

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-fifth Session  
May 4, 2009**

The Senate Committee on Finance was called to order by Cochair Bernice Mathews at 6:26 p.m. on Monday, May 4, 2009, in Room 2134 of the Legislative Building, Carson City, 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 Bernice Mathews, Cochair  
Senator Steven A. Horsford, Cochair  
Senator Bob Coffin  
Senator Joyce Woodhouse  
Senator William J. Raggio  
Senator Dean A. Rhoads  
Senator Warren B. Hardy II

**GUEST LEGISLATORS PRESENT:**

Senator Valerie Weiner, Clark County Senatorial District No. 3

**STAFF MEMBERS PRESENT:**

Brian M. Burke, Principal Deputy Fiscal Analyst  
Gary L. Ghiggeri, Senate Fiscal Analyst  
Patricia O'Flinn, Committee Secretary

**OTHERS PRESENT:**

Jack Kim, Representative, Nevada Association of Health Plans  
Cari A. Rovig, MBA, Statewide Executive Director, Nevada Immunization Coalition  
Tami M. Chartraw, MPA: HA, Immunization Program Manager, Bureau of Child, Family and Community Wellness, Health Division, Department of Health and Human Services  
Chris MacKenzie, Representative, Eastern Nevada Consulting  
Leah Bradle, Executive Director, Nevada Powersport Dealers Association  
Ernie Adler, Representative, Reno-Sparks Indian Colony  
Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles  
Neena Laxalt, Representative, Nevada Cattlemen's Association  
Anne Loring, Representative, Washoe County School District  
Lynn Warne, President, Nevada State Education Association  
David Schuman, Chairman, Nevada Committee for Full Statehood  
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education  
Eugene T. Paslov, Representative, Education Policy Consulting  
Bart Mangino, Representative, Clark County School District

**COCHAIR MATHEWS:**

The meeting will come to order. I will place time limits on testimony this evening, please be brief. For those who are waiting for Senate Bill (S.B.) 388,

the hearing has been postponed until Wednesday. Budget closings have also been postponed.

We will now hear S.B. 381.

**SENATE BILL 381 (1st Reprint)**: Revises provisions governing the immunization of children against certain diseases. (BDR 38-809)

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

I appear before you tonight to present S.B. 381 and urge your support for the measure. This bill comes from the Senate Health and Education Committee of which I am Chair. Since 1994, the Nevada State Immunization Program (NSIP) provided all or most vaccines to all children in Nevada at no cost. We were one of the last states in the nation to have this type of vaccine policy. Most states do not cover the cost of providing vaccines to insured children. As of January 1, 2009, the NSIP no longer provides free vaccines to children who have insurance due to a number of factors, including decreased federal funds; the increasing number of vaccines; the increased cost of vaccines; and a growing population. The current policy is to cover the cost of vaccines only for children who are eligible for the Vaccine for Children (VFC) program.

All children 0 to 18 years old, who are Medicaid enrolled or Medicaid eligible, uninsured, American Indian or Alaska Native or underinsured, are eligible to receive the VFC vaccine. Essentially, the VFC program covers most children who do not have insurance coverage.

Transitioning to a VFC-only policy was a major shift for many parents and health care providers. This measure, S.B. 381, attempts to fill some of the gaps that were created when this policy was revised, by requiring coverage for certain immunizations. The bill requires the Director of the Department of Health and Human Services to include immunizations to children in the State Plan for Medicaid and requires plans of self-insurance provided by certain governmental agencies to include coverage for certain immunizations administered to children. The bill authorizes the Health Division and the county, city, town and district boards of health to enter into contract with insurers to provide certain immunization and limits the amount such an insurer may charge for immunizations pursuant to contract.

Finally, the bill requires policies of individual health insurance, policies of group health insurance, policies of health insurance issued by a hospital or medical service corporation, health-care plans of health maintenance organizations and health-care plans issued by managed care organizations to provide the same coverage for the administration of immunizations to children.

COCHAIR MATHEWS:

Are there any questions for Senator Weiner? Is there anyone else to testify in favor of this bill?

SENATOR WEINER:

I have just received an amendment from those who are interested in First Dollar Coverage. My hope is we can move the measure forward in whatever form so we can provide a good public policy for insurers to immunize children. I know Mr. Jack Kim provided the first amendment which has been incorporated into the current bill. The new amendment seeks to eliminate those changes.

COCHAIR MATHEWS:

Mr. Kim, do you want to comment on the language this amendment would address?

JACK KIM (Representative, Nevada Association of Health Plans):

This is the first time I have seen this amendment. Senate Bill 381 as it was originally proposed would have prohibited insurance companies from charging any type of co-pays, deductibles or other types of cost sharing that exist with other similar types of services. Most cost sharing for immunizations are fairly small. I proposed an amendment to delete those prohibitions so insurers could charge these fees. That amendment was agreed to in the policy committee. I was informed today of this new amendment to be proposed in this Committee that would again eliminate the ability for the insurers to charge co-pays, deductibles or other cost-sharing fees. We are concerned about that type of amendment to any insurance bill. We try to maintain the lowest cost sharing possible. We oppose this amendment.

SENATOR HARDY:

I am unclear. Who is proposing this amendment?

COCHAIR MATHEWS:

Do you want to hear from that person?

SENATOR HARDY:

Not necessarily. What I understand Mr. Kim to say, is that the prohibition on co-pays was in the original bill and it was removed by amendment in the Senate Health and Education Committee. A policy issue is now being brought to the Finance Committee. I cannot support this amendment, especially if there is no one to come forward and stand by it.

COCHAIR MATHEWS:

That is a good point. It is a policy decision. It should have been settled in the policy committee. Is there anyone else in favor of this bill? I am asking for people in favor of the bill as it currently exists not in favor of an amendment, nor someone who is neutral.

CARI A. ROVIG, MBA (Statewide Executive Director, Nevada Immunization Coalition):

We support S.B. 381. We were trying to reduce costs to parents, which is a barrier to immunizations, with First Dollar Coverage.

COCHAIR MATHEWS:

You have some reservations. Is there anyone who is in favor of the bill as it is currently written?

MR. KIM:

We are in favor of this bill as it currently exists. Typically, our association opposes any type of mandates. Health insurance providers have been providing immunization coverage since the NSIP vaccine program was changed.

Ms. ROVIG:

Financial barriers to vaccination have been an issue for both providers and parents. Cost should not be an issue to vaccinate. We agree with the intent of S.B. 381 to eliminate financial barriers to vaccinations. Inclusion of First Dollar

Coverage, which provides full-coverage for vaccinations without requiring the parent to first pay a deductible, co-insurance or co-pay, would eliminate the financial barrier for parents.

SENATOR RAGGIO:

Are you testifying in support of the first reprint of S.B. 381, which is what we are looking at? Or, do you think there are changes necessary to this bill?

Ms. ROVIG:

That is a good question. We agree with the first reprint, but First Dollar Coverage was removed from the original bill and there was not a lot of policy discussion at that time.

COCHAIR MATHEWS:

Senator Weiner, could you please respond to that?

SENATOR WEINER:

The amendment to delete those provisions was considered in Committee at the Work Session. We also amended the contracting provision that State Health officials and local authorities want to be able to contract with insurers. If I may presume to make a suggestion, I would like to move the bill as it came out of the Health and Education Committee. If there is more policy consideration, we could do that with the interested parties in the Assembly so we can meet deadlines and move the bill forward.

COCHAIR MATHEWS:

Is there anyone else to testify on this bill?

We will not act on this bill tonight.

TAMI M. CHARTRAW, MPA: HA (Immunization Program Manager, Bureau of Child, Family and Community Wellness, Health Division, Department of Health and Human Services):

I will draw your attention to the fiscal note I have submitted. It is simply for the cost to promulgate regulations. It is approximately \$8,100.

COCHAIR MATHEWS:

We will close the hearing on S.B. 381.

We will open the hearing on S.B. 188. Is there anyone here for S.B. 188?

**SENATE BILL 188 (1st Reprint)**: Provides for the establishment of the Solar Thermal Systems Demonstration Program. (BDR 58-379)

SENATOR WOODHOUSE:

I have a note from Senator Schneider. He is unable to be here this evening. He wanted us to add on the record on his behalf that the fiscal note on this bill is for a 0.25 Full-Time Equivalent (FTE) position requested by the Public Utilities Commission (PUC). It is Senator Schneider's belief that a 0.25 FTE is not needed.

COCHAIR MATHEWS:

Please tell Senator Schneider we will note his position. We will have to hear S.B. 188 again at another time.

We will open the hearing on S.B. 394. Who is here for this bill? We will take three minutes for this bill.

**SENATE BILL 394 (1st Reprint)**: Makes various changes to provisions relating to off-highway vehicles. (BDR 43-501)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):

The Legislative Committee on Public Lands has monitored Off-Highway Vehicle (OHV) use on public lands for many years. There have been 17 hearings over the last 3 years. The number of OHVs operated on public lands in Nevada has increased dramatically in recent years. It is estimated that Nevadans own over 425,000 OHVs, including dirt bikes and snowmobiles. The increased popularity of OHVs as a form of recreation poses significant land management challenges. It should be noted that virtually all western states have some form of OHV registration and regulation at the state level. Formal deliberations of OHV matters were held at seven of the nine meetings of the Legislative Committee on Public Lands. As Chairman, I was diligent to offer opportunities to all interested parties to discuss the issue of OHV regulation in Nevada. The members of the Committee were impressed with the desire of many of these parties to collaborate and work closely on this legislation. Through the efforts of a working group, consensus was reached on many important components of OHV registration and regulation. Senate Bill 394 is an important measure. The bill addresses many of the concerns that have been raised in the past regarding OHV regulation and is a positive step in the right direction for Nevada, OHV users, the environmental community and OHV dealers. I urge your support of S.B. 394, as amended.

CHRIS MACKENZIE (Representative, Eastern Nevada Consulting):

The immediate fiscal impact for the State is the \$400,000 start-up cost for the program. The returns are expected to be exponential due to recovery of lost sales tax from Nevadans who previously purchased vehicles out-of-State. The impact on users is a minimal cost for initial licensing and annual registration. A Commission will be set up to allocate the funds collected. A percentage will be for law enforcement and safety training, but 60 percent of the funds will be used for trail establishment and restoration. This is an investment which will provide significant returns to the General Fund after the first year.

LEAH BRADLE (Executive Director, Nevada Powersport Dealers Association):

We hope S.B. 394 will have a significant impact to the State in the form of positive revenue flow. The Department of Motor Vehicles (DMV) fiscal note shows initial costs of \$477,473. The DMV fiscal note also shows a \$3.3 million profit by fiscal year (FY) 2010-2011. The program will more than pay for itself. This fiscal note does not include the lost sales tax revenues which are evaded by many out-of-State purchasers. It is projected that \$4.4 million annually will be deposited into the OHV fund which will then be used for land-use projects and creating a sustainable environment for OHVs and public land use. An important aspect of the bill is recapturing lost sales tax. When consumers go out-of-State to purchase vehicles, many dealerships do not require them to pay tax in that state. When they return to Nevada with the vehicle, they are supposed to pay the sales and use tax, but many do not. You have information I gathered from the audit of three Utah dealerships, showing over \$16.4 million in lost vehicle sales to local dealerships and \$1.2 million in lost sales tax due to the State of Nevada ([Exhibit C](#)). The registration component of S.B. 394 would

help to eliminate the incentive to purchase out-of-State and would bring that money back to local dealers, local businesses and our economy.

Finally, we have an amendment that clarifies language that was in the amendment approved by the Senate Committee on Energy, Infrastructure and Transportation ([Exhibit D](#)). There were accidental omissions on the rewrite of the bill, and this amendment reinstates those omissions.

COCHAIR MATHEWS:  
Senator Rhoads, have you seen this amendment?

SENATOR RHOADS:  
Yes, I have.

COCHAIR MATHEWS:  
Is this a friendly amendment?

SENATOR RHOADS:  
Yes.

COCHAIR MATHEWS:  
Are there any questions from the Committee?

SENATOR RAGGIO:  
In looking at [Exhibit C](#), apparently three dealerships in Utah were audited. Do these figures represent Nevadans who purchased OHVs in Utah?

MS. BRADLE:  
Yes. The Nevada Department of Taxation audited these three Utah dealerships for records of Nevada residents who purchased OHVs from them. The Department of Taxation sends out collection notices, but they do not always receive payment.

SENATOR RAGGIO:  
What was the advantage to these people to go to Utah to purchase these vehicles?

MS. BRADLE:  
They can purchase the vehicles without incurring sales tax.

SENATOR RAGGIO:  
Do they have a lower sales tax in Utah?

MS. BRADLE:  
Many times, as non-residents, they do not pay the Utah sales tax.

SENATOR RAGGIO:  
This is an example of lost revenue because the vehicles do not currently have to be titled here in Nevada.

COCHAIR MATHEWS:  
Is there anyone else who would like to testify in favor of [S.B. 394](#)?

ERNIE ADLER (Representative, Reno-Sparks Indian Colony):

The increased use of OHVs on public lands has been a terrible problem for Indian people. Land has been destroyed and they cannot effectuate an arrest, or even report them to State authorities, due to the lack of registration plates on the vehicles. I agree with the previous speakers. A tremendous increase in sales tax would be brought into the State if this were to pass.

SENATOR RHOADS:

There is someone here from the DMV who might want to testify.

FARROKH HORMAZDI (Deputy Director, Department of Motor Vehicles):

We are here to address some DMV concerns regarding S.B. 394 as amended. The fiscal note and research summary have been distributed to you ([Exhibit E](#)). Our concerns straddle issues that incorporate policy, compliance, enforcement, fiscal and, above all, Nevada Constitutionality issues. We thought this was resolved in the Senate Committee on Energy, Infrastructure and Transportation, but it has sprung up again. The Nevada Constitution is clear on the collection and use of Highway Funds. Both Article 9, Section 5 of the Nevada Constitution and Chapter 408 of the *Nevada Revised Statutes* (NRS) specifically require all monies from the Highway Fund be used exclusively for the construction, maintenance and administration of Nevada's highways. Senate Bill 394 proposes to establish a revolving account for the administration of OHV titling and registration in the motor vehicle fund; OHV and Highway Funds cannot be commingled. Furthermore, S.B. 394 does not provide non-Highway Funding to the DMV to recover any of the required start-up costs, the cost for regulations or the cost for employees needed for ongoing compliance and enforcement, administrative hearings, or OHV road designation. The bill only allows the DMV to use its portion of OHV funds for the administration of titling and registration. Further S.B. 394 requires OHV funds to be deposited with the State Treasurer directly. These funds should be deposited with the DMV for appropriate reconciliation and distribution. For security purposes, the DMV recommends against dealer issuance of certificates of title. Finally, this bill removes authority from the Nevada Department of Transportation to grant approval for the designation of any portion of highway within a city or county for operation of OHVs and places the responsibility on the DMV. Further, we have not seen the friendly amendment referred to earlier. Regarding the start-up costs, the \$276,750 for contract costs would be needed about a year before implementation, and the \$148,271 for employee training costs would be needed about three months prior to implementation.

COCHAIR MATHEWS:

We are getting you a copy of the friendly amendment and we will have Senator Rhoads explain it to you.

SENATOR RHOADS:

I would like to call on Ms. Bradle to explain it.

MS. BRADLE:

This amendment is not new language, it is language that had been worked out with the DMV and agreed upon and approved in the policy committee. The changes were not made in the reprint. The first change in the amendment is to remove approval of the decal by the OHV Commission and reserves all purview for this to the DMV. In Section 15, the word "may" was supposed to have been replaced by the word "shall." In Section 16, one member of the OHV

Commission was changed from a person who participates in the racing of off-highway vehicles to a person who participates in the racing of off-highway motorcycles. Section 18 references who can issue citations for not having registration and clarifies that the violation is a misdemeanor subject to a fine not to exceed \$100. Finally, Section 49 clarifies the difference between the fines imposed on dealers and those applicable to the user.

SENATOR COFFIN:

At the time this bill was heard in the policy committee, did the DMV raise the issue of constitutionality?

MR. HORMAZDI:

Yes, we did. We agreed to the language approved in that committee. The issue arose again after the reprint. You cannot provide Highway Funding for non-highway uses. The language limiting the DMV's use of the funds for titling and registration does not allow us to use the money for anything else. That is one of our primary concerns. Most important, we need to have the funds to set up the program a year in advance of its implementation.

SENATOR COFFIN:

Was the person who testified in the policy committee unaware of these needs, or the provisions of the bill?

MR. HORMAZDI:

No, we reached an agreement during the policy committee meeting. When the reprint of the bill came out, the constitutionality issue arose again due to the language of the rewrite.

COCHAIR MATHEWS:

Are there any other questions or concerns? We need the bill, but I do not know where we will get the \$500,000 to set it up.

GARY L. GHIGGERI (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

What I understand is that the DMV needs approximately \$500,000 in start-up money. They cannot use Highway Fund money due to constitutional issues, so those costs would default to the General Fund which does not have \$500,000.

SENATOR RHOADS:

We will work on it. Thank you for the hearing.

COCHAIR MATHEWS:

Is there anyone else here to testify about S.B. 394?

NEENA LAXALT (Representative, Nevada Cattlemen's Association):

We fully support S.B. 394.

COCHAIR MATHEWS:

We will close the hearing on S.B. 394.

We will open the hearing on S.B. 330.

**SENATE BILL 330 (1st Reprint)**: Enacts the Initiative for a World-Class Education in Nevada. (BDR 34-171)

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):

I am here to present S.B. 330. This bill is not the first attempt at addressing these issues. This bill provides an opportunity to move the state of education in Nevada forward, to implement sensible solutions for improving student achievement. It is a proposal that allows us to take actions based on the concerns of parents, teachers and business leaders, among others, who are concerned about the state of education in Nevada. As we talk about the need to raise new revenue to fund the State's budget, and particularly education, there is an expectation we will improve education. This bill is not a criticism of the current administration in the Nevada Department of Education (NDE) or the Board of Education. We have outstanding leaders who are committed to our State. These proposals do not make judgments about their dedication to education. This bill is not a final solution for how we can work to increase per student investment, which must be part of the overall solution on how we move Nevada forward. I will highlight the primary goals of S.B. 330 and the structural changes of Kindergarten through Grade 12 (K-12) governance.

The bill sets specific goals for education reform such as improving proficiency, increasing the number of students entering high school and leaving with a diploma and improving our students' scores on college entrance exams. Since the introduction of this bill we have learned from the U.S. Department of Education that many of their expectations of the states will be required. Some of the provisions of S.B. 330 will help us to be better positioned to benefit from the programs coming from the new administration. The bill sets measures to make us more aware of what our school's status is in proficiency testing, data collection and to improvements to the System of Accountability Information in Nevada (SAIN) to better track students through their high school years. I believe S.B. 330 helps to attract and retain high quality teachers via the performance pay provisions. I believe this bill will build closer cooperation between K-12 and higher education, so students are ready for college and our teachers get top-quality professional training from our colleges of education. Finally, S.B. 330 revises the appointment and election of the Board of Education and Superintendent.

The spreadsheet titled "Initiative for a World-Class Education in Nevada" ([Exhibit F](#)) details the impact of S.B. 330 on various aspects of the educational system in Nevada. The first section of the spreadsheet, corresponding with Sections 8 and 71 of the bill, deals with the selection of members of the Board of Education. The next provision, correlating to Section 9 of the bill, establishes overall state governance duties. It sets clearly defined goals and benchmarks for improving academic achievement of students. It aligns academic standards and curriculum in K-12 with the standards and curriculum in postsecondary education. The Superintendent of Public Instruction becomes the State Superintendent for Education and the appointment is made by the Governor rather than the State Board. The next two pages realign the Department based on the goals and performance benchmarks established in S.B. 330. The final two pages deal with the Commissions and Advisory Councils currently in existence.

The chart entitled "K-12 Educational Governance Structure in Nevada," provided by the NDE ([Exhibit G](#)) shows the current structure of the Department and how decisions are made. The chart titled the Proposed Policy Structure for Public Elementary and Secondary Education in Nevada ([Exhibit H](#)) illustrates a clear delineation of responsibility and authority. It both empowers the Department to

make decisions and holds them accountable for those decisions. The Program of Performance Pay is outlined on page 8 of [Exhibit F](#). It establishes an endowment fund for a program of performance pay to be determined by the Department. Performance pay would be based on voluntary participation by the teachers based on achievement and progress of students as well as professional accomplishments of teachers. Finally, Section 70 of [S.B. 330](#) establishes a Legislative Commission to Oversee Educational Reform.

SENATOR RAGGIO:

What would be the role of the Legislative Committee on Education if it will no longer be overseeing the Divisions?

SENATOR HORSFORD:

I would ask that we defer to the Legal Division and the Legislative Counsel Bureau to ensure that would be the intent. If it would be more appropriate to have the Standing Committee on Education provide oversight, I would support that.

SENATOR RAGGIO:

Historically, the Legislative Committee on Education has worked assiduously to monitor the program and the provisions. I am not sure the Legislative Commission would be the appropriate body to take up this additional task.

COCHAIR MATHEWS:

Is there anyone here to testify in favor of this bill?

ANNE LORING (Representative, Washoe County School District):

As we testified before the policy committee, we support [S.B. 330](#), especially Sections 9, 5 and 47.

LYNN WARNE (President, Nevada State Education Association):

We support [S.B. 330](#). However, we believe sections 47 and 47.5 of the bill should be replaced with language based primarily upon Assembly Bill No. 3 of the 23rd Special Session ([Exhibit I](#)). That bill, created by representatives from the school districts, the Nevada State Education Association and the business community, was passed but never implemented. Districts around the State began discussions regarding performance pay programs, but the funding was cut, so they have not been able to move forward with the program.

SENATOR RAGGIO:

I just received this. It appears to be a rewrite of those sections of the bill. What would be the substantive changes?

MS. WARNE:

This language would create a committee at the District level consisting of representatives from business, parents, educational personnel and others as the Board of Trustees deems appropriate. That group would meet to formulate a recommendation regarding performance pay for that particular district.

SENATOR RAGGIO:

Section 47 states, "a formula for determining the classroom performance of a teacher." Has that been omitted? Is that what you are referencing?

MS. WARNE:

No, we do not want to change the way the formula is funded. We would like a performance pay system or program that would be worked on jointly at the district level with representatives from the districts, from employee groups as well as parents and business representatives. Rather than a one-size-fits-all solution from the State, it would be left up to the local groups to determine a performance pay system that makes sense.

SENATOR RAGGIO:

Why is there a difference in school districts? What is the distinction between the different counties?

MS. WARNE:

Clark and Washoe Counties would need to act on this performance pay program, and the smaller districts would have the opportunity to do so if they chose.

SENATOR RAGGIO:

I do not see that distinction in the bill. Is that a new distinction?

MS. WARNE:

It is a distinction that was made in Assembly Bill No. 3 of the 23rd Special Session.

SENATOR RAGGIO:

Rather than continuing to take the Committee's time, I can talk to you and Senator Horsford outside of Committee.

COCHAIR MATHEWS:

Is anyone here to testify against this bill?

DAVID SCHUMAN (Chairman, Nevada Committee for Full Statehood):

This bill has many good ideas. Unfortunately, the National Education Association (NEA) would block most of it, especially Section 47. Other districts have gone on strike over that: they call it merit pay. The NEA has fought merit pay for decades across the country. This bill gives the false impression that we will have a world-class education once S.B. 330 is implemented. For example, in the handout titled *OECD Economic Surveys 1993-1994* ([Exhibit J](#)), "a comparative study of primary education in Taiwan, Japan and the United States found that American mothers are much more pleased with the performance of their local schools than the Taiwanese and Japanese mothers. When asked how good a job their school was doing in educating their offspring, 91 percent of American mothers responded "excellent" or "good" while only 42 percent of Taiwanese and 39 percent of the Japanese parents were this positive" page 4, [Exhibit J](#). We had a substandard educational system then. On the 3rd International Math and Science study achievement tests ([Exhibit K](#)), we were 28th in math and 17th in science. It is not the business of the government to tell parents their children are getting an excellent education when, compared to the rest of the world, they are not. I worked in Singapore in the 1970s and the ethnic Chinese kids I taught were better at English than American kids. At the time, the Singaporeans spent less than half of what the United States did on education. This may look like a lot of old data, but an April 29, 2009 *Wall Street Journal* article ([Exhibit L](#)) states American children have made no advancements. We

have all these decades of people saying we will make a superior education system, it has not happened.

The reason there has been no improvement is the NEA does not support pay for performance. I have heard teachers here in Nevada complain about "teaching to the test." I have distributed an excerpt from *The School and Society* by John Dewey ([Exhibit M](#)), in which he talks about how bad it is to store up information to spew out on the test. He is dead and he has been for 50 years. But, I hear this same philosophy from people who have never heard of John Dewey. To quote from his book, "The mere absorbing of facts and truths is so exclusively individual an affair that it tends very naturally to pass into selfishness. There is no obvious social motive for the acquirement of mere learning, there is no clear social gain in success thereat. Indeed, almost the only measure for success is a competitive one, in the bad sense of the term—a comparison of results in the recitation or in the examination to see which child has succeeded in getting ahead of others in storing up, in accumulating, the maximum of information." [Exhibit M](#), page 3. He uses the word "information" throughout and that alone is propaganda. Children are not being fed information, they are being fed knowledge. Information is what you get off a bus schedule; knowledge is how to do a quadratic equation. The thinking of John Dewey, an ardent Communist who learned his Communism from one of Marx's students, permeates these schools. And we are going to spend money to mislead parents into thinking they are having a world-class education.

I think Senator Horsford's bill is full of good ideas; he is just not as old as I am and has not come up against these people. Across the country, there are hard-nosed people who reject pay for performance and adherence to tests. I believe in tests because they reveal two things: how well the child has learned what the teacher has taught; and what the teacher has been teaching. The solution for this is school vouchers. They just ended this in Washington, D.C. Poor children and minority children used to have Opportunity Scholarships; they could even go to the school the President's children attend using these vouchers. The voucher is a scholarship for 40 percent to 60 percent of what the government spends, and the non-government schools will do the job for that amount of money and save the state money.

COCHAIR MATHEWS:

Is there anyone else to testify against S.B. 330? Is there anyone who is neutral?

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

I signed up as neutral on S.B. 330. There are pieces of the bill we do support: performance pay; more detailed goals and objectives; and additional tracking of student achievement. The NDE submitted a fiscal note dealing with two sections. The first one related to the starting teacher salaries. Since that has been removed from the bill, I wanted it on the record that part of the fiscal note is no longer applicable. The second part of the fiscal note related to the performance pay. We included \$10 million which is the amount that was funded in the 74th Legislative Session for performance pay. However, since the language of the bill states to the extent funding is available, technically you could pass S.B. 330 without the fiscal note. If you pass the policy and do not provide the funding, there just would not be a program to fund at that point.

Sections 3 and 4 of S.B. 330 require the Superintendent to appoint 2 positions we do not currently have in existence in the NDE: the director of assessments and accountability; and the director of innovation, research and professional development. Section 19 states both of these positions would be unclassified. At a minimum, we would have to identify the specific salaries for these positions. Since they do not currently exist, a fiscal note would be needed to address this issue. I am concerned about the composition of the State Board of Education being reduced from 10 elected members to 3 elected members. There would be a fiscal impact relating to the costs of elections.

The current system of the elected Board appointing the State Superintendent is a good system. It takes a lot of the politics out of education, even though you cannot get away from politics completely. As a recent example that applies in this case, I attended a workshop on the American Reinvestment and Recovery Act of 2009 (ARRA) in Las Vegas held by U. S. Senator Harry Reid. I received notification stating State agency heads would not be attending the workshop. Because of political differences there was no consensus about who was sponsoring the workshop, Senator Reid or the Governor. Because of the political differences, I was the only State agency head at the workshop. I presented at two sessions: 400 people attended the first; 250 to 300 people attended the second. It was a missed opportunity for the other agencies and the citizens of Nevada.

Based on the current wording, S.B. 330 allows the current Superintendent to finish out his term of office in March 2010. The term of the new Superintendent appointed by the Governor expires June 30, 2010. The Governor then has until February 11, 2011 to appoint a new Superintendent. That term would begin July 1, 2011. The bill does not say who is running the NDE between June 30, 2010 and July 1, 2011. This could be corrected easily before passage of the bill.

COCHAIR MATHEWS:

They will contract with you.

EUGENE T. PASLOV (Representative, Education Policy Consulting):

I am the former Superintendent of Public Instruction of Nevada and have been retired for 14 years. I am neutral about S.B. 330 for two reasons. Senator Horsford has undertaken a massive and complex task. It is built on the work of Senator Raggio to reform education in this State. There are a lot of good ideas in S.B. 330. Changing the State Governance system is complex. I hope you would look at the long-term implications of this change, and be diligent in the planning. The second issue I have is the appointment of the State Superintendent. Any time you undertake a massive change of this sort, you need strong leadership. I strongly support the current Superintendent. He is highly regarded throughout the nation. He has been active in national educational matters. He is respected by school teachers and administrators. He is respected by most legislators. Regardless of the outcome of this bill, I recommend you consider keeping Dr. Keith Rheault in place for at least three or four years until all of the planning is done. You would be well-served by having strong leadership from the outset.

COCHAIR MATHEWS:

Are there any further comments or questions?

BART MANGINO (Representative, Clark County School District):

I would like to request the Committee look at the structure currently in place in the Empowerment Schools resulting from the language of A.B. 3 of the 74th Legislative Session. The structures and protocols developed for the pay for performance model resulted from committees composed of parents, teachers' associations, legislators and members of the community. There is an existing program that takes into account quantitative and qualitative performance measures. These protocols have been highly effective in the Clark County School District and I recommend them for the Statewide program as proposed in S.B. 330.

COCHAIR MATHEWS:

Is there anyone here to testify against S.B. 330?

SENATOR RAGGIO:

We should request an updated fiscal note from Dr. Rheault. We are considering policies without money to fund a performance pay program.

COCHAIR MATHEWS:

Dr. Rheault mentioned he would be preparing a new fiscal note for the Committee. We will close the hearing on S.B. 330.

MR. GHIGGERI:

The Governor recommended a 6-percent reduction in pay for each of the elected officials. This afternoon I received BDR 18-1195 to implement the pay reduction for the Governor; the Lieutenant Governor; the Secretary of State; the State Treasurer; the State Controller; and the Attorney General. This BDR requires a Committee introduction.

**BILL DRAFT REQUEST 18-1195**: Reduces salaries of constitutional officers.  
(Later introduced as [Senate Bill 420](#).)

SENATOR RHOADS MOVED TO INTRODUCE BDR 18-1195.

SENATOR HARDY SECONDED THE MOTION.

SENATOR RAGGIO:

Why not change it to the 4 percent we are recommending for the State employees?

COCHAIR HORSFORD:

The Governor may propose something higher than the 6 percent.

THE MOTION CARRIED. (SENATOR COFFIN WAS ABSENT FOR THE VOTE.)

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COCHAIR MATHEWS:

Is there any further public testimony? Seeing none, and as there is no further business to come before this Committee, we are adjourned at 7:48 p.m.

RESPECTFULLY SUBMITTED:

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Patricia O'Flinn,  
Committee Secretary

APPROVED BY:

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Senator Bernice Mathews, Cochair

DATE: \_\_\_\_\_