

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

**Seventy-Fifth Session
February 11, 2009**

The Committee on Education was called to order by Chair Bonnie Parnell at 3:50 p.m. on Wednesday, February 11, 2009, 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/75th2009/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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Bonnie Parnell, Chair
Assemblyman Mo Denis, Vice Chair
Assemblyman David P. Bobzien
Assemblywoman Marilyn Dondero Loop
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Ruben J. Kihuen
Assemblywoman April Mastroluca
Assemblyman Richard McArthur
Assemblyman Harvey J. Munford
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Kristin Roberts, Committee Counsel
Carol M. Stonefield, Committee Policy Analyst
Scarlett Smith, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
Carol Crothers, Director, Assessment, Program Accountability, and Curriculum, Department of Education
Craig Stevens, Director of Education Policy and Research, Nevada State Education Association, Las Vegas, Nevada
James Wells, Deputy Superintendent, Administrative and Fiscal Services, Department of Education
Bryn Lapenta, Senior Director, Washoe County School District, Reno, Nevada
Ricci Rodriguez-Elkins, Executive Director, Charter School Education Consortium, Sparks, Nevada
Francisco Aguilar, Chief Policy Officer and Associate General Counsel, The Andrew Agassi Charitable Foundation, Las Vegas, Nevada
Bill Arensdorf, Director, Office of Fiscal Accountability, Department of Education

Chair Parnell:

[Roll called.] We will begin with a presentation on high school graduation rates in Nevada by Dr. Keith Rheault, Superintendent of Public Instruction. He will share the ideas that the Department of Education has come up with and things that they have found that work in helping kids to graduate.

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, Reno, Nevada:

My presentation will be a good follow-up to some of the information you heard Monday. From my handout, "Presentation of High School Graduation Rates in Nevada" ([Exhibit C](#)), I will walk you through high school graduation rate information. The current graduation rate formula we use is the Leaver rate. Prior to the No Child Left Behind Act of 2001, no one cared about graduation rates; the only number that states reported was the drop-out rate. There is a big difference between a drop-out rate and a graduation rate even though sometimes people think they are the same thing. By 2011, we have to report under the new federal Four-year Adjusted Cohort Graduation Rate (ACGR). I wanted to show you both rates for comparison purposes, so you can better

understand the changes from the Leaver rate to the Cohort rate. The current formula adds up the number of standard diploma recipients, adult diploma recipients in high school, and advanced diplomas, and divides that by the sum of standard diploma recipients, adult diploma recipients, advanced diploma recipients, "completers"— which have adjusted diplomas — certificates of attendance, and recorded dropouts. When you divide the numerator by the denominator, you get our current graduation rate. At the time we put this together, most states used this formula. An estimated 30 states followed the Leaver rate formula because it was the best way available at the time, since it was difficult to track individual students when the unique identifiers were not in place, and we could not do longitudinal tracking of the students.

In Nevada, we followed the guidance from the National Center for Education Statistics very closely. When you look at some of the numbers from other states, you will see that some of the states followed the formula, but they did not withdraw all the required students. One specific school in Atlanta, Georgia, misclassified 600 students in one school as "legal withdraws" when they were not, which dropped their graduation rate by 30 percent. There is a lot of miscoding that goes on when calculating the graduation rate. Nevada followed it very strictly and paid the price by having lower rates nationally, and we still have a significant amount of work to do in terms of improving the graduation rate.

Chair Parnell:

Was it this Leaver rate formula that was used in the *Quality Counts* report, where we ranked 50th? Do you feel that is a comparable rating?

Keith Rheault:

I do not think it is much of a formula, and I will further explain when we come to page 9. If you look at our current formula, a big part of the formula is who was a dropout. *Nevada Administrative Code* (NAC) 387.215 explains how a school and school district classify students who withdraw or drop out. There are a number of reasons and codings that schools use; for example, section 1 is the withdrawal of a pupil to enroll in another school within the district, so that is not considered a dropout. If the student is coded under sections 4, 5, 6, and 7, they are considered a dropout in Nevada.

As an example, under section 4, withdrawal of a pupil at the request of the school is usually discipline related, such as expulsion or something along those lines where the school withdraws him. Section 5 is withdrawal of a pupil by the pupil himself or by the guardian of the pupil. Subsections (a) through (i) are the reasons identified for withdrawing. Subsections (e), (f), (g), and (h) are all

categories that the Legislature could address; those are legal ways for a student to drop out before the age of 18. These have been in the statute since 1956.

The first one, subsection (e), is the pupil's physical or mental condition or attitude, as certified by a physician, is such that it would be best for them not to attend school, and this subsection does not require the pupil to sign up for homeschooling. The services we can provide for physical or mental conditions have greatly improved since 1956, so that subsection may be one that needs to be looked at. Subsection (g) is for self-supported or parental supported students. It allows a student who is 14 years or older to legally drop out to go to work. Under subsection (h), students could sign up for an apprenticeship program. Apparently, principals are seeing more and more of this due to the economic situation; students have to go to work to help their family. This is a legal way to drop out and it affects the graduation rate. All of these codes are what we define as dropouts. We have been working with school districts to revise this regulation, and I will show you the results later.

Chair Parnell:

When you look at section 5(d), it seems similar to the other issues, so should we look to change that as well?

Keith Rheault:

That is more of a problem with our regulation. We added it in and could clean it up in the new regulations.

Assemblyman Hardy:

Under the juvenile division, have we not fixed that already? Do we have school going on in those places? Can we address that?

Keith Rheault:

This subsection has been in statute since 1956, and it allows a juvenile court or a judge to declare or allow a student to legally drop out of school if they have completed eighth grade. I am not sure how often it is used, yet, it is a legal way of dropping out. The completion of eighth grade is the only criteria listed in that statute.

Assemblyman Hardy:

Is there also a provision in the law that relates to a child that has been emancipated?

Keith Rheault:

That is usually not included. They would have to pick one of these categories. Being an emancipated adult as a student does not list you as one of these withdrawals or dropouts.

Assemblyman Stewart:

If an incarcerated person gets their degree, is that counted?

Keith Rheault:

I think there is a drop-out code for that. If some of the high school students get sent to our maximum security prison, there are no educational services provided to them. Yet, if juveniles get sent to juvenile facilities and there is instruction provided by the school district, they would not be considered dropouts since they are still within the school district.

Assemblyman Stewart:

At the women's prison in North Las Vegas and the Indian Springs Prison, we have school district personnel that work there and teach classes. So, if they graduate, they would be counted as a graduate?

Keith Rheault:

They will be considered a graduate. Yet, if they do not graduate in four years under the new formula, they would not be, even if they receive a diploma.

Assemblywoman Dondero Loop:

In section 1(c), we track children in their school within the same school district, but we do not track them when they go to a private school, am I correct?

Keith Rheault:

When you look at our new regulations, we are going to have that as one of the legal withdrawal codes. There is a statute on the books that states that students can leave public school and go to a private school or be homeschooled, and that is a legal excuse for not attending public school.

If you turn to the next page, it will give you an example of the high school completion indicators, and all of this information is on our "Nevada Report Card". You are able to do comparisons between schools, school districts, and the state. This is the last report for 2007, as far as the number of "completers" within the schools, and it gives an indication of the state totals for a standard diploma, which is 22.5 credits. You can see the majority of students, 62 percent, receive that diploma. The advanced diploma was implemented by the State Board of Education six years ago. It requires additional math, science, and social studies. It also now requires a 3.25 grade point average; it is similar

to the requirements to receive the Millennium Scholarship. Quite a number of students qualify for that, almost 25 percent. We counted adult diplomas in our graduation rate, but the adult diploma is issued to 12th grade students enrolled in a program called Alternative Education. The only ones we count in here, even though we give a lot of adult diplomas, are the ones that are still in high school in an alternative program. You can see that number is very small, only 60; that program is not a big producer of graduates in Nevada.

The adjusted diploma is a diploma that is based on a student's individual education plan. Most states do not provide this diploma, but it is a valid, legal program in Nevada since the student would meet all the requirements of their education plan. The last category is certificate of attendance, and that means the students completed all of the coursework and the credits for graduation, but could not pass our high school proficiency test, which is another requirement to get the diploma. In some states, you could artificially raise the graduation rate six percentage points if you got rid of the high school proficiency exam requirement for this diploma. There are a number of states that do not provide this diploma, for that reason. Because we have credit and proficiency exams, both are required. This has cost us six percent on the graduation rate.

Chair Parnell:

Recently, I have been reading about states that have a fifth year of high school. If students do not have enough credits at the end of four years, they can go on and get their diploma in that fifth year. Have you read about that? Do we have that in the State of Nevada? If a student did get a diploma in that fifth year, is there some way for us to cover them in this?

Keith Rheault:

I will cover that in the new rate. We still have to report students who get a diploma within four years, but we are allowed to also keep track of students who get it within five years, as an additional piece of data. Currently, it is perfectly legal if a student is a few credits short after four years to come back the fifth year and get back in the system to get the credits.

Chair Parnell:

I think what we are all here to do is to make sure all of these children succeed, whether it takes five years, if they choose adult high school, or if they choose a General Equivalency Diploma (GED). It frustrates me that those kids are not counted, since it makes it seem like they did not achieve what they were trying to, yet in reality they did. For some reason, we have this convoluted formula that leaves out some kids who now can go into the military, go to a community college, or go on with their lives, but they are never going to be counted as part of that Cohort rate that has graduated.

Keith Rheault:

I think it is important to know what a graduation rate is, what it includes, and what it does not include. When you look at the new formula, the only diplomas or graduates we can count are the standard diploma, the advanced diploma, and the adult diploma. The adjusted diploma is not considered a diploma by federal standards because students are not required to pass the test at a certain proficiency or take all the necessary credits. You can throw out 1,300 students right there. The certificate of attendance does not count; the GED does not count, and the number of GED students in Nevada is almost as large as the number of adjusted diplomas. I looked up the figures for 2008, and in Nevada, by statute, you can legally drop out of school and say you are going to take the GED. But you have to drop out of school before you can take the GED. For last year, 3.2 percent of the individuals who passed the GED were 16 years old, 13.4 percent were 17, and 16.5 percent were 18. There were 4,400 individuals who passed the GED. When you add up students aged 16, 17, 18, and 19, that is 44 percent of the GED participants who received a GED, which is about 2,000 students that we do not count in the graduation rate either.

Assemblyman Munford:

What is the age criterion before a student can return to school if they wanted that fifth year? Is there an age requirement for how long you can attend high school in the State of Nevada?

Keith Rheault:

If you look up the regulations, it will look like you can stay in school until you are 21, but that is primarily for special education purposes. For the most part, if a student is 19 years or less, they are in the regular programs. Most districts will have them sign up for adult education once they hit 20 or above.

Assemblyman Hardy:

Would those almost 1,200 kids who earned certificates of attendance qualify for federal standards if we did not have the proficiency test?

Keith Rheault:

They would because we would issue them a regular diploma since they met all the credit reports.

Assemblyman Hardy:

I am specifically asking: did those students actually "pass" except that they did not pass the high school proficiency?

Keith Rheault:

The certificate of attendance means they have met all the credit requirements for graduation for a regular diploma, but they failed one or more parts of the high school proficiency exam.

Assemblyman Hardy:

So, the advantage of meeting federal standards is money?

Keith Rheault:

No, the high school proficiency test requirement is a state standard; it has been in place since 1979. I believe there are only three states that required a high school proficiency exam for a diploma.

Assemblyman Hardy:

Where I am going is: when you look at the federal standards that we are trying to meet, what are the advantages of meeting the federal standards?

Keith Rheault:

There really is no advantage to meeting the federal standards; it is really what the state wants to accomplish. I think our graduation rate will look better, but that seems to be the only advantage.

Assemblyman Hardy:

We have nothing that ties money to meeting the federal standards?

Keith Rheault:

Currently, there are no ties to money, or anything else for that matter.

Assemblyman Hardy:

So would federal standards move us from 51st to 42nd?

Keith Rheault:

We would be in the higher 40s.

Our graduation rate under the current Leaver formula for 2007 was 67.4 percent. This rate does not include the adjusted diplomas, certificates of attendance, or GED numbers.

Assemblyman Stewart:

How come the press is always telling us 52 percent?

Keith Rheault:

There are probably agencies who have a better way to calculate the graduation rate. You see varying amounts of funding such as \$5,000, \$6,000, and \$8,000 per student; it is almost the same with varying graduation rates. I will show you the *Quality Counts* from *Education Week*, and how they determine the rate using a totally different formula from ours. There are probably five or six common ways to determine a graduation rate. We use the Leaver rate currently. I think the various rates led the governors to want to establish a common rate, and to require every state to use the same formula. I believe Nevada will benefit from this in the long run.

Assemblyman Hardy:

If I do the math, 6.1 percent and 6.6 percent is almost 13 percent and 13 percent plus 67 percent is 80 percent. So technically speaking, depending on how we define graduation, we would be at an 80 percent graduation rate.

Keith Rheault:

Yes, then we would be right in the middle of the pack.

Chair Parnell:

I believe it is extremely important to look at how high some of our school districts are scoring. We do not say that enough. We have districts that are 97 percent, 90 percent, and close to 90 percent, even with the current Leaver Formula. I would also like to note that the state charter schools have a graduation rate of 87.5 percent. So, we do have success stories, yet we also have challenges, and we always need to keep that balance before us. It is not just one stroke; it is lots of different situations that create these numbers.

Keith Rheault:

I agree. We also never talk about transiency rates, but Nevada has one of the highest transiency rates in the country. I looked at a couple of the transiency statistics of schools in Clark County. The one that had the highest transiency rate was Western Nevada High School, which had a 44 percent transiency rate last year. Chaparral High School had a 43 percent transiency rate. What that means for Western, which is a school with about 2,300 students, is that about 1,200 students who were in the school at the end of the year were not there at the beginning, and others left. So, it is easy to see why students vanish when 1,200 students a year come and go within one school. Similarly, Chaparral High School has 2,700 students at the school and a 43 percent transiency rate, which is 1,600 kids who were not there at the beginning of the year. All of this

is on our "Nevada Report Card". You can look at graduation rates by school for any high school in the state. I think these two schools, by direct correlation, had some of the lowest graduation rates in Clark County. It stands to reason that with a 44 percent transiency rate the chances are better that you will lose track of students, and then they end up as dropouts.

On page 6 ([Exhibit C](#)) is the new Four-year Adjusted Cohort Graduation Rate formula. I think there was a question that came up on Monday which was, can we provide additional comment to the U.S. Department of Education? The answer is no. It was a rush job by the office of the former Secretary of Education to get that formula through before he left office. They had some public comment in October and November of 2008; we did submit our comments along with some from other states superintendents' groups. They passed the regulation on October 29th, 2008, and we are now required to follow this new formula. It is known as the Four-year Adjusted Cohort Graduation Rate; this is what every state is required to report starting with the class of 2011. The formula uses the number of on-time 4-year graduates with a regular diploma, advanced diploma, or an adjusted diploma. To comply with the required reporting for the class of 2011, because we have a unique student identification (ID) in Nevada, we had to inform the freshman class of 2007-2008 that we need to track them for four years, and there must be a legitimate reason for them to switch schools. We start with the ninth grade class, add in the transfers that come into each grade, and then subtract the official transfers out. We divide that number into the regular diploma graduates, and multiply by 100 to get the graduation rate. An estimated rate, using the Cohort formula, would be about 56 percent compared to our current 67 percent.

There are a lot of concerns with this formula. However, I do like the formula since it gives a higher level of student accountability. Every student is counted in this new formula. Under our current Leaver formula, we do lose track of some students. For example, in our current Leaver formula, we never included students who did not get a certificate, were still in school, were credit deficient, and could not pass the tests. Those students did not get added into our "completer formula," which is why the Cohort formula is going to result in lower rates than under our current Leaver formula. A key to the new formula is being able to track students year-to-year. We have a unique ID system that allows us to do that. Being able to maintain or adjust the Cohort group throughout high school is going to require critical coding at the school level. In the past, it did not make as much difference if someone left and you did not track them too closely; you just showed them as a dropout.

One way I suggest to improve the rate is to just make sure there is good professional development at the school level, at the district level, and from the state. We need to make sure everyone is aware of how to properly code withdrawals so we can count every legitimate transfer and increase our graduation rate. You need to add-in students all the way through school, and it is critical they be entered in the right Cohort group. If a student comes in at 11th grade, they must be entered into the right Cohort group or it will throw off graduation rates. Under the new requirements, only students who transfer out and enroll in another school or another education program that culminates in a regular high school diploma can officially be removed from the Cohort group. Therefore, it is going to be very difficult to remove a student unless you have documentation, and you will have to keep it on file to prove that the student is a legitimate transfer. Official, written documentation will be needed. Our state student accountability system will be able to track students more effectively. For transfers, you cannot just take "word of mouth" from a parent or guardian; substantial proof is needed that they enrolled in another school.

Assemblyman Stewart:

Immigration to another country has to be documented too. Evidently, in the last nine months we have had a lot of movement to the south from Nevada, but there is no way we can catch that. Is that right?

Keith Rheault:

I am not sure what documentation the schools will accept to show that students did go back to another country. I think that is going to be a hard one to prove.

Assemblyman Stewart:

That will be a real problem for us.

Keith Rheault:

We are working on revising the current regulations for withdrawing students so the regulations are much cleaner. We will have categories to track why students were withdrawn, and they will be much more specific than what we currently have. Subsection 3, page 8, ([Exhibit C](#)) specifically defines dropouts, so it will be very clear what a dropout is, instead of having to guess. Hopefully, this will be addressed at the next State Board meeting to consider these changes that we believe will be more in-line with the requirements of 2011. You can see listed under section 3(d), students "withdrawn" to adult basic education, GED programs, or other programs will appear as dropouts. We think it is a good improvement and it will clearly identify legal withdrawals versus dropouts.

Chair Parnell:

Then you have given us some suggestions, too, for revising the statute areas?

Keith Rheault:

There are several; the GED is one which allows students to drop out at 16. Being able to drop out for work purposes at 14 is a possible revision. The juvenile justice is one that allows students to drop out if they have completed eighth grade. To me, students should be sent to some facility that allows them the opportunity to continue their education.

Assemblyman Stewart:

With this new system, our graduation rate is going to decline, yet our position among the other states is going to improve, according to your estimations?

Keith Rheault:

We are going to narrow the gap. You will see some states showing a 90 percent graduation rate; I do not think that is possible under this formula. I was looking at our newspaper report and wondering why we are so much lower than California, and then I saw a report from the Los Angeles Unified School District which stated that over 25,000 students just vanished, which is the same thing you heard from the Washoe County School District. Yet, the California graduation rate was better than Nevada's. We are still going to be near the bottom due to our transiency rate and our difficulty in tracking students. We could improve on tracking for transfers.

I also want to point out that the bottom chart on page 9 shows the credit deficiency. This is a major factor in Nevada that is going to make us look worse than we are. In terms of credit deficiency, we had 7,400 ninth graders who were credit deficient. In Nevada, we have a regulation that states that if a ninth grader does not earn five or more credits in ninth grade, they are considered credit-deficient and they stay recorded as ninth graders. The credit requirement causes many students not to ascend to the next grade. We were having a lot of students who earned one credit simply for attending, yet when they took the tenth-grade proficiency exam they were not close to passing. Giving the test was a waste of money if the students had not completed even five credits at the high school. Therefore, until a student has completed at least five credits in ninth grade, they will not be able to be considered a tenth grader. Each grade requires a new amount of credits, and the concept of moving up one grade is based on whether or not the student has a sufficient amount of credits.

The *Quality Counts* report uses a Cumulative Promotion Index (CPI) graduation rate method. In Nevada, we show a 64.9 percent graduation rate. The *Quality Counts* report listed Nevada at a 45.4 percent graduation rate. Their formula

has nothing to do with tracking individual students. I think the reason we look so bad using the CPI method is the retention rate, since many credit-deficient students are held back. This CPI formula basically divides the number in one class by the number that shows up the next year in the next class, multiplies all that across, and divides it by the diploma recipients. That is how they came up with the 45 percent rate. I think that overinflates it.

Chair Parnell:

Transiency would also play into that because students come and go, and a lot of those kids cannot be tracked down. Therefore, the numbers could be really random based on the number of students out of school.

Keith Rheault:

That is why I would prefer to use the Leaver rate or the new adjusted Cohort rate. The Cohort rate is carefully worded to say that it is an estimate of the group that might complete high school. It is an attempt to come up with a formula, which is probably based on numbers that are easy to get from each state.

Assemblyman Munford:

Basically, what you are saying is that a student is held back in the ninth grade if they do not have the credits to continue. I recall schools used to just push them forward anyway, let them sign up for tenth-grade credits or classes, and enroll them in some special program to allow them to make up credits. Does that not exist anymore?

Keith Rheault:

It might be better for the districts to answer this, but I believe under the new requirements, a ninth grader would not know he is not a tenth grader. If students pass ninth grade English, they probably are taking tenth grade English the next year. What the requirements do is keep students classified in our state records.

Assemblyman Munford:

I have had seniors who were credit-deficient, yet they were still classified as seniors preparing to graduate. They were going through alternative programs after school to make up these credits so they could graduate on time. Is that still available for kids?

Keith Rheault:

Yes, I am sure when schools see that a student is credit-deficient in ninth grade, they will put them in remedial programs to try to get them caught up for tenth

grade. All the regulations do is keep a student from getting to be a senior by only having obtained three credits throughout their high school career.

Assemblywoman Mastroluca:

Is the requirement based on the number of credits or what the credits are in? If I had five credits in electives, would I still be able to move on to the next grade, or would I have to have a certain amount of English and math credits?

Keith Rheault:

Currently, the regulations do not specify what courses. There was a lot of discussion about this. Part of the argument was that it would take too much work to keep track of whether they had the credits in English, math, science, or social studies. Currently, all that is established is five credits, since students can only receive six credits maximum during a normal school year. Most freshmen have to take certain prerequisites anyways.

Assemblywoman Mastroluca:

I know eighth graders can earn high school credits, so you can have that same scenario where you have a ninth grader going into tenth grade that may have five credits, but none of them are in the crucial subjects. That would be a concern since we want to make sure students are receiving the credits in the core subjects rather than just electives.

Keith Rheault:

On the last page, ([Exhibit C](#)), I put together some points that could potentially address the graduation rate issues. The first one is to make sure the districts and school staff understand the graduation rate coding policy, the changes, and the new regulations. This is an accounting procedure, and it is important to keep track of each student individually.

The second point is to perform district and school-level graduation rate audits. This basically means trying to figure out where vanished students have gone. Before we set up programs to try to deal with tracking, we need to know what problems we face in our own districts.

The third point is to find and promote programs that work in keeping students in schools. One program that I would like to emphasize is the Career and Technical Education (CTE) program. I also believe that it is necessary to address problems earlier rather than later. It is too late when the student is in twelfth grade; remedial programs should start around eighth or ninth grade. Also, schools could use the graduation rate to deploy resources for the school. If a high school has a particularly low graduation rate, they require more resources.

There is blame at the state level; we need to establish ambitious goals with realistic objectives for improving the graduation rate. The first time we heard of a graduation rate was when we submitted our No Child Left Behind (NCLB) application in 2001, so we set a goal of higher than 50 percent. I believe it is time we go back to our own NCLB application and adjust the rate higher and also have objectives to continually increase that percentage. The last suggestion is to enlist anyone in the community to assist the schools in an all out effort to keep students in schools.

Chair Parnell:

We keep going back to the importance of eighth and ninth grade. Whatever we can do to intervene at that level is necessary, including Boys and Girls Club programs and mentor programs that focus on ninth graders that are struggling with the transition to high school. We will look over and revise our legislation. I would now like to open the hearing on Assembly Bill 14.

Assembly Bill 14: Revises provisions governing testing and reporting of results of pupils. (BDR 34-294).

This was an issue discussed during the Legislative Committee on Education in this last interim. The No Child Left Behind Act of 2001 requires adequate yearly progress. Schools and school districts are required to demonstrate annual progress in raising student performance in reading and math. The U.S. Department of Education approved an initial model that (1) compares the achievement of a grade level to the performance of the same grade level in succeeding years and (2) desegregates the data by demographic groups and compares different groups of children at the same grade level. One of the reasons there has been interest in using a growth model is that the model does not put every child on the same scale. What we are striving for is growth shown in each child's learning in every calendar year. The growth model is considered one of the most important test measures we have at our school. A number of our schools have been using the growth model, but it has not been a testing model that the state requires. If we are going to have a test, this shows us what we need to know most.

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education:

If you look at section 1 of the bill, it is very general and states that we shall adopt the model. I like the current wording because it does not tie the bill to No Child Left Behind (NCLB), even though the federal government has approved some states, through exemption, to use a growth model. Nevada is currently in a "compliance agreement" in our assessments with the U.S. Department of

Education. The Department does not allow us to be approved for a growth model given our current situation, so the earliest Nevada could get a growth model approved, as part of the adequate yearly progress calculation, would be 2011. Yet, this does not prohibit us from doing our own growth model in Nevada. We have discussed it for several years and would like to move forward with it. I believe we could do a growth model right now without statute. We were prepared to do it through regulation, but the state may prefer to put it in statute.

Chair Parnell:

I think there was some feeling that if we had this in statute it would help us be recognized as a growth model state. There is more incentive to do something in statute.

Keith Rheault:

There is really no change to that. The bill basically says that we will develop the model. Once we develop the model, the Board of Trustees of each school district will apply that model, and we will then have it be a part of our accountability system. We think it will provide a good "second look". A student could be well below basic in No Child Left Behind; but in a growth model, the student might show good growth and progress.

Assemblyman Hardy:

With this growth model, more testing is probably necessary. Many people have a problem with the amount of tests we have.

Keith Rheault:

We are not proposing more testing, because we are required to test in third through eighth grade. You will notice it is only a growth model for those grades. If you were going to use the criterion reference test, I think experts would say that the best way would be to test at the beginning of the year and at the end of the year, then you would be able to test true growth. If you do not want to add a test, our third-through eighth-grade criterion reference tests are aligned to our Nevada standards and are vertically aligned, so we can show from third and fourth grades the growth by using our Nevada standard as the base.

**Carol Crothers, Director, Assessment, Program Accountability, and Curriculum,
Department of Education:**

First of all, I would like to thank the Legislative Counsel Bureau staff for working with us, on understanding the limitations from the federal government and the types of timelines needed to implement this, and for creating the general language that exists in this bill.

The state has some limitations in the assessment model, which district level assessments currently using the Northwest Evaluation Association (NWEA) model do not. There is a lot of "pre and post" testing occurring in districts right now. They do have the capability to look at where a student started and ended in a year. As Dr. Rheault indicated, we have a test that is given annually in the spring, and we have not anticipated adding additional tests. We are looking at models that would match students from one year to the next, using our statewide student information system. We will look at the performance of a student in the Criterion Reference Test (CRT) in one year compared to the student's performance in the following year. We do not have a system that allows us to track the students with charts, as the NWEA does, because of the way our system is scaled.

There are three different statistical models that we are now working on with districts to establish one that could predict adequate growth from one year to the next and would allow us to make determinations about a school collectively. Another thing we are looking forward to with this is: for schools with a high transiency rate, we would only be looking at the students the school had the year before and the following year, so we would see the increase in performance of the school based on the students that were in the school.

Keith Rheault:

The change that is provided in section 6 regarding the testing may look like we are reducing the standard, but it only deals with the alternative assessment that we were authorized to provide students with. If a student does not pass the writing test that we provide at the state level, there is an alternative way to get a passage. In the original statute, it states that the student has to fail the state test three times before beginning twelfth grade. This is flawed because we only give this test twice, so technically none of these students could qualify for an alternative assessment. We thought it would be valuable to change this so students had the opportunity to potentially take this alternative assessment.

Chair Parnell:

This is a cleanup item in this bill.

Assemblyman Munford:

The alternative assessment that a student can pursue if they do not pass the two proficiency exams is already in place. My opinion is that this change is geared towards minorities. I believe this is saying to students that they cannot measure up and they cannot compete. Society is very competitive, and I do not think that a student should get a free ride. These students need to work to succeed. I do not like the idea of this.

Keith Rheault:

That was in a Senate bill.

Craig Stevens, Director, Education Policy and Research, Nevada State Education Association, Las Vegas, Nevada:

Assembly Bill 14 is a good step forward; making our schools more accountable to our parent community will inevitably help improve public education in Nevada ([Exhibit D](#)). Growth model testing is just one of the many ways we can move along this path. Being able to track individual student growth is an important aspect to making education more personable and better focused on student achievement. Longitudinal data-testing can be done in many ways. It is incredibly important if we are going to invest in this kind of testing that we get the maximum amount of effectiveness from the data we are going to receive. This is why, while setting up growth testing is a wonderful first step, after the test is set up, it can certainly be improved upon.

First, A.B. 14 is set up to test every student at the end of each school year. The Nevada State Education Association (NSEA) believes this will not give our parents and teachers the best portrayal of student growth. I know the NSEA asks for more testing, but it is imperative that every student be tested the first day they enter the classroom and just before they leave at the end of the school year. This will give an accurate assessment of where a student is in his learning process and give up-to-the-minute information to his teacher on how each child is doing compared to the standards that teachers are expected to uphold. It is from this starting point that growth can be measured. We all know that the summer months for Nevada students can sometimes be a forgetful time; testing on "day one" will allow a teacher to make specific changes based on scientific data for each student, in order to get them up to speed.

Finally, testing from one year to the next might be worthy if the student population stays in the same school district from kindergarten through twelfth-grade but, we all know this just is not the case. Especially with southern Nevada schools being so transient, it is important for a teacher to know where the student's knowledge base comes from. If you wait until the end of the year to test them, many months will have been wasted. We need to make sure a qualified educator helps his students in the most effective way possible. In closing, this Committee is making great strides in identifying individual student needs. However, like every other scholastic program, systems can be improved upon, and the NSEA looks forward to working with everyone here to mold the best accountability system possible.

Assemblyman Hardy:

Could this test at the beginning and end of the year potentially be used to judge the effectiveness of a teacher?

Craig Stevens:

Yes, depending on how it is set up. However, before we start to add the accessories, we need to make sure it works. Down the line, we look forward to looking into that. First we need to get this working and make sure we are getting the best and most accurate information for our students.

Assemblyman Hardy:

Does that mean you are anxious to see an evaluation of a teacher that way?

Craig Stevens:

I think it is up to you to decide when that will happen.

Chair Parnell:

If you were to present an amendment today, the recommendation you would give would be to provide that the growth model test be given in the fall and the spring, not spring to spring.

Craig Stevens:

Correct. I believe that when you give this test in the fall, it allows the teacher to see the positives and the negatives of what the students have accumulated over the years they have been in school. It will be a more accurate representation of where they are, and with the standards being constantly raised, we are going to need that more and more.

Chair Parnell:

Before we have a work session on this, do you want to turn in a formal amendment stating that? You may want to give something to me.

Assemblywoman Woodbury:

It sounds like, due to the transiency rate, you are saying you would rather track an individual student's growth rate as opposed to a whole class of students?

Craig Stevens:

Certainly. Even if a student comes in halfway through the school year, I think they, perhaps, need to be tested because the teacher needs to know where this student is, along with other classmates. Individual tracking is what we are emphasizing.

Assemblywoman Mastroluca:

Are you saying that a child is not receiving the same education in different school districts in Nevada?

Craig Stevens:

I was referring more to when a student came in from a different state. The way Dr. Rheault explained it, I am sure they can track students across the state. If a student transferred to another district, we would be able to follow them. But we are so transient; it is difficult since we all come from different areas.

Assemblywoman Woodbury:

What I understand is that if you are in a school or an area with a lot of transiency, even though teaching throughout that district may be the same, you are not getting an accurate measure of the same student. The first year you measure certain students, and the next year you have a 50 percent change, and so the new scores are not a reflection of growth at all.

Craig Stevens:

If you are measuring third-graders from this year compared to last year's Third-graders, there could be many differences in variables between the two classes. It is unfair to judge them against another class. It is only fair to judge them from where they start to where they finish. I think the growth that they can show should be what we measure.

Assemblywoman Woodbury:

I think there needs to be a way to track growth in individuals, to show that it is the same population we are measuring against from year to year.

Assemblyman Hardy:

Could this amendment allow the school district to decide how they are going to do this testing and give them the latitude to decide if they want to do something?

Craig Stevens:

Certainly, and my purpose was not to initiate another amendment; it was just to say that we support moving to the growth model. It is a really good move to start tracking individual students. We can move forward and we must move forward. We have to continue to find ways that allow us to better track our students so we know exactly what is going on and what help they need.

Chair Parnell:

Another approach we may want to take is to remain silent on when schools do the growth model testing.

Carol M. Stonefield, Committee Policy Analyst:

The new language specifically sites *Nevada Revised Statutes* (NRS) 389.550 which specifically refers to the administration of the criterion-referenced exam in the spring semester. We would assume that the test that is administered for the growth model would be administered in the spring semester.

Chair Parnell:

I understand we are trying to best ascertain a teacher's true impact on that child for those nine months, so we will find a way to do that.

Assemblyman Stewart:

Would this require two tests in one year, instead of one test per year?

Craig Stevens:

Yes, that would be the recommendation.

Assemblyman Stewart:

Would that be a fiscal problem?

Craig Stevens:

No, I think it should be left up to the school districts to decide how they would go about doing that.

Chair Parnell:

Management Assistance Partnership (MAP) is what Douglas County uses and also a number of districts. It is important for us to remember that there are many districts that are already doing this, just not everyone. Since it is not in statute, Dr. Rheault has not been able to show that our state is using a mandated growth model assessment.

If there is anyone else wishing to testify on A.B. 14, would you please come to the table? The hearing on A.B. 14 is now closed. The hearing on Assembly Bill No. 100 is now open.

Assembly Bill 100: Revises provisions governing education. (BDR 34-424)

**James Wells, Deputy Superintendent, Administrative and Fiscal Services,
Department of Education:**

A.B. 100 was a bill sponsored by the Department and approved by the State Board to amend certain provisions within Chapters 385, 386, and 387 of the *Nevada Revised Statutes* (NRS). Section 1 of this bill states the authority for the Deputy Superintendent for Administrative and Fiscal Services to investigate a claim against a charter school or a university school for profoundly gifted pupils if a written protest is filed, to inspect the books and records of those schools for compliance with the uniform financial records. This latter part is necessary to enforce the uniform financial reporting that we need to meet both state and federal reporting requirements. There have been a couple of instances in the last couple of years where we received written complaints regarding charter schools, and these schools may or may not have been sponsored by the State Board. This has limited our ability to respond formally to those schools.

It is also important to note that, for financial matters, charter schools are funded directly by the Department of Education. Even for those schools that are sponsored by school districts, the money goes directly from us to the charter school; it does not go through the school district as an intermediary. Also, the Department's auditors do review certain financial information as part of their pupil enrollment and attendance audits they do on a regular basis. That information is currently reported to the administrator of the school, and this allows us to report it both to the administrator and to the governing body of the school.

Section 2 of this bill allows a charter school sponsor to appoint an administrator to oversee the closure of a school that is voluntarily closed or has had its charter revoked. This came about as a result of a change that was made last session allowing the governing body to appoint a trustee to oversee the closure of a school. What we found with most schools we shut down was that, through the revocation process, the governing dissolved and disappeared. In at least one instance, an administrator was more of the problem than the solution. A closure creates problems both for us as a Department, in obtaining financial records and reports from the district, and also for the schools districts, in getting student records for the students who are leaving that school and going back into the school district.

Section 3 of this bill is identical to section 2 in A.B.26 that was discussed on Monday. I believe we are in the process of creating an amendment to make changes to that section.

Section 4 of this bill creates a change to NRS 386.570. In 2007

Assembly Bill No. 591 of the 74th Session was passed which required the sponsor or the Department to provide an itemized list of reimbursable costs when it bills its sponsorship fees to the charter schools. The same section requires the Department to bill those fees "in arrears". So we are supposed to provide a service during the fiscal year that benefits the sponsored charter schools, but in the meantime, we do not get the money for those services until the next fiscal year because we do not do the annual closeout until after the final tax information is received in late August. This section would allow us to bill these fees on a quarterly basis and use this money to provide technical assistance to the charter schools as needed throughout the year, as opposed to having to find resources in other places.

Sections 5 and 7 in this bill recommend the elimination of certain information from being required in the annual financial reports that are received by the Department pursuant to NRS 386.600 for charter schools and NRS 387.303 for school districts. We are proposing this elimination because this information is already collected by the Department under other statutory authority, and we sometimes get conflicting information with these reports, so there is no need for us to replicate this.

Section 6 of the bill adds language to NRS 387.206 confirming that charter schools are subject to the minimum expenditure requirement for the annual purchase of textbooks, instructional supplies, and instructional hardware. In practice, the Department already does require charter schools to meet these minimum expenditure requirements. This section will just clarify that.

Assemblyman Hardy:

I concur with this intent. Do we have any religious affiliated charter schools?

James Wells:

I do not believe they are allowed, under statute.

Assemblyman Hardy:

So all of the schools that are associated with religious organizations would not be affected by this?

James Wells:

They would not; those are private schools.

Assemblyman Munford:

Can charter schools be in existence for profit purposes? Could you explain to me the distinction between a regular charter school and a for-profit school?

James Wells:

The statute specifically prohibits a charter school from being operated for profit. Statutes also do provide that charter schools can contract with an educational management organization. There is no requirement that the management organization be a nonprofit organization, but the school itself must be a nonprofit.

Assemblyman Munford:

I will meet with you and talk about that.

Chair Parnell:

It is alarming to read this bill if you are with a charter school or with the university school for profoundly gifted pupils. Is there anything in this new language that treats charter schools or the university school any differently than it does any other public school?

James Wells:

There is no intent to treat these schools differently from any school district or other public school. The only issue is that the university school for profoundly gifted students is on its own. It is not a district or charter school so it has to be referenced as a different type of school.

Chair Parnell:

On page 9, subsection 6 contains new language. Could you explain to me why that is being put in this bill?

James Wells:

If a school is subject to the minimum expenditure requirements for textbooks, instructional supplies and hardware, we calculate the amount at the beginning of the year based on projected enrollment. If we find that the number of students decreases, this section provides us with the ability to lower the requirement based on the actual number of students in the school, as opposed to the projected number of students that we started with at the beginning of the year.

Chair Parnell:

So this is not currently being done?

James Wells:

It is currently being done, but it is not currently in statute.

Chair Parnell:

Note the reference on page 4 of the bill, line 34, to our catch phrase "or good cause". We will delete that in an appropriate manner as we are doing with A.B. 26.

Bryn Lapenta, Senior Director, Washoe County School District, Reno, Nevada:
We support A.B. 100.

Ricci Rodriguez-Elkins, Executive Director, Charter School Education Consortium, Sparks Nevada:

We are supportive of many of the provisions. There is some concern looking at section 6, subsections 1 and 4, on pages 8 and 9. About this currently being a requirement in statute, Dr. Wells did express that the *Nevada Administrative Code* (NAC) does require schools to spend up to \$50 a student and then to report that. There are two major concerns that schools have regarding that provision. One of them is, if you have a brand new school that comes online, they frequently already have their charter school grant funding. With the grant funding, they have purchased a substantial amount, if not all, of their textbooks prior to starting. In the past, looking specifically at the Distributive School Account (DSA) money, schools have reported that the expenditure of \$50 per student was not met; therefore they were deemed to be noncompliant.

While it was true they did not use the DSA money, they had spent money using their grant funds for those textbooks and instructional materials. It was not that they were not spending money and purchasing needed supplies and equipment, it was that it was not showing up in the reporting because the state was looking solely at the DSA. That is a very important distinction we want to make.

The second important distinction is that charter schools are independent public schools that do not have the same infrastructure that districts do. In times of economic hardship, they have much smaller budgets. They have to be able to look very strategically at their expenditures. If they are required to use a specific formula or dollar amount for instructional supplies, specifically out of their DSA money, then that limits their ability to adjust their budgets to meet payrolls, overhead costs, facilities costs, and electricity. This language makes it very difficult. The existing NAC that requires \$50 is also very difficult because the schools frequently use grant money for those things.

Chair Parnell:

We are all aware there is some language this session regarding the statute about waivers and not being able to spend that money on a yearly basis.

Francisco Aguilar, Chief Policy Officer and Associate General Counsel, The Andre Agassi Charitable Foundation, Las Vegas, Nevada:

We agree with everything Ms. Elkins said; however, we would like to remind you that one of the benefits of being a charter school is the ability to operate in autonomy but with accountability. As we start to look at issues that are in administrative code and start to put them in revised statute, there are some issues of allowing the charter school to fully operate as it deems appropriate by its governing body.

Chair Parnell:

Is there anyone else willing to testify in support of A.B. 100? Is there anyone willing to testify in opposition or neutral to A.B. 100?

Bill Arensdorf:

The Department would like to submit a cleanup amendment to A.B. 100, specifically NRS 386.560 ([Exhibit E](#)). The changes would be in sections 4 and 5. Currently the law allows a parent or guardian who has a child enrolled in a charter school, but who wishes to avail themselves of another course in a public school, to make that request to the board of trustees in which the charter school is located. What we are suggesting is that it makes more sense, if a parent wants a child to participate in a public school course, that they seek that permission from the school board where the student resides. We would make that change both in section 4, because it relates to the ability of a child to take a course or extracurricular activity, and in section 5, the same provision for the child who wants to participate in a sport activity.

Nevada Revised Statute 386.560 allows charter school pupils, under some circumstances, to participate in a class or extracurricular activity at a public school within the school district. Compare that with NRS 386.580 which allows any Nevada resident pupil to enroll in any Nevada charter school regardless of the location of the charter school. Due to the way NRS 386.560 is currently worded, a pupil who is enrolled in a charter school that is not located in the county in which the pupil resides cannot take advantage of the statute. It appears to us that the statute did not anticipate that pupils would enroll in charter schools that are located outside of the county in which they live.

This change would also be particularly beneficial to students who are attending "distance education" charter schools. Every charter school has to be located in one county, but as you know we have distance education charters in at least three counties. Pupils attending these schools live in multiple counties in Nevada, and it would make more sense to apply to the school district closer to

the student. This would be beneficial for students who are attending charter schools.

Chair Parnell:

Does this have something to do with following the money? Would the money change as people move from one county to another?

Bill Arensdorf:

No, the charter school would still receive full apportionment for the child. Yet the school district in which the child is located would receive reimbursement for that child to participate in the class if the student has completed it successfully.

Chair Parnell:

A lot of our charter schools have a designated population, which is why they formed the charter school. I would not want to do anything inadvertently that would disrupt the intent of the population of that particular charter school. That is something I would want to confirm before we move forward with this.

Bill Arensdorf:

Generally, the provision is that (1) the charter school does not offer the course, (2) space is available in the public school, and (3) the child must meet the requirements to participate in the class.

Chair Parnell:

We will ponder this, thank you for your testimony. The hearing on A.B. 100 is now closed. Is there anyone wishing to speak in public comment? [There was none.]

[Meeting adjourned at 5:32 p.m.]

RESPECTFULLY SUBMITTED:

Scarlett Smith
Committee Secretary

APPROVED BY:

Assemblywoman Bonnie Parnell, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Education

Date: February 11, 2009

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Keith Rheault	Presentation on High School Graduation Rates In Nevada
A.B. 14	D	Craig Stevens	Written Testimony.
A.B. 100	E	Bill Arensdorf	Cleanup amendment to <u>A.B. 100</u>