

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Eightieth Session
April 8, 2019**

The Senate Committee on Education was called to order by Chair Moises Denis at 1:30 p.m. on Monday, April 8, 2019, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Moises Denis, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Dallas Harris
Senator Marcia Washington
Senator Scott Hammond
Senator Ira Hansen
Senator Keith F. Pickard

STAFF MEMBERS PRESENT:

Jen Sturm, Committee Policy Analyst
Risa Lang, Committee Counsel
Steven Jamieson, Committee Secretary

OTHERS PRESENT:

Virginia Starrett, Director, Protect Nevada Children
Barbara Jones
Linda Buckardt
Margaret Martini
George Lee
Chris Daly, Nevada State Education Association
Juanita Cox
John Eppolito, President, Protect Nevada Children
Donald Gallimore
Janine Hansen, Director, Nevada Families for Freedom

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Darla Lee
Lindsay Anderson, Washoe County School District
Robert Sidford, Chief Information and Innovation Officer, Office of Information
Technology, Washoe County School District
Steve Dolan

CHAIR DENIS:

I will open the work session on Senate Bill (S.B.) 80.

SENATE BILL 80: Revises provisions relating to providing a safe and respectful learning environment. (BDR 34-502)

JEN STURM (Committee Policy Analyst):

Senate Bill 80 requires the Director of the Office for a Safe and Respectful Learning Environment in the Department of Education (NDE) to establish the Handle with Care Program. This bill requires certain reporting on a child who may attend a public school and who has been exposed to a traumatic event. The bill also changes the name of the Safe-to-Tell Program.

Two amendments to the bill have been proposed. The amendments can be seen in the work session document ([Exhibit C](#)). One amendment was submitted by Brad Keating on behalf of the Clark County School District (CCSD). The other amendment is proposed by the Las Vegas Metropolitan Police Department.

SENATOR PICKARD:

Are we adopting the amendments that were mentioned? I assume, if we mention it, they are adopted; I just want to make sure.

CHAIR DENIS:

This work session is to bring up amendments we have previously discussed. One of the amendments came after we had the hearing on the bill. We want to have a discussion to see if we are okay with the amendments.

SENATOR PICKARD:

I spoke at length with the CCSD about where we are trying to go with the bill. I think it is a good compromise position. I will support the measure with the amendments.

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SENATOR PICKARD MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 80.

SENATOR HAMMOND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will open the work session on S.B. 106.

SENATE BILL 106: Revises provisions relating to required expenditures by schools on certain school supplies. (BDR 34-243)

Ms. STURM:

Senate Bill 106 authorizes certain entities to request from the NDE a reduction in the minimum amount required to be spent on certain resources, if such materials are available free of charge. The bill sponsor proposed an amendment to require that such materials be aligned with the Nevada Academic Content Standards (NACS) and be reviewed under existing school district adoption procedures. I have submitted the work session document ([Exhibit D](#)).

CHAIR DENIS:

We wanted to make sure that if someone decides to use this request, whatever they are using has to align with the NACS. We did not want someone to use a material just because it does not cost anything and then use that money for another purpose. Whether the material is free or purchased, it still has to meet the same rigorous requirements.

I want to confirm with our Committee Counsel that the language in the amendment addresses that concern.

RISA LANG (Committee Counsel):

I believe so. We will make sure that the drafted amendment language captures that intent.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 106.

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SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will open the work session on S.B. 255.

SENATE BILL 255: Revises provisions relating to education. (BDR 34-790)

Ms. STURM:

Senate Bill 255 establishes the Nevada Reconnect Scholarship Account in the State General Fund. The bill provides the eligibility requirements for a student to receive or renew a Nevada Reconnect Scholarship. The bill sponsor proposed several amendments, which are attached to the work session document ([Exhibit E](#)).

SENATOR HARRIS:

The first of the amendments are some conforming changes to reflect lessons learned from the Nevada Promise Scholarship in the Reconnect Scholarship. The other amendments address some concerns that I have heard from stakeholders about ensuring that people complete a degree on time. I have also been asked to make sure that there is a mechanism in place for the students to be able to participate in the Nevada Promise mentorship program. With the conceptual amendments, the Reconnect Scholarship is in good shape to get started.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 255.

SENATOR WASHINGTON SECONDED THE MOTION.

CHAIR DENIS:

We are looking at many policies on education issues. We will take this bill to the Finance Committee and have the fiscal discussion of whether we can afford to do it.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will open the work session on S.B. 313.

SENATE BILL 313: Revises provisions relating to computer literacy and computer science education. (BDR 34-731)

Ms. STURM:

Senate Bill 313 creates the Account for Training in Computer Literacy and establishes requirements for the use of that money. The bill authorizes a person who receives an endorsement to teach in computer literacy and computer science to request a reimbursement for the cost of the endorsement coursework. Regional training programs for educational personnel will provide training on teaching methods in computer literacy and computer science.

The bill sponsor proposed two amendments to the bill. The first proposed amendment, attached to the work session document, ([Exhibit F](#)), changes the name of the Account and revises certain funding levels. The adjusted funding levels include those expenses related to the professional development of teachers and the monitoring of computer education. The second proposed amendment ([Exhibit G](#)) adds the provisions of S.B. 476 into this bill.

SENATE BILL 476: Establishes programs to promote education in computer science. (BDR 34-819)

CHAIR DENIS:

Senate Bill 476 was my bill on computer literacy. We basically felt that the two bills could be combined into one. The bills accomplish a lot of similar things, but S.B. 476 only addressed a small piece of the issue, so rather than process it as a second bill, we are proposing to amend S.B. 476 into S.B. 313.

SENATOR HAMMOND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 313.

SENATOR PICKARD SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will open the work session on S.B. 451.

SENATE BILL 451: Authorizes variable-length renewal of charter contracts.
(BDR 34-391)

Ms. STURM:

The current term for charter school contract renewal is six years. Senate Bill 451 changes the renewal term for charter school contracts to not less than 3 years, but not more than 10 years. I have submitted the work session document ([Exhibit H](#)).

SENATOR PICKARD MOVED TO DO PASS S.B. 451.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will open the work session on S.B. 467.

SENATE BILL 467: Revises provisions relating to education. (BDR S-820)

Ms. STURM:

Senate Bill 467 continues the Zoom and Victory school programs for the 2019-2021 biennium. The bill sponsor proposed an amendment to remove section 3 from this bill and add an expiration date of June 30, 2021. I have submitted the work session document ([Exhibit I](#)).

CHAIR DENIS:

The original text of the bill used the current year for the expiration date. The amendment fixes that problem. Other than that, the bill is just as you remember. The bill's purpose is to continue the Zoom and Victory programs.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 467.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will close the work session and open the hearing on S.B. 296.

SENATE BILL 296: Provides for the issuance of a license by endorsement to certain teachers who have a license or equivalent issued in another country. (BDR 34-607)

SENATOR SCOTT HAMMOND (Senatorial District No. 18):

Senate Bill 296 would allow educational licensure by endorsement for certain teachers from other countries. Research has shown that teachers matter more to student achievement than any other aspect of schooling. Nevada has long been looking for strategies to address our chronic shortage of qualified and experienced educators. While we have recently made strides in that direction, we still have a ways to go. It makes sense to provide streamlined paths to attract capable professionals into our classrooms. Senate Bill 296 aims to provide one such path. In sum, the bill directs the Commission on Professional Standards in Education to adopt regulations authorizing the issuance of a license by endorsement to applicants who hold an equivalent license or authorization from another country. The qualifications for the equivalent license or authorization must be substantially similar to those prescribed for an applicant for a State license. The equivalency will be determined by the State Superintendent of Public Instruction.

Section 3 of the bill provides that the fee for the issuance of such a license by endorsement must be less than the fee for the initial issuance of a State license.

I spoke with Jason Dietrich, former Director of Educator Licensure at NDE, about this section. We determined that there might be a slight problem with section 3. The section creates a sort of hardship for the Department. It would create a "half/full-time equivalent," which we do not really want to do. We will be talking with him further to try to clarify this issue before the bill is processed.

In section 2, the bill authorizes the State Superintendent to enter into reciprocal agreements concerning the licensing of teachers with appropriate officials of other countries.

In Clark County, we have several special education teachers from the Philippines. Special education is typically a very difficult area in which to attract teachers. These Filipino educators have J-1 visas. Not only do they have to pay for the visa, but they also have to pay for travel and housing while they are here. They also have to pay for other education endorsements. I sat down for a few hours with these teachers and went over what they thought would help.

Arizona does something very similar to what is proposed in S.B. 296. Arizona allows the Superintendent of Public Instruction to assess the licensing requirements of other countries to determine if there is enough similarity such that they could issue an equivalent endorsement.

We make it difficult to attract teachers from other states and countries to our State. We have been making strides in trying to attract folks from other states. We need this bill to try not only to attract teachers from other countries but to keep the educators who are currently here. Senate Bill 296 offers one more strategy to get qualified educators into Nevada's schools.

CHAIR DENIS:

Do you know how many educators from other countries are currently teaching in Nevada?

SENATOR HAMMOND:

I do not. I sat down with about 40 of those educators in Clark County. I had a couple of follow-up conversations with a few of them. Of course, I would like to increase the number of teachers. I would like to make the program more expansive. We are looking at folks who speak the language and have an ability to communicate with kids.

We hire the Superintendent to make these decisions. We can trust the Superintendent to look at what other countries are doing with licensing. We hope the licensing in other countries matches nicely with licensing in our State, and we can reciprocate.

SENATOR WASHINGTON:

What is currently required for teachers who are out of the Country to get this endorsement?

SENATOR HAMMOND:

I do not know exactly what the requirements are. I can follow up and get that information to you later.

VIRGINIA STARRETT (Director, Protect Nevada Children):

I am a retired teacher. How does this work? Are we going to foreign countries and soliciting teachers? Would this bill prompt such recruitment? It is obvious that we need more teachers, but would this become like an H-1B visa program wherein people in foreign countries could get an education degree with the aim of coming to the United States? If so, the goal of their profession would be to get entry into the U.S. and become part of our Country. Are there certain qualifications that need to be added to the bill to somehow address whether we are going to be advertising for teachers to come because we need teachers?

CHAIR DENIS:

This does not address the programs already in place. I believe this just clears up whether the people are allowed to stay.

BARBARA JONES:

I am against the foreign people coming in to teach. We have so many smart people in this Country. I graduated from Carson High and the University of Nevada, Reno. I have taught in preschool, elementary, high school, college and adult levels in various locations. When I came back to Nevada, they were going to put me through a lot before I could teach again. I could not teach again and now they are bringing in outside people. I am against that.

LINDA BUCKARDT:

I have degrees in teaching and learning, as well as in English as a Second Language and Spanish. I am a first-generation American. I have concerns about this policy. Would this allow people from Third World countries to come to our

schools to teach? When I moved to Nevada, I had taken more than 500 hours of graduate classes and received advanced degrees. I went to apply for a job but was told that I would have to take additional classes and start at a beginning teacher's salary. Not having reciprocity between states is a problem. Minnesota and Nevada were not reciprocal states when I applied here. I know that many teachers from California have talked about wanting to come here to teach, but being expected to start at the beginning salary is a problem.

MARGARET MARTINI:

I am against this. We have many students in this Country who we can educate to become teachers. Instead of spending the resources, time and money to draw people from other countries, why can we not spend that same time and the same resources educating our people? Why can we not make it easier to transfer between states? This is a huge mistake. We need to resource from within our own Country. We need to make it easy for kids to become teachers. We can provide our students with scholarships and other incentives to become teachers. Resourcing from outside of our Country is a huge mistake. It is a huge detriment to our own population of students who want to become teachers.

GEORGE LEE:

In economics, anytime you open up a pool and include more people, the price of each place goes down. This policy could lead to a reduction in teacher pay. We do not need a reduction in teacher pay. We are introducing Third World cultural identities into the classroom. That is not the fault of the people themselves, but the culture in which they grew up and the culture they bring to this Country. We need to reinforce our culture, the culture of the Founding Fathers. We need to reinforce the culture of Nevada's founding and the fact that this is a State with a Constitution.

SENATOR HAMMOND:

Around 600 teachers from other countries work in Clark County. We are doing this already. We want to make sure that when the Superintendent goes out and develops these reciprocity agreements, the agreements are created with countries with very similar teacher licensure requirements to our own.

We do not grow enough teachers. I understand that the folks who spoke want more people from here, who understand Nevada. They want teachers from neighboring states and states within the U.S. We are not getting enough teachers. We have made a lot of changes. We have developed many programs

to incentivize young students into going into teaching. We have incentivized those who are already in college to try to change their majors to education. We are going to folks who have left one profession to get them to go into teaching. We have tried all these avenues, yet we still lack teachers in the State.

There are times when you have to think outside of the box. This legislation is not going to open up avenues where we are, all of a sudden, going to get Third World countries to send all of their teachers here. The countries in this agreement have to have requirements for licensing which are very similar to ours.

I would like to speak to Senator Washington's earlier question about the endorsement. Usually, if you are a special education teacher trying to come here, you have to get a special education endorsement. If an endorsement is available for your grade, course or specialty, you have to get that specific endorsement.

Because we have such a shortage of teachers, we are already going out and finding teachers wherever we can. We are competing with other states for teachers. Some states are flush with teachers and teacher candidates, but Nevada is not. Our pipeline is drying up. We are trying to find folks who want to get into teaching. If we had nothing but homegrown teachers in our colleges and did not have to worry about the shortage, we would not have to worry about this policy. When we have enough teachers, the Superintendent will not need to go this route.

Teaching in Nevada is expensive for the teachers who we do find. The people who come to the U.S. incur a lot of costs. They have to pay their visa and do the education endorsements. They have to get whatever other provisions they need. They have relocation expenses. In some cases, they have family in the country of origin, and the educator pays the rent both there and here. With S.B. 296 I am trying to find something to help alleviate the cost, because when the teachers agree to come here, they suddenly have a lot of costs. These are little things I am doing to try to encourage teachers to, once they get here, stay here as well.

CHAIR DENIS:

This program has already been established, correct? This bill does not establish a program. It is something that is already going. You are trying to find a way for teachers who are already here to be able to stay here a little longer.

SENATOR HAMMOND:

Yes. This program exists. The bill cleans up the existing policy and allows the Superintendent to go out and make these agreements. The Superintendent is able to look at a country's licensure requirements. If the Superintendent and the representatives of the other country want to make a reciprocal agreement, they can do so. This bill will just streamline the process. It is already in place. We are already doing this.

CHAIR DENIS:

There is no provision that someone is automatically going to get a visa to be able to come do this, correct?

SENATOR HAMMOND:

This bill does not require the Superintendent to go out and form these agreements. It is available as an option. Just because a person in another country wants to come here does not mean that he or she will be able to. Mr. Dietrich said that we currently do the licensing course by course; we really need the reciprocal part of this bill.

CHAIR DENIS:

I will close the hearing on S.B. 296 and turn the meeting over to Vice Chair Woodhouse.

VICE CHAIR WOODHOUSE:

I will open the hearing on S.B. 403.

SENATE BILL 403: Revises provisions relating to data privacy for pupils.
(BDR 34-309)

SENATOR MOISES DENIS (Senatorial District No. 2):

As kindergarten through Grade 12 education continues to become ever more technology based, it is important that our laws keep up. It is important to ensure that students' personal information is not only protected but also used appropriately and responsibly. Senate Bill 403 aims to continue efforts toward

that goal. The bill also aims to ensure that students and families are aware of the risks associated with the use of certain school services and technology.

We have had some discussion about the issue of data privacy in our education system. I had the opportunity to look at this issue during the interim. I participate in a group of legislators and chief information officers, as well as other regulators. We have discussions about how to protect data.

The bill has many references to “school services” and “school service providers.” *Nevada Revised Statutes* (NRS) 388.283 defines a schools service as:

- [An] Internet website, online service or mobile application that:
 - (a) Collects or maintains personally identifiable information concerning a pupil;
 - (b) Is used primarily for educational purposes; and
 - (c) Is designed and marketed for use in public schools and is used at the direction of teachers and other educational personnel.

A school service provider is the operator of such a website, online service or mobile application targeted toward schools for educational purposes.

The term “school service” does not include more general websites or applications, internal databases or systems, certain exams and assessments and instructional programs purchased by a school district, a charter school or the NDE. The term also does not include school services for which the provider has met certain criteria relating to contracts and the Family Educational Rights and Privacy Act of 1974 (FERPA).

Section 1, subsection 4, paragraph (a) defines “covered information”. The term refers to the personally identifiable information of a student or any information linked to a student’s personally identifiable information that is created by, provided to or gathered by a school service provider.

Section 1 of S.B. 403 provides that two things must happen before a public school allows a student to use a school service or before a school provides a student with technology. First, the school must provide to the student or his or her parent or legal guardian information regarding the risks associated with the collection of covered information as a result of using a school service or

technology provided by the school. Second, the school must request that the student, parent or legal guardian provide written consent for the use of each school service or item of technology provided by the school.

If consent is not given, the student will not be allowed to use the school service or item of technology. The school cannot penalize or in any way discriminate against the student. The school must provide an alternative method through which the student can receive the same educational benefit as would have been provided by use of the service or technology.

Per section 1, subsection 3, the requirement for consent specifically does not apply to information that is part of the State's automated system of accountability information or the Statewide longitudinal data system.

Section 2 modifies existing law related to the use of a student's personally identifiable information. Section 2, subsection 5, paragraph (a) revises an existing prohibition on targeted advertising to prohibit a school service provider from engaging in targeted advertising within its school service. This modified provision also applies if the targeted advertising on the website, online service or mobile application is based on information gathered from the school service.

Section 2, subsection 6, paragraph (f) allows a student's personally identifiable information to be used for performing certain research that is required or authorized by federal or State law.

Section 3 of the bill allows a school service provider to use aggregated, de-identified information derived from a student's personally identifiable information to develop and improve the products of the school service provider.

Sections 5 through 10 apply provisions related to notification and consent regarding school services and technology to private schools.

The provisions of S.B. 403 will help us continue to protect Nevada's students while still allowing the student's personal information to be used responsibly and for appropriate purposes. There are some challenges to complete implementation of what we are trying to accomplish with this bill. It is important to have this discussion about student technology and information. It is important to make sure that parents understand what is there. There are some

protections for parents already in the law. I want to have a discussion about the best way to update these protections.

Part of this language comes from a law implemented in California. The California law is based on model legislative language that Google has put out in multiple states. I tried to make sure that, if we did not already have certain provisions in NRS, this bill's language would reflect the models from other states.

SENATOR PICKARD:

The bill does not require the school service providers to actually disclose what information they gather and what they do with that information. Is that required elsewhere in Nevada law or regulation? Do we just allow the service providers to gather whatever they gather, and this bill just requires that the provider not use that personal information?

CHAIR DENIS:

I would like Ms. Lang to weigh in. We have had a discussion to compare what we currently have in statute and what adjustments S.B. 403 is proposing.

MS. LANG:

An entire subheading of NRS 388 is dedicated to school service providers. Before persons or governmental entities begin using a school service, NRS 388.291 requires the service provider to provide a written disclosure to certain persons, in language that is easy to understand, which identifies the types of information the provider is collecting.

SENATOR PICKARD:

Section 1, subsection 2, paragraph (c) states that the school district "Shall provide an alternative method for the pupil to receive the same educational benefit ...". Does that imply that the district is to purchase and provide the equipment, or is the alternative an analog or paper-based version of the same material? What do you intend?

SENATOR DENIS:

Several school districts have brought up that we might have some difficulty with section 1, subsection 2, paragraph (c). In some cases, with technology the way it is, there may not necessarily be an alternative available. We have to figure out how we would handle those situations. The way the bill is currently written, the alternative could be done in multiple ways including by providing

some sort of paper-based system. The challenge lies in contemplating if we want to require teachers and school districts to have to come up with two versions for everything they do.

SENATOR PICKARD:

What entered my mind was the idea that the school would provide a way for the student to use the technology without compromising data privacy. For example, if we require the student to use a tablet, the school could provide a tablet with an anonymous login. The student is not putting out his or her private information, but the student is still getting the same educational experience. That, or a number of other alternatives, might be available as a solution.

I am curious about the duplicated language in the definitions. For example, the language in section 10, subsection 2, paragraph (c) is identical to that in section 1, subsection 2, paragraph (c). The definitions under section 1, subsection 4 are copied in section 6. We have defined the same thing in two different places. Would it make sense to refer back to a single definition? With duplicated language, if someone changes one section but not the other, we end up with differing definitions built into NRS. Would it make sense, instead, to list definitions in one place and refer back to those definitions in every other place so that when we make one change, all the rest change automatically?

MS. LANG:

The sections mentioned deal with public schools and private schools, respectively. When drafting language, we sometimes do just refer back to a single definition. We sometimes decide to draft multiple definition sections. When we are drafting, we always search the terms to make sure we check those duplications. That is a drafting choice. We could do it either way.

SENATOR PICKARD:

I recognize that one section discusses public schools and the other discusses private schools. I was just wondering if there is a custom or practice in keeping those definitions separately. As I go through legislation, some of the things I look for are the inconsistencies created in language that started out as the same thing. As time goes on and as changes accrete to any one piece of legislation, we often have to change it and make conforming changes in other places. I am just trying to anticipate that.

SENATOR WASHINGTON:

It is 2019, but there is still not enough technology to protect this data. We have known for years that information is being stolen, yet nothing has been done in all this time to prevent that student data from getting out? Who could address that problem?

CHAIR DENIS:

There are a lot of data out there, but many new services continue to be developed. Parents do not necessarily know what kind of information is being gathered when their students are using different technologies. School districts are trying to make sure that everyone is under the same umbrella of approved programs.

Teachers could just go out and start using many programs and technologies which gather information. Using these services could be problematic, if we do not know what the providers are doing with the information, and if they are allowing students to use their own information or anonymous logins. The big challenge is trying to give some comfort to parents about what is being done with all of this information. We continue to see data breaches in other places. What kind of security are we putting in place to protect this student data?

SENATOR HAMMOND:

As a parent, it is nice to know if there is a website or a program that a teacher wants to use. With this bill, the teacher is going to have to make me aware of what my child is using. For the most part, teachers do inform parents, but this legislation helps the parent to be aware. You might not know that your first or second grade child is using some technology, and then all of a sudden someone takes that information or you get an email from a company. This bill will give me a little more information about what my child is up to.

As a teacher, it is nice to have some guidance. I was in a classroom; there was a great free online program to help students learn terms. I realized that if kids were signing up, the company would be getting their information and could sell or otherwise get money from the information. So, I was a little more creative, and created an account under my name. Every student got in under my account and we were still able to use the program without the students sending their information out to everybody.

The bill still allows for the release of information collected by the State. Certain information is gathered for use in various studies. However, does this block researchers or others who would want to do some sort of research from asking the State for certain information? If the State does not want to do a survey or a study, it can deny access to the information. I am worried about third party access to this information being restricted unless the State is asking for certain information.

CHAIR DENIS:

Existing provisions in the law protect personal data. Whenever states participate in those kinds of projects, where researchers are trying to gather information, that data is anonymous; it is disaggregated. The concern is whether you will be able to take different pieces of the information and put them back together. The State still has the ability to say that it does not want to do a study, but sometimes there is a benefit to the State to be able to get that information. We still have to protect personally identifiable information. The main reason I am bringing this bill forward is to bring some comfort to parents. I also would like to provide some help for school districts to be able to strengthen what they are currently doing.

SENATOR HAMMOND:

You are telling the parent that he or she has a right to say they do not want their child involved in something. We have been able to do that for a while. The bill is just letting parents know and strengthening the ability to object.

CHAIR DENIS:

That is correct. The challenge is that as districts become more and more connected to technology, it is increasingly difficult to offer an alternative. We need to figure out how to provide comfort to parents, while at the same time not creating something that is unattainable.

SENATOR HARRIS:

Would this bill prohibit students from participating in programs that collect anonymous, aggregated data? Perhaps a program might not collect an email address but information untied to any individual. Aggregated information such as average test scores on a particular section of a program could be helpful for making the program better in the future or for some research purposes.

CHAIR DENIS:

I do not know that the bill would keep a provider or district from doing that. Districts can, and in many cases do, provide a sort of anonymous login so that students can use the service and not have to worry about the data. I do not know that we are trying to get to that in S.B. 403. The biggest portion of this legislation is the part about what is actually happening with the data that is being collected.

MS. LANG:

Senator Denis is correct. This bill does not really address the issue Senator Harris posed. The bill is more concerned with the information that the parents receive. Section 2, subsection 6 expressly allows the service provider to use the information for performing research required or specifically authorized by law.

Existing statutes address many of the data privacy issues, including what Senator Harris brought up. *Nevada Revised Statutes* 388.295 authorizes some disclosure of aggregated information. The Statute states:

A school service provider may use and disclose information derived from personally identifiable information concerning a pupil to demonstrate the effectiveness of the products or services of the school service provider, including, without limitation, for use in advertising or marketing regarding the school service so long as the information is aggregated or is presented in a manner which does not disclose the identity of the pupil.

SENATOR HARRIS:

I believe that does address what I was talking about, but now I am a bit worried that this bill might supersede the ability for the service providers to collect the personally identifiable information and use it in the allowed aggregated forms.

MS. LANG:

I do not think the language is in conflict; it will still work together.

CHRIS DALY (Nevada State Education Association):

We support this bill. Student privacy is a major concern of educators and many others. However, there are other concerns as well. Technology companies acquiring and using data is big business. When we hear about free technological

aids in the classroom, the concern is that perhaps the aids are not free. Perhaps these companies are mining data and benefiting from the collection.

There is also a question about the use of this data in algorithms. An algorithmic bias would ultimately move education in a direction not aligned with the direction in which decision makers would like to go.

The National Education Association has some recommendations and best practices around privacy and the collection, use and safeguarding of student data. States and school districts should collaborate with parents and educators to develop and implement these recommendations in their communities. Educational institutions should maintain control of student data and grant access only to those with legitimate education needs. Educational institutions should be transparent regarding the types of data being collected and the purpose for which it is being used. Institutions should be transparent regarding with whom data are shared and for what purpose it is shared. Those with access to student data should have clear guidelines and training regarding collection, use and security procedures. Data mining for advertising and marketing purposes should be expressly prohibited. Data security procedures and practices should be reviewed regularly. This bill moves significantly in that direction.

JUANITA COX:

Experts such as Professor Joel Reidenberg have informed Congress on more than one occasion that free educational technology (EdTech) vendors are paid with student data. Many of these free products are used in Nevada's schools. For over two years, we have been begging the districts to educate parents on all aspects of free EdTech vendors and to let parents decide if their children will use them or not.

Over the last two years, several concerning things have happened in our area. First, one of the largest free EdTech vendors used in Washoe County schools, Edmodo, had a data breach. During the breach, 99 percent of the users had their data stolen and placed for sale on the "Dark Web." Second, less than a year later, Edmodo sold the entire company, including all student data, to a Chinese company. Many experts are sure that the Chinese bought Edmodo to acquire the data of U.S. students. On September 13, 2018, the FBI came out with a public service announcement warning parents and school districts about a third party EdTech vendor.

Tim Cook wrote in *Time Magazine* that consumers should have "the right ... to know what data is collected and why."
Other experts have given additional warnings.

The New York Times wrote, "EdTech companies should not be able to collect data on children and profile them using their personal data without parental consent to the data collection." But this is exactly what these free EdTech vendors do. Michelle Malkin said, "Parents deserve to know — K-N-O-W — and should have the right to say no — N-O — to use these products."

That is exactly what S.B. 403 does. It gives us the right to say no.

JOHN EPPOLITO (President, Protect Nevada Children):

This is one of the biggest things that will affect the future of our children, and most of us know nothing about it.

Free EdTech vendors have more data on our children than Facebook and Google have on us. These kids start using this stuff in first grade. The children do not know what they should and should not be doing in these vendors' products, and the parents never get to see what they do in those products.

Some of these vendors are trying to learn a lot more about our children than school work alone can provide. For example, they are trying to learn about the values, attitudes and beliefs of students.

Senator Pickard mentioned an anonymous login. Last year, our students were able to do that in the Washoe County School District (WCSD). This year, the District will not allow anonymous logins. My eighth graders will never use any of this stuff, despite what the District wants to do.

This should not be about the districts. If teachers have to create an alternative for some students, maybe the teachers should not be using the technology in the first place. None of us had the technology and we all turned out okay. Most research shows that technology will not increase the students' performance.

This bill has nothing to do with technology. Protect Nevada Children is not against technology. This bill has everything to do with EdTech vendors, especially free EdTech vendors like Google and Edmodo.

These vendors are paid with student data. The vendors collect, store, analyze and share our children's most personal data without parental consent. We do not know what they have. We cannot even control Google, let alone Edmodo, which is now a Chinese company. Many experts on the left and right have written about how this data and the profiles these free vendors create on our children will affect their future. *Politico*, the *New York Times*, the *Pittsburgh Post-Gazette*, the *Atlanta Journal-Constitution*, *American Thinker* and the *Electronic Frontier Foundation* have all published articles about problems with EdTech.

Senate Bill 403 should not be about teachers having to create 2 lessons. It should be about protecting the privacy and future of our students.

MS. BUCKARDT:

I am a member of NevadansCAN, A Citizen Action Network database of over 70,000 persons. I have worked with immigrants, refugees and migrants for over 32 years.

I am here to represent the second language learners, the African American, Latino, Pacific Islander and American Indian families. I am here to represent others who are not able to comprehend the type of data that is going to be kept on their students. Explanations need to be provided in the language of the parents so the parents can understand. Please protect these people.

We have talked about the data hacking by Google and Edmodo. Other countries such as Belgium, France and Canada are preventing their kids from even using a computer or cell phone in school.

My granddaughter does a vocabulary game on her phone. In between the games there is much inappropriate advertising. Please protect the rights of parents to have a say in what their students are learning and a say about the data.

DONALD GALLIMORE:

I wish to echo what Mr. Eppolito said. I also want to mention the problems with minority children, as Ms. Buckardt just said. The acquisition of minority information will be as much negative as it is positive. All this data is funneled into conduct. We know that poor conduct reports are swayed toward minority students. This can be a "double whammy" that would follow them the rest of their lives—continuing the school-to-prison pipeline.

I have never really been an internet or computer person. In fact, I hate it. I "came up" with pens, papers and books. The scientific proof is overwhelming that people learn better with paper. People have better retention and access to information that they have already read when that information is not learned on a computer. A paper-based education is far beyond what the computer generated information in education can bring.

I hope that you can understand the students' situation. They love their computers. They live with their computers. But there is a time when they need to go back to rote education. This is it.

MS. STARRETT:

I have submitted my written testimony ([Exhibit J](#)). Unlike other forward-thinking states, Nevada barely scratches the surface on data privacy protection for its students. Between 2013 and 2018, 39 states passed 113 student data privacy laws ([Exhibit K](#) contains copyrighted material. Original is available upon request of the Research Library.). The two laws Nevada put on its books during the same period do nothing to prevent invasive data collection particularly on the part of third-party vendors with whom the districts do not have contracts. The Nevada laws offer minimal protection of that data.

As noted in an EdWeek article, a portion of which I have provided ([Exhibit L](#)), FERPA has been rendered almost null and void regarding protecting information collected through the internet or stored in the cloud. This has been done to the degree that no one can truly assert FERPA as a shield of any kind regarding current student data collection.

The 1978 Protection of Pupil Rights Amendment (PPRA) mandates that parents be notified in advance of any survey, analysis or evaluation that deals with information concerning certain issues. Parents have the right to opt their children out of participating. I have provided additional comments about the PPRA on pages 1 and 2, [Exhibit L](#).

Because data collection can and frequently does give service providers access to this very kind of sensitive information, it follows that parents should be informed of the risks associated with EdTech and that an opt-out should be offered. The PPRA extends the opt-out requirement to the use of data for marketing, selling or distributing of such information.

Senate Bill 403 tackles the new world of technology attached to education and codifies the rights of students and parents regarding privacy protections that have been thought essential for decades.

JANINE HANSEN (Director, Nevada Families for Freedom):

Michelle Malkin wrote an excellent article titled *The Student Data-Mining Scandal Under our Noses*. Federal legislation has caused these problems and placed us in jeopardy. Ms. Malkin stated:

The recently passed Every Student Succeeds Act further enshrined government collection of personally identifiable information — including data collected on attitudes, values, beliefs and dispositions — and allows release of the data to third-party contractors thanks to Obama-era loopholes carved into the Family Education Rights and Privacy Act.

And the so-called school-to-work pipeline creates endless avenues into taxpayer coffers for firms pitching data-gathering initiatives to "align" student learning with "skill sets" and "competencies" desired by corporations.

This is a serious issue. We are glad that this bill encourages parents to be involved, to be informed and to make decisions about their own children. That is very important, because oftentimes parents feel excluded. Ms. Malkin further stated:

As parent and educational privacy advocate Cheri Kiesecker reported, Facebook/Digital Promise Partnership is "a wonderful data collection and marketing tool for Facebook and the U.S. Department of Ed, but it is incredibly alarming for students' privacy and security."

"Personalized learning" is an edutech buzz phrase for hijacking the classroom and hooking students and teachers on branded software and hardware.

A program in Colorado started tracking preschool age children. The program tracked how often the child went to the bathroom, if the child could take his or

her pants off and other intrusive things. The amount and content of the data they are compiling is getting to be ridiculous.

MR. LEE:

We know that data which are kept in the cloud, except for air gap systems, are at risk. But that is not really the meaning of this bill. This bill is to make sure that the parents understand what their kids are getting into and how the information is going to be used. That is really important and what I see as being the central character of this bill. I support S.B. 403.

I spent quite a bit of my career in information technology (IT) support with an emphasis on security. The last ten years of doing IT security, I told people what to think and how to secure their systems.

I support anything that is going to give the parents a background on where their child's information is going. This knowledge would be most helpful for the parent when making decisions for their child. Until the child turns 18, the parents are still responsible for what their kids do and what happens to their kids. That responsibility cannot be met with ignorance. It should be met with a full understanding of what is out there.

DARLA LEE:

I echo the comments that have been made. I am concerned that many studies have discussed the dangers of too much screen time for our students, particularly our younger students. It has been proven that this is not good for them. I would encourage you to support this bill so that the parents can at least be aware of the risks and the possibilities of the data breaches. I encourage you to support this bill so that parents can think more clearly about just how much screen time their children should be having.

MS. JONES:

I have been waiting for a bill like this. This is an extremely important issue. I am in support of S.B. 403. The bill takes a step for people to protect children's information. Several Senators have asked good questions today. The bill is not perfect. It does not solve everything, but it is extremely important to at least protect the information from going to these outside vendors.

I sat in on the hearings of the previous vendor, who sent the information to China. Unless something has changed, the information is not anonymous and it

is not aggregated. They collect all kinds of information I do not think you would like outside people to have on your kids, grandkids and future generations.

LINDSAY ANDERSON (Washoe County School District):

Senator Denis had a long conference call with our team and with another district's IT team to talk about our concerns. You have addressed many of our concerns during your conversation today. However, the WCSD is in opposition to S.B. 403 as it is currently written.

One major problem we have with the bill is that, given how many of the educational standards include a component around proficiency in technology, we cannot allow students to opt out of using technology. This upcoming year, the WCSD will be opening two new middle schools. The District is opening those schools in a one-to-one technology environment, so those middle schools can start off with the emphasis around technology. The schools can implement the programs we have learned from in other schools, such as the Nevada Ready 21 schools. How do we allow a student who is zoned for a new one-to-one technology environment middle school to opt out of the program and curriculum that will be taught in that school?

We have done an extensive amount of work at the local level to adopt a student data privacy policy. This policy was created with our Board of Trustees and with our community. We have addressed many of the concerns around data privacy and the work we have done to make sure that our student information is safe. I think we can work through the issues we have with the bill. We want to support the intent of S.B. 403. We care deeply about protecting student privacy. We have acted to protect data privacy in a manner contrary to the wishes of many of our teachers who want to use programs which perhaps do not fall into the safety net provided at the District level. We are committed to continued work on this issue.

ROBERT SIDFORD (Chief Information and Innovation Officer, Office of Information Technology, Washoe County School District):

We support many of the provisions of this bill, especially the student data privacy provisions. We are doing a substantial amount of work around this to make sure we have contracts with and controlling interests in the third party providers with whom the District works. We suggest that the language in the laws in other states, modeled on the Student Online Personal Information Protection Act (SOPIPA) provisions enacted in California in 2016, would help

hold the tech vendors to a high standard similar to that which we hold our other vendors.

The issues with which we have most concerns are the provisions around technology. We have determined that allowing an opt-out for technology use does not allow us to provide an equitable educational opportunity to all of our students. This is something that we have felt is very important, especially as we launch one-to-one schools and explore digital curriculum resources.

Allowing students to opt out would also have an impact on our ability to teach a variety of content standards. A bill about computer science standards has been adopted in the State. We are about to adopt standards which integrate technology standards within curriculum. From an equity standpoint, we are very concerned that all our students experience those standards. The bill's current language would prohibit us from doing that.

SENATOR PICKARD:

I understand the equity argument. If someone cannot use the devices, that person cannot get the same experience. Can you speak to the idea of anonymous logins or perhaps a portal that allows for participation without providing the personal identification and objectionable information the parents do not want to give?

MR. SIDFORD:

We are centralizing our services in a single educational technology platform through Microsoft Office 365. We have a controlling interest in that information. We need to have a contract with the vendors to make sure they are adequately protecting the data. We need to feel comfortable with making sure that under FERPA we are designating those vendors as school officials. Giving the vendor this designation allows us to ensure that we are controlling the data.

Unfortunately, the way the data is collected is not anonymous. However, we are looking to make sure that we control the information and that we have contract provisions in place to ensure that the vendor is acting appropriately.

SENATOR PICKARD:

I understand that, but you did not really answer my question. I understand that Microsoft and everyone else wants the information because they have a vested interest in getting it. That is the point. The companies have lost that information

to data breaches. I am hearing from those who support the bill and oppose the idea of data collection that they do not want to give up their personal identifying information.

If our mission is to educate children, not provide Microsoft or Google or anyone else with information that they can sell and profit on, if our mission is actually focused on education, it would seem to me that we have an opportunity to set up what the vendor would see as anonymized data. This would allow the students to get the educational opportunity without giving up information that their parents oppose giving. Are you suggesting that it is impossible to set up an alias or use some other form of anonymized logins through which to provide the same services?

MR. SIDFORD:

We establish a student account based on the child's student number. That is one way of anonymizing that information. Provisions in the existing bill actually help protect students in that way by making sure that vendors are appropriately using the information they collect. For this reason, I suggest including the SOPIPA language, because those provisions hold the vendors to a similar standard in which they are not legally enabled to use that data for any profit or similar ways.

SENATOR PICKARD:

I understand what you are saying, and maybe you do not have an answer. I do not think we always need to provide personal information in order to get an educational experience. I understand that there is a desire on the part of the vendors, but their motives are not education. Their first motive is profit. They want to know how they can use this information, learn what they can about the individuals and then turn the information around. The education piece is probably a close, but secondary, issue for them.

Maybe, I am wrong. Maybe, they are absolutely interested first in education. However, they still have a profit motive for using that personal information. That is what I am hearing people object to. We can probably find a bridge between those two ideas.

MR. SIDFORD:

The issue is really around making sure the data are anonymized for the company's use. We need to make sure that our students are authenticating

properly within those services. Ideally, the proposed legislation protects students against the companies using that data in any way other than disaggregating the data and makes sure the data is not applicable for the purposes of profit, as you are saying. This also includes vendors such as our textbook vendors with whom we are contracting to make sure we have digital resources aligned to the text materials so that we can teach the standards. We are also contracting with those providers to make sure that those services are available and that all the vendors are controlled in the same way.

SENATOR PICKARD:

If I understood correctly, the students are using their student numbers as a login. As such, are we already not providing any personally identifying information to the vendor? Is there a firewall there that allows you to not give the vendor the information about the student numbers? How does that work?

MR. SIDFORD:

It depends on the vendor; it depends on the service. We maintain information on all of our students in our student information system. Depending on the needs of a particular service and what the service is intended to do, we provide the vendor with different data elements to complete their purpose. It is not the case that we are only providing them with unidentifiable information. We make sure that in our contracts with those vendors we are on top of exactly which data elements are provided to the vendors. We make sure that our systems are using the proper operability standards to ensure that the vendors only receive the appropriate data elements.

STEVE DOLAN:

I started this meeting out neutral. I am now in favor of S.B. 403. What I hear from Washoe County is that they know they cannot protect the children's data. Several witnesses have talked about China and Edmodo. I am originally from Silicon Valley. I worked there among the high tech world. I appreciated Senator Washington's question about security in this day and age. Google, Apple, Facebook and the other tech firms cannot control their data because a backdoor is built into every single program. It does not matter what program it is, the programmers always build a backdoor so the program can be adjusted. That is how we get fixes. It is scary to think about that information heading to China.

I appreciate the proposal to inform parents, even more important is protecting the children. We are looking at a 15-year cycle, from kindergarten through

college, of information being stored about our children. My children graduated and are in college. They grew up in this system. When they started in the Silicon Valley school system, we saw that the children of a majority of the tech executives do not use computers. Washoe County is putting the cart before the horse by not securing the data and then creating programs by which to teach. Executives know better and do not allow their kids to use these technologies.

SENATOR DENIS:

It was helpful to hear the discussion. At the end of the day, we are all trying to get to the same thing. We want our kids to learn. We want our kids to be able to learn in the best way that they can and in the way that works for them. We want parents to know what is going on.

I do not know that you can completely eliminate technology from kids' lives. I have two-year-old grandkids who know how to put a passcode into a cell phone. They are going to have this technology. But we have to figure out a way to help protect them and their information from those that would want to use it for commercial purposes.

I appreciate the discussion with the school districts in Washoe and Clark Counties on how they are trying to do their best. There are ways in which we can provide protection and at the same time not make it harder to educate our kids. I will work with folks to see if we can craft something that will get to those goals, so we can protect that data.

VICE CHAIR WOODHOUSE:

We will close the hearing on S.B. 403 and turn the gavel back to the Chair.

CHAIR DENIS:

I will open the meeting for public comment.

MR. EPPOLITO:

When my kids were in fifth grade, they were assigned an email address, which I did not want them to have. The District said that it would not be a problem and that they would delete the addresses. It is now a couple years later, and they will not delete the email address. The breached Edmodo data contained email addresses, student IDs, passwords, coded passwords and the student user IDs. The students' IDs were stolen from the WCSD. The stolen IDs are the same IDs used by Infinite Campus to track these kids from prekindergarten to Grade 12.

The same ID is used to track these kids through death. Infinite Campus and other providers never delete this student data.

Thanks to the WCSD that information was stolen, and now they will not delete my kids' email addresses. My kids are never going to use the addresses or this other stuff. I do not care what you guys decide. My kids are not going to log in to Edmodo. Now that the Chinese own Edmodo, there is not the slightest chance that we can keep track of that data. We do not even know what Google is up to, let alone the Chinese.

I know that everybody is trying. I am not saying they are doing it intentionally. It all boils down to parents. Parents deserve to be able to say no. Educate parents, let the parents decide. We have been asking the WCSD for three years. The FBI put out the public service notice, the data got breached, the Chinese got involved and Washoe County does everything they can to hide it from the parents. This is why we need S.B. 403. Please do not let them gut this bill so that it does not protect kids. Parents deserve to know.

MS. STARRETT:

Student information is now kept in a file that is on the internet and in the cloud. After the nomination hearing for Supreme Court Justice Brett Kavanaugh, everyone is aware of how things you did when you were young can be used against you. It used to be that if you did something stupid on the playground and you got written up, the report went on a piece of paper in a file, in a drawer in a place where no one was ever going to access that piece of paper. That is not true anymore.

Now, all this information that is accumulated about behavior, psychological problems, fights on campus, girls getting pregnant, health issues and everything else goes in a file that is accessible in the cloud by just about anybody who knows how to get around those firewalls. We need to protect the children. We cannot sacrifice our children to provide profits for tech companies.

Washoe County is way ahead of itself in making schools that demand that children give up their liberties, perhaps their futures, because the District thinks it is a good idea for the students to be so sunk into tech that they cannot learn without it. Maybe they need to provide the option of a completely non-tech school so parents do not have to make this choice of sacrificing their children's personal information on the altar of someone else's profits.

MR. GALLIMORE:

We are here because of the lack of enforcement. They could never take the information from Mr. Eppolito's children and disaggregate it from the information of everyone else. The process was too cumbersome. I do not know how in-depth their collection efforts have been and continue to be. At the start of Common Core and the other data collection projects and programs, there was no way they could collect that data and store it properly. They could not do it. That is why we are here today. It is still a problem; the denouement of Common Core to the Every Student Succeeds Act of 2015 has not helped that aspect at all. No matter what happens here today, it is still not possible. It is impossible for us to collect that data and store it and dole it out effectively. The main point is a lack of enforcement.

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CHAIR DENIS:
The meeting is adjourned at 3:12 p.m.

RESPECTFULLY SUBMITTED:

Steven Jamieson,
Committee Secretary

APPROVED BY:

Senator Moises Denis, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	5		Attendance Roster
S.B. 80	C	5	Jen Strum	Work Session Document
S.B. 106	D	2	Jen Sturm	Work Session Document
S.B. 255	E	3	Jen Sturm	Work Session Document
S.B. 313	F	2	Jen Sturm	Work Session Document
S.B. 313	G	9	Jen Sturm	Proposed Amendment
S.B. 451	H	1	Jen Sturm	Work Session Document
S.B. 467	I	1	Jen Sturm	Work Session Document
S.B. 403	J	2	Virginia Starrett / Protect Nevada Children	Written Testimony
S.B. 403	K	26	Virginia Starrett / Protect Nevada Children	State Student Privacy Laws passed from 2013 to 2018
S.B. 403	L	2	Virginia Starrett / Protect Nevada Children	Written Comments