Montoya:

Within our data system, the data is encrypted. We do not collect social security numbers. Student data is protected by the Division of Enterprise Information Technology Services of the Department of Administration. The Division governs how the data is secured. It is a Tier 2 level system. I understand the risk regarding data privacy. When data is transferred, it is done by using State-unique identification numbers. There are no names attached to the data. That is all part of Nevada's contract with Smarter Balanced testing. When the data is "in rest," it remains encrypted "in rest." We have data privacy policies in place and adhere to all the standards placed on the Department by the State and federal governments.

Senator Denis:

I am interested in the data and the levels of encryption and the technical codes. I realize the data is in aggregate, but I would be interested in seeing the raw

data that comes in, the encryption of that data and the format in which it is transferred. What type of punishment is there for individuals who violate the policies? I would also be interested in reviewing the security policies in place for staff that have access to student data.

Mr. Montoya:

We are governed by the State privacy act in our policies and procedures. I will supply further information to the Committee.

Senator Hammond:

We always seem to be concerned about placing federal dollars at risk. I want to make decisions on what is good policy for the State, and not necessarily what we are putting at risk. I have a hard time believing the federal government is going to withdraw that money from a school system that needs it.

How would S.B. 228 affect the State's requirement for all of the school districts to report into the Nevada School Performance Framework?

Mr. Montoya:

In order for the Department to aggregate information, we require student-level data. If we are not able to get the student-level data from the districts' student information systems that are incorporated into the State information system, we will not have the data to compile graduate rates. We will not be able to look at special population performance. We will be unable to evaluate individual school and district performance without this type of information.

Senator Hammond:

Is it your interpretation of S.B. 228, that student data will be kept at the local level? I thought it was the intent of S.B. 228 to prevent student data from going out of the State.

Mr. Montoya:

I am not sure of the intent of S.B. 228, as amended.

Senator Lipparelli:

Who has the ultimate responsibility for the protection of Nevada's student data?

Mr. Montoya:

Superintendent of Public Instruction, Dale A.R. Erquiaga is ultimately responsible for the protection of the data.

Barry Smith (Nevada Press Association):

I am concerned about the practical application of the language contained in S.B. 228. The amendment includes without limitation, any such information that is "directory information," and included in directory information is name, telephone number, photograph, etc. What I am trying to understand is how this would work with a yearbook, the sports programs, graduation lists, the school newspaper doing an article on the chess club and scholarship announcements. If I am reading this correctly, each item would require an individual permission slip signed by a parent. I am not sure how that will be addressed. The practical application and definition of the directory information contained in S.B. 228 requires interpretation.

Chair Harris:

At the time my children were enrolled in school, I was asked to sign a photo release form. I chose to opt out of that. My children participated in sports. If there was a reporter who chose to take a photo of my child or interview her, I was contacted by the school district, and I could give my consent on a case-by-case basis.

Seth Rau, Policy Director, Nevada Succeeds

I oppose S.B. 228 for a number of reasons. The bill pertains to PII. There are many misconceptions around what PII actually is. Personally Identifiable Information can be transmitted to the State for accountability purposes, as the Department has already explained. However, it is never transmitted to the federal government. Personally Identifiable Information is not being passed on to the U.S. Department of Education.

There are other bills related to data privacy this Session. Nevada Succeeds agrees data privacy is an important issue, but this bill is not the appropriate vehicle to address this issue.

Senator Hammond:

Is the administrator of the Smarter Balanced Test considered a third party, and can it submit data on Nevada's students to the federal government?

Mr. Rau:

Through Smarter Balanced data, we can pass on aggregate data. The scores of an individual school or district cannot be passed on through Smarter Balanced, according to the FERPA regulations.

Senator Hammond:

Mr. Considine said information in the aggregate, if given enough data, could be tracked back to the PII. Do you agree?

Mr. Rau:

We have not looked at this issue. It is interesting that in Mr. Eppolito's earlier testimony, he said it was very difficult for him to understand his children's data when reviewing it at the DOE. That moment of testimony really resonated with me because he described how hard it was to understand the data. The law says the PII does not go to the federal government. It stops at the State.

Senator Denis:

How do we really know that PII data is not being passed on to the federal government or to private companies?

Mr. Rau:

The current FERPA law prohibits that practice. Nevada does not have very clear parameters pertaining to third-party vendor data. However, Assembly Bill (A.B.) 221 addresses this issue. Third party vendors are not covered in this bill.

ASSEMBLY BILL (A.B.) 221: Revises provisions relating to data concerning pupils. (BDR 34-147).

Senator Denis:

Are third-party vendors subject to any type of audit regarding their data information sharing practices?

Mr. Rau:

We have not seen an example of a State audit being conducted on a vendor, but I have not researched it.

Mr. Stevens:

We are opposed to S.B. 228. The CCSD was not provided a copy of the amendment prior to the hearing, so we have not been able to review it.

The CCSD knows student data is invaluable. However, a school district cannot evaluate its educational programs without some information on how students are doing. Student data is golden. We learn through student data what programs work and what programs do not work. This data is necessary for the school district to be held accountable to the public.

Senator Hammond:

I agree student data is important. As a teacher, the more I know about my students, the better able I am to assist them reach their full educational potential. I think the intent is not to obstruct student data being collected by the districts and the State, but to prevent student data from going to the federal government.

Ms. Anderson:

The WCSD is opposed to S.B. 228 for the same reasons as outlined by Mr. Rau and Mr. Stevens. We have been working with Assemblyman Kirner on A.B. 221 for over a year. We have had a working group. The WCSD is committed to data privacy and addressing this important issue this Session.

Marla McDade Williams (Amazon.com NVDC, Inc.):

We submitted an amendment to S.B. 228 to Senator Gustavson, but have not had a chance to meet with him. Amazon's concern is the definition of a school official. We also have some concerns about the PII, but we are committed to work with the sponsor.

Senator Gustavson:

Student data privacy is a huge concern to Nevadans. I urge your support of S.B. 228. I think this is a good bill, but I am open to amendments to make this bill better. We need to do something to protect our students.

Mr. Stevens:

The CCSD "Good News Minute" is the students of Desert Pines High School received both the Gold and Silver Medals at this year's Family, Career and Community Leaders of America (FCCLA) State Competition. The FCCLA is a national career and technical student organization for young men and women in

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family and consumer sciences. Those who participate are given opportunities to expand leadership potential and develop skills for life including planning, goal setting, problem solving, decision-making and interpersonal communication skills. We are very proud of our students at Desert Pines High School for this achievement.

Senator Denis:

Desert Pines High School is one of the high schools in my district.

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Chair Harris:

There being no further comment or business before the Committee, the meeting is adjourned at 6:10 p.m.

RESPECTFULLY SUBMITTED:

Beth Ann Reykers,
Committee Secretary

APPROVED BY:

Senator Becky Harris, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A			Agenda
	B	7		Attendance Roster
S.B. 228	C	7	Senator Don Gustavson	Proposed Amendment
S.B. 228	D	65	William Estrada, Home School Legal Defense Association	Testimony
S.B. 228	E	20	Thomas Considine	Presentation