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**Superintendent's Oral Testimony, Senate Bill 191**  
**Hearing Scheduled March 10, 2003**  
**Senate Finance Committee**

Good morning, Chairman Raggio, members of the Committee, and staff

For the record, I am James L. Hager, Superintendent of the Washoe County School District. I'm here to provide brief oral testimony on behalf of the school district. Dotty Merrill, Senior Director of Public Policy, Accountability & Assessment in the Washoe County School District has provided more detailed written testimony that incorporates my oral remarks with details about various suggested amendments to and technical questions about Senate Bill 191.

First, we congratulate the members of the Legislative Committee on Education and Legislative Counsel Bureau staff on their achievement in aligning the requirements of No Child Left Behind Act (NCLB) with existing requirements of the Nevada Education Reform Act (NERA). Crafting a comprehensive document for Nevada is, indeed, a remarkable accomplishment.

Second, the Washoe County School District strongly supports the tenets of NCLB regarding high academic and performance expectations for all students. What is more important than ensuring that ALL children have a fair, equitable, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic standards and state academic assessments?

The Trustees and I have repeatedly gone on record to support the belief that all students can learn and that all students can achieve. Moreover, our Trustees and Superintendent have focused district goals and resources upon the objective of reducing the achievement gap among all student population groups. Budget realignment has occurred over the course of the last three years to increase dedication of district resources to this all-important objective.

NOTE: Written testimony containing more detailed information appears at the end of oral testimony.

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The Trustees and I believe that our commitment to educational excellence is demonstrated by the fact that in Washoe County School District were ten high achievement schools and two exemplary achievement schools, and only two schools in need of improvement. Of the district's 86 schools, 14% demonstrated high or exemplary achievement and 84% demonstrated adequate achievement. The ACT and SAT scores for WCSD seniors are the highest in the state.

It is critical for my remarks to touch upon the kind of assessment to be used to accomplish the goals of No Child Left Behind as well as for the numerous purposes connected with accountability for determining adequate yearly progress. The Trustees have unanimously supported the "white paper" that has been distributed to you today, and I support it as well. The assessment part of this bill is absolutely crucial to improving student achievement.

What does that mean? The Washoe County School District supports administration in the spring of criterion-referenced tests that are aligned to Nevada's standards annually in grades 3 through 8 for the purpose of accountability under No Child Left Behind. The school district believes that these tests can provide valuable information to improve instruction in the classroom for all students and can furnish diagnostic information to provide needed interventions for all students. Moreover, the school district believes that CRTs are the best way to evaluate the learning of Nevada's students based upon the state's standards and to provide meaningful accountability.

The Washoe County School District supports a number of the provisions in Senate Bill 191. In November 2002, the Trustees adopted various legislative positions designed to reduce the achievement gap among all student population groups and, at the same time, to improve student mastery of Nevada's academic and performance standards. The written testimony focuses upon a number of those positions as they can be seen in Senate Bill 191.

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In the interest of time, I won't deal with them in detail. There are other sections of the bill that we support as covered in the written testimony provided by Dr. Merrill.

The point to be made here is that the Washoe County School District supports numerous propositions embodied in Senate Bill 191. We have a number of technical questions as well as suggested amendments that have been provided to LCB staff.

As Superintendent, I want you to know that a huge concern with Senate Bill 191 is what we see as at least a \$59m unfunded mandate. Specific information has been provided to LCB Fiscal about this estimate. To put this in context, \$59m is 25% of the school district's operating budget. At a time when we are contemplating a \$20m budget cut, the prospect of a \$59m unfunded mandate is staggering. A copy of that projection has been provided to the Committee's secretary for your reference.

Let me reiterate that the Washoe County School District strongly supports the tenets of NCLB regarding high academic and performance expectations for all students. The Trustees and I have repeatedly demonstrated the conviction that all students can learn and that all students can achieve.

To conclude, I encourage you to read our written testimony because of its detail. In the interest of time, I've kept my remarks brief. This bill is very complex and very important to Nevada educators. Because of its complexity, I strongly encourage the members of this Committee to hold more than one public hearing on this important legislation.

Thank you for the opportunity to briefly address this important bill.

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The Washoe County School District supports a number of the provisions in Senate Bill 191. In November 2002, the Board of Trustees adopted various legislative positions designed to reduce the achievement gap among all student population groups and, at the same time, to improve student mastery of Nevada's academic and performance standards. We see nine of those positions reflected in various requirements of this bill. Let me link those positions with nine specific requirements of this bill:

- Page 15, Section 9, subsection 2(i)(1)—Support extra instructional time for non-proficient students with flexibility for the design of that time for local districts and the ability of districts to mandate attendance in such programs.
- Page 105, Section 85—Support provision at all schools of high-quality teachers and instructional staff, including paraprofessionals.
- Again on page 105, Section 85—Support distribution of high-quality teachers and instructional staff to ensure that at-risk and non-proficient students have equal access to excellent learning.
- Page 123, Section 105—Support continuation of the Regional Professional Development Program, focused on implementation of the standards in the four core content areas.
- Page 15, Section 9, subsection 2(i)(5)—Provide staff development necessary to teach to higher standards.
- Page 15, Section 9, subsection 2(f)—Support increasing parent/family involvement in support of student achievement.
- Page 14, Section 9, subsections 2(c) and (d)—Support research-based, effective programs designed to address unique needs of at-risk students, including dropout prevention, second language programs, and services for transient students.
- Page 15, Section 9, subsection 2(i)(3)—Support technology with annual upgrades and instructional software.
- Page 15, Section 9, subsection 2(j) as well as later in the bill on page 88, Section 67, subsection 7—Support use of the PSAT for all sophomores in Nevada to help improve the college-going rate, to increase performance on the HSPE, the SAT/ACT, and to reduce the remediation rate at UCCSN.

In addition, the Board of Trustees supports other sections of Senate Bill 191, including:

- Page 103, Section 79, subsection 1(c)—Requiring a charter school to pay the costs of re-administering examinations as outlined in that section.
- Page 113, Section 97, subsection 1—Establishing January 1, 2006, as a critical date for high quality school personnel.

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- Page 149, Section 127—Providing an appropriation for educational technology needs in Nevada school districts.

That said, the Washoe County School District respectfully offers several friendly amendments for consideration by the members of this Committee.

1. On page 9 of the bill, Section 7, we notice that the statewide plan to improve the achievement of pupils enrolled in Nevada's public schools does not require the State Board to include representatives from the state's school districts. We encourage the members of the Committee to support including the mandatory provision that one representative be included from a school district in a county having a population above 100,000 be included—together with one representative from a school district in a county having a population below 100,000. We believe it is important to mandate the inclusion of two school district representatives on the group charged with the important mission to collaboratively prepare the statewide plan.
2. Page 20, Section 11, subsection 3, states that "the Department may, for good cause shown, grant a waiver to a school from the requirements of subsection 1" of that section. It is our view that "good cause" may be too ambiguous in this context. We propose that this section use the language that appears in the No Child Left Behind Act, because such language more clearly defines the conditions involved. A waiver may be given for a period not to exceed 1 year when the failure "to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress." We further encourage the members of this Committee to include the same language on page 29, Section 21, in lines 31 and 32 of subsection 1(b).

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3. Page 26, Section 19, subsection 1(c)(4) currently states that the school support team established for a school shall furnish in its annual report information about programs adopted for remediation, including "the satisfaction of the personnel at the school with the program." Elsewhere throughout this bill, the emphasis is upon "data and findings" along with goals and objectives that are "specific" and "measurable." Programs for remediation must be "scientifically based." We respectfully suggest that "satisfaction" is neither "specific" nor "measurable" nor "scientific" and should not be included in the so-called data gathered by the school support team. Therefore, we encourage the members of this Committee to amend subsection 1(c)(4) out of this section.
4. Page 36, Section 27, subsection 1, line 33 states that a "plan for restructuring includes." We suggest that the language be amended to read a "plan for restructuring that may include," to indicate that the board of trustees or the Department may choose among the options provided in the remainder of Section 17.
5. Page 47, Section 41, subsection 2(6) states that the annual report of accountability must include the "percentage of pupils who were not tested." Over and over again, No Child Left Behind emphasizes the importance of testing at least 95% of children in each tested grade level for each content. We respectfully request that the percentage reported represent the students tested rather than the students not tested in line with the intention and expectation of No Child Left Behind. Reporting the percentage tested—rather than the percentage not tested—also reduces the likelihood that personally identifiable information will be reported.
6. Page 52, Section 41, subsection 4(b) states that the annual report of accountability must be provided "in a concise manner." In view of the numerous data elements and the required disaggregation of these data elements, it does not seem possible that any report can be "concise." No Child Left Behind requires that these reports be in a uniform format and understandable to parents and the community. We respectfully encourage the members of the Committee to amend subsection 4(b) out of this section.
7. Page 73, Section 1(b), lines 17-19, state that the statewide-automated system of information concerning pupils should "include a system of unique identification for each pupil." We encourage the members of this Committee to specify that the unique identification number should be applicable for use in both public schools and UCCSN to facilitate the

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"longitudinal comparisons of the academic achievement" and other factors described in subsection 1(c). It is our understanding that this proposal is supported by UCCSN in a letter to the Committee from Dr. Jane Nichols, Chancellor.

8. The No Child Left Behind Act, part A, Section 1111, page 37, lines 12-19, indicate that the results of assessments used for determining adequate yearly progress at the school and district level should not include students who have attended school for less than one full academic year, either at the school or within the district, "except that the performance of students who have attended more than one school in the local education agency in any academic year shall be used" to determine the district adequate yearly progress. We strongly encourage the members of this Committee to integrate that concept into Senate Bill 191. In accordance with NCLB, the results for students who have not attended a single school for a full academic year must be disaggregated from results considered for adequate yearly progress. And, further, in accordance with NCLB, those students should be included in the results for the local education agency, only if they have been enrolled in that local agency for a full academic year even if they have not attended a single school for a full academic year.
9. Page 106, Section 84, subsection 1 sets forth the definition of "paraprofessional" in lines 16-17. We suggest that the definition be changed to "a person who is employed by the school district or governing body and assigned by a school district or charter school. . . ." Without this change, we suggest that, for example, any person who comes into a classroom to read aloud to children might be construed as a "paraprofessional."
10. The Washoe County School District supports the amendment proposed by the Nevada Association of School Superintendents and the Nevada Association of School Boards to amend the bill to require "criterion referenced tests" as in Section 67 of the bill on pages 86-89 with the deletion of subsection 9 (b) and changing the time of administration from fall to spring in Section 67, subsection (2)(d) on page 86, line 23, and elsewhere as appropriate in the bill.



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The Washoe County School District also proposes several amendments for the Committee's consideration that focus upon the issue of **charter schools** and the manner of their inclusion in Senate Bill 191.

1. On March 4, 2003, the Washoe County School District voted unanimously to recommend that the results of assessments used for determining adequate yearly progress at the district level not include the results for charter schools within that district. It is the view of the Trustees that results from one charter school can be more appropriately compared among results from other charter schools—rather than with other schools in a school district. We encourage the members of the Committee to support removing charter school results for purposes of determining school district adequate yearly progress as described throughout Senate Bill 191. We would recommend including charter school results together for all reporting purposes.
2. Page 24, Section 16, subsection 4(b) discusses choice for charter school students attending a charter school in need of improvement. It should be recognized, first, that students **choose** to attend a charter school. That is initial "school choice." In other words, students at a charter school in need of improvement are there because that is the decision of their families. It is an interesting issue, therefore, what choice should look like for students at a school they have chosen to attend, when that school is in need of improvement.

We propose an amendment to address the issue of choice for charter school students when the school is in need of improvement. Such students may

- (1) return to their zoned school, if it is not in need of improvement  
or
  - (2) attend one of the schools made available to students at the zoned school, if the zoned school is in need of improvement.
3. Numerous Sections of Senate Bill 191 require school districts to provide technical assistance along with school support teams to charter schools in need of improvement. It should be remembered that charter schools are allowed by statute to employ "innovative programs." In addition, the sponsoring school district is expressly prevented by statute from interfering in the day-to-day operation of a charter school. It is unclear to the Washoe County School District why the sponsoring school district should have the statutory responsibility to provide assistance to a charter school

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in need of improvement. This is, first, an unfunded mandate. The anticipated cost for each school support team is estimated at approximately \$15,000. Second, it is our contention that it is a waste of taxpayer dollars for a sponsoring school district to provide these resources for a charter school, which has demonstrated that, its innovative programs are not working effectively to improve student improvement. The purpose of a charter school must be set forth in its mission and goals, as required by NRS 386.520:

(b) A charter school must have as its stated purpose at least one of the following goals:

- (1) Improving the opportunities for pupils to learn;
- (2) Encouraging the use of effective methods of teaching;
- (3) Providing an accurate measurement of the educational achievement of pupils;
- (4) Establishing accountability of public schools;
- (5) Providing a method for public schools to measure achievement based upon the performance of the schools; or
- (6) Creating new professional opportunities for teachers.

All charter schools sponsored by the Washoe County School District have indicated that their mission/goal is "improving the opportunities for pupils to learn." If the charter school is in need of improvement, that goal has not been reached. If the charter school has indicated that its mission/goal is "encouraging the use of effective methods of teaching" and if the charter school is in need of improvement, that goal has not been reached either. To have a sponsoring school district walk into a charter school to provide this assistance seems at odds with existing statute. We strongly disagree that it is a school district obligation to provide such support.

4. If a charter school—after three consecutive years in need of improvement, has not made adequate yearly progress, is that not prima facie evidence for revocation by the sponsoring school district? We strongly encourage the members of the Committee to examine revocation for charter schools in need of improvement within the context of Senate Bill 191.
  5. If a charter school fails to make adequate yearly progress or is otherwise identified as in need of improvement, then the charter school should not be held harmless, for purposes of receiving distributive school and other school district funding, for any decline in enrollment in subsequent years.
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## TECHNICAL CONSIDERATIONS OR QUESTIONS

1. Page 23, Section 15, subsection 2 concerns "technical assistance" to be provided to a school by the board of trustees. Although much in Senate Bill 191 describes the "support team" for the school, little is stated regarding the definition of "technical assistance." We notice the reference to *20 U.S.C. § 6316(b)(4)* which states

describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 6311(b)(3) of this title.

Please clarify in the bill the Legislature's specific expectations for "technical assistance."

2. Page 27, Section 19, subsection (1)(d)(5), lines 26-28 state that the analysis of "problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement" include a "description of the participation of parents and legal guardians in the educational process and other activities relating to the school." This language seems to contemplate something beyond data currently gathered about participation in teacher/parent conferences. What specific information is contemplated in this regard?
3. Page 43, Section 1, subsections (c) and (d), lines 3-9 state that the Department may take one or more corrective actions for a school district in need of improvement, including actions named in subsections (c) and (d). What guidelines will the Legislature provide for the Department regarding how such determinations will be made?
4. No Child Left Behind requires that each state must "take steps to ensure that both school wide programs and targeted assistance schools provide instruction by highly qualified instructional staff . . . including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers." Page 106, Section 85, subsection 1, lines 37-42, state that "the board of trustees of each school district shall ensure that the percentage of experienced teachers who teach in schools in the district that are designated as demonstrating need for improvement is the same or higher as the percentage of experienced teachers who teach in schools that are not designated as demonstrating need for improvement."

It is our understanding of this language that this requirement goes beyond the requirement of NCLB in that Nevada school districts will be required to

ensure that ANY school in need of improvement—not just schools receiving Title I assistance as mandated in NCLB—must have the same or higher percentage of experienced teachers than those schools not in need of improvement. If the number of schools in need of improvement grows as has been projected and if the crisis of finding “highly qualified teachers” burgeons, we wonder how it will be possible for school districts to meet this requirement. As a result, we encourage the substitution of language from NCLB rather than the language currently appearing in this section.

Washoe County School District  
 Estimated Fiscal Note BDR 34-635

Provided March 4, 2003

Category	Each Yr Future Biennia							Future Bienna Total
	2002-03	2003-04	2004-05	2005-06	2006-07			
Assessments	109,157	144,766	276,622	279,259	282,259	561,518		
Technology Data Collection	1,170,000	8,839,500	11,399,360	11,194,999	7,744,471	18,939,470		
Accountability and Reporting	75,690	137,043	2,224,016	2,268,496	2,313,839	4,582,335		
SIP Development/Support*	31,000	31,000	108,500	232,500	465,000	697,500		
SIP Implementation	0	0	307,000	313,040	319,300	632,340		
Higher Quality Teachers**	87,300	90,000	315,000	690,000	1,410,000	2,100,000		
Higher Quality Paraprofessional	0	40,000	1,141,000	1,163,820	1,187,096	2,350,916		
School Choice (AYP)	0	0	0	0	0	0		
School Choice (Safety)***	0	0	0	0	0	0		
Supplementary Services	0	55,200	193,200	414,000	828,000	1,242,000		
Research Based Programs	0	20,000	70,000	150,000	300,000	450,000		
Prof. Dev. Content/Performance****	0	0	200,000	300,000	0	300,000		
Other - describe*****	0	10,000	35,000	75,000	150,000	225,000		
<b>Estimated Annual Totals</b>	<b>1,473,147</b>	<b>9,367,509</b>	<b>16,269,698</b>	<b>17,081,114</b>	<b>14,999,965</b>			
<b>Estimated Total Over Years Shown</b>						<b>59,191,433</b>		

Notes:

All of the above estimations are predicated upon sanctions applying only to Title I schools.

None of the above estimations include charter schools in WCSD in need of improvement.

\*Projections for school improvement plan development/support/implementation estimate 2 schools (2003-04) then 7 schools (2004-05) then 15 schools (2005-06) then 30 schools (2006-07).

\*\*NRS requires that an additional 1/5 of one year of the PERS contribution be paid for each teacher at a school in need of improvement.

\*\*\*Transportation costs have not been included because it is the NDE position that districts need not pay transportation for these students.

\*\*\*\*These estimated costs will be necessary to bring paraprofessionals up to the appropriate level for assisting with classroom instruction.

\*\*\*\*\*It is anticipated that additional costs will arise for substitute time, additional staff positions, or other expenses.