

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

**Seventy-Sixth Session  
March 25, 2011**

The Committee on Education was called to order by Chair David P. Bobzien at 1:55 p.m. on Friday, March 25, 2011, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, 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  
Assemblywoman Olivia Diaz  
Assemblywoman Lucy Flores  
Assemblyman Ira Hansen  
Assemblyman Randy Kirner  
Assemblywoman April Mastroluca  
Assemblyman Richard McArthur  
Assemblywoman Dina Neal  
Assemblyman Lynn D. Stewart  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Harvey J. Munford (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Debbie Smith, Washoe County Assembly District  
No. 30

**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:**

None

**Chair Bobzien:**

[Roll was called. Nevada Electronic Legislative Information System (NELIS) and Committee protocol were explained.] Following our work session today, we have two Committee bill draft requests (BDRs). You are not voting on the content of them. We just want to introduce them ahead of our deadline on Monday.

Today, we have work sessions for three measures: Assembly Bill 222, Assembly Bill 225, and Assembly Bill 229. The work session document is on NELIS under "Exhibits."

We will take up Assembly Bill 222. Ms. Martini will give us an overview and a summary of testimony previously heard.

**Assembly Bill 222: Creates the Teachers and Leaders Council of Nevada.  
(BDR 34-873)**

**Mindy Martini, Committee Policy Analyst:**

The Teachers and Leaders Council (TLC) of Nevada will consist of 16 members ([Exhibit C](#)). In addition, the bill requires the evaluation system of teachers and administrators to require 50 percent of the evaluation to be based upon the academic achievement of pupils. Finally, this measure revises the evaluation system from a two-pronged system of "satisfactory" or "unsatisfactory," to a four-pronged system, those being, "highly effective," "effective," "minimally effective," or "ineffective."

For this particular measure, two amendments have been submitted, one by Assemblywoman Debbie Smith and one by the Nevada Manufacturers Association. For A.B. 222, if you look at the bill, the first amendment from Assemblywoman Debbie Smith ([Exhibit D](#)) would revise section 5. Section 5 would add that the TLC may apply for and accept any gifts, grants, donations,

et cetera. This would allow the TLC to apply for and receive aid from grants and nonprofit organizations. In addition, this amendment would say that until the TLC evaluation is adopted in 2013, student achievement should account for a significant portion. The reason for this is that it would allow a transition period where there would be no specific 50 percent requirement at that time. After 2013, the 50 percent requirement would go into effect.

Also, on page 7, in section 5, subsection 1 of A.B. 222, it would remove paragraph (f), which says that the charter school administrator or teacher would be removed from the TLC. The second portion of that would remove charter schools completely from the evaluation process developed by the TLC. This concludes this amendment from Assemblywoman Smith.

The second amendment submitted by Ray Bacon of the Nevada Manufacturers Association ([Exhibit E](#)), could be considered in addition to the one we just talked about. It would clarify and add that after the initial council defined what "highly effective" is, the teachers and administrators on the council, in the future, would need to meet the "highly effective" definition.

That would affect page 7, section 5, subsection 1, paragraphs (c) and (d), for teachers and administrators. In the future they would need to be "highly effective." That is what the second amendment does.

**Chair Bobzien:**

I would entertain a motion at this time.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 222 WITH ASSEMBLYWOMAN  
SMITH'S AMENDMENT.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

[NO VOTE WAS TAKEN.]

**Assemblyman Kirner:**

I had some reservations and I thought there may have been some compromise language that we could add. Mrs. Smith came up with that language in terms of, if you qualified under one section, you were not qualified under another for membership in the TLC. Do you recall that conversation?

**Chair Bobzien:**

Thank you for that clarification, Mr. Kirner. Ms. Dondero Loop, would you be willing to withdraw your motion and make an amended motion?

**Assemblywoman Dondero Loop:**

Yes. I will withdraw my motion.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND DO PASS ASSEMBLY BILL 222 WITH ASSEMBLYWOMAN SMITH'S AMENDMENT, WITH THE SPECIFICATION THAT IF A PERSON IS QUALIFIED FOR ONE AREA OF THE COUNCIL, THEY ARE NOT ELIGIBLE FOR ANOTHER CLASSIFICATION AND TO BE ELECTED IN THAT AREA.

**Chair Bobzien:**

Ms. Martini, is that clear?

**Mindy Martini:**

Yes, it is.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

**Chair Bobzien:**

Is there any discussion on the motion?

**Assemblyman Hansen:**

After some discussions with the bill's sponsor, the intent of this is to ensure that these positions are occupied basically by people who may not be members of the teachers' union or an association. What we discussed was that about one-third of all teachers in the public schools are not members of the union and there is really no place in this bill for any representation by them. We wanted to make sure there was some opening in the makeup of this committee to ensure that some people who are not exclusively members of the Nevada State Education Association (NSEA) or other associations had a shot at being on this council. I think that is what we had all discussed. I want to make sure that is on the record.

**Chair Bobzien:**

Is there additional discussion on the motion? [There was none.] All those in favor please say, "Aye." "Opposed?" [There were none.]

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS ABSENT FOR THE VOTE.)

Assembly Bill 222 is passed. Mrs. Smith, would you be willing to handle the floor statement on this bill? [Assemblywoman Smith indicated she would.] We will turn to Assembly Bill 229.

**Assembly Bill 229:** Revises provisions governing the accountability and performance of public schools and educational personnel. (BDR 34-515)

**Mindy Martini, Committee Policy Analyst:**

Assembly Bill 229 was heard on March 2, 2011 ([Exhibit F](#)). It does several things. It first expands the annual reports of accountability to include an accounting of administrators, teachers, and support staff. It also requires the board of trustees of each school district to establish a program of performance pay, and compensation for the recruitment and retention of teachers.

Effective July 1, 2013, it revises the evaluation system from the two-category system of "satisfactory or "unsatisfactory" to the four-category system of "highly effective," "effective," "minimally effective," or "ineffective" designations.

The bill requires a statement to be included in the evaluation for those probationary teachers or administrators who have designed as "unsatisfactory" or "ineffective," as applicable, depending on the time it happens. The specific language of the statement is included in the bill. Finally, this bill does revise the grounds on which a teacher or an administrator may be suspended, dismissed, or not reemployed.

There was one amendment submitted ([Exhibit G](#)). The first portion of the amendment refers to page 27, section 9, subsection 1, paragraph (a) of A.B. 229. The amendment will add, "Upon your request made, to the supervisor who has given you this evaluation, a reasonable effort must be made to assist you in correcting the deficiencies reported in this evaluation for which you request assistance." The reason for that is that it would clearly communicate to the educator his or her rights under Nevada law and the district's commitment to support and improve the educators.

The second portion of the amendment concerns subsection 3 of section 12 on page 30. It would remove the words "without limitation" and the word "intentional" from line 19 on page 30. The sponsor of this amendment said this would remove the vagueness and overinclusive language.

The next portion on page 36 refers to section 17, subsection 4 of the bill. It would remove reference to paragraphs (d), (e), (j), (n), (o), and (r) of *Nevada Revised Statutes* (NRS) 391.312 from line 1 of A.B. 229. Paragraph (d) is

"Insubordination," (e) is "Neglect of duty," (j) is "Evident unfitness for service," (n) is "Any cause for revocation of a teacher's license," (o) is "Willful neglect or failure to observe and carry out the requirements of this title," and (r) is "Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations . . . ." You can see those, as a whole, on pages 29 and 30 in A.B 229.

Last, section 19, found on page 36 of the bill, adds the following provision: "Any employee who is post-probationary or has returned to probationary status under Chapter 391 of NRS is entitled to request a hearing before an arbitrator under the recognized Expedited Labor Arbitration Procedures set up by the American Arbitration Association ([Exhibit H](#))." This provides for an accelerated due process procedure for experienced teachers and provides that new teachers defined as, in their first probationary period, have no right to a hearing in the case of a midyear dismissal.

That concludes the one amendment that was submitted for this measure.

**Chair Bobzien:**

Thank you. I think it would be appropriate to invite Mrs. Smith up to provide us with additional comment.

**Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:**

I am the Speaker's representative today since this was his bill and this amendment is under his name. I will answer any questions the Committee might have, but I wanted to explain that when we presented the package of bills, we spent several months working on this language with a lot of input. As is usually the case when you have legislation that is so significant, you also need to continue working on it after it is introduced. Since the bill was heard, we have continued working with the associations and school districts trying to find compromise in areas where concerns were heard during the hearing. There has been a great deal of input. I am not sure anyone is completely happy, which sometimes indicates that you have a pretty good resolution, because no one side is thoroughly happy. We did our best to address any concerns that seemed egregious for one side and I think we came up with a very good compromise and we have a bill that does a lot to address the concerns of the Legislature.

**Chair Bobzien:**

Thank you, Mrs. Smith. I would be willing to entertain a motion.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 229.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Hansen:**

I have a real problem; these amendments from the Speaker were not given to us until a few hours before this hearing. They are significant as Assemblywoman Smith indicated. This bill is very significant and I am very concerned about the amendments. I will support A.B. 229 in the absence of the amendment, but to have those amendments dropped in at the last second, without giving us an opportunity to have a full and fair opportunity to look at them, is not right. I would be willing to support this bill in the absence of that amendment.

**Assemblyman Stewart:**

I think I am going to vote yes on this bill and reserve the right to change my vote on the floor, but I think the intent is good. I have not had a chance to ponder the ramifications of the amendments, but at this point I will vote yes with that option.

**Assemblyman Kirner:**

As I look at the amendment, I have a concern with some of the language. I would echo Mr. Hansen's comments and at the same time I will indicate that I will support this bill, but would also like to reserve the right to change that once I have had the chance to read this through again and digest the amendments we just received.

**Assemblywoman Smith:**

I appreciate those comments and I certainly understand that, as is often the case, we have been working at a pretty frenetic pace to try to pull the groups together. They have spent many hours on this and we got Legal involved to make sure we have the language just right. Sometimes it is a challenge and I apologize for that and I am certainly willing to talk to any members between now and the time any of these bills come up on the floor to clarify anything or address any concerns. I appreciate your indulgence.

**Chair Bobzien:**

It is also important to note at this point that a lot of these bills and reforms have been worked out over many, many months thanks in part to your leadership bringing together Republicans, Democrats, the associations, and certainly the business community. It is great to have the opportunity to move these forward. Do we have additional . . .

**Assemblywoman Woodbury:**

I am going to vote yes, but reserve my right for the same reason, so that I have a chance to digest the amendments.

**Assemblyman Hansen:**

As a matter of protocol, is it normal in a work session to have a level of discussion? May I ask more than one question or am I out of place adding a second question or having a discussion?

**Chair Bobzien:**

We can certainly have some back and forth.

**Assemblyman Hansen:**

The one concern I have is that the Governor has a series of educational proposals coming—they should be out Monday—and I want to make sure I get on the record that, while I am going to support these bills today, that I want to reserve the right to vote differently on the floor after I see his proposals. I also want to make sure that we have the opportunity, in this Committee, to hear the proposals. There are a lot of very critical issues out there that we are addressing in the recent election by the Governor's successful . . .

**Chair Bobzien:**

Mr. Hansen, I am going to ask you at this point to refrain from discussing matters beyond the scope of this immediate bill. I certainly appreciate your concerns.

**Assemblyman Hansen:**

Fair enough. The Governor does have a package with a lot of similar language that I would like to see addressed by this Committee and I do reserve the right to change my vote, if necessary, on the floor in the future on other bills.

**Chair Bobzien:**

All those in favor, please say, "Aye." "Opposed?" [There were none.]

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

Assemblymen Hansen, Kirner, Stewart, and Woodbury reserved the right to change their vote on the floor.

Mrs. Smith, I am going to have you do the floor statement on this as well, unless the Speaker would wish to do this. [Mrs. Smith agreed.]



**Assembly Bill 225:** Requires an additional probationary period for certain teachers and administrators. (BDR 34-876)

**Chair Bobzien:**

I would note for the Committee that it is not my intention as Committee Chair to do things in a way that would encourage a hurried pace, but certainly due to the nature of the negotiations and the reality of the 120-day process, here is where we are. On the Nevada Electronic Legislative Information System (NELIS), you will see the work session document ([Exhibit I](#)) for Assembly Bill 225 and an amendment ([Exhibit J](#)) that is in line with the Assembly Bill 229 amendment that we just passed out dealing with the follow-on process. It is in "Exhibits" in NELIS for today's work session. It is not part of the work session document. Refresh your NELIS.

It reads verbatim to the section 19 addition from A. B. 229. We have been advised by legal counsel that this has to appear in both bills. This is, "Any employee who is post-probationary, or has been returned to probationary status under Chapter 391 of NRS is entitled to request a hearing before an arbitrator under the recognized Expedited Labor Arbitration Procedures set out by the American Arbitration Association." Has everyone seen that?

**Assemblywoman Debbie Smith, Washoe County Assembly District No. 30:**

It might be helpful to the Committee if I clarify this language. This is a brand new idea in A.B. 225 to have teachers who have had two years of unsatisfactory evaluations go back to probationary status. One of the concerns the association had, and I fully understand, is that there is a difference between a brand new teacher and an experienced teacher who is having some experiences that lead to an unsatisfactory evaluation and goes back on probationary status. This clearly differentiates what would need to happen in that case. Probation—that new three-year period when there is not that provision—does give that postprobationary teacher who gets put back on probationary status the ability to have this expedited hearing, recognizing that he really is in a different position than the new teacher. I fully understand that and sympathize with those concerns. That is the intent here, a special provision for that new class that can happen where the postprobationary teacher goes back on probation.

**Chair Bobzien:**

Mrs. Smith, just to clarify, that is at request; that is not automatic, correct?

**Assemblywoman Smith:**

Yes.

**Chair Bobzien:**

I will entertain a motion on Assembly Bill 225.

ASSEMBLYWOMAN DONDERO LOOP MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 225.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

**Assemblyman Kirner:**

This bill gives me serious concern. I absolutely was elected on the notion of reform and I see that we have some reform here—I acknowledge that. I am not sure it goes far enough in terms of what my electorate expects. I do see that it is a major step forward, but in particular, I am more concerned about those teachers that are postprobationary then go back with an unsatisfactory performance appraisal; they might still be in the system for several years. I admit a bias because I come out of industry and no such thing occurs in industry.

I am aware of the fact that the Governor has some bills coming forward that might differ a little from this, so I would support this from the standpoint that it makes a step forward, it does represent reform, and I have been told material reform. However, I do not feel it goes far enough and I am very anxious to see the Governor's proposal that comes out Monday. I have major reservations for the reasons I have stated, but I will support this.

**Assemblyman Hansen:**

In A.B. 229, the probationary period is now three years? Is my understanding correct? [The question was affirmed.] I would like to echo what Mr. Kirner just said. I agree, but I think this is a very minor step forward. The one concern I have in A.B. 225 and A.B. 229 is that we seem to be more concerned with protecting the teachers than educating the students. I am going to support this bill mainly because the people I have talked to in the education community suggests this is a big step forward, but it is way too short. Again, I want to reserve my right to change my vote on the floor, if necessary, after we have an opportunity to see what the Governor presents.

**Assemblyman Stewart:**

I would echo the thoughts of my two colleagues.

**Assemblyman Anderson:**

I just want to clarify that this is part of the Education Reform Blue Ribbon Task Force, correct?

**Assemblywoman Smith:**

This recommendation did not come through the Blue Ribbon Task Force, although it was part of the discussion in the separate roundtables that I personally conducted. They had as large or larger participation than the Blue Ribbon Task Force did.

**Assemblyman Anderson:**

So to clarify, we are going even further and reforming more than recommended by the Blue Ribbon Task Force?

**Assemblywoman Smith:**

Correct.

**Chair Bobzien:**

Additional discussion? [There was no response.] All of those in favor say "Aye." "Opposed?" [There were none.]

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

Assemblymen Hansen and Stewart reserved the right to change their vote on the floor.

Mrs. Smith, once again, if you could take this to floor. [Mrs. Smith agreed.]

We have two bill introductions.

**BDR 34-1137**—Revises provisions governing athletics in public schools. (Later introduced as Assembly Bill 455).

ASSEMBLYMAN STEWART MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 34-1137.

ASSEMBLYMAN AIZLEY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

**BDR 34-1140**—Revises provisions governing the attendance of pupils and graduation from high school. (Later introduced as Assembly Bill 456).

ASSEMBLYMAN STEWART MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 34-1140.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN MUNFORD WAS  
ABSENT FOR THE VOTE.)

The meeting is adjourned [at 2:27 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:** March 25, 2011

**Time of Meeting:** 1:55 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 222	C	Mindy Martini	Work Session Document for A.B. 222.
A.B. 222	D	Assemblywoman Debbie Smith	Proposed Amendment to A.B. 222
A.B. 222	E	Nevada Manufacturers Association	Proposed Amendment to A.B. 222.
A.B. 229	F	Mindy Martini	Work Session Document for A.B. 229.
A.B. 229	G	Mindy Martini for Speaker Oceguera	Proposed Amendment to A.B. 229
A.B. 229	H	Mindy Martini	Expedited Labor Arbitration Procedures
A.B. 225	I	Chair Bobzien	Work Session Document for A.B. 225.
A.B. 225	J	Assemblywoman Debbie Smith	Proposed Conceptual Amendment to A.B. 225.