

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

**Seventy-Seventh Session
May 17, 2013**

The Committee on Education was called to order by Chairman Elliot T. Anderson at 4:33 p.m. on Friday, May 17, 2013, 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 nelis.leg.state.nv.us/77th2013. 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 Elliot T. Anderson, Chairman
Assemblywoman Marilyn Dondero Loop, Vice Chairwoman
Assemblyman Paul Aizley
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman Randy Kirner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblyman Lynn D. Stewart
Assemblywoman Heidi Swank
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Aaron D. Ford, Clark County Senatorial District No. 11

Minutes ID: 1200



STAFF MEMBERS PRESENT:

Brenda J. Erdoes, Legislative Counsel
Todd Butterworth, Committee Policy Analyst
Andrew Diss, Committee Manager
Sharon McCallen, Committee Secretary
Ashlynd Baker, Committee Assistant

OTHERS PRESENT:

None

Chairman Elliot Anderson:

[Roll was called. Protocol and procedures were explained.] We will begin with our work session.

Senate Bill 269 (1st Reprint): Revises provisions governing education.
(BDR 34-892)

Todd Butterworth, Committee Policy Analyst:

Senate Bill 269 (1st Reprint) was heard in Committee on April 29, 2013. [Read from work session document and relevant pages of mock-up of proposed amendment ([Exhibit C](#)).]

Chairman Elliot Anderson:

Is there a motion to amend and do pass for Senate Bill 269 (1st Reprint)?

ASSEMBLYWOMAN FIORE MOVED TO AMEND AND DO PASS
SENATE BILL 269 (1ST REPRINT).

ASSEMBLYMAN EISEN SECONDED THE MOTION.

Is there any discussion?

Assemblyman Stewart:

I appreciate the intent of the bill, but I am still concerned with the burden it places on the principals. I will be voting yes; however, I will reserve my right to change my vote on the floor.

THE MOTION PASSED. (ASSEMBLYMAN KIRNER VOTED NO.)

Chairman Elliot Anderson:

We will give the floor statement to Ms. Fiore.

**Senate Bill 384 (1st Reprint): Revises provisions relating to charter schools.
(BDR 34-687)**

Todd Butterworth, Committee Policy Analyst:

Senate Bill 384 (1st Reprint) was heard in Committee on May 1, 2013. [Read from work session document and mock-up of proposed amendment ([Exhibit D](#)).]

Chairman Elliot Anderson:

For the Committee's information, I have been working with Senator Hammond to build support for S.B. 384 (R1). I believe we do have the support, so instead of going through the mock-up, I am going to propose a conceptual amendment ([Exhibit E](#)). You have it in front of you. However, I do need to alter the last sentence of that amendment. In the portion that says "or have an equivalent rating in another state under NCLB or approved waiver," my suggestion would be to instead leave that up for determination by the Department of Education whether they have met the Nevada State Performance Framework (NSPF) equivalent. After talking to Legal Counsel, leaving it with No Child Left Behind (NCLB) makes it too specific and the waivers can be temporary. We will leave it up to the experts at the Department of Education that administer the NSPF.

I am going to propose leaving the bill as is, but with this conceptual amendment and ignore the mock-up. Is there a motion for that?

ASSEMBLYMAN DUNCAN MOVED TO AMEND AND DO PASS
SENATE BILL 384 (1ST REPRINT).

ASSEMBLYMAN STEWART SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Eisen:

I have struggled with this bill. I want to be clear for the record that my issue has absolutely nothing to do with the fact that this is tied to charter schools. We have had a lot of discussion about charter schools on a number of bills this session. In this particular circumstance, the difficulty I have had has nothing to do with that particular detail. My concern is purely one of fiscal policy. I have had the opportunity this session to be heavily involved in issues of bonding and bonding capacity and responsibility through my service on the Assembly Subcommittee on Ways and Means regarding Education and Capital Improvement Projects.

There are two issues with which I still struggle on this particular bill with respect to the bonding. One of them is related to whether or not this ultimately

results in what is a de facto general obligation. There seems to be some difference of opinion. I have spoken with our Legal Counsel on this and have gotten some reassurance, but I am still not sure I am 100 percent there.

I know there is a comment in the bill, and discussion during the hearing that this is a special obligation bond, therefore not an obligation of the State. My concern is that ultimately the dollars that would pay back these bonds would come from the Distributive School Account (DSA) and would be ultimately General Fund money. There has been a Supreme Court ruling in Nevada that does somewhat relate to this. I do appreciate the input that I have received from our Legal Counsel that this is not exactly the same thing. I am concerned that it is not different enough. If a school were to go under, the dollars that were paying those General Fund/DSA dollars would still be there and there would still be an obligation on the part of the State to provide those funds. We would then be paying twice for the students: once for the payoff of the bond and once for wherever those students ended up.

I struggle with that. I know there is some disagreement about that perspective, but I am uncomfortable with it.

The other piece for which I have less reassurance is whether or not failures in these bonds would result in a negative impact on the State's credit rating. Despite the difficulties we have experienced in the past several years, Nevada has an outstanding credit rating. I am concerned that if we were to have problems with these bonds there could, in fact, be an effect on the State's credit rating. If I am wrong on the first part and we are not backing these bonds with State dollars, we are still putting our stamp of approval on the bonds. Ultimately that could affect our credit rating.

I have tried very hard to find a way to be comfortable with this with regard to fiscal policy. I am not there at this point. I need to vote no on this bill as it is currently written.

Chairman Elliot Anderson:

I would like our Legislative Counsel, Ms. Brenda Erdoes, to weigh in on the legal aspects.

Brenda J. Erdoes, Legislative Counsel:

The questions I have been asked on this bill relate to what Dr. Eisen was speaking about. I am comfortable assuring you that the language in the bill, for several reasons, will keep this from being an obligation of the State. First, it is stated in the language of the bill that this is not a liability, and that must be printed on the face of the bonds. There are several other provisions in here.

Dr. Eisen referred to *Morris v. Board of Regents*, 97 Nev. 112 (1981), which holds that if you have state-imposed taxes as a pledged revenue for a bond, it must be a state obligation. That means the full faith and credit of the State would be pledged. In this case, I had an opportunity to work with the Office of the State Treasurer and established that the money in the DSA fund comes in various percentages from different sources, such as the Initiative Petition No. 1 of the 75th Session room tax. There are General Fund dollars in there, but there are also some non-General Fund dollars. I do not know whether revenue bonds will be issued under this. I do not think any of us would know for sure.

If they do issue under this, it will be because bond council has found there are enough non-state tax dollars in the DSA to cover these bonds. If that occurs, they will strictly be revenue bonds. If that does not occur, there will not be bonds issued under this bill and the financing would come under the lease/purchase provisions which would not result in state obligation.

For that reason, I am comfortable telling you that our legal analysis is clearly there would not be a State obligation if this failed. I would point out that the faith of the State is pledged in section 10.5 of S.B. 384 (R1). It says the faith of the State is hereby pledged to not change the statutes once the bonds are issued. That is a consistent provision. The point of that is that once you issue the bonds under this authority, you cannot repeal that authority as to those existing bonds. You can stop the ability for any future bonds to issue, but you cannot compare those contracts.

The last thing I would add is, and I am not sure it was ever stated, but these provisions in the bill were actually cut and pasted from the Industrial Revenue Bond Law which has a track record and you can see how it works. The changes we made were not substantive in terms of how it works. They were changes as to the charter school versus the industrial bond language.

Chairman Elliot Anderson:

Committee, if you have any questions for Ms. Erdoes, this would be the time to ask them. Thank you, Ms. Erdoes. We appreciate your time.

To be clear what the motion is, it is the conceptual amendment, leaving the determination of what an equivalent rating in another state is to the Department of Education.

THE MOTION PASSED. (ASSEMBLYMEN EISEN AND NEAL
VOTED NO.)

The floor statement will go to Mr. Duncan.

[The meeting recessed to the call of the Chair at 4:48 p.m.]

[The meeting reconvened at 5:28 p.m.]

Chairman Elliot Anderson:

We will reopen our work session and add an item to consider. We do have the authority under our agenda to consider items previously considered, which is something I did have to double-check. That is why we had to recess.

Senate Bill 311 (1st Reprint): Revised provisions governing empowerment schools. (BDR 34-637)

Todd Butterworth, Committee Policy Analyst:

Senate Bill 311 (1st Reprint) was heard in Committee on May 8, 2011. [Read from work session document ([Exhibit F](#)).]

Assemblyman Eisen:

I want to clarify the suggestion I had made. This is not quite what I had suggested. I was not comfortable with the idea that it could take place in less than a year. What I was looking for was a minimum of a year. I have spoken with the bill's sponsor regarding this and he has indicated that was his intent. It was a minimum of a year but, in fact, could be longer. My concern was the way the bill was drafted originally appeared to be a maximum of a year. I think we need Legal to take another look at it to see if that point is clear.

Chairman Elliot Anderson:

Senator Ford, would you please come to the table. Are you okay with Dr. Eisen's clarification?

Senator Aaron D. Ford, Clark County Senatorial District No. 11:

I am indeed.

Chairman Elliot Anderson:

For the record to be clear, that would be with Dr. Eisen's clarification that it would be a minimum of one year to wait to convert to an empowerment school.

Assemblyman Kirner:

I am not certain about this. I would ask for the Committee's input on this. My understanding of a charter school is that they cannot use a public facility. If you have a school which is a public school and you convert it to a charter, that is illegal. It concerns me that this bill would try to enact something that is illegal. Am I correct?

Chairman Elliot Anderson:

There are always conflicts of law. My understanding is if you pass an act with a specific charge, that can be followed despite other provisions of the law. Again, that is not a professional, legal opinion. I did ask our Legal Counsel to come up. We will see. I cannot adequately respond to that.

Assemblywoman Dondero Loop:

I agree with Mr. Kirner. After numerous conversations with many of the interested parties in this bill, including with the school districts and the school boards as we were getting ready to hear the bill and afterwards, I understood more of what they were going to be doing here. I do not know what will happen in this case, but I am willing to go ahead and vote it out, reserving my right to change my vote later. That gives us time to work through the issue should there be one.

Assemblywoman Fiore:

Thank you for bringing this up, Senator Ford. I am actually very excited about this bill and excited to get it out to see if we can try something new.

Assemblywoman Neal:

On the conversion back to the public school, is it the 55 percent or the 10 percent of parent signatures required? In the explanation, you talked about conversion by parent's signatures, but not to the empowerment. Also, it would be reverted back to what?

Todd Butterworth:

Parents can choose to convert back to a public school at any point during the process using the same 55 percent signature threshold. The way I understand the bill, and I am not Legal Counsel, if a school gets to the end of the road as a charter school, underperforms for three consecutive years, and that charter school's charter is revoked, it then automatically reverts to being a public school. No parent petition would be required for that last step.

Assemblyman Stewart:

I, too, have some concerns about the 55 percent, which is barely over half. I am willing to vote yes and reserve my right. I think it is a good effort. We need to work out the bumps, and see what we can come up with.

Assemblywoman Cohen:

I am going to consider what Ms. Dondero Loop said and say, "Me too."

Assemblyman Eisen:

I have discussed this with the sponsor. As Mr. Butterworth referenced, one of my concerns had to do with the ability for an empowerment school to convert back to a public school without first having to go through the charter school period. It sounds like that is the case. It gives me some reassurance. With that and with these other conceptual amendments, I am willing to support this Committee, but I am going to reserve my right to change my vote on the floor until after I have a chance to see the full and final text of the bill.

Chairman Elliot Anderson:

Do I have a motion to amend and do pass S.B. 311 (R1) with the conceptual amendments on the work session document along with the clarification in Dr. Eisen's conceptual amendment that it would be a minimum of one year to wait before converting to an empowerment school?

ASSEMBLYMAN AIZLEY MOVED TO AMEND AND DO PASS
SENATE BILL 311 (1ST REPRINT).

ASSEMBLYWOMAN FIORE SECONDED THE MOTION.

Is there any further discussion?

Assemblywoman Diaz:

For all of the concerns brought up today, I am still weighing the pros and cons and would have liked to have seen a little more stability in terms of bringing in an empowerment school. Three years is still a very narrow window. I am going to vote yes in Committee, but reserve my right to change my vote on the floor.

THE MOTION PASSED. (ASSEMBLYMEN KIRNER AND NEAL
VOTED NO.)

[The meeting recessed to the call of the Chair at 5:41 p.m.].

[The meeting reconvened and adjourned behind the bar of the Assembly on
May 20, 2013 at 1:08 p.m.]

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblyman Elliot T. Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Education

Date: May 17, 2013

Time of Meeting: 4:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 269 (R1)	C	Todd Butterworth	Work Session Document with relevant pages of mock-up of proposed amendment.
S.B. 384 (R1)	D	Todd Butterworth	Work Session Document and mock-up of proposed amendment.
S.B. 384 (R1)	E	Assemblyman Elliot Anderson	Proposed Conceptual Amendment.
S.B. 311 (R1)	F	Todd Butterworth	Work Session Document