

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Fourth Session  
March 26, 2007**

The Committee on Education was called to order by Chair Bonnie Parnell at 3:50 p.m., on Monday, March 26, 2007, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Bonnie Parnell, Chair  
Assemblywoman Debbie Smith, Vice Chair  
Assemblyman Bob Beers  
Assemblyman David Bobzien  
Assemblyman Mo Denis  
Assemblyman Joseph P. (Joe) Hardy  
Assemblyman Ruben Kihuen  
Assemblyman Garn Mabey  
Assemblyman Harvey J. Munford  
Assemblyman Tick Segerblom  
Assemblyman Lynn D. Stewart

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1

**STAFF MEMBERS PRESENT:**

Kristin Roberts, Committee Counsel  
Carol M. Stonefield, Committee Policy Analyst  
Kelly Troescher, Committee Secretary

Minutes ID: 634



Rachel Pilliod, Committee Manager  
Trisha Moore, Committee Assistant

**OTHERS PRESENT:**

Chris Bayer, Director, Court Appointed Special Advocates, Carson City, Nevada

Neil Rombardo, District Attorney, Carson City, Nevada

Keith Rheault, Superintendent of Public Instruction

Bill Parker, Private Citizen, Las Vegas, Nevada

Bryn Lapenta, Interim Assistant Superintendent, Washoe County School District

Craig Kadlub, Government Affairs, Clark County School District

Cherie Townsend, Director, Department of Juvenile Justice Services

Joseph Turco, Public Advocate, American Civil Liberties Union of Nevada

Michael Pomi, Director, Washoe County Department of Juvenile Services

Deborah McBride, Chief, Bureau of Community Health, Nevada State Health Division

Doug Banghart, Manager, Nevada Immunization Program, Nevada State Health Division

Mary-Ann Brown, Community and Clinical Health Services Assistant Division Director, Washoe County District Health Department

Eddie Bonine, Executive Director, Nevada Interscholastic Activities Association

Serretta Fast, Private Citizen, Las Vegas, Nevada

Paul Anderson, Legal Counsel to Nevada Interscholastic Activities Association

Anne Loring, Representing Washoe County School District

Dotty Merrill, Representing Nevada Association of School Boards

**Chair Parnell:**

[Meeting called to order at 3:50 p.m. Roll called.] We have a quorum. I am going to present the first bill, but I want to mention there is a 5:00 p.m. Floor Session that we have been excused from. Unless we have finished our activities by five o'clock, we have been assured that we do not need to rush to attend it. You probably noticed some of the craziness on the floor today. It is hard to believe we are coming up to our first deadline, Committee passage, on April 13. We have many bills to do, and several more are coming to this Committee. While it is difficult, especially on issues we are passionate about and which tend to be controversial, I ask if someone has already made the statements you would like to make, you are more than welcome to come forward and say "me too" on record. We are going to try to expedite these bills and make sure we have completed our business by April 13.

With that, I will turn the gavel over to Vice Chairwoman Smith.

**Vice Chair Smith:**

I will now open the hearing on Assembly Bill 485.

**Assembly Bill 485: Revises provisions relating to the attendance and truancy of pupils. (BDR 34-418)**

**Assemblywoman Bonnie Parnell, Assembly District No. 40:**

I am here today at the request of Senator Raggio. Many of you are probably aware that Senator Raggio chaired the Legislative Committee on Education during the interim. I vice chaired that Committee. We had so many bill drafts coming out of the Committee that he asked if I would like to present about half of them on this side. He is doing the others on the Senate side. I am sure they will cross at some point in time.

I have a few comments before I go through the bill. It is frustrating to be a teacher these days. I have not been away from the classroom for a long period of time, and I have a number of close friends who are still teaching. Something important to keep in mind: teachers are scrutinized like never before. They give their students multitudes of tests which everyone looks at to see whether the school is making annual yearly progress (AYP), what the status of the teacher is, and why are the kids not learning. They often look like they are the target of attack ads and media coverage. It is awfully hard to teach a student who is not in the classroom. When I say that, you may visualize a student missing a day of school, but we have students missing 20, 30, 40, and 60 days of school a year. Yet, those students are often part of the population of students who are factored into the equation to determine whether or not schools, students, and school districts are doing a good job.

I would not want to speak for Senator Raggio, but I will give you my take of the Legislative Committee deliberation on this issue. Senator Raggio feels it is the responsibility of the parents to get their children to school and to make sure they are keeping their part of the bargain in educating our young students.

To deal with that issue, you have A.B. 485 before you as an attempt to hold students and parents more accountable. It also looks at what is happening in our primary grades. You have heard me talk about high school dropouts, but we do not often talk about eighth grade students dropping out, and they are. We do not often talk about kindergarten, first, and second grade teachers who already see poor attendance habits in students. Many times now, you can identify a child who is going to have habitual attendance issues as early as the primary grades.

This bill addresses responsibility, and to some degree, intervention. Chris will be talking a little more about intervention. Why are these children not coming to school? Sometimes they are babysitting younger children because their parents cannot afford a babysitter; sometimes there is an illness, and there is no money or resources to deal with it; sometimes it is an issue of abuse and neglect. There are sad things going on with many of our students. To do an adequate job of getting children to school so they have an opportunity to learn, succeed, and be productive members of society, we often times need to intervene and see what we can do to shake up the dynamics in the family to enable the child to attend school. On a policy note, that is what this bill does.

I will go through the bill in its sections. Sections 1 and 2 require a report of pupils who drop out of school in grade 8 to be included in the reports of accountability prepared by the State Board of Education. Those two sections address the concern that we have never tracked—students who leave school before entering high school. Section 3 requires the board of trustees of a school district located in a county whose population is 100,000 or more, such as Washoe and Clark Counties, to establish a school attendance council. The bill also goes on to say if you are in a County whose population is less than 100,000, you are free to establish an attendance council as well. A school attendance council is required to implement a program to reduce the truancy of pupils and to monitor incidences of truancy of pupils within the district.

One of the requests I had in the Committee, and something we may need to look at to make sure it is covered, is only using the word "truancy." Pupils with "excessive absences" should be included when we discuss pupils who are "truant." "Truancy" is when you do not come to school and do not have a signed note authorizing the absence. The problem is most people could find someone to write a note excusing them from school for a doctor's appointment. Most people know how to get around becoming truant. That does not touch the issue of students who miss multiple days of school and have been "excused" by someone writing a note.

Existing law requires an advisory board to review school attendance pursuant to existing statute to establish programs to reduce truancy of pupils in the school district. Section 5 requires those programs to include the coordination of community services that provide assistance for pupils who are truant from school. That is the part in the bill that states if you identify problems in the family about why the child is not attending school, you can intervene and hopefully take care of some of the social issues so the child can attend school.

Section 7 has caused a little concern. It clarifies that a parent or a guardian may be in violation of this law if the parent induces or attempts to induce a

child to be unlawfully absent from school. The law currently says it is unlawful for a person to induce or attempt to induce—this is just further clarification. Also under existing law, a child who is adjudicated to be in need of supervision because the child is habitually truant may be ordered to pay a fine.

Section 9 authorizes the juvenile court to order the parent or legal guardian of the child to pay a fine. Section 9 also authorizes the juvenile court to waive a fine if a parent or guardian is ordered, by a court of competent jurisdiction, to pay a fine arising out of the same circumstances. When Chris and Mr. Rombardo talk, they will tell you that it is often times alleviated if there is action taken prior to that next step. The community services intervention comes prior to that fine being ordered.

Section 11 requires the Legislative Committee on Education to form a subcommittee to study the issue of truancy and report its findings to the Committee on or before August 1, 2008.

**Chris Bayer, Director, Court Appointed Special Advocates:**

In looking at this issue over the last few years, Carson City School District put together a School Attendance Review Board (SARB) during this last school year. This SARB is the type of intervention with multiple agencies that the law currently talks about. It would be mandatory for the large Counties and voluntary for the smaller ones. The key to that board in Carson City has been the school district's hiring of an attendance officer. The issue that the school faced prior to having that officer was that there was no one to coordinate the collection of documents that showed the phone calls and letters to parents. They now have coordinated a flow chart of intake and outcome for families as this concern is raised about their children.

With the review board, multiple agencies come together, the documentation is compiled, and the family comes in. The chairman of the review board asks the family what the problems are with the child getting to school. The scenario is different for each child. I have been to one of these meetings, and some of the children are actively seeking to avoid going to school—they are forging notes. Others are special-needs children and their parents are asking to be helped with more resources. They are having trouble getting their children to school, they are at their wits end, and they want to know what they can do. Sitting at the table are the Family Resource Center people, the District Attorney's office, Sheriff's officers, and others from the community.

After the family speaks, they leave the room, and board talks about what the family and child faces, and what the issues are. In some cases, the family comes back into the room, and there are strong suggestions made about what

new resources and new tactics they may use to get the child to school. In other cases, the case proceeds on to a truancy citation. The goal is to provide the family with a last-ditch effort, after the phone calls and letters home, to get the child to school. Ultimately, everyone wants the child to get to school. The goal is not to be punitive in itself. Some children and families go on to a truancy citation if that is what the board decides is the appropriate action to take. In most of the cases I have seen, the truancy citation is set aside pending the family's completion of the board's recommendation of new resources and new efforts to get the child involved in school and invested in the educational process.

**Neil Rombardo, District Attorney, Carson City, Nevada:**

It is a pleasure for me to be here with our Assemblywoman, Ms. Parnell, in support of this bill. The SARB forms a contract with the student who fails to attend school. When they form that contract, they put provisions in it that prohibit a student from being seen with certain people. For example, the board will do that if the student is a known gang member. They will prohibit them from hanging out with other gang members. One student wanted to play sports, but was, for lack of a better word, lazy, so we made him play football. His parents are very grateful and happy at the resolution. He is inspired, and he is going to school. We have seen much success in our SARB.

As the District Attorney of Carson City, I am here today to express my enjoyment in working on the SARB, and more importantly, to support Sections 7, 8, and 9 of this bill. I support the whole bill, but I am best able to speak on these sections. Section 7 provides clarification of the law for us so we can enforce it better. It also takes away a defense that we have been seeing from parents saying that a child was staying home for a lawful reason—taking care of younger siblings. This clarification is very important because it tells the courts that it is an unacceptable defense. With regard to Sections 8 and 9, we are currently allowed to enforce these laws against parents and legal guardians, but we have to go to justice court. Since the court system is already overloaded, and many times, since juvenile court is already going to hear the truancy issue, the juvenile court would be the better place to handle and cite the parents. It would be easier to do it at the juvenile court level instead of having to go to the justice court and go through two different proceedings. It is a wise move to add that into Sections 8 and 9, which allows the juvenile court to cite the legal guardians as well as the truant child. As a law enforcement issue, I support those two sections in particular.

**Vice Chair Smith:**

I am trying to figure out the difference between the SARB and a school attendance council—one would connect with the community, while the SARB is more an investigative and enforcement board?

**Assemblywoman Parnell:**

The SARB is an example of what we would hope all the Counties would model their council after.

**Vice Chair Smith:**

I thought SARBs were mandatory. They are not?

**Assemblywoman Parnell:**

No.

**Chris Bayer:**

The model across the country is often called a "SARB," but I think it is what the statute outlines. It is the multi-agency approach.

**Assemblyman Segerblom:**

I thought, at least in Las Vegas, that after four, five, or six days you were not allowed to go back to school until you came in and presented with your parents? We had a much shorter timeframe as far as truancy.

**Assemblywoman Parnell:**

I would not be able to answer that. I am sure somebody here from Clark County School District would be able to.

**Assemblyman Segerblom:**

Right now is there no State law that says after a certain number of days you are kicked out of school?

**Assemblywoman Parnell:**

We have an attendance policy. The 2003 session passed the initial attendance law. It was updated and refined, to some degree, last session. Maybe we could ask our legal staff to answer that. One dilemma is that we deal with the semantics of "attendance" and "truancy." "Truancy" is considered in one fashion and "attendance" in another. At some point in time, we have to recognize that excessive absences almost always constitutes a truant situation. In law, it is not defined as such. We may want to use this as a vehicle to change some language because we have attendance laws on the books, which this bill would not directly relate to because currently the language in it is "truancy."

**Assemblyman Segerblom:**

Anything holistic like SARB which brings in more than one agency and recognizes that excessive absences are a family problem, is great.

**Chris Bayer:**

One of the off-shoots we have seen with the creation of the SARB in Carson City is that, for example, some of these cases are routed to child welfare and the issue of education neglect is dealt with. There are many other benefits when all of these agencies are coordinated. Different counties may have different attendance policies or slightly different ways of managing the flow chart—from the first call home to truancy citation. I would like to emphasize that there is much less chance for children to fall through the cracks when there is coordination within this council or review board to talk to each other about these issues.

**Assemblyman Munford:**

I was looking at the bill, and I do not understand the terms of habitual absences becoming trancies. What does it say about pupils who are economically disadvantaged as defined by the State Board or pupils from major racial and ethnic groups as defined by the State Board? What does it mean? Are they given certain leeway or conditions? As you mentioned earlier, you said something about the disadvantaged student?

**Vice Chair Smith:**

Let me interrupt you because I would like to have legal staff respond to that. That is a different part of the bill. It is existing statute.

**Kristin Roberts, Legal Division, Legislative Counsel Bureau:**

Are you discussing the accountability reporting in Section 1?

**Assemblyman Munford:**

Yes.

**Kristin Roberts:**

Those subgroups are required to be reported separately under the No Child Left Behind (NCLB) Act.

**Assemblyman Beers:**

This is an important bill. How would this affect the private and home schooled students? The reason I ask is that Illinois has a similar bill, and they have a small controversy going on where truancy officers have been knocking on those students' doors.



**Neil Rombardo:**

It would be my recollection of the law, as it pertains to home schooling, that this would not apply to them because they are in a different section of the *Nevada Revised Statutes* (NRS) code. I cannot tell you that number because I do not recall it off the top of my head, but I do not believe this would apply to them. This only applies to schools that are under the provisions of NRS 392.

**Kristin Roberts:**

You are correct. It is NRS 392.070, which provides for exemption from compulsory school attendance if a child is home schooled.

**Assemblywoman Parnell:**

That would also apply to private schools. They are not in this chapter, either.

**Assemblyman Hardy:**

How do they prove it? How do they prevent the truant officer from knocking on the door? Is there a list of students who are home schooled that a truant officer can access?

**Vice Chair Smith:**

The students who are registered in school are the only students that truant officers are charged with finding. The other students would not be on their list.

**Assemblyman Hardy:**

What I suspect happens is Joe Blow turns in Sally Q. for keeping her kid out of school, but he is not out of school, he is in home school, and that is why the truant officer goes to find out. Do we have an accessible list of home school students somewhere?

**Neil Rombardo:**

I cannot identify the particular statute, but there is a requirement to register a child as going to either a private school or home school.

**Assemblyman Hardy:**

Is it accessible? Can the truant officer get online or have a list that says which students are home school students so they do not have to hassle him or his parents?

**Neil Rombardo:**

The school district is aware of it, so I would presume the truant officer would be aware of it as well.

**Assemblyman Hardy:**

That does not answer the question. The question is whether there is a list.

**Vice Chair Smith:**

Let us have Dr. Rheault answer for us. There may not be a perfect system that makes it unnecessary for an officer to find out who the student is and check them. It is probably not that clean.

**Dr. Keith Rheault, Superintendent of Public Instruction:**

All home school students' parents have to file a request through the local school district. I do not think there would be a list available. The home school parents are sensitive about publishing and distributing it. I am sure for a truant officer, the best, and probably easiest, way would be to call the school district, or in the case of bigger districts that have a person or an office that oversees home school, to find out if the student had been approved for home school or not.

**Bill Parker, Private Citizen, Las Vegas, Nevada:**

This is interesting. I happen to have a situation this morning that deals directly with the issues of attendance and truancy. I got off work at around 9 o'clock this morning, so I went to Jack in the Box to get something to eat. What did I find in there? Twenty-five high school students cutting class and sitting there screwing around. Instead of going to school and learning something, they are at the local Jack in the Box hanging out and cutting class. I dropped the dime on all 25 of them. An attendance officer showed up, and you should have seen these guys. They took off like they were running from the police.

The district has had a policy dealing with attendance and truancy for as long as I can recall. When I was in tenth grade, I knew of students who missed 60 days of a class and still managed to pass somehow. Back in 1980, our school district put in an attendance policy that stated once 18 total absences were reached, both excused and unexcused, on the 19th absence, the student would be expelled. All credits for the semester were lost. One girl had to go to summer school to repeat the course work she missed.

If we are trying to tackle the problem of truancy and attendance, I would suggest attacking the problem from a different direction. I know in other states, they have implemented daytime curfews. When I see kids hanging out in food courts, casino arcades, walking on the casino floor, and not being in school, it makes me wonder how my tax dollars are being used. We talk about having a limited supply of tax dollars for education, and I would say if we want to combat this problem, do not allow kids to frequent businesses during school hours. That way, the businesses would not have to chase them out because it would already be in State law. I support this bill.

**Bryn Lapenta, Interim Assistant Superintendent, Washoe County School District:**

I am here in support of A.B. 485. The Washoe County School District already has a student attendance advisory board, as well as a SARB. Truant students can currently be fined, but truant elementary students are too young to have the fine enforced. Sections 8 and 9 have been added to enable the court to fine the parent as necessary. We believe this is an important addition to make truancy legislation meaningful in these situations. We are also in support of Sections 3 through 6. We have a SARB who oversees the student attendance review panel, and we believe these are in compliance with Sections 3 through 6.

**Vice Chair Smith:**

Is there a difference in what we are talking about here as far as the way you would function? This seems like it is focused on bringing in community resources and agencies.

**Bryn Lapenta:**

No, there is no difference.

**Vice Chair Smith:**

You are currently doing that?

**Bryn Lapenta:**

Yes. The SARB currently functions as the council mentioned in the bill. The panel functions as the attendance board as is mentioned in the bill.

**Craig Kadlub, Government Affairs, Clark County School District:**

We are in support of this bill as well. We believe the establishment of the council is also a positive thing. We appreciate that the consequences have been expanded to include the parents or guardians, because for some people the only way to get parental involvement is if you hit them in the pocket book. We believe there are cases that it will be appropriate.

**Assemblyman Stewart:**

In my experience in the Clark County School District, we have had attendance policies set up with a certain number of days allowable. For example, the student has been absent for 30 days and the cutoff was 25 days, when we try to enforce the policy, the parents threaten to take it to court, and the policy dissolves. Has that been your experience in the past?

**Craig Kadlub:**

I am not too sure about that. I cannot address the legal aspect of whether parents have actually threatened to bring suit, but I do know that we have an appeal process where parents can contest that the absences we claim were

illegitimate were, in fact, legitimate. If the students make up the missing work, then through the course of the appeal process, the principal has the discretion to no longer deny the student credit. As far as actual law suits, you may know more about it than I if that has been your experience.

**Assemblyman Stewart:**

Thank you. That has.

**Cherie Townsend, Director, Department of Juvenile Justice Services:**

I reviewed A.B. 485 and found several things I think are pertinent to the concern we all have about young people not being in school. We are all concerned about truancy, but we are more concerned about attendance because we know kids are more successful when they are in school. There are many programs within Nevada that have been very effective in engaging children in school and keeping them in schools. There are also programs in other parts of this country that have proven to be effective.

One of the things I would offer to you is some input on the school attendance council. While I believe Section 3 is very important in terms of bringing about collaboration between all of the parties needed to make this successful, I think the Juvenile Justice System and Juvenile Justice Services should be one of the representatives that sit as part of the school attendance council. They can be a part of both the accountability and the services that may need to be in place to prevent truancy.

Engaging young people in school is something we all want to do. We also want to hold parents and children accountable, but while holding parents accountable, I think it is equally important to connect families with resources to address the issues that seem to be keeping kids out of schools. We all want to work on solutions and individualize the responses. I would hope you would not only look at reporting dropouts at the eighth grade, but also the sixth and seventh grades. The earlier we are losing these kids, the more serious the long-term results are.

**Vice Chair Smith:**

Are you offering amendments? Do you want to see changes to this bill?

**Cherie Townsend:**

I am simply offering my opinion that it is really important for us not to stop at eighth grade. We are losing young people earlier on. I am not offering an amendment at this point, but I also think it is important that the school attendance council law enforcement representative is defined broadly enough to include juvenile justice professionals who are also peace officers.

**Vice Chair Smith:**

Maybe it would be appropriate to start with eighth grade, and if that works, we can expand.

**Joseph Turco, Public Advocate, American Civil Liberties Union of Nevada:**

I rise to constructively oppose the bill. With just a few minor amendments, this bill could be pretty good. Otherwise, it tends to cast too wide a net. I am referring to Section 9. Within the laws that exist for a parent to be liable, a parent must induce a child to be absent. In the scenario that is created by the changes in Section 9, we create a strict liability situation for a parent. For example, a parent may encourage their child to attend school, the parent drops the student off at 8 o'clock in the morning, and the student goes in the front door and out the back, skipping school. That parent is an otherwise good parent, but that parent has earned the government's wrath under Section 9. This is not the only way to get parental involvement. In fact, it could be counter-productive because when you ensnare an otherwise good parent, what have you done with regard to parental involvement but create resentment? By merely adding inducement language to Section 9, the problem goes away. The net is of sufficient size. Otherwise, it is too wide.

Regarding section 7 there are, again, good families and good parents. Whose family has not extended their vacation by a day? What family does not have unique family dynamics that require an absence that is not under one of the excused absences on the list? The State has no right butting in on those personal family dynamics. That is a matter of family privacy.

**Vice Chair Smith:**

I want to make sure I understand where you are with this. This section only deals with adding the language about providing childcare for a sibling. You are referring to what is already in statute regarding keeping children out of school for other things.

**Joseph Turco:**

Let me refer specifically to that. Our position is if you add the habitual element to the portion of Section 7 you wish to change, then it is appropriate. There are times, particularly with single-parent families, when one sibling is ill and the parent has to work, so the older sibling must take care of the younger. Why are we punishing them further? If it is habitual, sure, maybe we ought to do something about it. If it is rare, I do not see why we should hold them liable. I understand the goal. It is worthy, and with these slight changes, it will be alright.

**Vice Chair Smith:**

The Section you spoke of states the child is a habitual truant with defined provision. Does that make it different for you?

**Joseph Turco:**

In Section 9, we have to add the inducement element. The parent has to actually do something. We save strict liability for things like statutory rape—where the knowledge of the defendant is irrelevant. That is an extraordinary example because we use strict liability in extraordinary circumstances. That is what is created by the change to Section 9 because the parent does not have to have any intention.

**Vice Chair Smith:**

However, the child has become a habitual truant. That is already defined in that section.

**Joseph Turco:**

Again, I go back to the example where I encourage my kid to go to school, I drop him off at 8 a.m. every morning, and he goes in the front door and out the back. That parent has done their duty. If the kid does it often, then fine the kid, but how is the parent guilty of anything?

**Vice Chair Smith:**

That answers my question.

**Assemblyman Segerblom:**

As I read the bill, it states the parent or guardian who induces, or attempts to induce, which to me, would include an element of knowing.

**Joseph Turco:**

I am in Section 9.

**Assemblyman Segerblom:**

I am in Section 7, which is where you would define the truant. In Section 9, you would have the penalty if you were declared truant.

**Joseph Turco:**

That is not clear to me. If parents extend their three-day weekend to four one time, they are liable for a fine.

**Assemblyman Segerblom:**

But there is not a fine because you are adjudicated a habitual truant.

**Joseph Turco:**

I do not see it that way.

**Assemblywoman Parnell:**

I am looking at Section 7, subsection 1. Even if you take out the new language, "any person who induces or attempts to induce any child to be absent from school unlawfully, or who knowingly employs or harbors, while school is in session, any child absent unlawfully from school is guilty of a misdemeanor." That is not a parent dropping a child off at school and then having the child leave to run off to 7-11. That parent will get a phone call that afternoon to be notified their child was absent from school. There is an assumption that the parent will deal with that. There are now recorded messages to alert parents that a student was absent from school. The schools are expecting that until the child is 18, the parent has a viable relationship and has a responsibility to that student. I think the language in subsection 1 clearly defines that.

**Joseph Turco:**

I think you are confusing my argument on Section 9 with my argument on Section 7. In Section 9, we create a situation where an otherwise lawful and responsible parent gets caught in the net. The example I gave of a responsible parent dropping a child off at 8 a.m., yet the child does not attend school. This is why the inducement language in Section 9 would make it so the parent has to actually do something rather than it being a strict liability violation, which is something we save for rare circumstances.

Section 7, the section you just quoted, snares in the net otherwise good, law-abiding, responsible parents who rarely pull a child from school, but for personal family dynamic reasons, does so for a reason that is not under one of the acceptable reasons on the list.

**Vice Chair Smith:**

If that parent writes a note for that child to have an excused absence from school, then are they still unlawfully missing school? I think that becomes the issue.

**Joseph Turco:**

I do not think that extending a three-day weekend to four is acceptable. Correct me if I am wrong.

**Vice Chair Smith:**

Maybe we should have somebody from a district to clear this up for us.

**Joseph Turco:**

How about this example: my father was in law enforcement and my mom was a stay-at-home mom. There were some things that were happening with my brothers and me, and there was a day, and no other day would have sufficed, and it happened to have been a school day, where my dad had to take two of his five sons fishing. I am not going to get into the details on why because it is a personal reason in my family, but it was necessary. I think he was in violation. He was an otherwise responsible parent. You cannot call the school to let them know you have taken your kids out to go fishing. It is not a legitimate reason on a school day. However, in our family dynamic at that time, it was needed. An otherwise law-abiding, extremely strict-on-education parent would have been in violation.

**Vice Chair Smith:**

Let me get that cleared up. Can someone come up to answer that question? I think there are different circumstances.

**Michael Pomi, Director, Washoe County Department of Juvenile Services:**

I am a truancy officer working since 1989 with Assemblywoman Leslie and the Children's Cabinet on truancy in Washoe County. I can speak to the practical application. We are not talking about a parent who comes forward with a note and states that they kept their child out of school. What we are talking about, in this Committee, are children who are outside of the boundary.

Currently at the McGee Center, the Washoe County School District, Juvenile Services, and the Children's Cabinet are housed together and are practicing what you are putting in this bill. It has been in effect since 1989. I personally have done it. I can speak to the fact of dropping a good kid off—I did it. I dropped him off at school as a truancy officer, and the kid ran out the back door. It does not mean that has to be a legal sanction; it means that we did not successfully apply the right intervention for that child to want to go to that school, but the child leaving school was in no way going to pursue a parent to sanction. The parents were fully engaged and trying to the best of their ability.

Washoe County Department of Juvenile Services supports the language because we have done it since the Assembly came forward in the early 1980s when we started addressing truancy. I believe we have been the model. We deal with truancy with programming and interventions. Our SARB panels work jointly together to try to offset and stem truancy. Juvenile justice believes it is not a juvenile issue in the sense that they do not need to be locked up. What they need are service levels that engage children and lead them back into appropriate levels of school. We need more interventions.



As a statewide association, we are in support of this legislation because we know if kids go to school, they do not end up in prison. Our goal in juvenile justice is to offset the patterns which lead to prison. In practice I have done this. We do not pursue responsible parents, as has been questioned. It is not intended to do that. I can tell you I have taken my own children with me on vacation and have never been pursued by the court.

**Vice Chair Smith:**

The other important thing here is your point that we are looking for the really bad situations. We are not looking for the parents who take their children out of school for a three-day weekend. We have habitual truancy and attendance problems. Those are the issues.

**Assemblyman Hardy:**

I agree with the ACLU. In Section 9, we have a problem in putting a parent or guardian in an egregious spot where I do not think they need to be. I concur with your interpretation. I think it is too broad, and I think it can be made better. In Section 7 where it says "any person, who induces," if we put the word "habitual" before the word "induces," it may make the statute that has been in place for a long time even more clear.

**Joseph Turco:**

We heard testimony stating that we do not do it in practice. The statements from members have been that we are only going after the bad ones. That is great. It makes my point: add the word "habitual." We should write the law like we practice it and get the bad ones. I think that amendment to Section 7 and the inducement element to Section 9 will solve any problems. There will not be so many challenges, and you will not catch as many good people in the net.

**Assemblyman Stewart:**

For the second time today, I find myself agreeing with the ACLU.

**Vice Chair Smith:**

Did you bring your suggestions for amendments in writing?

**Joseph Turco:**

No, ma'am.

**Vice Chair Smith:**

It would be a good idea for you to start doing that for committees because it is much easier for us to bring the information together when we are looking at suggestions and amendments if we have them from you for writing.

**Joseph Turco:**

I will, and I apologize.

**Vice Chair Smith:**

Is there anyone else who would like to testify on A.B. 485, for or against? [There were none.] I will close the hearing on A.B. 485.

**Chair Parnell:**

At this time, I will open the hearing on Assembly Bill 242.

**Assembly Bill 242: Prohibits the enrollment of a student in the Nevada System of Higher Education without proof of immunization against meningococcal disease. (BDR 34-357)**

I would like to invite Dr. Mabey to the table to introduce the bill.

**Assemblyman Garn Mabey, Assembly District No. 2:**

My intentions for Assembly Bill 242 were to require university students to receive a meningitis vaccine prior to enrollment into the universities. Since introducing the bill, I have been contacted by a number of people who feel it would be best that this bill not proceed, and that this fall when the Committee which deals with vaccinations meets, they propose a vaccine for meningitis be required for those students who live in dorms on universities. Personally, I think that is probably the best way to go with this bill.

Meningitis is a bacterial infection that is deadly if it is acquired. It occurs infrequently—about 2,400 people per year. Unfortunately, if you get it, you have about a 10 percent chance of dying. If you survive, you have about a 20 percent chance of having some severe difficulty or complication, such as a lost limb, arthritis, or brain damage, because of it. Because of that, it is important that certain people be vaccinated.

The other issue that arises with meningitis is that it is often difficult to diagnose it quickly. A student who is attending a university will become sick and think they simply have the flu and a bad headache. By the time they get attention, it may be too late. A vaccine for meningitis was approved a number of years ago, which recommended students as young as 11 years old be immunized against it. For those who do not get it at 11, they should get it at age 15. Thus, I feel it would be appropriate for university students who live in dorms or are in close contact with other students, be vaccinated against meningitis.

**Chair Parnell:**

As your cosponsor to this legislation, I almost introduced this in 2001 after I saw a 20/20 program that terrified me. At the time, the families of those who lost students to meningococcal meningitis were very frustrated because they did not have any idea what it was, that it existed, or that you were more likely to get it when you were living in a dormitory or residential housing. I called the University of Nevada, Reno (UNR) and University of Nevada, Las Vegas (UNLV) health clinics at that time, and it was not part of the information that went home to the parent. On this television show, that is what most of the parents said. They wished they had seen something when they got the freshman packet to find out what our child needed to do before going off to college. Then they could have made the decision of whether to inoculate. Do you know whether our university system sends that out with the initial freshman orientation packet?

**Assemblyman Mabey:**

I do not know the answer to that.

**Chair Parnell:**

I do not think there is anyone here from higher education, but I think we would both feel more comfortable if we knew that parents understood the severity of this. Not that it happens frequently, but, as you said, often times these students are dead within 24 hours.

**Assemblyman Mabey:**

Yes.

**Assemblyman Munford:**

What is the cost of the immunization?

**Assemblyman Mabey:**

It is about \$60.

**Assemblyman Munford:**

Is there a series of shots, or just one shot at \$60?

**Assemblyman Mabey:**

Just one shot.

**Assemblyman Munford:**

Is there a special type of physician who administers the shot that the student is supposed to go to, or can anyone do it?

**Assemblyman Mabey:**

Any physician can administer the shot in their office. Both of my daughters received their meningitis shot by going to the health department in Clark County.

**Assemblywoman Smith:**

I want to comment that it has improved. When my son started at UNLV, there was no information. That changed when there was a lot of information on some of the news shows. He had to go to some obscure location at the airport and spent about \$100 to get the shot. When my daughter started, the information was there at registration. There were signs posted, and she could receive a shot when we went to her orientation. It was much less expensive. It has come a long way.

Did you say you are not going to pursue the bill?

**Assemblyman Mabey:**

That is correct. The vice chancellor approached me, and she felt it would be dealt with in regulations. Dr. Lee from the Department of Health told me the same thing. I feel comfortable with that. My intention is to help these youth be vaccinated. Whether there is a bill or it passes through regulation, it is the same to me. I feel strongly the vaccination is something the students should have access to.

**Assemblyman Beers:**

Will there be a change in the timing if the bill is not pursued and we create a regulation?

**Assemblyman Mabey:**

I do not think so.

**Chair Parnell:**

It may not be a bad idea to send a letter to the people at Higher Education to say that we had a discussion, we think it is very important, and we would like to be assured that this information is going to the adults.

When I first called the universities, they said they had posters around campus that informed students about the shot. At about that time, shortly after my two sons had graduated college, I had to chuckle because I thought the last thing my sons would have done was look up at a billboard and think they needed to go get their meningococcal meningitis shot. It was not going to cut it. It really frustrated me because I could not imagine that many students would take that on. I think the severity of the disease needs to be known to everyone when we

send our students off to college. We like to think we have them ready to go and they will be okay.

Dr. Mabey, I would like to draft it with you and have you sign it with me.

**Assemblyman Mabey:**

Absolutely. There may be other people here wanting to testify.

**Chair Parnell:**

Yes, there are a large number signed up to testify. They may need some clarifications, but I do not think we have to have a hearing on it. If you would like to make comments based on our conversation, please feel free to come to the table.

**Deborah McBride, Chief, Bureau of Community Health, Nevada State Health Division:**

We believe the intent of this bill can be enacted through the regulatory process by amending the regulation *Nevada Administrative Code* (NAC) 441A.755 and adding meningococcal meningitis to the current list of diseases.

**Doug Banghart, Manager, Nevada Immunization Program, Nevada State Health Division:**

I want to add a few things that may clear up some of the questions. The State Immunization Program has over 300 enrolled providers that have access to the meningococcal vaccine purchased through Vaccines for Children (VFC). The program is widely used at this time. I remember the status of the vaccine. It used to be only in travel clinics, so you had to go to special clinics, but now it is much more widely used, including UNR and UNLV student health services. Children up to age 19 that are VFC eligible can get the vaccine for free within these clinics. They are not charged for the cost of the vaccine due to a federal entitlement program.

**Chair Parnell:**

Do either of you know whether parents are informed of this concern and the availability of the vaccine before their students leave for college? Can you answer the question that we asked earlier?

**Doug Banghart:**

I am not sure of any formal educational campaign. The College Student Health Association informs the student health centers to promote the education, but I do not know if there is any formal education.

**Chair Parnell:**

I know when we got the freshman packet from my son's college, they recommended students get another measles, mumps, and rubella (MMR) shot. My son could not start college until he showed he had the second MMR series. There was conversation between the university, myself, and my son about what he needed to have before he went to school. I am seeing it may be needed in that format, so we will work with the universities.

**Mary-Ann Brown, Community and Clinical Health Services Assistant Division Director, Washoe County District Health Department:**

We would certainly agree with testimony that has been given. We are in support of the bill. Any time our immunization staff interacts with families, parents, children, or adolescents, we encourage them to obtain the vaccination. We are in support of the bill, but changing NAC would be fine. We also provided written testimony with more information ([Exhibit C](#)).

**Chair Parnell:**

I am glad to see you all working together and making it safer for our children to go to college.

**Bill Parker:**

I happen to agree with the merits of this bill simply from the standpoint that vaccination ends up preventing disease. I do not know if anyone remembers, but last year on many school grounds and campuses, there was a mumps outbreak. The outbreak originated in England, came across the ocean to the United States, and got as far as the Colorado Rockies before anyone got a handle on it. I had not had a booster MMR for a long time, so I got one. At the same time, I got the meningitis vaccine, even though I may not have needed it. I feel that the prevention is much less expensive than spending time in a hospital. If it is best to change the NAC, I am fully in support of that. Vaccination is very important.

**Chair Parnell:**

Is there anyone else wishing to testify or give information on A.B. 242? [There were none.] At this time, I will close the hearing on Assembly Bill 242 with the knowledge we will draft a letter concerning it. We trust you will all keep working together to do what is best. Dr. Mabey, I will consult with you as we go through it. I will now open the hearing on Assembly Bill 386.

**Assembly Bill 386: Requires the State Board of Education to adopt regulations governing spirit squads. (BDR 34-1108)**

Dr. Mabey can stay at the table and introduce another bill.

**Assemblyman Garn Mabey, Assembly District No. 2:**

Assembly Bill 386 may have the same outcome as my last bill. What prompted me to introduce this bill was that shortly after the election, we were up here for a caucus meeting, and I got a call from my wife who told me my third daughter, Sarah, was doing a cheer stunt when she fell and broke her arm in two places. I have never been a big fan of stunts and cheerleading the way they do it now, and as a parent, I pray every time I go to a football or basketball game that everything works out. About six weeks after the accident, she went in for an x-ray and found her arm was not healing correctly. There is always a chance when a bone breaks it will not heal. If that happens, they have to do surgery to repair it and help it to heal. At that time, I decided I needed to put in a bill to help regulate cheerleading in Nevada.

As soon as I put in the bill, Ed Bonine spoke to me and told me we already have regulations through the NAC. I thought there may not be enough regulations. My preference is to have cheerleaders the way they were when I was a young man—they stayed on the ground, had some pom-poms, and a blow horn. Today, they do stunting and tumbling. In my personal opinion, it is dangerous. Perhaps, after we have the hearing, I would like to meet with those interested. There may be things we can do to strengthen cheerleading regulations and rules in Nevada so more children will not be injured.

I am going to read a few statements.

"Cheerleading with approximately two direct catastrophic injuries per year is a number one sport responsible for female direct catastrophic injuries and accounts for more than half the catastrophic injuries for high school and collegiate female athletes. Over the last two decades, cheerleading has evolved into a physically demanding sport requiring complex gymnastic maneuvers that pose serious injury threats to participants. The most common culprits are the pyramid and the basket tosses."

My concern is there is not enough training. There are not coaches who are trained in teaching these young ladies how to perform the stunts. The rules may not be adhered to. At the University of Nebraska, they prevented their college cheerleaders from doing these stunts. I feel we need more safety rules for our cheerleaders here, at least for the high school students.

**Assemblyman Munford:**

I think most of the cheerleading stunts and routines that are performed at the schools are based on competition. Schools want to be known as being the best. When they go to camps in the summer, competition requires pyramids

and flying through the air and landing in someone's arms. You can direct some of your concerns and complaints to the organizations that are holding these competitions. Cheerleaders like to bring home trophies, and they displayed them at the pep rallies when I was teaching. They wanted to show what they won over the summer. If you look on television, they have cheerleading competitions on ESPN. The ones that win are the ones who jump and fly through the air and can build the highest pyramid without falling. These competition organizations that give trophies and medals should be addressed. The cheerleaders are only doing this to win competitions. In my day, they stayed on the floor and the goal was to perform in unison, but now the goal is to fly through the air.

**Assemblyman Mabey:**

I cannot add anything to that. He is right.

**Chair Parnell:**

The way I read this, the Nevada Interscholastic Activities Association (NIAA) currently has the authority to adopt regulations concerning cheerleading. Are the regulations they have in place not defined enough, or do we need to expand them? Would we now have the NIAA setting regulations and then, with the new language, the State Board also adopting regulations?

**Assemblyman Mabey:**

I do not know the exact answer to that. As I mentioned at the first of my testimony, this bill only came out a few days ago. Those who had concerns approached me about that. I did not know how to proceed. I think some states have adopted the American Association of Cheerleading Coaches and Administrators (AACCA) rules, which would be a little different than the NIAA rules. Mr. Bonine will probably be able to answer that question better than I could.

**Assemblyman Denis:**

What kind of liability do the school districts have when they are performing? I know with pole vaulting, schools have what everyone calls the "death waiver." In order to pole vault, a student has to sign a waiver that says he could possibly die by doing the sport. I do not know if this is because of the liability that the school districts would have, but many times the need for a waiver is dictated by liability. We can get many claims against the district. Have you looked at that?

**Assemblyman Mabey:**

Often times cheerleading is not counted as a sport—it is an activity. Because of that, it is treated differently than a sport. Mr. Bonine could probably answer



that better than I can. His association's attorney is here also, so they could answer the liability issue, too.

**Eddie Bonine, Executive Director, Nevada Interscholastic Activities Association:**

I have had lengthy conversations with Assemblyman Mabey and have talked through the process with regard to the present regulations we have for spirit squads. We work cooperatively with the National Federation of High Schools (NFHS). There is a Spirit Committee and Spirit Rules Committee that governs the spirit competitions nationally. At one point, many of the participants of spirit squads were coming from cheer gyms, which allow different types of performances and throws and catches which prompted us to be concerned about safety. The NFHS tightened those rules and regulations up for spirit squads, which is what we presently operate under. If there is some concern by the Committee or specific individuals, we have a process in place where we can meet with our nine-member Board of Directors, made up of State superintendents, to tighten those rules up and look at what we need to do, according to recommendations of the NFHS. I do not know if the State Board has to be involved in that process. We have a regulatory agent for that, and we would be glad to take that on and assist any way we can to make that work with whoever we need to.

**Chair Parnell:**

In the language of the bill regarding the NFHS' rules, has Nevada adopted that set of rules? Is there such a set that we could adopt?

**Eddie Bonine:**

Yes, we have adopted those. They are the ones we work under. Let me draw an analogy: if you go to a football clinic as a coach, it does not make you a football coach. With that said, we have mandatory meetings for rules and regulations with our State Coordinator, Terry McNutt, who also sits on the NFHS representing rules and regulations nationally. We are going to work on the fact that one or two meetings does not make a cheerleading coach. We will monitor that and work with them regularly.

**Assemblyman Denis:**

What is the current process for parents who are concerned for the safety of their children participating?

**Eddie Bonine:**

Contact our office, the NIAA, through our website or by phone. We will address the concern with the specific school or coach, and then I will forward it to Terry McNutt. She and the constituents in the south have put Nevada on the map through competition, which is unbelievable. We held our second State

competition in Las Vegas this past year, and we are having to move to a bigger venue. If you eliminated some of the particular stunts, it would stifle some of the things they are trying to accomplish. We are willing to take a look at it. We have an open-door theory. If we are contacted, we will work with the schools and, if necessary, will tighten up instruction, have more mandatory coaches meetings, and whatever else we need to in order to satisfy that.

**Assemblyman Denis:**

What happens if a school is not following those rules? If a parent complains, and you see the school is doing things that are unsafe, what is the penalty to the school?

**Eddie Bonine:**

We would approach the school through the school's athletic administrator or athletic director. At this particular point, it would be a warning status. We have not addressed that because we have not had a major issue come up. I have sent Assemblyman Mabey some information regarding coaches at the specific school, how long they have been coaching, what training they have had, what follow-up training they have had, et cetera. In general, we would follow up on any concerns, and if it got to that point, we would apply some kind of consequence or sanction where they could not compete, or we would "take them out of the air," so to speak.

**Assemblyman Mabey:**

Over the next three weeks, before the Committee deadline, I would like to meet with Mr. Bonine a few more times to see if we need to change our rules. It may be that we need to work to ensure things are handled appropriately. If not, then perhaps we should try to continue with the bill.

**Serretta Fast, Private Citizen, Las Vegas, Nevada**

[Spoke from prepared text. ([Exhibit D](#))]

**Chair Parnell:**

You are concerned with two things: one is the training of the coaches so all are playing by the same set of rules and all understand the consequences of what can happen; the second, and I am not sure how easy or logical it would be, to put cheerleading in the regulations as a sport. Do any other states do that? It really has become a sport.

**Eddie Bonine:**

That is a debate that is going on nationally. It is for another time and another forum, but it has gotten to the point that we, as executive directors, are going to address it nationally. The rule book under which we have been working for

the last two years is one that has been put together for high schools because there is a rub between high school competitions and cheer gym competitions, which often share the same athletes. It is making cheerleading year-round. We are working diligently with the necessary agencies to make sure everyone is safe. That is the bottom line. We will adopt what we need.

**Chair Parnell:**

Is there anyone else wishing to testify on Assembly Bill 386 in support, opposition, or neutral? [There were none.] I will close the hearing on Assembly Bill 386.

I will open the hearing on Assembly Bill 391.

**Assembly Bill 391: Makes decisions of the Nevada Interscholastic Activities Association and certain of its designees final and binding. (BDR 34-79)**

Mr. Munford, please come to the table.

**Assemblyman Harvey Munford, Assembly District No. 6:**

I am here today to introduce Assembly Bill 391. This bill makes the final decisions of the NIAA, or of a person designated by the NIAA, when reviewing disputes, not subject to judicial review. Individuals who try to circumvent regulations established by the NIAA in trying to provide a level playing field to all players and schools have resulted in lengthy results often played out in the media. I would like to see an end to these never-ending disputes, so the NIAA and the players can focus their time and energy on the sports and activities.

As many of you know, I retired from Clark County School District many years ago. As a teacher, I have dedicated much of my life to the youth, not only as a teacher, but also as a coach and mentor in basketball. I hope today's youth can be positively impacted by participating in various sports and activities. Unfortunately, high school athletics have been surrounded by controversy in recent years. I believe this bill will help put an end to it. I encourage your support in important, worthwhile legislation.

There are many irregularities committed by various schools, coaches, and teams where they load their rosters with outstanding players and put themselves in a high competitive position where it is easy for them to perform well and win, and I lost several players to other schools through this type of action. It boils down to recruitment. They are almost recruiting like they do at the college level. It has a negative effect on young men and developing high school athletes when they are contacted by various coaches around the league. They think they are prized players and someone special, and this may contribute to their arrogance

because they think they are better players than they are. That can have a damaging effect on performance.

The two gentlemen sitting next to me are experts in terms of roles and responsibilities of the NIAA for the entire State. I support them wholeheartedly in trying to do something to control this situation because it can get out of hand, as it has in the past. I am going to turn to Mr. Bonine and let him share with you some of his experiences, what the status is, and what position the NIAA takes in the State of Nevada.

**Eddie Bonine:**

First, of the 102-member interscholastic schools that participate in the NIAA, 99.9 percent of them and their athletes do exactly what they are supposed to do in regard to abiding by our regulations. The NIAA membership is the NIAA. We could not do what we do for member schools without the athletic administrators, athletic directors, principals, vice principals, et cetera at those schools, and the support of their respective district, trustees, and superintendents.

Unfortunately, on occasion, we are challenged with the present regulations under NAC 386. We end up in court, have temporary restraining orders, and spend numerous school dollars for legal fees, hearings, travel, and any other costs incurred with those specific challenges. We do not receive any State funding for what we do—we are a non-profit organization. At this point, I would like to yield to my colleague, Paul Anderson, who is in-house counsel for the NIAA, and let him brief you on the most recent cases we have had, and the dollar figures that have been incurred—the reason for this legislation today.

**Paul Anderson, Legal Counsel to Nevada Interscholastic Activities Association:**

Mr. Bonine is referring to some cases we have had in the past two or three years with respect to our rules and regulations. The statute that you are specifically dealing with is NRS 386.440. The NIAA is created in NRS 386.420, and it requires that the NIAA adopt rules and regulations with respect to its activities, which it has done through NAC 386.600. Our rules and regulations are created by the Board of Control. The Board of Control is composed of various members within the educational and athletic community. The rules and regulations exist based on what the member schools want, so that we have a level playing field.

With respect to some of the cases, and what this legislation is designed to correct, are situations we get into during specific sport seasons. A sports season, for instance in the fall, winter, or spring typically lasts no more than three months. Often times, we will get into eligibility issues with student

athletes. We have an administrative hearing procedure set up through our regulations which allows them due process at a level-one hearing where they appear before Mr. Bonine or a designee in Clark or Washoe County, and a decision is made. If they are unhappy with that decision, they have an opportunity to appeal. Our regulations allow for a full-blown administrative hearing before a State review officer who is appointed by the Board. The process for going through that generally takes around a month before decisions are made.

What Mr. Bonine is alluding to are situations where we get beyond the level-two administrative hearing because a student athlete who is not happy with the decisions made will take the case to a court of law and get a preliminary injunction against the Association, which then requires us to allow an illegal player to participate. The illegality can be that the student does not live in the appropriate zone, that they have been recruited, or a variety of reasons. Once the injunction goes into place, there is nothing we can do. We end up with a school possibly winning a State championship with an illegal player. This legislation would take care of that particular problem.

**Assemblyman Stewart:**

This exemplifies the first thing I learned when I came here: nothing is simple. I can sympathize with Mr. Munford and the gentlemen who make the rules. I have seen several instances at the school where I taught; young men, and sometimes young women, violated the rules as set and were slated to be disciplined. However, a court case was filed, an injunction occurred, and the ruling became irrelevant because by the time it was to go into effect, the season was over.

On the other hand, there is the situation where sometimes young people think they have been dealt with unjustly by the ruling bodies, and in their opinion, there is prejudice and bias. On the whole, I would have to side with Mr. Munford that the organization should be able to regulate themselves and set the rules. Those rules should be enforced.

**Assemblyman Segerblom:**

My concern would be that this is a government, maybe a quasi-government, entity, and I am not sure you could ever exclude a government decision from judicial review. Do you have a basis for this particular law as far as other states or anything else in Nevada?

**Paul Anderson:**

With respect to the 50 state associations throughout the country, I believe this would be landmark legislation. In other words, we would probably be the first

state to have a rule to this effect. I understand your concern with respect to rights to judicial review, and I do not have authority that I could cite to you today. That is something I could look for. One of the things which could be done for the legislation, if there is an attempt to modify it, would be to preclude injunctive relief, so that the ruling of the administrative body stays in effect unless or until there is a full hearing before a court of law.

**Assemblyman Segerblom:**

It might be better to go at it the other way to provide judicial review, but make it specific as to what the student could do—use timelines and indicate what they could not do.

**Assemblyman Munford:**

Each of the 102 schools that compete and participate in sports in the State of Nevada choose to join this Association. This is just like the college level. The National Collegiate Athletics Association (NCAA) is the governing body. All those schools choose to join the NCAA. They can pull out any time they want and form their own organization, but once they commit to join the NCAA, or once our schools commit to the NIAA, they must abide by the rules. There is no judicial review. It is very rare. At the national level, they may have more challenges. For example, they have challenged the National Football League (NFL) to be able to play as a sophomore. Usually the courts rule in favor of the organization because the schools made the decision to join, and if they do not want to abide by the rules of the organization, they can pull out and form their own.

**Paul Anderson:**

We have a process that is followed each year—every member school of our Association signs an application indicating that they will abide by our rules and regulations and the decisions that are made by the NIAA or its hearing officer if there are disputes. A specific case arose last year involving significant litigation in the State court system of Las Vegas. It was a situation where our member school was willing to enforce our rules, but an individual athlete had gone to court and said he should not have been declared ineligible under the rules, and a court granted an injunction saying the student was now eligible. You are then putting the school in a situation where they do not want to violate our rules by playing an athlete who is ineligible, yet is facing court. What do you do? We have gotten into some dicey situations with respect to that. I do not know if that adds clarity to your question, but it is an example of what we have to deal with in the court system.

**Assemblyman Segerblom:**

It may be that harsh, but the problem is State action. In fact, we are passing a State law that says NIAA does not have State action, which indicates the government is intimately involved. I want to point out that normally when the government is involved, there is always a right to go to court at some point. You could try to prohibit it, or you could try to create some kind of a limited process. I am not sure that this would ultimately succeed, but it accomplishes what you are trying to achieve as far as putting in a road block so the season is over before the court has the time to listen to the student. I support the concept, and I know why you are trying to do this. I hope it works.

**Assemblyman Mabey:**

I followed the action in Las Vegas regarding the school with the ineligible athlete. It seems to me that the attorneys are always going to be able to take this to court, regardless of the decision you make. There will be an injunction, and by the time there is a court hearing, the season is over. If you take the private versus the public schools, what is the ratio of rulings where it has gone to an attorney?

**Eddie Bonine:**

The most recent and high profile case you are referencing was a private school. We seem to have a few more within the private sector than we do in the public sector, but we have our share. I will be honest, the largest share of those come out of Clark County. There are more schools, so there is a greater chance of that going on. The most recent case was also our most expensive with legal fees.

**Assemblyman Mabey:**

There have also been public schools that have challenged you in the courts?

**Eddie Bonine:**

Yes, sir. During the same timeframe and same season, there was a challenge from a student who transferred from out of state, who had left that state under undesirable conditions. He had moved here and became a wrestler at a school in Las Vegas.

**Assemblyman Denis:**

With the process you have, has there ever been a situation where an NIAA decision was appealed, and then later changed, but after the season was over, meaning the team was disadvantaged because it took so long to get through the process?

**Paul Anderson:**

We have a regulation within our regulations that deals with the situation of an illegal player either garnering individual awards or helping the team win a championship. We call it our "restitution rule." I believe it is a rule that exists with respect to all other state high school athletic associations. It allows the association to strip a school of a title, or an individual of certain awards, if it is determined that the association was correct after going through the court process. The problem with that is we want State championships won on the field, court, et cetera, and not in the courtroom. We do not want to penalize innocent kids who may have been on that team, and have them lose their State championship because one individual needed to go to court.

**Assemblyman Denis:**

I was thinking of the opposite: Does a team not have the opportunity to participate in a championship because someone has been ruled illegal, and then later it turns out he was legal?

**Eddie Bonine:**

We have entertained holding off the playoffs—as did the state of Oklahoma a year ago when they had a similar situation in football. Oklahoma held off their playoffs for 17 days as it made its way to the Supreme Court, where they ruled in favor of the association with regard to the ineligible participant. Then they continued with the sport. That would be an option. We would stop the event until a decision is made. We do not want to take that path if we can avoid having to do so.

**Assemblyman Hardy:**

If this is a landmark decision, then how can we do it in such a way that is as clean as possible and likely to be upheld? I think a discussion needs to take place about how we can accomplish it. Perhaps the Committee's attorney can work with the sponsor and figure out how to do it.

How often has the court overruled the organization? Also, is there some autonomy at the school level or the coach level about what is allowed? Are we making a ruling on how much playing time the kid gets, or is that still something within the purview of the coach, athletic director, or whoever?

**Paul Anderson:**

That exact issue came up in Las Vegas a year and a half ago. A student was ultimately ruled eligible. The issue came up because there were rumors going around that he was not going to be allowed to participate. A judge in Clark County stated that he will participate as much as he would have participated, had he been eligible. In my opinion as legal counsel to this



Association, I could not believe that ruling. A court can now interfere with a coach and tell him who he is playing and when he is playing him. I think we are getting out of hand with respect to the court system interfering with what this Association does.

**Assemblyman Mabey:**

In last year's case where the judge ruled there was a stay, the player played, and the team went to the State championship. Would it be possible to withhold the trophy and say we will not award the championship trophy until the court case is settled? That way, it puts a little burden on the gentleman and his family who filed the suit. If they think they are costing the team a championship because they filed the lawsuit, they may think twice about filing it because it could jeopardize the whole team from winning the championship if the trial finds the player to be ineligible.

**Paul Anderson:**

That goes back to what Mr. Bonine mentioned. Similar to what happened in Oklahoma, and what our Association contemplated, is to suspend the State basketball tournament, State playoffs for football, or whatever the issue may be, until it is resolved. You could play out the event, but I do not know that it would be the best course of action to take because then everyone is playing in an arena of uncertainty as opposed to understanding and knowing they are out there to win a championship. I think it would be better to have a regulation or rule in place that would allow the Association to suspend an event. The problem with doing that is, for one student athlete, potentially, depending on the sport, thousands could be punished throughout the State.

**Chair Parnell:**

I think we all understand the situation; I have two sons who played. Is there a halfway point? It seems like we are going from A to Z, and maybe there is a place in the middle. When you mention the injunctive relief, rather than completely eliminating judicial review, is there a way for the three of you to come up with something in the middle? Especially when you say it is landmark legislation, I do not want to pass something that may be challenged on the constitutionality of it. However, we also want something to happen so that we do not have these situations. Maybe the three of you could spend some time this week, and then return here with a proposal to modify the language?

**Eddie Bonine:**

We can do that. These particular regulations that are in NAC were not there four years ago. Senator Amodei assisted us in crafting the language because, at that point, we were accused of being arbitrary and capricious under our regulations. We made an effort to work with the Legislative Counsel Bureau to

validate what we are doing. It seemed to be one more step that would really take care of what matters. There was a principal's meeting in Clark County, where they signed our membership form in regard to abiding by the rules and agreed to stick to their rosters of coaches. They also discourage anyone pursuing beyond their administrative ruling. We found schools will stand up and say the student will not play, but the student gets their own legal counsel and pursues further. It puts the school in a tough spot. That is what we are trying to prevent—where the school is taking a stand, yet it gets an injunction filed, and the school cannot do anything because the judge is involved, and if they do not play the kid, they are in violation. It gets sticky and ugly quickly. In the meantime, the season is ticking away, and it becomes frustrating for us. It is a small number of cases, but we will do what we can to make this work right.

**Chair Parnell:**

When we have the work session, we will take A.B. 391 as it is proposed, however you could give us a proposed amendment that the Committee could look at and make a decision on the two. I would feel more comfortable if we had some backup language that was somewhere in between. I think you are all agreeing that we can do that, correct?

**Assemblyman Munford:**

Yes.

**Chair Parnell:**

Is there anyone else wishing to testify on Assembly Bill 391, either in support or opposition? [There were none.] I will close the hearing on Assembly Bill 391.

I will open the hearing on Assembly Bill 392.

**Assembly Bill 392: Revises provisions governing the use of school buildings and grounds. (BDR 34-890)**

**Assemblyman Harvey Munford, Assembly District No. 6:**

Assembly Bill 392 would require the Board of Trustees of each school district to allow youth programs, including disadvantaged or at-risk youth, to use school buildings and grounds upon request. It would prohibit the school from requesting reimbursement for the cost and expenses associated with the use of the school facilities. The bill also requires the Board of Trustees of the school district located in a population of 400,000 or more to adopt a policy for the use of the school's grounds equipment, without charge, by certain educational organizations, and for the use of outdoor school grounds by the general public.

As a former teacher and coach, I strongly support after-school programs for disadvantaged youth as means of keeping them off the streets and out of trouble. Unfortunately, many of the after-school programs in some of the disadvantaged areas do not have the financial resources to pay fees for the use of the school facilities. These are facilities built and maintained at taxpayers' expense, and I support extending the use of these facilities for the benefit of all youth.

A bill similar to this was presented in the last session, by Assemblywoman Kirkpatrick, but as I understand, she did not attach the reimbursement aspect. They would not have to pay any fee. I think she was primarily focused on Girl Scout groups. I do not think she extended it to the facilities such as athletic facilities, fields, gymnasiums, et cetera. I extend it to that level. I have recently talked to people from the Clark County School District, and we have discussed some aspects of this bill. We have come to some consensus. Assemblywoman Kirkpatrick is also on board with me on this. She can present her side and tell you what her bill consisted of last session. This bill is a little different than hers.

**Chair Parnell:**

I think it is important to clearly define what is different about this bill than the bill from the 2005 Session.

**Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1:**

Last session we had a bill, A.B. No. 70 of the 73rd Legislative Session, which required the Clark County School District to open up their schools and set up regulations so the kids could use the schools after school. It passed out of the Assembly unanimously and went to the Senate.

I worked with the school district because, in years past, we have had a great relationship as far as working together to do the right thing by letting the kids use the schools. At the end of day, there was a resolution. The school district has worked diligently with me and the Girl Scouts and Boy Scouts to allow use inside of the school—the multipurpose room. We have solved half the problem. Now the problem is not the inside of the building, but the outside.

People want their kids to be able to play baseball at the school or ride their skateboards, but there is a liability issue when it is done that way. We are talking about team sports, so maybe some kids can play at the school after school is out. In Clark County, we lack park space. There are many interlocal agreements, but we are finding that in some cases, the gates are still being locked. It is not serving the purpose the citizens had meant for it to serve.

In working with Mr. Munford, we are not asking for anything free. With our schools going in a different direction, we want something in statute that says the kids can use the school, to make sure they have the opportunity as long as they provide their own insurance and lighting. I am on board with Mr. Munford, and I support him.

**Chair Parnell:**

In Section 1, subsection 2, and Section 2, subsection 3, is there a reason it specifically addresses disadvantaged and at-risk youth? I would prefer to see that language open-ended. I am not comfortable with it authorizing that just those populations would come under this. If you had a soccer league that wanted to pay for the use of the field, how would you define an "at-risk" soccer team? I think it is a little discriminatory.

**Assemblywoman Kirkpatrick:**

Quite honestly, every child who is at home rather than being involved in some type of after school activities are at-risk. We did not look at it on what income level they are; we figured all kids were at-risk when it came to keeping them involved and busy within our community. I am sure we would be more than happy to work with you on that.

**Chair Parnell:**

One of the problems is we have a definition for "at-risk youth" in statute. We would probably want to stay away from that because it clearly defines a group of students, which is not what you are referencing.

**Craig Kadlub:**

I would like to thank Assemblywoman Kirkpatrick because we have worked on this with her in the past. I appreciate her efforts, as well as Assemblyman Munford's, because I understand where he is coming from. The issue for us is one of resources. After the A.C.R. 10 Study (Assembly Concurrent Resolution No. 10 of the 73rd Legislative Session), we do not feel like we have adequate resources to do the things we need to do, much less underwrite the expenses incurred by non-school groups. Essentially, that is what this bill would have us do. It says explicitly to allow the use of school buildings and grounds without charge to organizations. We cannot run our schools for free. We cannot turn on the lights, run the air conditioning, pick up the garbage in the parking lots or on the playing fields for free. These things all come at a cost to us. We have a policy in place that allows for extensive use of all of our facilities and properties, but our policy is built around cost-recovery only. It is not a money maker for us. It says if we need to turn on a chiller that runs for \$300 an hour, then that is what the cost will be. We fully respect the intent, but, especially since we come to this body every session to ask for help, we cannot support the bill.

**Assemblyman Denis:**

Do we know of any groups that have helped youth before who have been unable to function because they could not get access to the buildings?

**Craig Kadlub:**

I cannot say it has not happened, but I am not aware of any. In working with Assemblywoman Kirkpatrick last session, one of the primary concerns was making it affordable for Scouts. We came up with language in our policy that would allow us to provide a more than fair rate to groups that serve our students. There are conditions: they cannot be profit-making, they cannot sell products, and they cannot espouse certain things. We essentially captured Scouts or Scout-like organizations, and we charge them \$5 per hour, or a maximum of \$10 per meeting. That is for the group, not per individual.

**Chair Parnell:**

With this coming back for a second time, it is almost like we are asking to make sure that neighborhood playgrounds are open until it gets dark. It seems we are wanting to use that area like a park. I understand where you are coming from with the cost of organizing, lighting, and clean up, but on the other side of the argument, I find it appalling that we would lock their playgrounds. It seems there should be a middle ground that is a common sense neighborhood approach to our school grounds. I do not know how we get there. I think we started, and I think the conversation needs to continue. Much like our previous bill, it is like going from A to Z. Is there a way we can modify this to make it work for everyone? We do not want to cost you any money. It would make me sad to go by a school and see the playground locked up. There has to be a way to solve this.

**Assemblyman Segerblom:**

What is the policy with respect to cities and counties subsidizing schools? Do the cities pay the school a certain fee to open up the school playgrounds?

**Craig Kadlub:**

Yes, we have joint-use agreements with all of the local entities. In most instances, where one entity opens the property, the other maintains it. It is a trade-off in that respect. As far as scheduling the actual use, all is done through the local entities, even if it is our football or soccer field, because it is typically the Parks and Recreation programs that organize the weekend and evening leagues. Our principals purposely do not allow people to use the field on Saturday because we do not know if Parks and Recreation has committed it to other use. They keep a master schedule of all the events conducted on school properties.

**Assemblyman Segerblom:**

I am curious if the sponsors feel they get cooperation from the cities and the school districts.

**Assemblywoman Kirkpatrick:**

We checked with the local entities, and they keep a master schedule which the school principal has. They would know. There is a policy that allows a group to submit its request to use the fields. All of that works, but the problem is the principals do not get back to the requester. They either do not want the group there, or the group does not know when it can go. We made great strides last session. The kids are allowed to use the inside of the school with the bartering service. Unfortunately, we do not have a place for kids to have activities outside.

**Assemblyman Segerblom:**

I wonder if there is a way we can add the cities and the counties and make some kind of mandatory language. I can see the school district is going to always say they will not be able to afford it, but if we can tie in the city and county recreation programs, it seems as though the school would have a source of money. Then you would have leverage with the school district, too.

**Assemblywoman Kirkpatrick:**

My only question would be how do you explain to a soccer dad, who is volunteering his time, how to schedule his team? I do not know how that works. Mr. Munford says that a team would have to pay for the lights and the insurance. Most Little Leagues have that. It is a requirement for them to carry a \$1 million policy.

**Assemblyman Hardy:**

I agree with Assemblyman Segerblom in recognizing this as a turf-sharing opportunity. If there were elected officials in a city municipality who were always looking to have a new park in their district, the schools would be an obvious place to use as a new park in every neighborhood. I think this is a matter of us allowing the sharing of turf more than making this a closed-turf situation.

**Chair Parnell:**

In the past, I had worked as a recreation leader in the cities of West Covina and Redondo Beach. I went to the elementary school or the junior high school and was in charge of the program from 3:00 p.m. to 5:30 p.m. It was a collaborative effort between Parks and Recreation and the school district. When I moved to Carson City in 1976, I asked some of the people why they did not have anything like that after school. We did a survey and went to the Board of

Supervisors to start a program. Traditionally, after-school use on a playground was always a cooperative effort between the district and the recreation department. I am sure right now that some of our school districts continue to have that same cooperation. Maybe that is something we could address in this bill as well.

**Assemblyman Bobzien:**

I am going to provide some comments to this as a former City of Reno Parks Commissioner. We spent a lot of time dealing with this issue from the Parks and Recreation angle. It is a good thing to have the school district work with community groups and the parks program in their areas. I can tell you from the Parks and Recreation standpoint, it is a similar situation to what the school districts face in that you want to do the right thing, and you want to help people out, but there are facilities charges. There are things you have to worry about. To give it to someone for free is difficult because there are many worthy programs out there. You cannot do it for everybody. We have to be sensitive and aware of those needs.

**Anne Loring, Representing Washoe County School District:**

We also appreciate Assemblyman Munford's concern on this issue because after school programs are of enormous benefit to both young people and the community. We have concerns with Section 1, subsection 2 which states the Board of Trustees "shall" grant a request for any of these organizations to use buildings or grounds. We are also concerned about Section 4, subsection 2(b), which says the districts cannot charge for the service. With regard to mandatory approval of requests by these groups, there are three issues we see. Currently in Washoe County School District we have an extensive existing relationship with numerous agencies, including the local recreation departments, for after school latch key programs and activities at our school sites.

In addition, we have a significant number of 21st Century schools that offer after school programming for their students. We also have joint-use agreements between the County and the two cities in Washoe County to share jointly-developed areas, usually parks and playing fields, which are then made available to community groups. The parks and playing fields are different than playgrounds. If now, by statute, we must grant any request, we are going to preempt many activities currently going on in the community. There is also an issue that there is not enough space for the recreational needs of our communities in general. We are also concerned with the mandatory granting of the request because, on very rare occasions, we have had situations where principals have had problems with some groups who continually do not provide proper supervision for young people and do not take care of the facility. The implication of this bill is there would be no discretion allowed.

With regard to the fee, we agree with Dr. Kadlub from Clark County. It is obviously a cost to the district, and, as Assemblyman Bobzien has said, it is also a cost to the communities. For instance, there are some cases in which a group wants to use computer labs or classrooms and we insist there be a staff member present. It is a cost to have that person come in during off-hours or on weekends. The same is true with custodial services working off-hours or on weekends. It can be a significant cost depending on how many groups want to use the school.

I also would like to make a distinction between playgrounds and playing fields. In our school district, if you picture an elementary school with its playgrounds and swings, I believe those grounds are open. I am not aware of any that have locked gates that keep people out because they are in neighborhoods. Children can go and play on the swings, but we do lock the fields, such as football and baseball fields at our high schools, if they are not being used. It would be a significant liability issue to our players at the schools if they were open for individuals to come in on weekends. That is a large problem.

Those are the concerns we have. We believe that Washoe County School District does a good job of ensuring the public's facilities are available to the public.

**Dotty Merrill, Representing Nevada Association of School Boards:**

We would offer no new reasons for opposition. We believe the reasons covered by Dr. Kadlub and Mrs. Loring apply across the board to our school trustees regardless of the district.

**Chair Parnell:**

I will restate my concern that we seem to have A versus Z. I would like to see something in between. I am sure all the parties have been working on this for the past year and a half, but if there is any way to make some accommodations without it affecting either side negatively, I would like to see the language. I will give you that challenge.

**Assemblyman Denis:**

I thought I heard Assemblywoman Kirkpatrick mention that some of the schools have an interlocal agreement between the city and the county, where the city maintains the grass, et cetera. I thought she mentioned in some of those cases that the gates are still locked. The city is maintaining it, but the gates are locked. I want to know if that is true.



**Craig Kadlub:**

I cannot speak to properties the city locks. I know there are some school playgrounds that are locked. That is more or less on a random basis when there have been incidents such as excessive vandalism, violence, congregation of gangs, et cetera. Other than that, the playgrounds remain open.

**Assemblyman Denis:**

Is there a consistent policy, or is it mostly up to the principal to determine whether something is locked?

**Craig Kadlub:**

That is, by and large, a principal's call. Communities change and evolve, so it is not cut and dry for every school. For the most part, the elementary playgrounds are left open, but there are some that are locked.

**Assemblywoman Kirkpatrick:**

I would be happy to put together a list for you. The problem is for 40 years we had a great policy in place. The community could use the schools. There are two schools within my district where we conducted a test in the last two years on whether or not allowing people at the school made a difference on the graffiti or not. At the high school and middle school, they had fewer infractions by leaving the gates open during the week after school because people were around. The superintendent that made the change is no longer here. I wish we could go back to the way it was. I will get the list to you by the end of the week.

**Chair Parnell:**

With that, I will close the hearing on Assembly Bill 392.

I will turn the gavel over to Vice Chair Smith so I can present the last bill.

**Vice Chair Smith:**

The Majority Leader has joined us. Welcome to our Committee.

I will open the hearing on Assembly Bill 484 and ask the Chairwoman to present the bill.

**Assembly Bill 484:** Requires the Legislative Committee on Education to study certain issues during the 2007-2009 interim. (BDR S-1372)

**Assemblywoman Bonnie Parnell, Assembly District No. 40:**

Assembly Bill 484 is from the Committee on Education. I would like to make a quick clarification: last week we had A.B. 333, which was a Legislative

Committee on Education bill. Those were recommendations the Legislative Interim Committee came up with on things they felt should be studied in the next interim. This bill came from me. I am introducing it as a Committee bill because education has become so much about testing that I felt we needed to stop and take some time to gather the information on national, statewide, and local assessments, and see if we need to make changes. We might say everything is fine. We do not really know. I think many people would be shocked if they saw the level of testing in some of our districts. This bill says we need to look at testing during the interim. We need to analyze what is out there and decide whether we need it all.

**Vice Chair Smith:**

Are there questions? [There were none.]

I will close the hearing on Assembly Bill 484. I will accept a motion to do pass.

ASSEMBLYMAN HARDY MOVED TO DO PASS ASSEMBLY BILL 484.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Is there any other public comment? [There was none.] It has been a productive hearing. Thank you to everyone for your interest and participation. This meeting is adjourned. [6:29 p.m.]

RESPECTFULLY SUBMITTED:

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Kelly Troescher  
Committee Secretary

APPROVED BY:

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Assemblywoman Bonnie Parnell, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Education

**Date:** March 26, 2007

**Time of Meeting:** 3:45 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	Committee on Education	Agenda
	B	Committee on Education	Attendance Roster
A.B. 242	C	Mary-Ann Brown	Written testimony
A.B. 386	D	Serretta Fast	Prepared text