

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

**Seventy-Fifth Session
March 18, 2009**

The Committee on Education was called to order by Chair Bonnie Parnell at 3:50 p.m. on Wednesday, March 18, 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:

Assemblyman Chad Christensen, Clark County Assembly District No. 13

STAFF MEMBERS PRESENT:

Kristin Roberts, Committee Counsel
Carol M. Stonefield, Committee Policy Analyst
Danny Peltier, Committee Manager
Sharon McCallen, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

Bryn Lapenta, Senior Director, Public Policy, Accountability & Assessment, Washoe County School District, Reno, Nevada
Nicole Rourke, Director, Intergovernmental Relations, Government Affairs, Clark County School District, Las Vegas, Nevada
Nicole Bungum, Supervisor, Office of Chronic Disease Prevention and Health Promotion, Southern Nevada Health District, Las Vegas, Nevada
Christopher Roller, Director of Advocacy, American Heart Association of Nevada, Las Vegas, Nevada
Francisco V. Aguilar, Chief Policy Officer and Associate General Counsel, The Andre Agassi Charitable Foundation, Las Vegas, Nevada
Ben Sayeski, Chief Education Officer, The Andre Agassi Charitable Foundation, Las Vegas, Nevada
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education

Chair Parnell:

[Roll taken.] If you wish to testify, please make sure that you have signed in and noted whether or not you are in support or if you are in opposition so that I will be sure to call you. If you have not been to a meeting before today and wish to be notified of the agenda, you can sign in and not mark any other boxes on the sign-in sheet.

When we left off Monday we had to go back to the floor at 5 p.m. as it was the last day for Legislator introductions. We had to suspend the hearing on Assemblyman Christensen's Assembly Bill 285. At this time I would like to call him back. If you would like to update us on one of the sections in your bill, I will open the hearing on Assembly Bill 285.

Assembly Bill 285: Requires a certain amount of time each school day for physical activity in elementary schools and revises provisions governing the use of school property. (BDR 34-853)

Assemblyman Chad Christensen, Clark County Assembly District No. 13:

We were able to get out most of the finer points on Monday. The students who spoke did a phenomenal job. We also had a parent in Clark County who addressed some of those points as well. The one piece that was left out was a handout on a study done in Texas on 2.4 million students ([Exhibit C](#)). It hit the more salient points of our dialogue with respect to student's performance when they are able to move and exercise. The study shows that students do considerably better in their performance when they have the ability to get outside and move around at different times of the day.

Madam Chair, I am here to follow whatever recommendations you make.

Chair Parnell:

I would like you to address section 2. As you are probably aware, we had a bill last week with the same issue of using playgrounds and fields. You may want to leave this item in here but work out the same language in amendment as the other bill. Or you may be comfortable deleting the section regarding school district facilities and leave that with Assembly Bill 145. It is your choice.

Assemblyman Christensen:

With respect to section 2, the intent of the language in this bill is to give parents, organizations, and students every incentive to move around and exercise, and make use of the facilities. In conversations with the Washoe County School District as well as the Clark County School District I understand there are concerns on the cost of maintaining the facilities. This language specifically points out that it would be without charge. I understand that is a tall order, but I do not want this bill to put a financial burden on any of our school districts. At the same time, I am happy to work with the Committee and others to figure out how best to accomplish anything we can do in Assembly Bill 145 to address these points.

Tiffany Thomas, from Clark County, who spoke on Monday, told us her children's school has an after-school program where parents participate. I would encourage that type of program to continue. I do not think it would be in conflict with section 2.

Chair Parnell:

I suggest that we have someone from Washoe County, maybe Bryn Lapenta, who has been in on the negotiations on A.B. 145; then when we hold a work session on A.B. 285, we can use the language in section 2 or not, depending on the solution of A.B. 145.

Assemblyman Christensen:

That sounds great.

Assemblyman McArthur:

For clarification, on page 2, section 1, line 11, you are talking about 30 minutes of physical activity. Did you mean to leave it at 30 minutes, or can it be taken at recess time? Does it have to be taken all at one time, or do you want to differentiate whether it has to be given every hour?

Assemblyman Christensen:

The approach here is to be able to leave it to the school. There is a specific reason for setting it at 30 minutes. Some of the schools are considering recess the time they open up the gates, either before school or after school. Our intent is 30 minutes sometime from opening to closing bell. The time can be split between 15 minutes in the morning and possibly 15 minutes added after the lunch break—basically whatever is best for the school, teachers, and kids.

Assemblywoman Dondero Loop:

When you say before and after the opening and closing bells, the 30 minutes would probably have to be during the instructional day. The only thing we may want to consider is that some students have Physical Education classes (P.E.), so you may have some days when they already have physical activity built in, plus they would have their lunch time recess. If we leave the language open to say 30 minutes, will schools be mandated to have 30 minutes on top of lunch, on top of P.E., and on top of recess? That is my only concern as we are moving forward, to make sure everyone understands that process and what is being said.

Assemblyman Christensen:

Your comment captures 100 percent of the spirit of the bill. If there are other activities, that would certainly fall under the 30 minutes of activity. The days when there is no P.E. or other type of activities, then there could be time found throughout the day.

Assemblyman Hardy:

When you say more time found during the day, have we made a chart of how much seat time the children are having on different subjects? In the global bargaining, are you trying to figure out how many minutes a teacher is in school, and how that relates to the time we are looking at?

Assemblyman Christensen:

I have not seen a visual chart. If I understand you correctly, you are speaking of a graphical representation of the breakdown of time spent?

Assemblyman Hardy:

That is what I am referring to. How are they doing it now, where will they find the additional time? There is collective bargaining in the school districts that states how many minutes a student is in school. It does not sound like you are asking for more time added to the school day, but to find the time within the school day. Is that what you are thinking?

Assemblyman Christensen:

Yes. This is during the scheduled school day, opening bell to closing bell. My children's school has 15 to 20 minutes for lunch, which is quiet time in the cafeteria. A lot of kids skip lunch and run outside, so a couple of extra minutes to add onto that time and a short break period in the morning, but all together 30 minutes sometime during the scheduled school day.

Chair Parnell:

I can probably help with Dr. Hardy's question. One of the good things in this bill is it says the Board of Trustees of each school district will adopt its own policy. Based on what time your school starts and ends, and whether or not students have P.E., the school district can address all of those issues and decide the best time for those breaks.

When I taught in K-6 school, the kids had recess from 10 a.m. to 10:15 a.m. then from 1:30 p.m. to 1:45 p.m. It is pretty standard, and each district could come up with something that would fit into the schools daily schedules.

Assemblyman Christensen:

Going back to Dr. Hardy's question, I am big on home rule; that is why that language is in the bill. They can adopt their own programs. There are always increased demands on subjects that are to be taught during the school day, and I understand that, while at the same time I have become a firm believer that if we can just grant those few extra minutes during the day, we will see the same results that Texas saw.

Chair Parnell:

Ms. Lapenta, do you want to talk about the negotiations or discussions on A.B. 145 having to do with section 2 of Mr. Christensen's bill?

**Bryn Lapenta, Senior Director, Public Policy, Accountability & Assessment,
Washoe County School District, Reno, Nevada:**

Yes. We have a meeting scheduled for tomorrow on Mr. Hambrick's bill. We have spoken to him regarding an amendment that would allow for fields that are unlighted to have facilities use agreements. If we have a joint use agreement, parents would not have to call each individual school, and schools would not be

individually scheduling events; there would be one central location. You would call Reno Recreation and they would schedule the availability. If the bill is accepted, we would be exempt from joint use agreements.

Chair Parnell:

I will make sure we work both bills together at the work session. We will answer the questions in A. B. 145 before we take up A. B. 285.

Nicole Rourke, Director, Intergovernmental Relations, Government Affairs, Clark County School District, Las Vegas, Nevada:

We proposed an amendment in order to take out the "without charge" portion. After discussing it with Assemblymen Hambrick and Christensen on A.B. 285, we discussed the site wear-and-tear fee that we currently charge in order to help maintain the fields at an appropriate level of safety for children during the day and for after school activities. All parties were agreeable to the amendment in the negotiations. The amendments on both of these bills are acceptable.

Chair Parnell:

While you are at the table, would you like to speak to A. B. 285?

Bryn Lapenta:

We spoke to Assemblyman Christensen regarding our concerns with A. B. 285, sections 2 and 4.2, the indoor use. We have two concerns regarding costs and staff time. Not only will we have to maintain the facility and have the lights and electricity on, but there will also have to be someone to open the door, making sure no one is in a place they should not be, and supervise the use of the facility. We spoke to Mr. Christensen about taking that out and have offered the same amendment we offered for Mr. Hambrick's A. B. 145 that makes it for outdoor lighted field use only and exempts it for joint use agreements.

Chair Parnell:

We have the gentlemen from the Elk's Club here. Was there any conversation in the amendment that would affect their issue?

Bryn Lapenta:

I am meeting with Mr. Hambrick and Ms. Rourke tomorrow.

Chair Parnell:

Is it pretty much the same for you also, Ms. Rourke?

Nicole Rourke:

Yes. We will be in that same meeting, and it is the same issues; custodians who have to open and close the building, and we pay for utilities, et cetera.

Chair Parnell:

Actual costs?

Nicole Rourke:

Actual Costs.

Nicole Bungum, Supervisor, Chronic Disease Prevention and Health Promotion, Southern Nevada Health District, Las Vegas, Nevada:

We lost the feed in Clark County, and we lost a lot of the conversation earlier, so I will quickly summarize my testimony.

I am sure you have heard that childhood obesity is a very pressing problem, and while it is a complex issue, we know that a decline in physical activity among youth is one of the significant contributors to childhood obesity. Young people are particularly at-risk for becoming sedentary, and that continues into adulthood. We know that the benefits of physical activity throughout the day are well documented. In fact, a recent study released by the Texas Education Agency suggests students who are more physically fit are also more likely to do well on tests and have fewer disciplinary problems. We support any efforts to increase the time that children have to be more physically active. We also support organized and structured physical education courses taught by qualified teachers. While physical activity breaks throughout the day can be very beneficial, there are certain fitness benefits that can be achieved only through consecutive minutes of physical activity, so we support that as well.

I have submitted written testimony for the record ([Exhibit D](#)).

Christopher Roller, Director of Advocacy, Nevada, at American Heart Association:

I would like to talk specifically about the background of how our involvement in Assembly Bill 285 started and what the childhood obesity advocates and childhood health advocates are trying to achieve. The Heart Association has a recommendation along with many national organizations and associations, such as the diabetes association, cancer association, and others for sport and physical education, to have 150 minutes per week of physical education in elementary schools. We know through discussions with various people that it is an impossibility at this time. The next best thing is what A. B. 285 would do in putting in 30 minutes a day, basically 150 minutes per week of physical activity. It is outlined in the Nevada School Wellness Policy already, but the

School Wellness Policy is not in statute. By putting in statute those 30 minutes of physical activity to be required per day, we are a step forward in combating childhood obesity in Nevada.

I would like to point out a couple of excerpts from an article on the Lifelong Effects of Obesity ([Exhibit E](#)). Recent studies show that, for a child who is heavy by age seven but loses the weight by age thirteen, heart disease risks are much reduced. If a child becomes obese at a young age and then continues to be obese, the risk for heart disease and type II diabetes and other health issues become much more dramatic. One of the quotes pertinent in this article is that if we could intervene during the period from age 7 to 13 to help these children attain and maintain appropriate weights for their ages, we could significantly reduce the risk of heart disease in the future. I am quoting the author of the study.

I cannot stress the importance of having children of that young age in elementary schools to be active, as it is helpful to their learning abilities as well. The risks of childhood obesity, as the most recent research has shown, is a national problem, not only for Nevada.

Being obese at 18 years old increases the risk of premature death in adulthood as much as smoking more than ten cigarettes a day according to a recent Swedish article. That is a pretty profound statement.

I want to reiterate that the Heart Association is in support of A.B. 285, with all of its sections, including the amendment for the record.

Chair Parnell:

With no other testimony for, against, or neutral, we will close the hearing on Assembly Bill 285.

I am delighted to introduce our presenter this afternoon. Ben Sayeski came to my office one afternoon and showed me the magic he does on the computer. I realized that using the information he is able to access would make this state truly accountable, especially when we fund new programs and do innovative things in our schools. This would be a way to determine which schools are succeeding, which programs seem to be working, and possibly, for what reasons. It is well worth his coming to the Education Committee and showing all of you the potential that his program has. He is not a vendor. He is not selling anything, just very engaged in public education and in trying to figure out ways to make it all work a little better.

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

You are probably wondering how Agassi got involved in such a data analysis matrix model. As you know, we are having our first graduation class this spring and we are all very excited that we have been able to change Agassi Prep from third grade to fifth grade to a complete K-12, and hopefully soon to have a Pre-K program.

Ben Sayeski came to us when we achieved the goal of making Agassi Prep a K through 12. The questions were these: what is really working; what is providing us with the greatest return for our investment in a school; how can we better serve the students we are serving; and how do we compare on a broader basis in Clark County against other charter schools and within the Clark County School District? Are we really getting the return that we want to achieve?

We realized as we analyzed the Clark County School District, they make up 72 percent of the students of the state. There is an opportunity and a benefit here to expand the program from a regional area to an entire state that will help us understand where we are going with education, where we want to be, how we can get there, and what investments are working.

The Legislature has provided investment funds through grants, Senate Bill No. 404 of the 73rd Session money and other monies. What is the return on those investments in those schools with those programs? Ben Sayeski can explain to you the benefits.

**Ben Sayeski, Chief Education Officer, The Andre Agassi Charitable Foundation,
Las Vegas, Nevada:**

I feel for anybody making policy level decisions because you do not always have all the analyses to make the best decisions. If someone comes up here and says this program is unbelievable—it does A, B, C, and D—you need to know a lot more about that program in that school. You need another context under which that is taking place to make a really informed decision. You need to know if the program serves kids in poverty; kids who are not in poverty; families who speak a second language. There are a number of variables that you need to consider. The tough part is how you can take all of this into consideration at the same time. You cannot intuit those kinds of things. There is a way statistically to control for those variables so that you can make an apple to apple comparison of schools A, B, C, and D. It levels the playing field and gives you the opportunity to say what is working and what is not working.

What you are seeing in my slide presentation is a Matrix Data Analysis project that was done for a publishing company in California. They were trying to answer how well their product was doing out in the field and in the districts. I will go through the model that is referred to as the matrix.

The zero line is extremely important because that line is our prediction line. Based upon the last five years of student level data, we can predict where you are going to be. If you perform just as predicted, every dot on this chart would be right on the zero line. The beauty of this is if you believe demography is not destiny, you need to know where the places are that make those dots fall onto the zero line. Where specifically is somebody beating that prediction? That then leads to the hunt for best practices in terms of what is going on in these places that consistently outperform our prediction? That is how you get better.

One thing in education that I think we have done very well is experimentation. However, there is a great saying from the people that created Intel. They had a theory that said "let chaos reign, then rein chaos in." That is what you need to do with this type of analysis. Over time, figure out what is working, then figure out how to scale this over time.

There are four quadrants of performance that you see on the screen. This is California's state average. Their California Standards Test (CST), like Nevada's Criterion Referenced Test (CRT), are their state tests. What you have here are my favorites, the suburban hiders. I call them suburban hiders because they do well on the up/down dimension. They score pretty high. But given their demographic makeup, they should be scoring even higher than they do. For example, you see one district that does not have even 1 percent of its students that qualify for free or reduced lunch. Those are the students that many times get away unnoticed. The other group of students that you see we call over performers for obvious reasons. One, they are to the right of the vertical line you see on the quadrant. They are adding value, more value than would have been predicted, and they also score high on the tests. Below the horizontal line of the quadrant are the students who typically get overlooked. These are not the students who would be winners of the Broad Prize Scholarship. You find those students furthest to the right of the quadrant. If you look at the horizontal line, anybody below that line is not cutting it. However, you would treat these schools very differently than you would treat the schools above the horizontal line. We always say the schools in the one lower quadrant need support and aspirin, the schools in the other lower quadrant need penicillin and surgery. The chart shows that quadrant needs something more drastic.

As a former principal, I do not like the idea of judgement on a one year snapshot. A lot of things can happen, like the flu comes to town, there are four

pregnancies, and my best teachers are out. I can understand that, so we have created a model that lets you track a district. I have picked Compton, California. We can look back to 2004 and say, where were they? Where have they ended up over time? This adds a lot of context to the anecdotal stories that you hear. While the stories and the qualitative analysis are important, the example on the screen is also an extremely important piece that has been missing in education. What you see is a pretty good trajectory over time that also allows people to have conversations about why they think they moved to where they have. What happened in these specific years and what worked and what did not work?

The fun part for you comes when you have specific things that you want to know about that you supported over time. Did they work? We propose, as a good idea for the state, you color code a number of things. You can do that whenever you tag your data. From a policy perspective, some ideas that I would like to see tagged are charter schools. Which charter models work better than others? Let us figure out which models are working better, and then let us hold ourselves accountable for the ones that do not work and what we will do about them.

You would certainly look at empowerment schools. Where do empowerment schools end up over time? What effect does teacher tenure have? Or teacher experience? Or certain professional development? We have invested heavily in a certain amount of professional development. Has that panned out over time? You can ask such specific questions because you can tag it, you can take it to the grade level, you can take it to every dot in the B district, every dot could be a school, every dot could be a classroom; therefore, every dot could be a teacher. This method has all kinds of practical value from a policy level.

If you compare Compton to Twin Hills Union on the chart we are looking at, the aggregate score on the CST is almost the same. You could certainly say the challenges were a little different when Compton is almost 100 percent free and reduced lunch and Twin Hills Union is less than 10 percent. This does not take away the accountability to raise your scores, but it does add context to what is working best for certain populations.

Again, you can ask all kinds of questions of this data. Specifically we hear that we have trouble with X population, we have not been able to move the needle in the state or in the district on this set of students. Pasadena is a great example because you could go to a subgroup on the chart, such as African American, and say what it does is takes away plus or minus one standard deviation. It gives you all of the districts that have a percentage between

14 and 26 percent in California, and then it shows you within those districts who is performing the best.

If you work within a district, using the data analysis matrix, it becomes even more powerful because those are schools within your own district. If I were a school in the lower performing quadrant, I might talk to a neighboring school, such as Pasadena, that was performing at a higher level and see what best practices they were using.

In talking with other foundations across the country, we learned that they see this hierarchical linear modeling as something that needs to come into the education conversation to make policy level decisions. Not only do we want to know we are providing more value, but we want to know if there are other schools providing more value than we are, so we can also learn from them.

This is hierarchical linear modeling without any numbers ([Exhibit F](#)).

Chair Parnell:

When you showed the movement of the dots within the quadrant, and you showed Compton moving into the positive, I noticed schools actually moving in reverse. What is happening in California now with both the movement to improve and the movement to veer off onto a more negative track?

Ben Sayeski:

The benefit of this program is that it allows you to pick up those trends as opposed to having a hypothetical conversation about it. San Francisco's Unified School District is a good example of a district that has done this. You can go onto their website and to this analysis to find how the district is able to intervene for schools and with the professional development for these schools, and to know what they have done over time. In many cases, you need to know specifically where the problem lies to apply the correct intervention.

Assemblywoman Dondero Loop:

With all due respect, I have been in education a long time both as a teacher and in sales and training. Frankly, while I appreciate the data on the screen, I really want to see what is happening at your school, not in California. Knowing that this matches a specific company's data is not what I want to hear. I do not want to know what is happening in Compton, I want to know what is happening at Andre Agassi Prep that makes it successful.

Assemblyman Hardy:

I get the impression that you can retrospectively create dots. You can go back and look at where we were at a given time, then look at where we are at

present. Did I miss that? Data is data, so you probably did not collect data de novo; it has been over a period of time, and was that period of time retroactive or prospectively generated?

Ben Sayeski:

Retroactively. To be clear, when it takes student level data, which requires the participation of a district or a state to get the proper amount of data into the data analysis matrix, it takes five years to get a prediction. There is then some statistical handling that we will call "inflation of grades" over time that you also control for, as well.

Assemblyman Hardy:

Realistically, this is a graphic way to look at performance, which would make sense. We talk about things that perform all the time in this Committee, and this graphic would obviously give us a starting point at which to compare.

Ben Sayeski:

In order for us to make that analogy for Agassi, we have had numerous conversations with Clark County's Chair of the Board of Education and their accountability people because we have to have access to that data. If we want to be compared and held to a higher standard, we have to compare data to Clark County.

Assemblyman Denis:

My understanding that today's presentation is to show us that there is a tool available that we could use. The reason we do not have Nevada's data is because it is unavailable at this point, but you are saying that there is a tool to do that....

Assemblywoman Dondero Loop:

Then it is sales.

Assemblyman Denis:

The part regarding the sales aspect I am not sure about, I am just saying there is a tool. I do not know if this is a specific tool, but it is a great visual, unfortunately, we do not have the data for Nevada to enable us to look at it yet.

Ben Sayeski:

At the end of the day, it does not matter who does the data analysis, but it needs to be part of the reform agenda when you are making policy level decisions, to bring in this hard quantitative look at the data.

Assemblyman Denis:

We have talked in Ways and Means about trying to get this data so we can see what is happening, and we have not been able to look at the data in the right way.

Assemblyman Hardy:

If I were to say somebody could do this, there is probably a multiplicity of factors involved; I am trying to figure out if your data collection gets multiple factors. Would we improve math scores by going out and exercising? Could we figure out the trigonometry of tag intersecting a course? There has to be some way of looking specifically, not globally, why a school does better. If Texas does more exercising than they do learning in the seat, is that the only factor that is taken into account, or is this a huge moving picture of something as opposed to a snapshot of what is happening?

Ben Sayeski:

It is a huge moving picture of what is happening over time. That is the beauty of this data. For instance, the program dealing with obesity, you would specifically tag and know where and what had been done. More than likely you would pilot a lot of things so that you would know if you do A, that over time, B will happen. If B does not happen, then you have a hard-core piece of data to go back and figure out why it is not taking place.

Assemblyman Hardy:

So you are looking at piloting over more than one year; you are piloting over two to four years?

Ben Sayeski:

Yes. Another tendency in education is to get this reform creep, which is one reform on top of another and on top of another; you never see the sunset. Especially in these economic times, you cannot afford to not sunset. While knowing they are the right things to do for students, because you are looking at things that are working for them on the ultimate outcome, you are also being more efficient and effective with the resources you have.

Chair Parnell:

One of the examples I keep thinking of is the original Senate Bill No. 404 of the 73rd Session which dealt with money. I think that has been great. The success is we are beginning to see an impact from the way some of the money was spent. One way I envision this is put all the different programs into the system that have been funded with S. B. No. 404 dollars, then see the schools that have achieved using those dollars, and then do a comparison of the same program. Is that correct?

Ben Sayeski:

That is correct. This does not have to be the CRTs in Nevada; it can also be other things such as the graduation rate, which is a big topic. Strategically, you could have a good picture of what has worked over time before you start to invest millions of dollars into programs trying to impact high school graduation rates. It seems as though that would be the most logical starting place.

Assemblyman Hardy:

I realize different places do different things, and one of the things we try to do is copy someone else's success. It seems to me if we have retrospectively looked at what other people have done, we can also retrospectively or prospectively predict what is going to happen with some things, and we would be able to look at, for example, physical education. If we look at physical education or activity time, where are we going to look at something retrospectively? It does not seem to be too difficult to do, to see whether there are those outside the bell curve. Or is this like turning the lights on brighter in a factory and the workers do more work, then you dim the lights and they do more work; every change makes them do more. That seems to be how education is done—with the factory light. What is it that has a long-lasting impact? We have to look backwards in order to be able to project forward. I do not think we have to go back five years to determine where we are.

Chair Parnell:

That was very thought provoking. At this time we are going to go to the work session document, and I will ask Ms. Carol Stonefield to review this for us.

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

Carol M. Stonefield, Committee Policy Analyst:

You have before you a work session document which provides a summary of the bills under consideration for today. Behind tab A.B. 14 is a summary of Assembly Bill 14, which is a bill draft request (BDR) submitted on behalf of the Legislative Committee on Education from the last interim session.

[Read from A. B. 14 ([Exhibit G](#)).]

There is a special note on this bill as an explanation for the reason that the failure of the high school proficiency examination (HSPE) is reduced from three times to two times. It has to do with trying to bring the statutes into line with the practical application of the provisions of the HSPE, specifically with regard to the writing portion. Under existing procedures, a student has only two opportunities to fail the writing portion of the HSPE before beginning twelfth

grade. The other alternative would be to change the procedures under the regulations.

Chair Parnell:

There are different interpretations on the growth model. Will it be used for merit pay? Will it affect teachers? It is important to note section 1. Throughout the remainder of the bill, we need to remember why this bill came to us. Because of No Child Left Behind (NCLB), some states have been granted the authority to use a growth model in identifying the progress of their schools. We are not ready for a growth model yet, but we hope to be, and if we get a waiver for the growth model, we need to have a model in place to use. Again, it is to assess the progress of a school. That is made very clear in A. B. 14.

To address the back of the bill, it is not a policy change to go from three to two chances to take the high school proficiency examination, it is a cleanup. Since the HSPE is not offered three times before grade 12, we needed to be in alignment with the actual number of times the test is given.

Are there questions or comments? [There were none.] Again, there are no amendments presented.

ASSEMBLYMAN BOBZIEN MOVED TO DO PASS ASSEMBLY BILL 14.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Parnell:

The amendment to Assembly Bill 145, Assemblyman Hambrick's bill, has not been completed, so we will be moving on to Assembly Bill 191 brought to you by our colleague Mr. Denis.

Assembly Bill 191: Removes the prospective expiration of a provision requiring certain examinations of the height and weight of pupils. (BDR S-827)

Carol Stonefield:

Assembly Bill 191 was heard on March 16, 2009. [Read from A. B. 191 ([Exhibit H](#)).]

There is a special note on this giving you the history of this particular section, Assembly Bill No. 354 of the 74th Session. There was an amendment offered by the American Heart Association. The following page shows the amendment

to the existing statute, specifying that measurements will be taken from a sample of fourth, seventh, and tenth grade students. It also specifies that the Legislative Committee on Health Care would examine child weight related health issues in the next interim session.

Chair Parnell:

I was concerned with identifying certain grades, but now I realize that is for reporting purposes only. It is not necessarily the same grades that a child would be weighed and measured as he has hearing and vision checks. It is important that we all understand that.

Is there any discussion?

Assemblyman McArthur:

I agree with the bill, but why are we actually weighing these children? What is the purpose? We are not educating them by weighing them.

Assemblyman Denis:

The purpose is the same as assessing their eyes and ears. We are trying to gather data on childhood obesity as it relates to an indicator for diabetes.

Assemblyman McArthur:

Why are we doing that in school?

Assemblyman Denis:

We are already testing them for eyes and ears, so we are adding this requirement to collect data and for applying for grants. The best way to gather this data is through school.

Assemblyman McArthur:

I understand that, but what are they going to do with these grants once we get the data on height and weight?

Assemblyman Denis:

As they testified on March 16, they are going to do studies to try to reduce childhood obesity and diabetes in children.

Assemblyman McArthur:

Is that what we should be doing in school?

Assemblyman Denis:

It would be a good thing because children who are overweight and have diabetes have a harder time studying.

Assemblywoman Dondero Loop:

I would just add to what my colleague said; to raise a well-rounded, totally educated child, we need to take care of the total child.

Chair Parnell:

Are there further questions or comments?

I mentioned at the hearing on March 16, this is a continuation of a bill that passed last session, Assembly Bill No. 354 of the 74th Session. It has sunset, and it has been requested we remove the sunset so we can continue with what we were asked to do in the 2007 session, as well as work on the cleanup or amendment of the bill.

Assemblyman Hardy:

I understand all of the comments related to health, but when we begin to see globally what we are doing in the schools, that will affect day to day teaching? If we exercise, if we weigh, if we do different things that would not be direct mission accomplishments, do we need to step back and ask when do we sunset something? Do we say now that we have the information, what do we do with it? What are we doing for education?

Assemblyman Stewart:

I also hope that with all of the data we get that we can actually do some good with it and actually reduce obesity and make children healthier if that is the intent. I hope we are not just gathering data and letting it sit there.

Assemblyman Denis:

They are already doing a lot of things, but they need to see the continuation and the pattern. I will note that to measure the height and weight takes about three minutes out of a school year, and many good things can be done with the information. The collection of this data can be stopped at any time, but more data was required to apply for grants. This does not have a fiscal note, as this is something the school nurses have done, and are willing to continue doing.

Chair Parnell:

As a teacher in a classroom, I believe we need to remember that weight can alert us to a physical issue that is affecting classroom achievement just as a child with reading problems can actually have an undetected sight problem requiring glasses. We have basic health issues like that in our schools. The sooner problems can be identified, the sooner that child can have success in the classroom. I see this as not only for health reasons, but as an educator, it creates an opportunity for students to be the best they can be.

Assemblyman McArthur:

I certainly agree with regard to eyes and ears, but at some point we need to draw the line and say that schools cannot be all things to all people. It is almost like we are legislating weight. We are beginning to go too far in what education is required to do to educate our children.

I understand that this bill primarily deals with the sunset, but it is the other part of the bill that I object to.

Chair Parnell:

We do have a motion on the floor to Amend and Do Pass, Assembly Bill 191.

ASSEMBLYMAN BOBZIEN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 191.

ASSEMBLYMAN KIHUEN SECONDED THE MOTION.

THE MOTION PASSED (ASSEMBLYMAN MCARTHUR VOTED NO.)

Chair Parnell:

Do we have additional bills for work session?

Carol Stonefield:

I believe you intend to postpone Assembly Bill 145, so that concludes the work session for today.

Chair Parnell:

I will now call for public comment.

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

When I attended the Council of Chief State School Officers (CCSSO), in Washington, D.C., meeting with all of the state superintendents, we had a presentation on the Matrix Data Analysis model. It is the newest and best way for accountability. The example they used was a school district in Colorado that has currently and fully integrated all of their data. There are a number of foundations that provide money to the CCSSO, such as the Gates Foundation, and the Broad Prize Scholarship, that would like to see this model used. They will be making a request in the near future to see which states might be interested.

I like this data. It is only as good as the data you can put into the system. We could probably go back two or three years and move forward. It does require work for people to maintain. We do not currently have in our student accountability system which schools received Senate Bill No. 404 of the 73rd Session money, but that could be another chart. You could use the graduation rate, or test scores, and the more fields you have in the database, the more broadly you could track everything. You could assess right down to the school; was it race, socio-economic factors, was it S. B. No. 404 money, or was it student-teacher ratios? It is good and the latest and greatest program coming. There is an opportunity—in spite of the possibility of cutting staff and reduced pay—to partner with another district to try a pilot project which could possibly get the funding through the national CCSSO group to help us with the technical assistance. It is something I am interested in whether it is this program or another; it is one that would be used by all of the states in the national program. It would be consistent.

I thought my comments would be timely before there was a chance to forget today's presentation.

Chair Parnell:

We did not track that S.B. No. 404 money? There is no way we could go back to 2005?

Keith Rheault:

Yes. We have the file, we would just have to enter them by hand and flag them by school and differentiate that one school received S.B. No. 404 money, or they received A.B. 185 money. I estimate we could go back for three years because that is when we instituted individual unique student ID numbers.

Chair Parnell:

Was that approximately when it took effect, the 2005 session?

Keith Rheault:

Yes, and by the time they received the grants, it was almost January 2006.

Chair Parnell:

Are there any questions for Dr. Rheault? Is there additional public comment?
Is there any additional business to come before the Committee? Seeing none,
we are adjourned [5:03 p.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblywoman Bonnie Parnell, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Education

Date: March 18, 2009

Time of Meeting: 3:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B 285	C	Assemblyman Chad Christensen	Study: Physically fit Texas students more likely to do well on achievement tests
A.B 285	D	Nicole Bungum	Testimony for A.B. 285
A.B 285	E	Christopher Roller	Lifelong Effects of Childhood Obesity
A.B 285	F	Ben Sayeski	The ESC Achievement Matrix
A.B. 14	G	Carol M. Stonefield	Revises provisions governing testing and reporting of results of pupils. (BDR 34-294)
A.B. 191	H	Carol M. Stonefield	Removes the prospective expiration of a provision requiring certain examinations the height and weight of pupils (BDR S-827)