

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session  
May 29, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 9:17 a.m. on Wednesday, May 29, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Debbie Smith, Chair  
Senator Joyce Woodhouse, Vice Chair  
Senator Moises (Mo) Denis  
Senator David R. Parks  
Senator Pete Goicoechea  
Senator Ben Kieckhefer  
Senator Michael Roberson

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Lucy Flores, Assembly District No. 28  
Assemblyman Randy Kirner, Assembly District No. 26

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Leslie Sexton, Committee Secretary

**OTHERS PRESENT:**

Rorie Fitzpatrick, Interim Superintendent, Department of Education  
Lindsay Anderson, Washoe County School District  
Joyce Haldeman, Clark County School District

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Mary Pierczynski, Nevada Association of School Superintendents  
Craig Stevens, Nevada State Education Association  
Dotty Merrill, Ed.D, Nevada Association of School Boards

**Chair Smith:**

The hearing on Assembly Bill (A.B.) 288 is now open.

**ASSEMBLY BILL 288 (2nd Reprint)**: Revises provisions governing graduation from high school. (BDR 34-524)

**Assemblywoman Lucy Flores (Assembly District No. 28):**

We have a technical amendment to this bill. We have submitted a mock-up entitled "Proposed Amendment 9326 to A.B. 288 Second Reprint" ([Exhibit C](#)).

This bill addresses the high school proficiency test now in use in Nevada. We have a "pass" rate approximately 50 percent for first-time test takers. This is not due to the difficulty of the test. The test is outdated. It does not match our common core curriculum. The test is unfair and unworkable.

We propose to replace the high school proficiency test with the end-of-course examinations. The new system will be implemented in stages to allow flexibility. In the transition period, the State Board of Education (SBE) will implement a test for current ninth and tenth graders. High school juniors will be required to take a college- and career-readiness assessment test. The test score will not affect their high school graduation. It will be used to assess their readiness for postsecondary education.

**Senator Kieckhefer:**

Are the end-of-course examinations designed to be the criteria for passing or failing a course, or an assessment of knowledge gained?

**Rorie Fitzpatrick (Interim Superintendent, Department of Education):**

Passage of the exam is required for graduation and the score is a component of the course grade. States that have implemented these exams have found that the tests drive earlier remediation and provide feedback to teachers. Over time, these tests will be useful in our teacher evaluation system.

**Senator Kieckhefer:**

Are these final exams for the core courses?

**Ms. Fitzpatrick:**

It would probably not be the entirety of the requirement for any given student in any given course; however, it would be a significant component thereof.

**Assemblywoman Flores:**

That is the model.

**Ms. Fitzpatrick:**

[Exhibit C](#) contains three simple technical changes. The first is to ensure that, when we talk about reporting of information for the end-of-course exams, we also talk about reporting of information for the Grade 11 college- and career-readiness assessment. The language in statute had always been "examinations." When we introduced the term "assessment" we did not thoroughly reword the language in the bill to reflect all of the changes that needed to be made in statute.

The second technical change relates to notifications to students in Grades 9, 10 and 11 of the expectations for testing. The amendment provides for notifications to students who may enter Nevada schools in Grades 10 or 11.

The third technical change relates to the configuration of when and how the end-of-course examinations can occur. The first iteration of the bill provided that it was about enrollment in Grades 9 and 10. In terms of implementation, that was too binding. We might have an early achiever who is taking some of the algebra or geometry content from Grade 9 while he or she is in Grade 8. We might have a late bloomer or a student with a disability who might be studying that content in Grade 11. The amendment enables the SBE to configure a system of end-of-course examinations that test for content whenever the student is developmentally or curricularly ready.

**Assemblywoman Flores:**

The intent of these technical changes were discussed by the Senate Committee on Education. We have worked with many stakeholders to ensure that the bill is as comprehensive as possible.

**Chair Smith:**

Please describe the transition period between usage of the high school proficiency exam and the new system.

**Ms. Fitzpatrick:**

We have included transitory language to be fair to students. We have students who are already associated with the high school proficiency exams. We want to ensure, as we make the transition, that students are tested on content they have had a chance to learn. The SBE will have an obligation to prescribe, by August 1, what the assessment will be for the 2013-2014 school year. Most individuals expect there to be no change for the students already associated with the proficiency exams. For them, the proficiency exam will remain tied to graduation. We will have overlapping requirements for 2 or 3 years depending on the group into which a student entered and where we are in the implementation of the common core curriculum. High school students are the last to catch up. They will not have had the benefit of experiencing a kindergarten through Grade 8 common core curriculum. We also must be fair to educators with respect to accountability standards.

The Nevada Department of Education (NDE) has a fiscal note on this bill. We anticipate that implementing the end-of-course examinations, a new model for the State, will cost about \$1.5 million. Ideally, \$500,000 would be appropriated in the first year of the biennium, with unspent funds from the first year carried over to the second year. In the first year, that \$500,000 would be for the development of the end-of-course examinations. In the second year, \$1 million, plus any carryover, would be used to implement the end-of-course examinations for the first year. It is unclear which college- and career-readiness assessment might exist for Grade 11. We are unsure of the cost for such an assessment. Following the Board of Education's deliberation process, we will issue a competitive request for proposals. We will use the existing high school proficiency examination budget, plus a combination of our federal assessment funds, to absorb the costs of the Grade 11 college- and career-readiness assessment in fiscal year 2014-2015. It is possible, or likely that in the next Legislative Session, we may need an increase in the budget for that Grade 11 examination. We cannot anticipate what that will be, so we will make the necessary adjustments for Grade 11 for that 1-year period with our internal budget in the NDE.

**Chair Smith:**

Is national consortia money available for this purpose?

**Ms. Fitzpatrick:**

National consortium grants were awarded by the U.S. Department of Education to two different consortia. We are the governing member of the Smarter Balanced Assessment Consortium. States do not receive dollars from that. The federal dollars were exclusively for the build out of the assessments. Starting in the 2014-2015 school year, states must absorb the costs of implementation.

**Chair Smith:**

They are paying for the cost of building the tests. We have to pay for the cost of buying the tests. Is that correct?

**Ms. Fitzpatrick:**

That is correct. The end-of-course assessments will be in the content areas of English language arts and mathematics. The English language and mathematics assessments will be aligned with the common core curricula. The test bank available for our use will be the blueprints from Smarter Balanced. They are building out the testing system for Grades 3 through 8 and another assessment for Grade 11.

**Chair Smith:**

The \$1.5 million for this bill is in addition to the money already provided in the Executive Budget.

**Ms. Fitzpatrick:**

We will need the additional \$1.5 million for this bill to construct and implement the actual end-of-course tests, using the blueprints obtained from Smarter Balanced. The costs for the Grade 11 college- and career-readiness assessments will be absorbed by our existing budget for the high school proficiency exam. We will have to supplement with the federal assessment budget. That is why I say that, over time, I anticipate we will ask the Legislature for additional funds in the Executive Budget for the Grade 11 work.

**Assemblywoman Flores:**

The full implementation of the new system will be completed by the end of the 2013-2015 biennium. By the 2015 Legislative Session, we should have a clearer idea of budget needs for continuing the new system.

**Chair Smith:**

As we previously discussed in this Committee, pending legislation regarding the Statewide Longitudinal Data System frees up approximately \$1.5 million.

**Ms. Fitzpatrick:**

In moving forward with the preschool through postsecondary education (P-16) work, there were some capacity concerns about attempting to accomplish more than would be possible in the next biennium. In talking with the Department of Administration, it made sense to reduce the request for the P-16 one-shot appropriation from \$4 million to \$2.5 million. The best use of the \$1.5 million savings is in transitioning from high school proficiency tests to the next-generation assessment system.

**Lindsay Anderson (Washoe County School District):**

We support A.B. 288. Superintendent Pedro Martinez has worked directly with Assemblywoman Flores on the bill. We are glad that funding was found to implement it. It will be a top priority for us in the next school year.

**Joyce Haldeman (Clark County School District):**

This bill has been a top legislative priority for us. We began working on it in the interim. For the future of our children, it is essential to implement the assessments correctly.

**Assemblyman Randy Kirner (Assembly District No. 26):**

In the interim, I researched the issue and interviewed school superintendents. Independently, I drafted a bill and then discovered others had developed a similar bill. We combined the intelligence of both bills in this legislation. The outcome is positive and will move us in the right direction.

**Mary Pierczynski (Nevada Association of School Superintendents):**

We support A.B. 288. It is a top legislative priority for the superintendents. Their priorities are reflected in iNVEST 2013, the blueprint for changing the face of education in the State. The system will be a fairer one for our students. We will actually be testing what we are teaching.

**Craig Stevens (Nevada State Education Association):**

We support A.B. 288 because it will put our students on a better track to high school graduation, college and a career.

**Dotty Merrill, Ed.D. (Nevada Association of School Boards):**

We support A.B. 288. It is strong policy. It is a better use of available resources. It will have a better impact on our students' learning and achievement in high school and beyond. All seventeen member school boards in the Nevada Association of School Boards have voted in support of this measure.

**Chair Smith:**

I will open the Work Session on Senate Bill (S.B.) 261.

**SENATE BILL 261 (1st Reprint)**: Revises provisions relating to door-to-door solicitation. (BDR 52-829)

**Mark Krmpotic (Senate Fiscal Analyst):**

This bill was heard by the Committee on May 16. As amended, it establishes the licensing regulation for businesses that engage in door-to-door commercial solicitation. That is defined as:

making or attempting to make personal contact with a person at his or her residence, without a prior specific invitation by or appointment with the person, primarily for the purpose of:

1. Soliciting the sale of a service, goods, wares or merchandise; or
2. Personally delivering to the person a handbill or flyer advertising a commercial event, activity, good or service that is offered to the person for purchase at a location away from the residence or at a future time.

Section 4.5 of the bill ([Exhibit D](#)) exempts from licensing regulations door-to-door noncommercial solicitation on behalf of nonprofit organizations, religious organizations, soliciting support for a political candidate, ballot measure or ideology.

Licensing, under this bill, is to be done by the Consumer Affairs Division of the Department of Business and Industry (B&I).

The B&I and the Office of the Attorney General (AG) submitted fiscal notes.

The mock up for Proposed Amendment No. 9199 ([Exhibit D](#)) significantly changes the requirements of the bill. In section 3.5, it references "the

Commissioner of Consumer Affairs." In section 23, it provides that "The Commissioner may adopt regulations."

The Committee processed S.B. 488, which has passed both Houses of the Legislature. That measure delays the establishment of the Consumer Affairs Division for 2 years and places those duties in the Office of the AG. Therefore, for all intents and purposes, the duties set forth in S.B. 261 will be performed by the Office of the AG. We received confirmation from the AG that the amendment removes their fiscal note. With the delay of the establishment of the Division of Consumer Affairs, the fiscal note from the B&I is removed.

**SENATE BILL 488**: Continues the transfer of the powers and duties of the Consumer Affairs Division of the Department of Business and Industry and the Commissioner of Consumer Affairs to the Office of the Attorney General. (BDR S-1169)

**Chair Smith:**

Some of the individuals who expressed concerns about the implications of the bill have met with our Legal Division Staff to clarify the intent of the bill. Perhaps one remaining issue is the wearing of name badges. The bill will protect senior citizens and younger people who are being taken advantage of by some of the door-to-door operations.

**Senator Kieckhefer:**

I want to draw attention to section 4.5 and the definition of "door-to-door noncommercial solicitation." In subsection 5, "soliciting support for a political candidate or organization, ballot measure or ideology" does not include polling or gathering of information. I would be hesitant to include anything that does not relate to general canvassing. This is not a commercial solicitation but it is also not specifically spelled out. It could be construed as not being included if it is not in there.

**Chair Smith:**

Is it your suggestion to include something about general canvassing in that section?

**Senator Kieckhefer:**

It should include "general canvassing without soliciting support."



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**Chair Smith:**

Would that include an actual message in support of, or not in support of, something?

**Senator Kieckhefer:**

Yes.

**Chair Smith:**

That would be a reasonable conceptual amendment. I would entertain a motion to amend and do pass as amended by Proposed Amendment No. 9199 and with Senator Kieckhefer's conceptual amendment.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 261, AS STATED IN PROPOSED AMENDMENT NO. 9199 AND SENATOR KIECKHEFER'S AMENDMENT OF THE LANGUAGE IN SECTION 4, SUBSECTION 5.

SENATOR ROBERSON SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR DENIS WAS ABSENT FOR THE VOTE.)

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**Chair Smith:**

Seeing no further comments from the Committee and no public comment, the meeting is adjourned at 10:05 a.m.

RESPECTFULLY SUBMITTED:

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Leslie Sexton,  
Committee Secretary

APPROVED BY:

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Senator Debbie Smith, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
A.B. 288	C	81	Assemblywoman Lucy Flores, Assembly District No. 28	Mock-up Proposed Amendment 9326 to A.B. 288 Second Reprint
S.B. 261	D	10	Rorie Fitzpatrick / Department of Education	Mock-up Proposed Amendment 9199 to S.B. 261 First Reprint