

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

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

The Committee on Education was called to order by Chair David P. Bobzien at 3:20 p.m. on Monday, February 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/](http://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](mailto: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  
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:**

Assemblywoman Olivia Diaz (excused)  
Assemblywoman Lucy Flores (excused)

**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:**

Keith Rheault, Superintendent of Public Instruction, Department of Education  
Craig Hulse, Director, Department of Government Affairs, Washoe County School District  
Joyce Haldeman, Associate Superintendent, Community & Government Relations, Clark County School District  
Dane Claussen, Executive Director, American Civil Liberties Union (ACLU) of Nevada  
Frank Schnorbus, Chair, Nevada Homeschool Network  
Barbara Dragon, Officer, Nevada Homeschool Network  
Dottie Merrill, Executive Director, Nevada Association of School Boards (NASB)  
Ray Bacon, representing Nevada Manufacturers Association  
Kathleen Conaboy, representing K12 Inc.

**Chair Bobzien:**

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

We will be doing a work session later today on Assembly Bill 39 and Assembly Bill 40. I would like to open the hearing on Assembly Bill 138.

**Assembly Bill 138:** Revises provisions governing pupils. (BDR 34-113)

**Mindy Martini, Committee Policy Analyst:**

As always, as staff I can neither support nor oppose any of the measures before you. Mr. Bobzien has asked me to present the sections of this bill.

Assembly Bill 138 is a request to increase high school graduation rates. The first provisions of the bill concern college and workforce readiness indicators. Section 1 includes a requirement that the Department of Education work together with the Nevada System of Higher Education to establish a plan to ensure that Nevada's academic standards, the graduation requirements, and the

assessments are all aligned with the college and workforce readiness expectations in this state. The measure does require annual progress reports by the Superintendent of Public Instruction.

The next three sections of the bill relate to the collection of information concerning graduation. As you will recall, during Dr. Rheault's presentation last week, the U.S. Department of Education has changed the requirements concerning graduation rates. The high school graduation rate will include only the ninth graders who actually graduate four years later. This measure, A.B. 138, would require an additional separate count of all high school completers, including those who earn an adult diploma or a GED. There is already a statutory requirement to collect information on regular diplomas, certificates of attendance, and adjusted diplomas. This measure would add the GED and the adult diploma.

Section 5 of the bill concerns the ninth-grade academic plan. This concerns *Nevada Revised Statutes* (NRS) 388.205. That statute requires every school district in Nevada to develop an academic plan for every ninth grader in their school district. Section 5 of this bill requires that certain information about the educational programs and opportunities be included in that academic plan. This would include such things as advanced placement courses, career and technical programs, graduation requirements, the Millennium Scholarship, et cetera. This measure also repeals the requirement that a parent or guardian sign the plan.

Sections 6 through 8 of the bill require that the school district boards of trustees adopt policies relating to high school pupils. There are two of those. First, there would be a program of remediation for pupils deficient in the number of credits needed for promotion or graduation. The second would be a policy to permit a pupil to report unlawful activities anonymously during a school function, on school property, or on a school bus.

Finally, this measure repeals statutes that would permit children to leave school upon completion of eighth grade or attainment of age 14.

That concludes my prepared remarks.

**Chair Bobzien:**

There are a number of people signed in wishing to weigh in on this bill and I have Dr. Rheault down as the lone proponent. I would like him to come to the table and provide us with a bit of historical context for the components of this bill as he was very involved in bringing these issues to the Committee's attention during the interim. Perhaps you can give us a walk through and some reasoning for the legislation.

**Keith Rheault, Superintendent of Public Instruction, Department of Education:**

I did sign up in support although I have one concern in one of the sections. The contents of A.B. 138 are very similar to a bill we talked about in 2009, particularly section 1. The Department of Education and higher education will work together to address career and workforce education, and college readiness issues.

I would be happy to report that this past biennium we have accomplished some items under this section already. Both the Department and higher education put together a task force and drafted some regulations that defined what college readiness is in Nevada. They brought it to the State Board of Education where they adopted the regulations and those regulations are currently in place. The Board of Regents also adopted them so we are both on the same page when it comes to the definition of college readiness and its standards. We still have a lot of work to do. I fully support section 1 remaining in the bill.

Most of you know that we did adopt common core standards for English and mathematics this past biennium. Forty-eight other states agreed to work together to adopt the standards. We plan to implement those within the next two years.

A critical component is the Department of Education's K-12 system working closely with higher education to make sure the standards are aligned. The common core standards are college ready, but we have work to do together with higher education to ensure that they are taught that way and that higher education agrees this is the starting point for first-year college students.

In addition, we have also signed on to do the common core assessment. I hope that this test, as opposed to our current High School Proficiency Exam (HSPE), can be used as a college placement test. If students score a certain percentage on the test, because the test is aligned with college readiness standards, they should be able to enroll in the university or college system without taking remedial programs. We have a lot of work to do and I fully support section 1.

Regarding sections 2, 3, and 4, we had a lot of discussion on this when we talked about the graduation rate. It is more than just the standard diploma, the adjusted diploma, and the advanced diploma that should be reported to the public. This bill would add the adult diploma. When I say adult, I am not talking about 50-year-olds; adult diplomas would be issued to students who are still in high school.

After the meeting with my staff, the concern I have is including the GED as part of the student accountability system. I think the GED numbers need to be

reported, but by definition, to be able to take the GED test you have to be a dropout. We have GED Test Centers all over state not necessarily tied to school districts. As an example, all four community colleges have GED Test Centers. The tests go to national, they tell us who passed. This past year I got printouts as to how many 16-year-olds passed the GED Test. I do not have it broken out individually; it is for the state as a whole. It is not tied to a charter school or a school district. In Nevada, 103 16-year-olds took the test and passed it this year as did 749 17-year-olds. We could not put those numbers into the student accountability system because the students have already dropped out and were not necessarily from Nevada. Anyone in Nevada who shows up at the test center can take the test for \$60. If they pass it, they show up as a Nevada number, but they are not necessarily tied to a specific school in Nevada. For that reason, I do not know if I could support adding the GED to the student accountability system. I do agree that I need to report these numbers when we talk about graduation rates, just not add them to our student accountability system.

As for the final sections, we had a lot of discussion on deleting some statutes at the end of the bill that were obsolete. There are three attached to the bill on page 24. I mentioned these last week when I was speaking before the Committee. I strongly support deleting these three statutes or repealing them. The one I pointed out is *Nevada Revised Statutes* (NRS) 392.090, where the juvenile court may permit a child who has completed eighth grade to leave school. I am not sure it has been enforced in the last ten or twenty years, but it does not make sense for any student to be permitted to leave school in the eighth grade today. We have ways to work with them. We have night schools and distance education; we can work with any student. But to have a statute that allows an eighth grader to drop out does not seem right. If we can eliminate these three, it will be a small step in improving our graduation rates or at least defending our support of stronger graduation rates.

I did not have any specific comments on the pieces that were specifically tied to school board trustees. I was going to allow the districts to comment on that.

**Chair Bobzien:**

Do we have any questions from the Committee?

**Assemblyman Anderson:**

I have one question regarding that first repeal that you mentioned. You mentioned some options for folks who go through the juvenile court system. My only concern with repealing is, are these kids that are disrupting the classroom stopping the rest of the kids from taking full advantage of their

education? Are there options so they can still get an education without being a disruption in the classroom and hurting other kids?

**Keith Rheault:**

I cannot tell you that there are options in every school district, but in Clark County there are all types of alternative programs that work with students that have been referred by the court system. It is definitely the same in Reno. Maybe not in Eureka, but things can be worked out there through distance education or other pieces. I would say this bill should not allow someone in eighth grade to drop out and should be repealed. There are ways within the state that we can work with any student regardless of where they are.

One last comment is on a fiscal note submitted by the Department of Education for \$15,000. It is a standard amount that I use any time we have to modify the student accountability system and redo the collection—the database at the state level—and then relink to every school district. It has been running about \$15,000. We usually contract it through the Department of Information Technology.

If the section on the GED is eliminated, there would not be a fiscal note because that is what it is tied to. We have already added adult diplomas in our state student accountability system, so there is no fiscal note for that. It was only for the GED.

**Assemblyman Munford:**

Are there any classes they can take to prepare for the GED? Do they just walk in off the street, fill out the application, and then someone says the test will occur next month so be there with your mother, or pay your money or what?

**Keith Rheault:**

They can just walk in and take the test, but most of our adult basic education programs do offer some GED coursework. Most of the students who drop out will take some courses through that program and when they feel they are ready, they will sign up for the test. We do have the 16-year-olds who drop out and it is legal. It is in statute that they can get permission from their parents to drop out at 16 years of age and take the GED Test. Many of those, after having taken some course work within the school district already, go right to the test and try passing.

Last year, 7,033 students passed the GED in Nevada. Of those, 6,000 were first-time test takers. That means 1,000 of them have taken the test one or more times before.

**Assemblyman Munford:**

The proficiency exam has nothing to do with the GED?

**Keith Rheault:**

That is correct. They may have dropped out or did not get a regular diploma because they did not pass the proficiency test, or they did not meet all of the coursework credits. This is just an equivalent for that and has no tie to our HSPE or the credits required for a regular diploma.

**Assemblyman Munford:**

How does an employer look at a GED? Do they value it at the same level?

**Keith Rheault:**

I do not have a lot of input on that. I think they value it as better than nothing. It is close, but I do not think they consider it equal to a regular high school diploma.

**Assemblyman Kirner:**

I am a little confused. You said section 13 repeals the exemption of children from compulsory school attendance, and you mentioned age 14. I thought the age had been raised in the last special session

**Keith Rheault:**

The official requirement to attend school in Nevada is 7 years to 18 years of age. It used to be 17 years of age. Technically, in statute, it says you have to go to school from 7 to 18. There is a separate section, however, under the GED testing that allows a student to legally drop out if they sign up to take the GED Test. It does not say they have to pass it; it just says they can request special permission to take the GED Test and drop out of school. There could be conflicts, but it is common practice. Nevada is not the lone state. A large majority, if not all of the states do allow 16-year-olds to drop out, although there are a few that limit it to 17 and above.

**Assemblyman Kirner:**

And this section talks about age 14?

**Keith Rheault:**

These sections talk about statutes that we have on the books, some of which have been in place since the 1950s or earlier. I traced a few of them back to 1954 that have been on the books and just have not been dealt with. It may have been common back then to let some students drop out, but in today's society, everyone needs a high school or higher education.

**Assemblyman Kirner:**

That is primarily because we are no longer an agriculture state. On the fiscal note, you had mentioned the \$15,000 that affects the state, but it also says there is an effect on the local government? Do you have a sense of what that is about?

**Keith Rheault:**

It could be because of the way the student accountability system works. Every school is linked to the district office, every district office is linked to the Department, and we collect updated data every day from everyone from the school to the district to the state. There may be some costs for the districts to reprogram or link their individual schools to the district sites when they modify their program. The \$15,000 would cover the state modifying the collection directly with all the districts and charter schools, but there could be costs I am not aware of that would be encountered by districts linking to their individual schools. That is why I included that cost.

**Assemblyman Kirner:**

Do you view that as an unfunded liability?

**Keith Rheault:**

In the past, we have never asked for additional money nor did we put a fiscal note on it. At the state level, for example, if we got three or four new data requirements, we did not have the money to adequately collect them. From the state level, that \$15,000 amount would cover it. I do not know that it would be a big issue at the local level, but they might be able to answer better than myself.

**Assemblyman Stewart:**

Has there ever been a study, formal or informal, comparing the GED to the proficiency exam—similar to what Mr. Munford asked—to see the difficulty of one compared to the other?

**Keith Rheault:**

Four years ago we did have our HSPE compared to the GED and it was fairly rigorous and comparable. I will see if I can find that report and get it to the Committee. It has been several years since that study was completed, and we have upped the difficulty of the HSPE since that study was done.

**Assemblyman Stewart:**

The GED is a national test?



**Keith Rheault:**

Correct. It is one we do not score. We have test centers that offer the tests, send the scoring to national, and then give us a report on total numbers on the state as a whole.

**Assemblyman Stewart:**

Will the GED count in the consortium that we are joining as well as the national graduation alignment?

**Keith Rheault:**

Neither the federal government nor the state has ever recognized it as a diploma. It is an equivalent certificate.

**Chair Bobzien:**

Are there any questions at this time? There may be some later, so please do not leave.

We will move toward opposition for the legislation with the two school districts represented here.

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

I am testifying in opposition to the bill. I will go through the sections very briefly.

With regard to section 1, Dr. Rheault clearly stated there is already a task force. Nevada System of Higher Education is working with the Department of Education on ways to better ensure that our students are graduating college ready. In Washoe County we are working with Truckee Meadows Community College and the University of Nevada, Reno, (UNR) specifically on streamlining and eliminating remediation when students enter college. We have some concerns that once section 1 is enacted and in state law, there would be some mandates on the school districts.

In sections 2 through 4, Dr. Rheault gave the concerns regarding the GED that the school districts would have. I do not believe we currently do any GED work at all in Washoe County School District; I believe it is different in Clark County.

Section 5 makes changes to some board policy and, at the direction of the Washoe County School Board, we oppose any measures where state law requires a school district to adopt a policy. Their belief is that the school board is elected by the people of Washoe County to adopt policies relevant only to Washoe County. That covers sections 5, 7, and 8.

**Joyce Haldeman, Associate Superintendent, Community & Government Relations, Clark County School District:**

I did sign in as opposed to A.B. 138, but I should have indicated that I have a question. I like some things and I am opposed to part of it.

In section 1, you heard both Washoe County School District and Dr. Rheault talk about the common core standards. We do think that common core standards being adopted sounds like something put into the language before common core became part of the discussion. Since we are moving toward common core standards, are we assuming that everyone who graduates from high school is going to college? I know it does say ready for college and career ready, but there are some students who may not go on. Whether or not you want your exit exam to be the same as the entrance exam for higher education is a philosophical discussion that you may want to consider.

Moving to the discussion of whether or not we should include the adult diploma and the GED as part of the graduation reporting, I know it would be messy to include the GED, but it would be nice if we could figure out the logistics to measure how many students actually have an exit document. Right now, as you heard Dr. Rheault report last week, we do not compare apples to apples in our current reporting method. I am not going to speak to that; I just want to make the point.

Section 5 is where my opposition to the bill begins. We are not at all opposed to the different things the bill asks us to include. We already have course catalogues that include all of the things we are required to make students and their parents aware of.

We do take exception to the requirement to inform parents and students about programs that are offered by charter schools within the school district, to the extent that such programs are available. Mainly, it is a space consideration, but it is also a marketing issue. In Clark County, there are so many options for high school students that space considerations in these course catalogues is a money issue. The more pages we add, the more it cost us to print. Requiring us to inform parents about charter schools seems to be a responsibility we would be reluctant to accept.

My biggest concern is section 7. Section 7 is language that, with money attached you would have me coming to the table 100 percent in favor of it. We recognize that credit remediation is probably the single biggest issue we have to face as we try to graduate students from high school. There are a lot of reasons students lose credits as they are going through their courses. Not all of them are because they did not have opportunities. Sometimes students do not

take advantage of opportunities. We simply cannot afford the requirement that, without limitation, school districts offer students extended and repeated opportunities for making up lost credit.

Having said that, I certainly want you to be aware that credit retrieval is an important part of what we offer in the Clark County School District. I can give you examples of what we are already doing. Some, we do very cost effectively. Some, because we are trying to make so many opportunities available to students, are not as inexpensive as others, but we have an extensive outreach right now to help students graduate.

Later, hopefully in this Committee, you will be hearing a Clark County School District bill that we call "The Graduation Priority Act." One of its sections has to do with remediation, making up credit retrieval. It has to do with the fact that students with just ten absences automatically have lost credit. We would like to be able to work within that.

We are not opposed to credit retrieval; we are just opposed to unfunded mandates.

Finally, regarding section 8, we already have a reporting mechanism, Secret Witness, that works very well in Clark County. We are not worried about that and we do support the repeal of those sections that Dr. Rheault mentioned earlier.

**Chair Bobzien:**

Do we have any questions from the Committee?

**Assemblywoman Mastroluca:**

Regarding section 7, I recognize the unfunded mandate piece. I know that it is time consuming to put those classes together. However, I wonder if, in looking at this language, would not it be easier for a student to be able to make up those classes if they were available at their school instead of having to go to another site or even do them online?

**Joyce Haldeman:**

We offer those remedial courses on campus as much as possible. But, if you are a sophomore or a junior and are a couple or more credits deficient, you are already taking a full class load on campus. Then if you want to make up one or two or three credits, you have to do it either before or after school. An extended school day is a great way to make up classes, but there is a cost to it. We have a lot of students who are taking summer school courses. That is probably the least expensive way for credit retrieval. For students who cannot

afford that \$100 cost for the credit, we have a lot of organizations and community groups who offer scholarships. We do not have a lot of students willing to do that. Student willingness has got to be part of the equation. We cannot force-feed students opportunities; they have to be willing to take advantage of them.

We also have a lot of online credit courses that are very effective. Vegas PBS, our virtual high school, offers a lot of them. We also have a couple of commercial organizations that we work with. They are much more expensive, but they also have some bells and whistles that help some students take care of their credits so they can graduate on time.

**Assemblywoman Dondero Loop:**

Mr. Hulse, you mentioned that Washoe County School District does not do anything with the GED? Can you clarify that for me?

**Craig Hulse:**

I do not believe we do anything with GEDs in the Washoe County School District.

**Assemblywoman Dondero Loop:**

You do not have any adult education?

**Craig Hulse:**

At Washoe High School, we have adult education that ultimately ends in a diploma, not a GED.

**Assemblywoman Dondero Loop:**

Would you check on that for me?

**Craig Hulse:**

I will.

**Assemblyman Stewart:**

What could we do to improve the language in section 7 that would be acceptable to you?

**Joyce Haldeman:**

You can give us money. Seriously, we are big fans of credit retrieval. You will see that in the bill that Clark County School District is going to bring forth that will capture some students. Credit retrieval is something that costs money. As we were reviewing this bill, there was some frustration on the part of the educators because they were saying, "Why are we trying to catch this on the

back end? If we had smaller class sizes and if we were able to offer different things on the front end, we would not have students dropping out." Frankly, I have to tell you that the large class sizes that we have are probably the biggest reason that students quit coming to school.

There is another segment of students who have something else going on in their lives and do not want to be in school. They are truant and have work or other issues that they are dealing with. That is probably a different segment. Some students go to school and then quit because they think they cannot do it. It may be due to the class being too big or other kinds of issues that could have been addressed on the front end. Frankly, it does not matter whether we are doing it on the front end or trying to catch up; all are funding issues. They are issues that the next round of budget cuts will make things horrific for students

**Chair Bobzien:**

I appreciate Mr. Stewart's question because I think we have just uncovered one of our common themes for this Committee this session: credit retrieval. You mentioned that the topic will be coming in your bill. It is something this Committee should really look at. When a student is spiraling out of control and wants to get back on track and expresses an interest, have we unwittingly set those barriers so high that they cannot get back on track and cannot see it through to completion?

**Assemblyman Kirner:**

I could not agree with you more. Credit retrieval is a worthwhile endeavor. I am just not sure that this bill is structured in a way that makes the most sense. I have heard from you in terms of what you thought the fiscal impact would be, the unfunded liability. Mr. Hulse, what is your comment from the Washoe County School District?

**Craig Hulse:**

In Washoe County, currently we have a "Breaking Down Barriers" committee. We are doing our best to catch these students up just like they are in Clark County. It has very limited resources. We have Washoe High School that helps with credit remediation, and we have Washoe On-Line Learning for the Future, which is our online learning. We are doing as much as we can. I am not sure what section 7 would change in what we are doing other than requiring a state law that would require a board to adopt a policy to use resources from somewhere else. In credit remediation, we are doing all we can with as little as we have. Clark County gave a good example that this is an unfunded liability and would force us to shift resources from somewhere else, even though we are already thinly extended trying to make this happen.

**Assemblyman Kirner:**

If the goal is a good goal, is there a way we can restructure this language to reach that goal?

**Joyce Haldeman:**

It is still a fiscal issue. High school teachers talk about the repentance some students have as they reach the end of a semester; recognizing that they are not going to get a credit and wondering how are they going to make it up is very frustrating for them. Other students could care less; they are not engaged anyway. Again, when the Clark County School District comes forward with their bill, you will see one of the issues has to do with the ten absences. We hope that you will recognize what we are trying to accomplish there.

Giving them a complete second chance as they are going through the next semester, or even the next year, is a fiscal issue. There is a cost associated with it because of the time required to take the full course.

**Chair Bobzien:**

I think this issue will be held for further consideration.

**Assemblyman Hansen:**

Mr. Hulse, a quick question on section 5 where the districts are supposed to notify and inform parents. Does Washoe County have any concern with telling parents about the programs offered by charter schools?

**Craig Hulse:**

I did not have a chance to hear back from my staff on this particular point but I could foresee challenges taking place because charter schools go through a unique marketing role in order to attract students and to get people to apply to that certain charter school. I can see a requirement like this being very difficult to comply with.

**Chair Bobzien:**

I do have questions about section 8. Joyce, you mentioned that Clark County School District already has such a program. I would be interested in hearing from Craig what the Washoe experience is. Could you give us a thumbnail of what that program is? What does it do? Is it successful? How would it comply with the language you see here?

**Joyce Haldeman:**

We have a Secret Witness program. Every classroom in every school has a poster with a phone number on it that indicates that students who see illegal activity on campus are welcome to call this number anonymously and leave

information. In terms of how successful it is, there have not been any major incidents, so that could indicate some success. If you would like me to get a report and bring it back to you, I would be happy to do that.

**Chair Bobzien:**

One page on what it is might be helpful.

**Craig Hulse:**

We have a similar Secret Witness program in the Washoe County School District. I am not sure how it is structured, if it is in board policy, or if it is just a separate group that exists, but I can do the same and get a short brief on what it is in Washoe County.

**Assemblyman Munford:**

What is the cost for summer school now? Is it correct that they can only make up one credit in summer school?

**Joyce Haldeman:**

The cost is \$100 for the one-half credit that equals one semester. If they failed the first semester of algebra, they can take it in the summer for \$100. There are two summer school sessions so they can take one each session, therefore, making up one credit. That is one of the deficiencies of our credit retrieval program; through summer school, a student can only make up one credit while giving up the summer. That is why the online credit retrieval has become so popular with students.

Mr. Munford, if I could take this advantage to mention one thing. For school districts, when we offer online education, there is a requirement by state law that we need to have a teacher for whom we track their once-a-week contact with every student they have. The charter schools providing online education do not have that requirement. They are able to provide online education for less money than we can in Clark County or any of the other school districts because of that requirement.

**Assemblyman Munford:**

Is that teacher paid extra for doing that?

**Joyce Haldeman:**

That is the job of the teacher who works for the online charter school. He interacts with the 300 students in various ways; grading their papers, working with them, helping bring them up to speed.

**Chair Bobzien:**

Craig, could you comment on the fiscal note that was submitted and has since been removed. Since we have someone from the district that can talk about the implementation challenges, maybe you can give us an overview of the fiscal note.

**Craig Hulse:**

We went through that fiscal note and there was some confusion as to the changes this bill calls for to the original law that was enacted in 2009. At that point, we had no fiscal note. We have discovered that the costs that were in our fiscal note are similar to what we incurred from that bill, but they are totally separate issues. This bill does not have that fiscal note, to clarify for Ms. Martini.

**Chair Bobzien:**

Are there questions from the Committee? I would like to continue with the opposition.

**Dane Claussen, Executive Director, American Civil Liberties Union (ACLU) of Nevada:**

We are here today to testify only on section 8 of this bill. We are neutral on all other sections because they generally fall outside our areas of concern and interest.

Our concern with section 8 has to do with our ongoing and continuous concern with due process in our society, generally. We have a number of concerns about section 8 and the Secret Witness idea. I would also be interested in receiving the reports from the two school districts that are using Secret Witness programs.

First, we are interested in how information is collected and used from these programs with students submitting reports of other students potentially being involved in illegal activities. Are there files on students who have submitted legitimate complaints or files on students who have submitted frivolous complaints? Are there files on students who have been mentioned in complaints from students both legitimately and not? There is an issue with regard to record keeping: how the records are used, how long they are kept, how they are classified, and so on.

Secondly, in our society, we have a presumption that people who are accused or suspected of any illegal activity have an opportunity to face their accuser. That is a basic fundamental part of constitutional law of the United States.



The idea of a secret witness, by definition, means that a person is not able to confront their accuser.

Third, we have a fine line in our society between citizens having both legal and ethical responsibilities to cooperate with police and to report crimes. Yet on the other hand, as a society, we have been loathe to codify the idea of citizens being mere extensions of police forces. We are concerned with the idea that students will learn, as citizens, they are extensions of police forces. We think students should get other constitutional law lessons more fully, more completely, and sooner.

Finally, we are concerned about a practical and legal matter in terms of school administrators spending a lot of their time chasing down frivolous complaints. Students do not play nice with each other. We know that from all of the rhetoric in the public sphere right now regarding cyber-bullying. That is not to say that we support cyber-bullying legislation, but obviously that is a possible issue here. Various schools have different cultures that change from time-to-time and place-to-place. There is also a possibility that in a school there might be a plurality or majority sentiment among students not to cooperate with this program. There might be a particular time and place, a culture among a plurality or majority of students to use this system to complain frivolously about each other. These are the kinds of things adolescents in our society sometimes engage in.

Again, the idea of a Secret Witness program and codifying that into law is particularly troublesome to us. As a society, we overwhelmingly oppose the idea of secret witnesses. There is something to be said for the fact that the two school districts say that they are using this already and that it works. However, programs that work in the United States are not necessarily either constitutional or best educational practices.

**Chair Bobzien:**

I have one question for clarification. To sum up the position would be one of opposition to the programs that Clark and Washoe County School Districts have right now?

**Dane Claussen:**

Yes, but I would be interested in seeing the summaries and in talking to those representatives. Until today I did not know those programs were in effect.

**Chair Bobzien:**

Number two would be the specific codification of such programs in state law?

**Dane Claussen:**

Correct. Today we also heard an argument that appeals to the ACLU, although it is not something we always testify on, and that is the idea of school boards being sovereign and being able to adopt these policies on their own rather than having them dictated from above.

**Assemblywoman Neal:**

I have a question about whether this particular language came up because of the issue of snitches in school and the fact that in some schools, if you snitch, you can be placed in harm's way. You mentioned culture, but you did not address it. The idea that if you snitch, there is a problem and you have to go home. I am wondering if the anonymous language came up for that reason. I completely understand what you are saying about the misuse of a complaint, but the reality is that there is snitching going on, and people are not telling about serious things because they do not want to get beat up when they walk home. I would ask the school districts to address the intent of that language.

**Dane Claussen:**

We understand that this is also a concern, but again, in our society, we do not set up Secret Witness programs just because someone might be in harm's way. Keeping someone's identity anonymous as a witness in a criminal trial is an extreme circumstance. It is not a daily occurrence.

**Assemblywoman Neal:**

I have been in high schools and in middle schools and I know there is nothing secret about a whole lot. You must provide an avenue for someone to at least speak out and address issues. I have been in a situation where one of my students was going to get in a fight at a community center and no one at the community center did anything about it; the student had to come back to the school to tell me about it so I could intervene. It is real, it is not imagined, and there needs to be a level of protection so they can act like normal kids in an environment that may be abnormal. There is nothing normal about high school or middle school.

**Dane Claussen:**

We are cognizant of a culture where students have a code of silence and where students have used this for frivolous reasons as in cyber-bullying. We are here today to talk about the constitutional issues of due process and not making exceptions to those in the public schools because of some exception that has been said to work.

**Assemblyman Anderson:**

Would you say there is a difference between a tipster and someone filing a complaint? I am reading this as allowing students an avenue to tell administration or a police officer that they suspect or see something. They are not actually signing a criminal complaint. Correct?

**Dane Claussen:**

They are not, but this is, again, a process that is being codified into school board policy. Students are actually encouraged to make anonymous complaints against illegal activity. There is a distinction but not a big difference.

**Chair Bobzien:**

Do we have any other questions for the witness?

**Frank Schnorbus, Chair, Nevada Homeschool Network:**

For the most part, we are neutral on the bill. There are, in the last sections that are being repealed, issues that do touch on some issues that provide options for children, the courts, and the districts that are not in the public school tool chest. It seems to me that whenever you have options, they are worth keeping if it is not too big a burden.

As a Court Appointed Special Advocate volunteer—having been a foster parent for decades who deals with therapeutic children inside the juvenile court system—and in my experience with homeschooling, I deal frequently with options when dealing with very special situations. For the most part, the last three sections that are being repealed on the last page will not be used much anymore. I believe all three went into effect in 1956. Even if only two or three kids ended up using this, I think that this is something worth keeping in the law.

The first one, *Nevada Revised Statutes* (NRS) 392.090, is a tool for the juvenile court that is not in the public school tool chest. If the juvenile court judge thinks it is useful, we should leave it in.

*Nevada Revised Statutes* 392.100 deals with a situation where a child must work. This is governed by the school district's board of trustees. I am curious if a board of trustees would see such a situation and agree with it. For the most part, it is going to be a very small number of children. Maybe there will be an exception.

The same holds with NRS 392.110. This one is interesting as I see a real parallel to the U.S. Supreme Court case *Wisconsin v. Yoder*, 406 U.S. 205 (1972). The State of Wisconsin had a law that said children had to stay in school until they were 16 years old. This was taken to court and that law was

struck down. They said that after eighth grade, as parents, you can do what you want with your children.

We had that law in 1956, but it never went to the Supreme Court as it did in Wisconsin. However, I look at the *Yoder* decision as upholding what we already had in law.

I do not understand why we would want to take out this option. Other than that, homeschools are neutral to this bill. We just view these as tools and options that we think are easy to leave in the bill and do not need to be used very often.

**Barbara Dragon, Officer, Nevada Homeschool Network:**

Nevada Homeschool Network advocates for the rights of parents of homeschool families to direct the education of their children. This bill does not affect that at all. We have a wonderful law that was passed in 2007.

The reason we are addressing this bill is because we believe it limits freedoms for families who find themselves in difficult situations or difficult times. It is obviously an old law. It has not been used that we know of, but we strongly believe that all options that are currently in law should remain so because we do not know what the future holds.

I would like to point out also, that in addition to Frank's testimony, that the law is specific to apprenticeships and employment. *Nevada Revised Statutes* 392.110 section 1 states, ". . . proper employment or apprenticeship . . .," and that is judged by the local school district. That brings into play local control. That is a new buzz word; getting back to local control of public school students and issues is important. This gives the local school board control over that unique situation, or as in NRS 392.090, the courts. We just need to leave laws on the books that allow freedom for our citizens.

**Chair Bobzien:**

Do we have any questions from the Committee? Do we have anyone else in opposition?

**Dottie Merrill, Executive Director, Nevada Association of School Boards (NASB):**

I am speaking primarily with regard to section 5 and section 7 of the bill.

Section 5, page 20, subsection 1, of the bill states that the board of trustees of each school district shall adopt a policy that must ensure that a four-year academic plan must be developed for each pupil enrolled in ninth grade, and the pupil's parent or legal guardian are adequately notified and informed of the plan.

Many of our school boards already have policies in place that address information to be provided to students through this ninth-grade plan that is discussed in section 1. That is already a statute. We think there is difficulty in asking and mandating that local boards adopt a policy that ensures that all of these items are adequately presented to students and their parents. We think that one man's "adequate" may be someone else's "inadequate." We certainly can be responsive at legislative direction to ensure that these various things, particularly in subsection 2(a), are included in documents provided to students. At the top of page 21, in subsection 2, paragraphs (b) and (c), those are already in every high school in this state.

In providing information about programs offered by charter schools, I believe our school board members would be in agreement with what you heard from Ms. Haldeman from Clark County.

Page 21, section 7 was discussed in the 2009 Session. We heard from some of our boards that it was very difficult to provide opportunities during the school day. That is the sticking point in some places, particularly where transportation is difficult and students must ride buses a long way in order to get to school or back home again.

Again, there has been no money provided. Having retrieval opportunities everywhere for students would be a great thing if we could do it. At this point, we cannot, particularly during the school day when time is already limited and most students have full schedules.

**Chair Bobzien:**

Are there any questions from the Committee? Is there anyone else wishing to speak on A.B. 138?

**Ray Bacon, representing Nevada Manufacturers Association:**

There is one thing in section 1 that I think is missing: whether or not we are going to connect the graduation requirement to the college readiness requirement. As soon as the HSPE has been taken, you ought to tell the student. You should add that requirement. The student should know that when he has finished the HSPE—or whatever its successor is when we get to the core standards—the school will close the loop. A student should know when they are a junior whether or not they are all right.

I suspect what we will wind up with is that a passing grade for the HSPE is not going to be the same as the college readiness. We are going to have two passing scores for the HSPE. In reality, if that is the case, we should tell them.

A secondary point is, the GED may rate favorably in our existing testing with the HSPE results which it did the last time we tested them. However, what I caution this group to remember is the HSPE is first taken and passed by many of our better students when they are in the tenth grade. Those last two years of high school do not mean anything, or we have a mismatch between our GED and a real diploma. We should be clear about that and I am not sure we are at this stage of the game.

**Kathleen Conaboy, representing K12 Inc.**

K12 Inc. is a company that works with distance education charter schools. In this state we are the Education Management Organization (EMO) for the Nevada Virtual Academy which is currently the largest charter school in the state.

I had not intended to testify today, but I would like to make some clarifying comments regarding comments that were made earlier by the school districts about charter schools.

I was baffled that the districts would object to informing families about charter schools that exist within their districts since charter schools are schools of choice in this state. Because there is a lot of information already available about charter schools, I think all they would have to do is cut and paste one little link to the Department of Education website into any materials that are available.

I think we wandered off subject when the topic on distance education charter schools came up. We are required to document our communication with our students. Ms. Haldeman suggested that was not the case and because of the fact that we do not have to document, we could operate under lower cost constructs than the districts do. There was a lot of discussion last session and it is coming up again this session regarding the cost of distance education, but we have not yet conducted that study. I would object to pointing right now to the fact that our costs are lower.

With regard to documenting communication for both enrollment and attendance purposes in this state, distance education charter schools have documentation requirements. We have recently worked very diligently with the Superintendent's office to enact the regulations that oversee that—to smooth out the audit process—and it actually was much better this year. I would like to thank him for all the work he did with us. I had to address those comments.

**Chair Bobzien:**

To clarify why we are not taking this under public comment, is that you are, in fact, speaking in support of section 5, subsection 2, paragraph (d) (programs

offered by charter schools within the school district, to the extent such programs are available), as far as the requirement to inform? It sounds like, in your mind, this could be something as simple as a link in a website.

**Kathleen Conaboy:**  
Correct.

**Chair Bobzien:**  
The districts, however, are concerned about a higher standard. It sounds like we might have some room for conversation about how to work on that.

Do we have any questions?

**Assemblywoman Dondero Loop:**  
As a point of clarification, I believe Washoe County School District does have a GED option and believe it is on their website.

**Chair Bobzien:**  
Duly noted and thank you for that clarification.

We are going to close the hearing on A.B. 138. [Break began at 4:32 p.m.]  
[Meeting resumed at 4:45 p.m.]

We will now move to the work session. We will just be considering Assembly Bill 40 ([Exhibit C](#)) this afternoon.

**Assembly Bill 40:** Revises the requirements concerning background investigations of certain applicants for employment or contracts with private postsecondary educational institutions. (BDR 34-442)

**Mindy Martini, Committee Policy Analyst:**  
This measure would allow persons who apply for employment or contract with a private postsecondary institution to submit their fingerprints electronically instead of having the police actually take them over. You may recall that Mr. Perlman, Administrator for the Commission on Postsecondary Education, testified that this measure was submitted partially on behalf of an audit conducted by the FBI that recommended electronic submission of fingerprints.

The second part is that it would exempt applicants from the background check for those out-of-state instructors who have been approved by private postsecondary institutions.

No amendments have been submitted for this measure.

**Chair Bobzien:**

This is another chance to plug NELIS, new this session. Work session documents will be available on NELIS.

As we have no amendments submitted for this measure, I will put this out to the Committee and entertain a motion.

ASSEMBLYWOMAN MASTROLUCA MOVED TO DO PASS  
ASSEMBLY BILL 40.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMEN DIAZ AND FLORES  
WERE ABSENT FOR THE VOTE.)

The meeting is adjourned [at 4:48 p.m.].

RESPECTFULLY SUBMITTED:

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Sharon McCallen  
Committee Secretary

APPROVED BY:

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Assemblyman David P. Bobzien, Chair

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



**EXHIBITS**

**Committee Name:** Committee on Education

**Date:** February 21, 2011

**Time of Meeting:** 3:20 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Mindy Martini	Work session for <u>A.B. 40</u>