

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

**Seventy-Sixth Session
March 21, 2011**

The Committee on Education was called to order by Chair David P. Bobzien at 3:25 p.m. on Monday, March 21, 2011, 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/76th2011/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:

Assemblyman David P. Bobzien, Chair
Assemblywoman Marilyn Dondero Loop, Vice Chair
Assemblyman Paul Aizley
Assemblyman Elliot T. Anderson
Assemblywoman Olivia Diaz
Assemblywoman Lucy Flores
Assemblyman Ira Hansen
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman Richard McArthur
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Mindy Martini, Committee Policy Analyst
Kristin Roberts, Committee Counsel
Taylor Anderson, Committee Manager
Sharon McCallen, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

LeLiana DeLeon, Student, College of Southern Nevada
Emily Bowles, Student, College of Southern Nevada
Gabrielle Yates, Student, Cheyenne Campus, College of Southern Nevada
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
Bart Mangino, Legislative Representative, Community and Government Relations, Clark County School District
Dotty Merrill, Executive Director, Nevada Association of School Boards
Caroline McIntosh, Superintendent, Lyon County School District
Alison Turner, President, Nevada Parent Teacher Association
Craig Hulse, Director, Department of Government Affairs, Washoe County School District
Craig Stevens, Director, Education Policy and Research, Nevada State Education Association
Nicole Rourke, Executive Director, Government Affairs, Community and Government Relations, Clark County School District
George Ross, representing Las Vegas Chamber of Commerce
Danny Thompson, Executive Secretary Treasurer, Nevada State AFL-CIO
Jack Mallory, Director of Government Affairs, District Council 15, International Union of Painters and Allied Trades, representing the Southern Nevada Building and Construction Trades Council
Rusty McAllister, President, Professional Fire Fighters of Nevada
Michelle R. Jotz, Director of Governmental Affairs, Las Vegas Police Protective Association, representing Southern Nevada Conference of Police and Sheriffs
Mark Coleman, Deputy Director, Clark County Association of School Administrators and Professional-Technical Employees
Bill Hanlon, Director, Southern Nevada Regional Professional Development Program
Ray Bacon, Executive Director, Nevada Manufacturers Association
Lonnie Shields, Assistant Executive Director, Nevada Association of School Administrators

Paul La Marca, Chief Accountability Officer, Washoe County
School District

Chair Bobzien:

[Meeting was called to order. Opening comments regarding the Nevada Electronic Legislative Information System (NELIS), housekeeping, and meeting protocol were stated. Roll was called.]

We are hearing three bills today as well as having a work session. We do have two students with us from College of Southern Nevada (CSN) wishing to speak under public comment.

LeLiana DeLeon, Student, College of Southern Nevada:

College of Nevada (CSN) is known for always having open doors regardless of race, or age. We are known for "Welcome! Welcome!" We are like family. We are going to make sure we educate you, that you have the proper foundation.

Every teacher has helped you along the way—teaching you English, math, politics. At CSN we do that for people who have not had the opportunity to do the things they wanted to do in life, for kids who do not want to go straight to a university. Unfortunately, last semester, we turned away 5,300 students who wanted to better their future. We had to turn our backs on them. We cannot have any more budget cuts. Education is the window to our future. Imagine if your children did not have the proper tools to succeed.

I have been to several of the budget cut hearings and I hope you, as legislators, are listening and taking all of this into consideration. I am your future doctor and if you continue with the budget cuts, it will be very difficult for me to continue with my education. Regardless of having to transfer to University of California, Los Angeles (UCLA) or another medical school, CSN is my foundation.

Emily Bowles, Student, College of Southern Nevada:

My major is Special Education and I would like to share my personal goals and how the budget cuts would affect me.

I am planning to obtain my associate's degree in special education at CSN and to use that degree to start a special education program in India to change the views of the people in rural villages to not push aside special education children, to give them the proper care they need, and to show them the potential of their children. I hope to use that experience when I come back to Nevada, get my master's degree in special education and teach here.

Budget cuts in education would definitely be detrimental to my education because I do not qualify for many grants or aid programs. I am sure there could be something I could qualify for, but I am having a really hard time paying for school as it is. There will be one less special education teacher here if budgets are cut even more.

Gabrielle Yates, Student, Cheyenne Campus, College of Southern Nevada:

My major is secondary education with a minor in special education. If you give a child an education he will want to succeed and go farther in life. If you give students an education with all the budget cuts, we will change the world, because we are your future doctors, lawyers, engineers, and teachers. At CSN, we are below budget cuts. Great Basin College (GBC) has 9,147 students, CSN has 49,000 students and less funding. We need more funding so we can have more students. We need \$4,187 more per student. We want a lot of programs at CSN but we do not have the funding that reaches the students.

When discussing pipelines or jails, special needs children are not less educated. We need to give them education, not put them back in a jail system. We have also noticed that we have the highest dropout rate in Las Vegas, Nevada. We need to be able to push these students into better training facilities, better programs, and a better education system where they will not be just another number. We also need to be a viable student body so when these jobs are available in Las Vegas, we will be ready to contribute to the workforce.

Chair Bobzien:

To all of you, thank you so much for making the trip up from southern Nevada to join us in the Legislature today.

Do we have any questions from the Committee to the panel?

Assemblyman Munford:

I want to welcome Gabrielle Yates. She is my constituent and lives across the street from me. I see her all the time and we talk on the phone all the time. She is very concerned and likes to participate in community affairs and is very active and a credit to my district. I welcome her here and she is doing a good job. Keep up the good work, Gabrielle.

Gabrielle Yates:

Thank you so very much, Assemblyman Harvey Munford. On behalf of CSN, Cheyenne and higher education, we thank you for taking your time out each day to fight for our education and thank you for thinking of us once again.

LeLiana DeLeon:

I failed to mention that every semester we are short on books at CSN. Last semester for my biology class, I had to go three weeks without a book. I had to share.

My little brother goes to Legacy High School and they also have the same situation. The tools that they need are not there because of the budget.

Chair Bobzien:

We are going to open our work session. We are going to consider two bills today, Assembly Bill 220 and Assembly Bill 230.

Assembly Bill 220: Encourages the Board of Regents of the University of Nevada to implement measures to ensure the educational needs of students and prospective students will be met. (BDR 34-725)

Mindy Martini, Committee Policy Analyst:

This particular measure was heard on March 2, 2011 ([Exhibit C](#)). One amendment has been filed for this measure by Assemblyman Ocegueda ([Exhibit D](#)). This amendment would strike the language that you see at the bottom of the second page of your work session document. It would strike the words "for teachers and nurses and related medical fields" which would essentially eliminate the limitation on bachelor of arts-level programs at state colleges. This is the only amendment that has been submitted for A.B. 220.

Chair Bobzien:

I just want to make a quick comment regarding this bill. When it came out, a few people wanted to know why we needed this bill. What is it about? What is this call for greater coordination? We are already doing these things. It seemed as if days later, we heard from the University of Nevada, Reno (UNR), and their proposals for the cuts that they would make should the proposed budget from the Governor go through. In making their plans known, they had put the school's social work department on their list of departments to be cut, but then it turned out that the University of Nevada, Las Vegas (UNLV) had made a similar proposal. The minute that happened, UNR decided to pull back and not cut the school's social work department. For me, that was a great example that, clearly, there can be more done as far as coordination between all of the different systems and institutions when it comes to program coordination and making sure that we are minimizing duplications as much as possible. It shows that this bill is very timely.

I would entertain a motion on A.B. 220.

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 220.

ASSEMBLYWOMAN DONDERO LOOP SECOND THE MOTION.

Chair Bobzien:

Is there any discussion on the motion?

Assemblyman Hansen:

If it is such a good thing, why is it just encouraging? Why is it not mandatory?

Chair Bobzien:

My own clarification, and I do not pretend to be Committee Legal Counsel, is this gets to the constitutional separation we have between the Board of Regents and the other branches of government. The resolution approach, the urging, is the extent to which we can enact change at the Board of Regents level.

Assemblyman Hansen:

The only reason I bring it up is the Legislative Counsel's Digest says existing law already encourages the Board to do what we are doing and one of the purposes is to reduce unnecessary duplication. We are kind of duplicating what is already in existence.

Chair Bobzien:

Again, Mr. Hansen, recognizing that these are special times with special circumstances, and frankly dire circumstances, this resolution, as I understand it, is to reissue the call that now is the time to look at these. We can prod and recommend, but ultimately it is the Board of Regents that has the jurisdiction here.

Is there any other discussion?

All those in favor say "Aye." Opposed, "Nay."

THE MOTION PASSED. (ASSEMBLYMAN MCARTHUR VOTED
NO.)

Ms. Dondero Loop, can you take this to the floor?

Assemblywoman Dondero Loop:

Yes.

Chair Bobzien:

We will now open the work session on Assembly Bill 230.

Assembly Bill 230: Authorizes an alternative route to licensure for teachers and administrators. (BDR 34-738)

Mindy Martini, Committee Policy Analyst:

Assembly Bill 230, ([Exhibit E](#)) as you remember, authorizes an alternative route to licensure program for teachers and administrators. It is an accelerated program. No amendments have been submitted for this measure. This measure makes our laws coincide with recommendations of the federal Race to the Top Program.

Chair Bobzien:

I would entertain a motion on Assembly Bill 230.

ASSEMBLYMAN KIRNER MOVED TO DO PASS ASSEMBLY BILL 230.

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

Is there discussion?

Assemblyman McArthur:

For clarification, page 3, line 31 says, "At least 5 years experience working in a field for which the applicant will provide instruction" I just want to make sure that if you are an engineer or a physicist that you can come back and teach math because that has not really been your main field, but you certainly ought to be able to do it. I just want to make sure that is the main intention, that you can do that. It does not leave people out just because of a specific

Chair Bobzien:

As we are reading this, the other piece to note is the requirement for the bachelor's degree in the field as well. It is a good concern to get on the record, but that is how I would read that. If you are an engineer, you are ready for math.

Any other discussion on A.B. 230? There is no fiscal note on the bill. All those in favor? Opposed?

THE MOTION PASSED. (ASSEMBLYMAN AIZLEY VOTED NO.)

This will conclude the work session for today and we will begin the hearing on Assembly Bill 113.

Assembly Bill 113: Revises provisions governing the statewide system of accountability for public schools. (BDR 34-87)

Assemblywoman Dondero Loop, Clark County Assembly District No. 5:

I am testifying for former Senator Joyce Woodhouse who served as the Chair of the Legislative Committee on Education during the 2009-2010 Interim. Mrs. Woodhouse asked me to testify for her as she is in Oregon caring for her sister who has recently undergone brain surgery. On her behalf, I have agreed to introduce Assembly Bill 113 for your consideration.

The purpose of this measure is twofold: first it provides certain technical adjustments to the timing and contents of the Nevada State Improvement Plan; and second, the bill readjusts the calendar for statewide testing and related accountability reporting requirements.

The first of the changes contained in this measure affects the Nevada State Improvement Plan. Under the current statutory provisions, the State Board of Education/State Board for Career and Technical Education is required to develop a State Improvement Plan. This Plan is put together by Board members; Department of Education staff; representatives from the school districts; the Statewide Council for the Coordination of the Regional Training Programs; the Nevada System of Higher Education; and various business, community, and parent organizations. The Plan must include an analysis of the data compiled from the school districts and reported in the State Accountability Report.

Currently, the State Board is required to review and revise the annual Plan each December and submit it to the Legislative Committee on Education, as well as to the Governor, the Board of Regents of the Nevada System of Higher Education, the boards of trustees of the school districts, and others. Since the statutes also specify that District Improvement Plans are due December 15, it makes it difficult to identify common problems for inclusion in the statewide Plan. Members of the interim Legislative Committee were advised that shifting the submittal date to January 15 would allow the Department of Education to incorporate or reference findings from the district plans, making the document more useful to policymakers.

As we looked at the State Improvement Plan in more depth, we also noted that the document did not include a timeline for implementing the objectives specified within the Plan, especially those that had been identified in previous reports. Members asked that the Department of Education include a timeline by

implementing a five-year planning component within the Plan to identify specific measureable goals and carry out its provisions. Therefore, section 2 of the bill, page 11, lines 5 to 13 requires that the Plan include a five-year planning component for recurring issues and further specifies that such a component of the Plan build upon data from prior years and track measurable goals. Also on page 11, line 21, you will see the due date for reporting the State Improvement Plan is changed from December 15 to January 31 of each year.

The second major component of this bill concerns the statewide school accountability program's schedule for testing and reporting. In order to comply with federal No Child Left Behind (NCLB) provisions, the 2003 Legislature enacted added tests aligned to the state academic standards in reading and mathematics for Grades 3 through 8. Further, the 2003 Legislature made substantive revisions to the linkage between these tests and the state accountability system to meet federal requirements for making adequate yearly progress (AYP). Those standards-based tests required by NCLB are linked to the school accountability program and are considered "high stakes" for schools and districts.

Parents are advised of district and school level accountability results in several ways. Currently, a summary version of the district level accountability report card is made available to certain entities, including parents, on or before August 15 of each year and a state-level report card is to be made available on or before September 1 of each year. Additional deadlines also are set forth to notify parents with students in Title I schools not making AYP.

During the 2009-2010 Interim, the Legislative Committee on Education received testimony from school districts concerning the difficulty in meeting the statutory reporting requirements linked to these tests. In addition, they argued that delaying the tests another month would provide classroom teachers with additional time to prepare students academically for these standards-based tests.

The members of the Legislative Committee on Education agreed that such a change was warranted, and Assembly Bill 113 contains provisions to allow for the later administration of the statewide tests used to determine if schools are making AYP, providing the districts at least another 30 days of instruction prior to testing. The AYP preliminary and final reporting deadlines are also revised to accommodate this change, and related dates associated with this process are adjusted accordingly. It is anticipated that the new schedule would take effect for the 2012-2013 school year.

This concludes my presentation, Mr. Chair. Assembly Bill 113 proposes to adjust the testing schedule and all the associated reporting requirements to provide school districts and the Department of Education with a more realistic schedule.

I believe representatives from Clark County School District and the Department of Education are here to provide additional information. They should also be able to address your specific questions or concerns.

Chair Bobzien:

Do we have any questions from the Committee? I see that Dr. Rheault is signed in as neutral. I will ask him to come to the table and provide some background.

Assemblyman Aizley:

I would like to hear what real problem is being solved from the previous testimony. I did not really pick up that there was a problem.

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

I signed in as neutral, not because I object to the bill, but there are some ramifications of what this bill is trying to resolve with regard to Assemblyman Aizley's question.

Currently, all the changes in the bill are a number of dates. Over the weekend I had staff put together a list of all of the date changes and what would change from the current practice to what the bill is proposing ([Exhibit F](#)). The real change stemmed from parents discussing with the Legislative Committee that they thought we were requiring the criterion-referenced tests (CRT) too early in the school year. We require the test to be on the 120th day of school—ten days plus or minus 120. They felt that if we tested later in the spring, we would have better results and higher proficiency levels for our students.

The problem it would cause is that everything in the current system, based on 120 days, was so that we could send the tests off to the vendor to score them, get them back to the state, validate the scores, then send them to the school district so that we could get the test results to the parents before the students left school that year. Normally we would have the results around the end of May.

Starting with the very last section of the bill, where it requires the Department to move the CRTs from the 120th day to the 150th day, testing would move to the end of April. The ramifications of the later testing date would be parents not being notified of the results until about June 30. That is the trade-off.

As long as you know what you are getting with the bill, I do not have a problem with it. In fact, I like seeing the later test date. But, it means the parents would be notified after the end of the school year.

Another ramification of moving the test date 30 days is that we are going to be 30 days later making our AYP designation which means we will not have the final, appealed results until September 15. The current testing date, because we use the CRT results for Grades 3 through 8, allows us to use that information to determine if each school is making AYP. We are required to have preliminary notifications to the school districts by June 15 to say we think these schools are not going to make AYP and they have 45 days to review that and appeal to the Department of Education. Then we make our final designations on August 15. The reason this is important is that schools have to notify parents that the school(s) their children are attending did not make AYP. Parents get the notification before the beginning of the school year.

There is a ramification that the federal government still requires that school districts provide notification to parents of the possibility that their children are attending schools that are not making AYP 14 days prior to the start of school. Districts would still have to notify parents based on our preliminary notification, even before the September 15 deadline. This is still allowable. Quite a few states do this very process. Some of them do not have their official designations until the end of September. They do have a preliminary piece that they put out. The longer testing window may provide better results, but the parents will not be notified of the results until the summer and we have to move the official designation date 15 days into the school year.

Chair Bobzien:

Does that explanation help everybody? Are there any questions?

Assemblywoman Flores:

If the parents are not notified until sometime after the school year starts, is there a provision where if you are at a low-performing school, you can apply for some kind of waiver to go to another school?

Keith Rheault:

Yes.

Assemblywoman Flores:

That means the parents would not be notified that their school could potentially be one of those schools. Then they would have to make the decision of changing schools after the student has already started?

Keith Rheault:

What I had mentioned is that we would not have the final designations until September 15, but because school districts can appeal our findings, we will have our preliminary designations by August 15 which would allow districts to notify parents before school started. There is a chance they could appeal and that school could be taken off the list, but for the most part, they would know which ones we were considering so the parents would have the knowledge to take advantage of the school choice provision if their child's school did not make AYP.

Assemblywoman Flores:

But you do not send out the preliminary notices now because there is no need for it because of the current date. Would you then send out the preliminary notices if we were to approve this bill?

Keith Rheault:

Yes. We currently send out preliminary designations July 1. This bill would cause us to move it to August 15. We are still going to do everything we do now, we are just moving everything forward.

Assemblyman Hansen:

As I go through the existing law, this bill is duplicative to what you already have in law now. My understanding is that all this is designed to do is to change the time frame? Or is it actually designed to add something significant? If you are already doing what is in existing law, it seems this is just redundant.

Keith Rheault:

I think the parents and teachers that testified really felt it was important to move the testing date, which was the whole piece. There is not anything new that is being added in the bill. We are still testing in Grades 3 through 8. We still have to do the designations for every school. We still have to do the accountability reporting in the School Improvement Plan. All the bill is doing is shifting dates.

The argument for this, as we hear some additional bills, is that, later, it will tie student achievement to teacher performance and evaluations. For that reason, I would support the bill. It allows teachers at least 150 days with the students before we test them on proficiency. Those are the tests we are going to use for growth from year to year. It would give a better designation of achievement for the teachers.

Assemblywoman Dondero Loop:

I would like to respond to these concerns. As a 30-year veteran teacher, I can tell you that there are many times when you teach skills, and you have to progress in a certain order. If you are teaching multiplication skills and the test is on division and you have not covered that yet during the school year, you are testing students on what they have not been taught. That is part of the whole process with moving these dates. It is not just so we can figure it out for another 20 days. It may seem like rigamarole, but the truth of the matter is that everybody learns things in a certain process. That is why these dates are being moved. I think the teachers on the panel can attest to that with me.

Chair Bobzien:

I appreciate the Superintendent's comment that we are getting ready to base some pretty serious decision making on this data, so it is good to do this housekeeping.

Assemblywoman Woodbury:

As a teacher, I think it is high time that we move these testing dates because I have never met a teacher who has understood why the testing dates are where they are. I have to give that test at the end of the second trimester and we have to teach all three trimesters of material within two trimesters and then continue the rest of the year just reviewing to make sure they know everything for the test. We feel, as teachers, that tests should be given at the end of the year.

Assemblyman Stewart:

Me too.

Chair Bobzien:

Knowing that we have two more bills after this one, we are going to keep things moving. Dr. Rheault do you have one last point to make?

Keith Rheault:

I did provide the five-page spreadsheet with the change of dates and everything that affects the bill ([Exhibit F](#)).

Assemblyman Aizley:

If you had opened the whole discussion saying that this is what the teachers wanted, I would not have asked anything else.

Chair Bobzien:

I would like to take a quick moment and honor a distinguished guest and recognize Senator Neal. We are thrilled to have your daughter with us and she is making you proud. I can assure you of that.

Bart Mangino, Legislative Representative, Community and Government Relations, Clark County School District:

I would like to say that by revising the schedule for administration of the CRTs for Grades 3 through 8, we have actually allowed 30 additional days of instruction. This is absolutely critical and will provide a better and more accurate analysis of what the students have mastered as far as grade-level standards.

Additionally, with the pending arrival of Common Core State Standards (CCSS), one of the things you are looking for is possibly front-loading the process in which the State of Nevada operates as far as testing and scheduling. In particular, the core standards will require or expect the students to master them within the year—not in a half a year—as we are often faced with. That would be one of the things that would be a positive for us.

When you start taking a look at teachers in schools being responsible for intervention with special education, it actually gives our teachers and those students additional time to master those standards.

Dotty Merrill, Executive Director, Nevada Association of School Boards:

The Nevada Association of School Boards supports this proposal because school board members have long been concerned about school and district designations based on the CRTs administered well before the end of the school year. Administering these tests later in the year will extend the time for boys and girls to learn the content of the standards whether they are the CCSS, or the current standards and to demonstrate their achievement in mastering that content. We agree with comments that have been made previously regarding the importance of moving this administration in order to provide a more fair way of evaluating student growth.

Caroline McIntosh, Superintendent, Lyon County School District:

I am here on behalf of Lyon County School District and the Nevada Association of School Superintendents for which I am Secretary-Treasurer. We want to echo our support for Assembly Bill 113. It certainly adds more fairness for our teachers and for our students to reflect their learning.

Chair Bobzien:

Do we have any questions from the Committee? [There were none.] We will go to Las Vegas.

Alison Turner, President, Nevada Parent Teacher Association:

I am speaking today as a private individual and also as a member of the stakeholder group that works on the State Improvement Plan, as well as a child advocate for the past 20 years.

Quite some time ago, I was advocating some of the issues raised by this bill with Mrs. Terri Janison who now works for Governor Sandoval. We brought to the attention of the Department of Education officials the fact that there was no variation for children who are on a conventional nine-month schedule and for those who were on the five-track year-round schedule. There were incredible variances depending on which track those children were attending. At that time we did not have the opportunity to elevate that issue to Dr. Rheault's level.

I am well aware of the federal requirements that drive some of these deadlines. I can tell you that with regard to parent notification and school choice, one of the issues in the current enactment of the Elementary and Secondary Education Act (NCLB), which hopefully will be reauthorized later this year, is the issue of school choice. It is not just students and families who are not served by the school who are eligible for school choice; it is all of the children and all of the families in those schools. It does make it a cumbersome transition. However, the most important point to have everyone keep in mind is that these children are tested on the full curriculum—all 180 days of it. Adding in an extra time period as this bill specifies is a major gift. That is the "me too" part, adding my voice to that of teachers and administrators.

Finally, speaking as a member of the State Improvement Plan stakeholder group, I can tell you that we have been aware of the difficulty with the reporting deadlines as they currently stand for the past few years. Therefore, as a member of that stakeholder group, I would like to add my voice to encouraging the adjustment of the dates as provided in this bill.

Chair Bobzien:

Do we have any questions for Ms. Turner?

Craig Hulse, Director, Department of Government Affairs, Washoe County School District:

For all of the reasons you have heard from my colleague from Clark County School District, the school boards, and superintendents, we support A.B. 113 as written.

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

I would like to echo my colleague Craig Hulse's words and we support A.B. 113 as well.

Chair Bobzien:

Any questions? [There were none.] Anyone else to testify for A.B. 113? Against A.B. 113? Is there anyone neutral? [There was none.] I will close the hearing on Assembly Bill 113 and we will bring this back at a later time. We will prepare for Assembly Bill 117.

Assembly Bill 117: Revises provisions governing the required minimum number of school days in public schools. (BDR 34-91)

Assemblywoman April Mastroluca, Clark County Assembly District No. 29:

I am presenting this testimony on behalf of former State Senator Joyce Woodhouse. As Ms. Dondero Loop mentioned, Ms. Woodhouse served as the Chair of the Legislative Committee on Education during the interim and I served as the Vice Chair.

Assembly Bill 117 provides technical adjustments to the Nevada State Improvement Plan and readjusts the calendar for statewide testing and related accountability reporting requirements. This sounds very similar to the last bill, but it is not exactly the same.

Nevada Revised Statutes (NRS) 388.090 requires that all Nevada school districts " . . . provide a minimum of 180 days of free school . . . " to students under their charge. Some exceptions may be made for alternative scheduling, but the number of instructional minutes must be equal to or greater than the number of minutes provided by 180 days of instruction. According to the Education Commission of the States, Nevada is among the majority of states in the nation (30) that requires a minimum of 180 days of instruction.

Representatives of Clark County School District testified that if districts were granted a waiver for up to 10 days in cases of significant financial hardship, this flexibility would allow districts an alternative to the more drastic step of reducing expenses by laying off teachers or other educational personnel. Current law contains such a mechanism for making a declaration of hardship in NRS 387.2065. Under this statute, a school district may request a waiver from all or a portion of the minimum expenditure requirement for textbooks, instructional supplies, and instructional hardware in the event of an economic hardship, which is defined as occurring when revenue projections do not meet or exceed the revenues anticipated by the Legislature, or if the school district

incurs unforeseen expenses, including those relating to a natural disaster. The process specified in A.B. 117 is similar to this provision. Under this bill, a request for a waiver must be reviewed by the Superintendent of Public Instruction who may then forward the request to the Interim Finance Committee (IFC). The IFC makes the final determination to grant a waiver.

The members of the Legislative Commission on Education agreed that this alternative should be brought before the full Legislature for its consideration. That concludes my presentation.

Chair Bobzien:

Did you want to have anyone come up as backup?

Assemblywoman Mastroluca:

Hopefully, Dr. Rheault.

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

The only comment I would make—other than I can carry out the requirements of the bill if it is passed—is that I think it is more critical for the districts to testify.

I do think the one piece that is not currently available is an option for a waiver if a catastrophe happened right now. I think that would be a good thing to tack onto the fiscal hardship as well. I do not oppose it either. It is better addressed by the school districts but I could carry this out and would not have a problem supporting the bill.

Chair Bobzien:

Do we have any questions before we continue?

Assemblyman Hansen:

Are these unpaid furlough days and, if there is any savings, does it revert back to the school districts? We are basically saying we are going to keep teachers employed, but we are really "shorting" our children up to ten days to protect the teachers. That is my concern with this bill.

Assemblywoman Mastroluca:

I believe that Ms. Rourke's amendment from Clark County School District addresses that question.

Nicole Rourke, Executive Director, Government Affairs, Community and Government Relations, Clark County School District:

It is our sincere hope that we never have to use the provisions proposed in this bill. However, should economic circumstances make it necessary, an option we would like available to us is to ask all employees to take a furlough day. For each day we close the district—and that would mean everyone from the superintendent to the substitutes would be off—we would turn off the lights and park the busses and close the doors. We would save \$9 million. If we were to reduce the number of professional development days, it would not impact instructional time for students. It is always our goal to protect instructional time.

When we made cuts to our budget a couple of years ago, we considered eliminating one or two professional development days to avoid layoffs. We quickly realized that while we could close down schools and all district offices, we would still be contractually obligated to pay the salaries of employees.

Again, while we hope we never have to do this, we would like to have the option of utilizing furlough days to balance our budget, if necessary, and only in times of extreme economic distress. Our trustees might determine that they would rather reduce a professional development day rather than add another student per classroom.

Section 2 of the bill makes it clear that the districts should only apply for this provision to avoid layoffs with the anticipation of a corresponding savings in pay for employees. However, it is not absolutely clear the districts would have the ability to reduce salaries if an economic hardship were to be declared. The district's amendment clarifies that school districts would have this ability.

If it ever came to the need for this action it would be our hope that we could work with our collective bargaining groups to come to an agreement. I can state with certainty that this kind of a decision would not be made in a vacuum. If we were unable to negotiate it, we believe this amendment ([Exhibit G](#)) would provide the language needed to ensure we could reduce the contract days as a savings measure, again, only if necessary. We hope never to have to use the economic hardship provision; however, if we do, our intent is to minimize the impact on instructional time.

Chair Bobzien:

I have just one question in terms of how this bill has evolved and with this amendment coming in. When the bill idea was discussed in the interim, was this particular component discussed?

Nicole Rourke:

I think it was the underlying assumption along the way, but perhaps it was not clear enough.

Chair Bobzien:

So during the interim it was discussed that the intent was, yes, you could do furloughs and realize savings with this concept?

Nicole Rourke:

Yes, that is correct.

Assemblyman Kirner:

I understand what you are trying to get at, and if you were to use a furlough day, what would be the impact on the Public Employees' Retirement System of Nevada (PERS)?

Nicole Rourke:

It would be a salary reduction. I have not checked with PERS regarding the impact, but it would be the same as any other salary reduction.

Assemblyman Kirner:

The reason I am asking is because when the state now takes the 4.6 percent equivalent in furlough days it does not currently affect employees PERS. That is why I am asking. Have you thought that through or not?

Nicole Rourke:

I apologize; I would have to check with PERS to be absolutely certain with validity.

Chair Bobzien:

That would be a great point of clarification to get to the Committee if you would do that.

Assemblyman Aizley:

I was wondering what your definition of necessity is for enacting this. What are the economic conditions that would do it?

Nicole Rourke:

We are currently in some dire economic circumstances. We are facing an unprecedented budget cut as we speak. Again, we hope to come to the table with our collective bargaining units and hope not to have to use this measure. This is a time we never anticipated.

Assemblyman Hansen:

Since our goal is to educate kids, is it possible for the school districts with their collective bargaining units to agree to keep the same number of days of instruction by adjusting the pay scales on a pro-rata basis downward? If we are potentially taking ten days worth of instruction away, is it possible for the school districts to work with the unions to ensure the kids get the instruction they need with a slight adjustment in the pay to stay within your budget?

Nicole Rourke:

Yes, that would certainly be our preference to work with our bargaining units to look at our budget and the necessary reductions first and foremost.

Assemblywoman Dondero Loop:

I am a little uncomfortable with the last line where it says irrespective of any existing collectively bargained agreement. That does not say, to me personally, we will work together. That says irrespective of anything existing, this is what is going to happen. Am I reading that incorrectly?

Nicole Rourke:

It would be our intent to work with our bargaining groups before an application for economic hardship would ever occur. We would take all efforts to get there before we would get to this point. I believe you are reading it correctly.

Chair Bobzien:

Do we have any other questions from the Committee?

Assemblyman McArthur:

I am still unclear on this amendment. The whole purpose of this bill was to reduce expenses, to cut back. That is why we would have the furlough days, right? Once you get the furlough days and, once the waiver in this amendment is granted, it then says the basic salary of the school district employees will automatically be reduced. Are we doing both of those things?

Nicole Rourke:

Because of the collective bargaining agreements they cannot be automatically reduced. That is what necessitated the amendment.

Assemblyman McArthur:

I guess I am not clear. This amendment only happens when we have had the furlough days, correct? Then you are saying the basic salary of school district employees will automatically be reduced. The way I am reading it, and this is what I do not understand, it looks like we are doing both things—we are having the furlough days and then we are also reducing the salaries. Is that not right?

Nicole Rourke:

That is not correct. It would be just one. It would be furlough days and a corresponding reduction in pay for the furlough days.

Assemblyman McArthur:

That is where we are making the savings then, because of the reduction, not just because we are having the furlough days?

Nicole Rourke:

That is correct.

Chair Bobzien:

Do we have others wishing to testify in support of A.B. 117?

George Ross, representing Las Vegas Chamber of Commerce:

The Las Vegas Chamber of Commerce would like to testify in favor of the Clark County School District amendment. As presented by Ms. Rourke, we believe this would further enhance the districts' flexibility in economic crises and given that this could be applied to those furlough days which were noninstructional days, it would give the districts a better chance to balance their budgets without having to cut as many school days. We are in favor of this amendment.

Craig Hulse, Director, Department of Government Affairs, Washoe County School District:

For many of the reasons that you heard from Ms. Rourke from Clark County School District, we support. It is not something we are excited to testify in support of; it is nothing we hope to ever have to use, but it does provide more flexibility in times of economic hardship that we have dealt with over the last year. We work with our associations very well and very collaboratively. They all came to the table and we saved \$11 million during the reductions last year. It is something we hope never to have to use, but we support the flexibility in providing an additional option.

Dotty Merrill, Executive Director, Nevada Association of School Boards:

Our school board members advocate maximum flexibility for local school boards in the short- and long-term delivery of education services and making budget cuts.

This proposal provides a procedural structure in the event of circumstances during an economic hardship or a natural disaster, to avoid the layoff of teachers and other educational personnel. The request for a waiver, as described in this proposal, must be authorized by the board of trustees in a public meeting, then reviewed by the Superintendent of Public Instruction, and if approved, transmitted to the IFC which will make the final decision.

With these safeguards we encourage your passage of A.B. 117.

Caroline McIntosh, Superintendent, Lyon County School District:

I would like to voice our support for A.B. 117 and clarify that last year, the Lyon County School District bargaining units agreed to furloughs and it did not affect PERS. Thankfully, we were able to repurchase those through our Education Jobs Fund funding, which we did not expect. Our bargaining groups are wonderful at coming to the table and that is what we concluded would be the best means in our crisis last year. Since then, the recession has deepened in Lyon County. We have lost 1 percent of our student enrollment since September. We continue to decline. We are really struggling to make ends meet for this next year's budget. Giving us flexibility and local control is so important to us.

Chair Bobzien:

Do we have any questions from the Committee? [There were none.] We will move to the opposition.

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

I am representing the 28,000 education professionals that we have across the state. We are strongly opposed to A.B. 117 and especially the amendment.

This bill is a disingenuous attempt to circumvent collective bargaining in our state. Collective bargaining exists, particularly for these types of situations—to bring everyone to the table and to work out these types of issues—it is what we have always done and we should continue to do.

Assembly Bill 117 is troubling to the Nevada State Education Association (NSEA). Over the last few years, many of our local associations have come back to the table because of the current recession. They did not go back to the

table because they were forced, they did not go back to the table because they were demanded to do so. Our associations voluntarily came to the table and made concessions.

A lot of our associations that came to the table agreed to pay cuts, as well as furlough days. In fact, some of the times, some people actually lost their jobs. The NSEA and the school districts all feel the pain of this recession. We believe we should go through this and do it collectively.

The Washoe County School District Superintendent, Heath Morrison, has testified many times saying that he and the local association should work together. Mr. Hulse also recently said that our association works very well with his school district. He proposes to do things with the employees and not against them. That is exactly what this bill would do. So much progress has been made in Washoe County and the school districts around the state due to collaboration.

It is unfortunate that the original makers of this bill are using this fiscal crisis to begin chipping away at NRS Chapter 288 and collective bargaining. Now, more than ever, all stakeholders should be striving to work together to find common ground, which in the end, will benefit all students in our state. Assembly Bill 117 rolls back all of the respect, the work, and the pride that we all take in improving Nevada schools.

The NSEA asks this Committee to vote no on this bill and let us continue to work together to find reasonable solutions. Please do not let the makers take advantage of Nevada's poor economic times so they can begin to dismantle collective bargaining.

Also, I have a very short list of which counties went back to the bargaining table. It is not a complete list but just some of the things that the bargaining groups actually gave up voluntarily when they came back. Again, in Washoe County, our educators took two furlough days and froze salaries. In doing so, they avoided any layoffs and program cuts. They did not have to go back and open up their contract, but they did it for the right reasons. In Elko County, they created a joint association district committee that created a tiered system in cost reductions and cost savings. In Eureka, they worked together to create a four-day workweek school day. In Lyon County, there were step freezes and two furlough days.

Clark County is interesting because they are actually negotiating, during these poor economic times, the real brunt of the problem. They actually worked things out at the bargaining table. Through collective bargaining, they were

able to save jobs and they saved millions of dollars for the school district and no school days were cut.

Danny Thompson, Executive Secretary Treasurer, Nevada State AFL-CIO:

During my first session as a newly elected state Assemblyman, I voted against the tax shift of 1981. At the time, one of the arguments against doing the tax shift was that someday we would find ourselves where we are today. People said no that would never happen because the entire thing would have to collapse. I have to tell you that 1981 bill is, in large part, why we are where we are today in this budget. It basically gave away a stable tax base to local government and the state took the unstable taxes.

Today, my fear is that other things will be blamed. Now this amendment, in effect, nullifies collective bargaining because we made poor choices in 1981. We have a revenue problem in this state. That problem is not going to be solved by taxing alone, or by cutting, because this body has cut the budget ad nauseam for the past three sessions. You are going to have to put people back to work. I applaud you for all of your efforts with the jobs bills, but trashing collective bargaining will not solve the problem that you are in. It will only exacerbate it.

For the past 30 years I have been in this building, the studies that we have paid for, that the state has paid for—go back and read everyone of them—say that if you want to solve your problems, if you want to diversify your economy, you have to fund education and you have to put more money into education specifically. That is not me saying that. Go back and read every study that you have done.

This bill and this amendment are a feeble attempt to dismantle collective bargaining. Mr. Stevens said it accurately, but let me just tell you directly. Of all of the bargaining units that I represent, all of them have already faced these problems. They all sat down together, whether it was the City of Henderson, the City of North Las Vegas, or the City of Las Vegas, they all collectively bargained and came up with agreements and concessions at a time when they did not have to. When they were midterm in their contract, they went back to the table to avoid layoffs. They have already done that to the point that in Nevada we have the lowest number of public employees in the nation.

We do not support this amendment. There is a process in place that works. The collective bargaining agreements spell out what you do when there is a shortage and you have to lay people off. It tells you how to do it; it tells you how to take them out and how to bring them back. You all have a road map to solve this problem and that is you need to fund education adequately. We are

in a race to the bottom right now. This amendment will only further exacerbate that race to the bottom. We urge you to defeat this amendment.

Chair Bobzien:

Mr. Thompson, just for clarification, you are in strong opposition to the amendment, but also to the bill itself?

Danny Thompson:

I am opposed to the bill as well.

Jack Mallory, Director of Government Affairs, District Council 15, International Union of Painters and Allied Trades, representing the Southern Nevada Building and Construction Trades Council:

The constituent groups that I represent, an association of 16 building trade unions that, per capita, represent the highest percentage of unemployed in the state to date, and have for the past year and a half.

What this bill and the amendment propose to do is to take another swat at them, because they have children. They have children that are in our public school systems. I cannot help but look at the handout that goes with Ms. Neal's bill, and just look at the trend. It is good that over the last ten years there has been a positive trend in math scores for eighth graders as shown in charts 4 and 5. The problem is that the growth rate has matched that of the national average. It is not necessarily the fault of the teacher; it is not necessarily the fault of the parent or the environment. Taking away further days of education instruction will defeat the good intentions of Ms. Neal's bill—the good intentions of giving a pretest so that those students who are not prepared to take the proficiency test later that year can be identified. That is what this is really all about—our children. This bill and the amendment that goes along with it is taking away instruction time from our children.

Assemblyman Anderson:

This question is for Mr. Stevens. Can you go over what teachers are working on, on professional development days? I think we may be too quick to talk about getting rid of those, especially with the education reform we are considering that the Superintendent talked about earlier. All of this has to work together with all of the new reforms coming in. Would those professional development days be used for a lot of the things we have been talking about in other reform sections? Correct?

Craig Stevens:

You are exactly correct. With the Common Core State Standards (CCSS) coming there is going to be a lot of professional development needed. The CCSS are unlike anything we have seen in this state, which is a good thing. However, we need those professional development days, we need the time and the money and the effort in order to make sure all of our educators are teaching up to that standard. Again, we have testing that we are hopefully going to be moving to a bit later in the year, but it is going to take some time; it is going to take time to get our educators up to speed to get to these new standards. They need those professional development days. They are there for a reason and while we are certainly against taking away instructional days, we also need our professional development days as well. That is why our associations have come to the table—they always come to the table to make sure we keep those days if we can and we take the furlough days if necessary, but those need to be a part of the discussion. Simply just hacking away through a school year is not the way to go.

Assemblyman Hansen:

I would have to say that in the 30 years since 1981, the state has done pretty well. I would also observe that the other states that have the so called stable base are in just about as big a mess as we are in Nevada. I have to dispute that point a little. The question I have is that if we are all doing this for the good of the kids, and trying not to reduce the class days, would the union, in a true economic emergency be willing to negotiate with a school on a pro rata-basis—to take a little bit of a cut to ensure that the children get the education days that they need?

Danny Thompson:

I would only point to what has happened in every local government in this state prior to this session; that is, every one of them have entered into concession agreements out of their contract. In other words, their contract was not up in probably 90 percent of the cases, but to avoid layoffs and for the good of the cities and counties, they have all gone back to the table and made concessions, not just a single time. Some of them have done it multiple times and who knows where it will end. I would say right now, every organization I represent has gone back to the table and negotiated reductions through their collective bargaining process.

Assemblyman Hansen:

I take that as a yes. You would be willing in a true economic emergency when the funds are not there, rather than take the furloughs and the ten days off, would you be willing to take a little bit of a pay cut to ensure the children get the education they need?

Danny Thompson:

I cannot speak for the teachers, but I can tell you that is the whole idea of the collective bargaining process. You sit down as a group and come to an agreement, whether it is a furlough day or a reduction in salary. That has already happened in virtually every group I represent.

Chair Bobzien:

Mr. Stevens, did you have a response to the follow-up question?

Craig Stevens:

I do. I think that our actions have proven that we are willing to go back to the table to make sure that the school districts can make ends meet. There are some school districts out there that, due to mining and other issues, do not have the same issues as other school districts. Again, making a one-size-fits-all sort of emergency response is not all that effective. That is why we have local bargaining agreements, so they know the local issues, they know the local problems, and they come and solve the problem together.

Chair Bobzien:

Do we have anyone else wishing to testify in opposition to A.B. 117?

Rusty McAllister, President, Professional Fire Fighters of Nevada:

We are in opposition to this bill and to the amendment for the reasons stated by the previous speakers. We feel it is starting the effort on a slippery slope to dive into the collective bargaining laws that are currently in place. One thing that seems to slip by a lot of people is that collective bargaining is a two-sided issue. It takes two parties to agree to a deal. Whether it is local governments or local school districts, they have to agree to a deal for it to take place. What they are trying to do now is to tell you that we made a bad deal and we cannot fix it so we want you to. Because of that, we are opposed to this bill.

Michelle R. Jotz, Director of Governmental Affairs, Las Vegas Police Protective Association, representing Southern Nevada Conference of Police and Sheriffs:

We are opposed to this bill in its entirety including the amendment for the reasons already given to you by my colleagues.

Mark Coleman, Deputy Director, Clark County Association of School Administrators and Professional-Technical Employees:

I will echo Mr. Stevens and all of the other comments that have been made so far and I will add a couple more. One of the reasons we are against this bill and especially the amendment, is that in difficult times, we have language in our contract that allows the superintendent of the school district to initiate a

reduction in force. If we do not come to the table, if we are not willing to negotiate or willing to find a way to make it work, the superintendent does not need anything from us, the superintendent can initiate a reduction in force to help get to where he needs to get. I think there is similar language in the teachers' contract. There are mechanisms in place to allow what needs to be done. It behooves the leadership of the different associations to try to make sure we can get there in a way that works best for everybody.

There is really no history of any inability to negotiate during difficult times, so it would be difficult to have Clark or Washoe County School Districts or any other school district step forward and provide evidence that says they were not able to work with their bargaining groups during challenging times. The fact is that we have been able to work with them.

We have heard the comments that—and I am sure they are sincere, but we have had a different experience—districts would work very hard with their bargaining groups to ensure that we never get to a point where we have to have ten days of school loss. I will tell you that a couple of years ago, we were in negotiations with the Clark County School District and the Superintendent made it very clear in the first month of negotiations that, when there was a PERS increase two years ago, we were going to be asked to take a salary reduction—end of story. On July 1, 2009, we were trying to negotiate that and we were never allowed. We ended up having to go to arbitration and to district court and won in both cases. We would have been willing to work with the district, but the district was clearly not willing to work with us.

I appreciate the words "we will work," but our experience in the past couple of years, in addition to last year's reduction in force, speak a different language. Even last year, when we had 90 administrators who were sent back to the classroom, we were reduced in force. We had worked very early on with the Superintendent trying to find a way to make it work so no one would lose his position. I was in the room when it was made very clear there was no concern regarding those 90 people. When I hear people talk about how sincere they are and what they are looking to do for their employee groups and they hope to never get there, I can tell you that, in our experience over the last couple of years, we have gotten there a lot quicker than anybody could ever imagine. We are more than willing to negotiate. Every one of our people took a 1.5 percent salary cut last year. We know there are additional salary cuts coming. We are more than willing to work, but we do not support this bill.

Chair Bobzien:

Do we have any questions from the Committee? Do we have anyone else to weigh in on opposition? Anyone neutral? [There was no one.]

We are going to close the hearing on Assembly Bill 117 and open the hearing on Assembly Bill 290.

Assembly Bill 290: Revises provisions governing pupils enrolled in high school.
(BDR 34-647)

Assemblywoman Dina Neal, Clark County Assembly District No. 7:

When I conceptualized this bill I had two objectives: to create more knowledgeable students in math and science and to create competent students. The problem I was attempting to solve was the curriculum gap. Typically when students come through the high school system, in ninth grade they have Algebra I, in tenth grade they have Geometry, and in eleventh grade, they have Algebra II. The Nevada High School Proficiency Exam (NHSPE) actually focuses on all three. When a student takes the NHSPE in the tenth grade, he has only had the benefit of a full year of Algebra I and half a year of Geometry. That did not make sense to me. I wanted to try to create time within the NHSPE requirement so that students could learn more. I really feel that the only way a student can be successful depends on how much knowledge they actually have. When you only have half of what you need, it is not going to work.

What A.B. 290 does is create time. If you look at the amendment ([Exhibit H](#)), and you should pay attention to it, I added a practice test in there, but the practice test is something that is permissive. That is the change that is added in, as well as the 79 percent competency. The reason the pretest was added, and then adjusted, is because we do not have the money to actually test all of the tenth graders at the beginning of the year. I wanted you to have that information.

I would like to move to section 1, where, basically, the principal will postpone the test for not more than one year. If he finds out that the student is not academically ready in either science or math, then the principal will have a conversation with the teacher, the student, and the parent to determine whether or not the student is actually ready to move forward. I put a trigger in the statute to say that if a student is below 79 percent, then that is a reason to begin having a conversation about where this student is. Be mindful of the fact that a student could have had a bad day where they had a horrible test score, but we are not talking about that student; we are talking about the student who is barely hanging on in the subject matter and is not ready to move forward. I do not want the culture of failure that has been within the system; I do not believe in taking the NHSPE as many times as you can and failing it; and the reason you are failing it is because you do not have enough content or subject matter knowledge in order to move forward. That is the whole point of section 1.

I was asked several questions regarding who wins when the parent disagrees with the principal. The reality is that the parent wins. The parent makes the final decision whether his child is going to move forward and postpone the NHSPE. That conversation will be had; the parent will make a written statement that says his child will move forward or the NHSPE will be postponed before the end of the year.

In section 1, subsection 3, paragraph (a) of the amendment, it still keeps the proficiency exam preparation statute. The state already mandates that a student be put into a preparation course for the proficiency exam. What this amendment does is try to make sure the student remains in his content subject area, and then is also put into that preparation course. What has happened before is that, rather than the student staying in their Algebra I class, they will be shifted into the proficiency exam preparation course which is going to prepare them, but we are not trying to help a student prepare for sixty questions, we are trying to build content knowledge. We want the student to be as strong as he can be in Algebra I and have as much knowledge as he possibly can in Geometry, so that when he gets to the test, he actually has a better chance of success. That was the main reason for adding that language. It is flex language, but I strongly believe that if a student gets double math, what is the harm?

I would like you to go to [Exhibit I](#), where it deals with a graph that talks about proficiency rates. This is the reason why this bill is going to work and is needed. You will see the NHSPE proficiency rates for 2011 for twelfth-grade students. In March 2009, for tenth graders, the math proficiency rate was basically 48 percent. That is below 50 percent. In November 2009, the eleventh-grade math proficiency rate was 33 percent. In March 2010, the eleventh-grade math proficiency rate was 25 percent.

In looking at science, in March 2009, tenth graders were at 61 percent proficiency. Obviously that is higher, but there is still a segment of the population that is not performing. In November 2009, eleventh-grade students were 31 percent proficient and in March 2010, you have 33 percent of the eleventh graders who were proficient in science.

If we were able to postpone the tenth graders, how much stronger would they be? The reality is that we are not trying to get to 61 percent; we want 95 percent or even 80 percent. We want them to be as strong as they can be within their subject matter before they test. That is my goal and the intent of this legislation.

If you look at NHSPE rates for all grade levels participating in the previous eight administrations of the exam, look at March 2009 for grade ten, and you can see the breakdown which is pretty similar to the top. In March 2010, for Grade 10, you have 51 percent proficient in math, and 46 percent proficient in science. I do not like these numbers. I have a problem with a student who has to take his science proficiency test and the reason he is failing is because four of the questions deal with a periodic table and he has never even had Chemistry. They have had principles of science in the ninth grade and Biology in the tenth grade and Chemistry in the eleventh grade. They do not have the foundation to be successful. Look at March 2009 for Grade 11; 42 percent proficient in math, and science, 43 percent. Then see the next time they test in July 2009; Grade 11, is 10 percent proficient in math, and 33 percent proficiency in science. In the twelfth grade where students have had multiple times to take the test, you see that the scores vary. In March 2009, they are 25 percent proficient in math and 54 percent proficient in science.

When I looked at all of this, I requested that this data be gathered and put together. If we could actually postpone students in the tenth grade—and I am not ignoring students in the ninth grade—but if we could halt what was going on and let students test later so that they were stronger in their subject matter, we could raise these scores. We do not have to accept the curriculum gap because it is there; we can change what happens in their performance. If we are able to make our students more competent, we should not have them try and try again and fail eight times; I do not believe in that as a concept. I want students to be at their best position in order to make it through.

If you look at the page that shows the proficiency rate of each high school around the state, you will see that I highlighted the schools with the largest percentage of students who were not proficient in math or science. It is not to say that students are not successful; it is to say that we have a goal that by 2013 or 2014, according to AYP, our students actually have to be at a 100 percent proficiency. If we could postpone the NHSPE, it would be to our benefit.

I am going to let Mr. Hanlon explain to you some of the barriers we have had in the past that created this environment in which our students were not ready and why we are constantly battling this preparedness issue with our students.

Bill Hanlon, Director, Southern Nevada Regional Professional Development Program:

I am in support of A.B. 290. Students would still have to pass the NHSPE. That does not go away. What we find is that when students get into the eleventh and twelfth grade, the test itself becomes the issue, not the content

being tested. When students take tests that they are ill prepared for, it becomes a frightening scenario for them; it builds up test anxiety. By postponing this test we work with the teacher, the parent, the student, and the principal to make a predetermination to see if that student is ready for the test in tenth grade.

If it is clear that the student has not had the opportunity to learn the content required on the proficiency exam, then that group of people—the student, parent, teacher, and principal—can make a decision to have that student postpone taking that test until the eleventh grade.

This is also consistent with the Regional Professional Development Program (RPDP) training and testing. We advise and recommend to classroom teachers that with a regular unit test that they make themselves, if they realize on Monday that the students are not ready for the test they will be administering on Thursday, they postpone the test until the next week. But, we cannot lose instructional days so we explain to the teachers that on Thursday when the test is scheduled to be given, start new material, and take the last five or ten minutes to address deficiencies. On Friday, continue with new material and take the last five or ten minutes to address deficiencies, and continue on the next Monday and Tuesday. You give the student the test when they are ready to succeed.

We have two basic standards. One is called the "My Kid" standard and that is to treat kids the same way we would want our own kids treated. I do not particularly care to have my grandchildren tested on material that I know they have not had an opportunity to learn. The question has to be asked, why? The other standard we work on is called "The Success on Success Model." When students have not experienced success, and many have not in math, we give them another test to fail; we are certainly not building confidence.

What we are asking for, very simply, is that when we look at the new NHSPE administration that was given last year for the first time, based on the 2005-2006 math standards, we know that less than 25 percent of the students in Nevada were able to meet the standards. To have students graduate, the State Board of Education had to adjust and lower the cut score so more students could pass.

Rather than forcing a student to take this test that counts, we are also suggesting in this bill, that a test is given to students as a diagnostic test. If we have predetermined that some students cannot pass, we want to work with them to find out what they need. What we are saying is, we want to have a diagnostic test—not a real test—so that the teachers and principals at those

schools can place those students accordingly so they can be successful in the eleventh grade.

What we are asking for, very simply, is that students have the opportunity to learn the material before they are tested. I would also suggest to you that this bill is very consistent with the bill you just heard, Assembly Bill 113, in terms of your pushing a test back by 30 days because we are concerned about students having the opportunity to learn. What we are saying is, we are looking at coursework. We know students will have had Algebra I; we know they will have about three-quarters of Geometry, and not have had any Algebra II when taking this test.

We are saying if they have had all of Geometry and good three-quarters of Algebra II, the success rate for students that we could identify as probably being unsuccessful would increase dramatically.

Chair Bobzien:

Do we have any questions from the Committee?

Assemblyman Munford:

When a freshman enters a high school, is he given any kind of pretest in math or science in the ninth grade? Is there some kind of pretest provided for the school to see just what the student has learned at the middle school level? Would that be a pretty good gauge?

Bill Hanlon:

That is not done district wide. Sometimes that is done by a teacher or by a school, but it is not a district or statewide policy.

Assemblyman Munford:

Is there a sequence that is set up of how they should take their math and science courses?

Bill Hanlon:

Generally, the sequence in Nevada tends to be Algebra I, Geometry, and Algebra II. It does not have to be, but that is the general sequence.

Assemblyman Munford:

That is the best arrangement in order to prepare them for that tenth-grade proficiency exam?

Bill Hanlon:

Part of the reason for that order was because a few years ago a student only needed two years of math to graduate from high school and they wanted the kids to have at least a year of Algebra and Geometry. That requirement has gone up. What we often see across the country is an Algebra I, Algebra II, Geometry sequence.

Assemblyman Munford:

They only have to take the proficiency exam once.

Bill Hanlon:

They only have to pass it once.

Assemblyman Munford:

In their tenth-grade year.

Bill Hanlon:

If they do not pass in the tenth grade, then they get multiple times in the eleventh and twelfth grades. As soon as they pass, they are done.

Assemblyman Munford:

So the preparation should be in their freshman year.

Bill Hanlon:

The problem with that is that if they have had Algebra I in their freshman year, they have not completed Geometry in their sophomore year.

Assemblyman Munford:

So you are saying they are not ready.

Bill Hanlon:

I would say some of them would clearly not be ready, yes.

Assemblywoman Diaz:

I would like to know if either Assemblywoman Neal or Mr. Hanlon knows why the NHSPE is given in the tenth grade. It is called the high school proficiency exam and most students have to go to high school through twelfth grade. What is the reason behind taking the tests in tenth grade when you clearly stated that they do not have all of the academics behind them to pass it?

Assemblywoman Neal:

It is my understanding that the tenth-grade exam was started because they wanted students to have more chances to take the test. They thought if

they were able to test earlier, then they would be better prepared to pass it. To me it was looked at as a culture of take it as many times as they can and then we will work on all of the areas that are deficient and then we will fix those areas. There was not a focus on how much content knowledge they actually had. That is the problem.

Bill Hanlon:

We have had a high school proficiency exam for 20 to 30 years. If you went back to the 1977 to 1985 versions, basically they were simple arithmetic: add, subtract, multiply, divide. You would have problems on them that would have two clocks and one would say 1:15, the other would say 1:45 and the question would ask how much time had elapsed. Over the years, the tests have gotten progressively more difficult. Prior to last year's sophomores, the high school proficiency exam was based upon 1998 standards. Most people would agree about 40 percent of the standards were measuring middle school standards. The new high school proficiency exam that was administered for the first time last year, actually measures only high school standards. If you were to look at the progression over the years, a few years ago you could take that test in tenth grade and pass it easily. As the standards have continually increased, it is no longer that easy to pass.

Assemblywoman Diaz:

Due to the increasing difficulty of the exam, because we are making sure we have higher standards for our students—and I understand that—whose determination is it then to push back the test and not have it in the tenth grade, but have it in the eleventh? Who determines that?

Bill Hanlon:

That would be the State Board of Education/State Board for Career and Technical Education, and the Department of Education.

Assemblyman Aizley:

Is this a pass/fail test or is it a graded test?

Bill Hanlon:

It is a pass/fail test.

Assemblywoman Mastroluca:

When looking from the other aspect, what about the students who passed the proficiency exam in the tenth grade? That is the situation with my daughter who passed all of the proficiencies in the tenth grade and is sitting in her senior year of high school wondering why she is there. Technically she should have been able to graduate because she passed.

Assemblywoman Neal:

It is sad to say that we have more than one kind of student. If a student is ready to take it he can move forward. Obviously, for him to get out of school, it ties into one of the other bills we heard regarding the number of credits, passing the proficiency exam, and then being able to move on. But for students who are not able, we are just trying to carve in a way for them to have more time to study and have a better chance of making it through. There are three types of students who are coming through the system: high achieving; students who struggle between both; and students who are underachieving. We have not even talked about the student who comes in as a ninth grader with pre-algebra which pushes him three years down the road to having Algebra II in twelfth grade. I will not say that is the typical student, but they are a part of our population. I was not trying to keep anyone else from taking it when they were ready, just trying to carve a window and create time for students who were not ready.

Assemblywoman Mastroluca:

Do you have any statistics on the average number of times a student has to take the test in order to pass?

Assemblywoman Neal:

Actually, the only thing I have is the chart in ([Exhibit I](#)) which shows how many times they have taken it and the low rate of success. It shows that in the previous eight administrations of the test cycle how students never really got to an 80 or 90 percent no matter how many times they took it within that year. That is a problem.

Bill Hanlon:

I think the answer is about 40 to 50 percent of the students pass it on their first attempt and each sequential test, we gain back another 40 or 50 percent of the students who did not pass it the first time.

Assemblywoman Mastroluca:

This is completely speculative, but are you anticipating a similar kind of issue with students now having to take the science test in order to graduate?

Assemblywoman Neal:

I am, because most students are not prepared in Chemistry and that is going to be the fallback and part of the issue. I have also looked at how this is going to roll into the CCSS. I had a conversation with Carol Crothers at the Department of Education and she felt that this bill would fit directly into the CCSS because it is going to roll into the interim assessments, which will take effect in 2014. Those interim assessments will have the capacity to take

this flex language and then build in the pretest ability to do a diagnostic and still have the flexible language in order to continue to teach and have the time during the year to allow the teachers, without pressure, to continue to build the students. That will be an even higher achievement goal and curriculum goal versus the 2005 standard that we are actually trying to get them to meet in 2011.

Chair Bobzien:

Are there any final questions for our presenters? [There were none.]

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

We are in full support of A.B. 290. The concept of this bill to provide students additional time to focus to be more successful the first time they take the high stakes test. The bill encourages students to take their time, teachers to take the care, administrators to help facilitate the best testing environments and the best preparation for our students. Assembly Bill 290 gives our students a better chance to succeed, to graduate, and to receive the help they need to get a high school diploma.

Ray Bacon, Executive Director, Nevada Manufacturers Association:

I think Ms. Neal should be recognized for bringing forward an important issue. I have a comment and one suggestion on the issue.

If you think of what we did in *Nevada's Promise*, we focused on excellence, rigor, and equity and what this bill is fundamentally dealing with is equity. We do have some equity problems and if we step up and address them, then problems should go away.

I would suggest, as I mentioned to the sponsor today, the potential of putting in a sunset clause for June 30, 2021, ten years from now. If we have not fixed this problem ten years from now after the CCSS are in place, we have a fundamental problem and we need to open the book and look again.

Caroline McIntosh, Superintendent, Lyon County School District:

We would like to thank Ms. Neal for bringing this legislation forward. One thing that we are all concerned with is improving our graduation rate and decreasing our dropout rate. I see this as an intervention that could possibly really help in that and where our students are not discouraged. We can provide this formative test that will allow us to provide the extra help that our students need.

Assemblyman Aizley:

After fifty years of teaching mathematics I just want to point out that some students take more time to learn things and having this extension is a good idea. We will not solve the problem in ten years. It is not going to go away.

Lonnie Shields, Assistant Executive Director, Nevada Association of School Administrators:

I especially want to thank Assemblywoman Neal for inviting us in very early on this bill and asking for our input and any suggestions. We appreciate that effort. We are in full support of the bill. However, we had asked for one small change in the bill from "principal" to "principal or designee." The reason for that is many times when you are talking to a teacher and a student about where they need help, sometimes it is the counselor who can best answer that question for parents and not just the principal. It can also be the vice principal in charge of curriculum. That would be our only suggestion. I just spoke to Assemblywoman Neal, and she said it was an oversight.

Chair Bobzien:

Thank you and if you can get with the bill's sponsor, that would be great.

Paul La Marca, Chief Accountability Officer, Washoe County School District:

Washoe County is in support of this bill. We like the permissive nature of the practice test, and we like the flexibility it provides principals in identifying specific need of students.

Bart Mangino, Legislative Representative, Community and Government Relations, Clark County School District:

We, too, would like to offer our support for Assemblywoman Neal's A.B. 290. Particularly we would like to recognize her for working with the various groups in putting together this bill and recognizing the importance of expanding the opportunity for students to become prepared content knowledge wise, for the NHSPE.

Chair Bobzien:

Do we have questions from the Committee for the panel? [There were none.]
Do we have anyone in opposition to A.B. 290? [There was no one.]

Dotty Merrill, Executive Director, Nevada Association of School Boards:

On one hand, some school board members have communicated the view that their data supports the conclusion that students learn from taking a test, that familiarity with the test, format, and construct leads to greater success when the student takes that test again. From this perspective, we have some school board members who believe that reducing the number of opportunities a

student has to take the NHSPE will decrease the opportunity for the student to improve their familiarity with the test.

On the other hand, we have school board members who have stated the view that they can envision the situation as described by Assemblywoman Neal. Students could benefit from a delayed initial administration because they have not taken courses that will appropriately prepare them for the content of the exam. As she has pointed out, these board members acknowledge that having confidence about taking the test is critical. We think it might be helpful to have some clarification on the record about who initiates this process for delaying the participation, the teacher, the parent, the student, and everyone equally or anyone.

We also appreciate the fact that Assemblywoman Neal talked with the president of the Association and me. We discussed including the recommended courses in the brochure distributed by the Department for the NHSPE and Assemblywomen Mastroluca and Neal have included that amendment in Assembly Bill 138 which may assist with this problem.

We thank you for the opportunity to share these perspectives and appreciate the inclusiveness of Assemblywoman Neal as she prepared this legislation.

Chair Bobzien:

I take that to mean you will be willing to work with her some more, if you see that as productive.

Dotty Merrill:

We would definitely see it as productive, and would be willing to do it.

Chair Bobzien:

Do we have any questions for Ms. Merrill? [There were none.] I will close the hearing on A B. 290.

Just a reminder, we have our last scheduled joint meeting with the Senate Committee on Education on Wednesday at 3:30 p.m. The subjects will be charter schools and school nutrition.

Do we have any additional public comments? [There were none.]

Meeting is adjourned [at 5:23 p.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblyman David P. Bobzien, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Education

Date: March 21, 2011

Time of Meeting: 3:25 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 220	C	Mindy Martini	Work Session Document
A.B. 220	D	Mindy Martini	Proposed Amendment to A.B. 220 by Assemblyman John Ocegura
A.B. 230	E	Mindy Martini	Work Session Document
A.B. 113	F	Keith Rheault	Projected Dates for Criterion-Referenced Tests
A.B. 117	G	Nicole Rourke	Proposed Amendment to A.B. 117
A.B. 290	H	Assemblywoman Neal	Proposed Conceptual Amendment to A.B. 290
A.B. 290	I	Assemblywoman Neal	Creating "Time" to Teach: A discussion for a solution . . .