

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

**Seventy-Eighth Session  
February 16, 2015**

The Committee on Education was called to order by Chair Melissa Woodbury at 3:15 p.m. on Monday, February 16, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, 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:**

Assemblywoman Melissa Woodbury, Chair  
Assemblyman Lynn D. Stewart, Vice Chair  
Assemblyman Elliot T. Anderson  
Assemblyman Derek Armstrong  
Assemblywoman Olivia Diaz  
Assemblywoman Victoria A. Dooling  
Assemblyman Chris Edwards  
Assemblyman Edgar Flores  
Assemblyman David M. Gardner  
Assemblyman Pat Hickey  
Assemblywoman Amber Joiner  
Assemblyman Harvey J. Munford  
Assemblywoman Shelly M. Shelton  
Assemblywoman Heidi Swank

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

H. Pepper Sturm, Committee Policy Analyst  
Kristin Rossiter, Committee Policy Analyst  
Karly O'Krent, Committee Counsel  
Joan Waldock, Committee Secretary  
Trinity Thom, Committee Assistant

**OTHERS PRESENT:**

Mary Wherry R.N., M.S., Deputy Administrator, Community Services,  
Division of Public and Behavioral Health, Department of Health and  
Human Services  
Sandra Larson, HIV/STD/TB/Hepatitis Program Manager, Office of Public  
Health Informatics and Epidemiology, Division of Public and  
Behavioral Health, Department of Health and Human Services  
Linda Lang, Director, Nevada Statewide Coalition Partnership  
Lindsay Anderson, Director, Government Affairs, Washoe County  
School District  
Nicole Rourke, Executive Director, Government Affairs, Clark County  
School District  
Donnell Barton, Administrator, Food and Nutrition Division, State  
Department of Agriculture  
David W. Carter, Private Citizen, Carson City, Nevada  
Janine Hansen, representing Nevada Families for Freedom  
Lynn Chapman, representing Independent American Party of Nevada  
Virginia Starrett, Private Citizen, Gardnerville, Nevada  
John Eppolito, Private Citizen, Incline Village, Nevada  
Dale A.R. Erquiaga, Superintendent of Public Instruction, Department of  
Education  
Elisa Cafferata, Private Citizen, Reno, Nevada  
Scott Baez, Coordinator, Government Affairs, Washoe County  
School District  
Jodi Tyson, representing Three Square  
Yvette Williams, Chair, Clark County Black Caucus  
Mary Pierczynski, representing Nevada Association of School  
Superintendents  
Jessica Ferrato, representing Nevada Association of School Boards

**Chair Woodbury:**

[Roll was taken. Procedures and protocols were explained.] I am going to open the hearing on Assembly Bill 26.

**Assembly Bill 26: Revises provisions governing surveys, analyses and evaluations to be administered to pupils in public schools. (BDR 34-332)**

**Mary Wherry, R.N., M.S., Deputy Administrator, Community Services, Division of Public and Behavioral Health, Department of Health and Human Services:**

The Department of Health and Human Services brought this bill forward in response to a number of requests from the community, schools, coalitions, and people who write grants frequently. The Youth Risk Behavior Survey (YRBS) has data that is commonly used to compete for grants. The YRBS is a longitudinal study representing data collected over time to show the behaviors of youth in states across the United States and is collected by the Centers for Disease Control and Prevention (CDC).

We collect the data within our state on behalf of the CDC. We contract with different organizations. We have been using the University of Nevada, Reno most frequently and occasionally the University of Nevada, Las Vegas. We also use the universities to collect what you might be familiar with as the Nevada Behavioral Risk Factor Surveillance System survey that is conducted by telephone contact with adults to collect similar data. We look for risk-factor information such as what kinds of foods they may be consuming, if they have access to food, tobacco use, and the age when they start consuming alcohol or different types of substances, such as marijuana or other drugs.

Part of the problem we are having is it is up to each individual school district as to whether or not youth are able to participate in this survey through what we call an active surveillance or through a passive surveillance. Clark County is the largest county in the state. That school board has had an active participation. Due to this, we have the most underrepresented data from Clark County. In 2011, the data we reported for CDC was so underrepresented for Clark County and the state that they actually did not use our data to compare us to other states. By doing what many counties in Nevada have done by going to a passive permission process for students to take the Youth Risk Behavior Survey, it would allow us to have better representation of student data.

That is what we are asking for with this bill. The way the bill draft ended up being written has created some compounding challenges for the school districts. I do believe there are several lobbyists here today who have some language issues. We would be willing to sit down with Committee staff or people who

would like to work with us and the school districts to work out the language differences. I think we all want the same thing.

We want to have a passive surveillance process. I do want to make sure the Committee understands this process does not disallow parents from granting or not granting their child permission to participate in the survey process. Parents would still be informed that the survey was going to be conducted, and they would still have the right to decide whether their child should be participating in the survey. I want to make sure you are aware of that process. I have our program manager, Sandra Larson, here. She is our expert on the YRBS and is available to answer questions as well. That is basically why we brought this bill forward. We could entertain questions at this time, if that would be helpful.

**Assemblyman Edwards:**

Could you explain to the Committee what the most controversial questions are?

**Mary Wherry:**

I will turn to Sandra Larson to answer that question. There are probably a broad range of questions that may fall into that category, depending on what your concerns may be. My guess would be questions regarding when students start engaging in sexual behaviors.

**Sandra Larson, HIV/STD/TB/Hepatitis Program Manager, Office of Public Health Informatics and Epidemiology, Division of Public and Behavioral Health, Department of Health and Human Services:**

As Ms. Wherry mentioned, the survey itself covers a broad range of questions. The questions cover everything from alcohol and drug use, which I understand some may perceive as challenging questions, to tobacco use and sexual behavior questions. These questions are geared to understand STD and HIV risks for these youth. They are asked in a way that we can understand disease prevention. Those are the most controversial types of questions that would be asked in those categories.

**Assemblyman Edwards:**

Why are you not able to rely more on the medical community to relay that kind of information? Are the parents actually seeing the questions, or are they just being told that there is a survey?

**Sandra Larson:**

The parents do get to view the questionnaire as part of the passive or active parental consent, whichever the county is specifically using. In both options, the survey itself is provided to the parents. They are aware of every question

being asked. The parents can opt out for their child to participate one way or another, whether it is active or passive parental permission.

In terms of being able to lean towards the medical community, the Division of Public and Behavioral Health does collect some data on surveillance for STDs, for example. Those are reportable communicable diseases. That alone is the only data we have. We do not have what the survey addresses, which are the actual risk factors, such as assessing the frequency of drug or alcohol use or binge drinking. Those are important predictors of problem behaviors, understanding the youth, gearing toward education, and understanding when to intervene with these students. It is data that tells us what is going on with the youth in our community and where we need to apply prevention programming.

**Mary Wherry:**

We know from our Medicaid data that our youth are the ones seeking medical care the least. Medicaid has the Early and Periodic Screening, Diagnostic, and Treatment Program reports that they provide to the federal government. It is called the CMS-416 report. They collect data for all the youth between the ages of 10 to 14, 15 to 18, and 19 to 21 who have sought a wellness exam from a physician. The older the youth get beyond the age of nine, the number of youth seeking wellness exams consistently goes down.

We use this data to write all of our federal grants. For example, we wrote a Safe Schools/Healthy Students Initiative grant two years ago, which brought in \$2.2 million a year for four years. We are in our second year. Lyon, Nye, and Washoe Counties participate in that grant. The Department of Education was able to build off that. They have Project AWARE (Advancing Wellness and Resilience Education) that is now rolling out in Pershing, Humboldt, and Lander Counties.

The goals of these grants are to improve school safety, to work with youth who are at risk or do not feel safe, to improve issues related to bullying, to identify youth who may be at risk for early identification of stressors, early identification of mental illness, early identification of youth who are reaching out to use substances, and other issues creating risk factors in the schools.

The data we are trying to collect is not focusing on that subset necessarily, but all of the data we are collecting is being used to write grants to bring in those federal dollars. We do bring in federal dollars from different CDC grants for STDs, tuberculosis, and HIV prevention.

The Nevada Department of Education brought in millions of dollars for a School Climate Transformation Grant. They also brought in \$4 million for

a prekindergarten developmental education program. I know that they are relying heavily on the YRBS data for some of their evaluation mechanisms.

I think it is important to understand the relationship between the data we are collecting with the YRBS from a public health perspective and how it is being used for these youth as they interface in their academic environment. This data is also used by the state as we try to collect information regarding hunger issues for the youth population. People who are working with food scarcity issues have started to realize this is one of the only mechanisms we have to try to identify how youth are accessing food, whether they have food at home, and whether they are coming to school hungry. I want to make sure this Committee is aware of the scope and breadth of the questions asked in this survey.

**Assemblyman Stewart:**

My constituents are oftentimes concerned about the confidentiality of these surveys. Can you tell us if they are completely confidential? Is it group or individual information that you are sending to the federal government?

**Mary Wherry:**

Sandra Larson will jump in if I am not correct. The surveys are conducted in a classroom, they are anonymous, and the youth do not identify themselves. We want to know the age and gender of the youth, but we do not want to know anything more than that.

**Assemblyman Stewart:**

There is no name or number that would identify who filled out the survey. Is that correct?

**Mary Wherry:**

That is correct.

**Assemblyman Hickey:**

Along with parents having the opportunity to opt out their students, I see that students themselves may refuse to participate. Does that create any particular problems? Do they have that opportunity before the survey is administered so they do not have to stand up and walk out of the room, which might send signals of its own? Tell me a little bit about that process.

**Mary Wherry:**

I am going to ask Sandra Larson to answer your question. She has done a lot of work over the last couple of years working with the school districts. I want to give her the opportunity to talk about what they did between 2011 and 2013

that changed our ability to collect the data that gave parents and youth the opportunities to make those decisions.

**Sandra Larson:**

The students do get the opportunity to deny the survey even after the parents have said they are allowed to participate. If that is the case, the CDC recommends those students find a separate room or location during the interview. It places the responsibility on the teacher to find an alternate activity for that student if they do choose to opt out. If students choose to participate in the survey, they have the option to deny any question. If they get to a specific section and do not want to answer a question, they do not have to answer. We do see some missing data when we get the surveys back.

As Ms. Wherry mentioned, from 2011 to 2013, we were able to increase our response rates as a state from about 40 percent to about 71 percent of total students. A large part of that is due to increased funding and incentives for the teachers to get the permission slips back from the students to be able to participate in the survey. The burden is placed on the teacher. Thus, the response rate is better in areas where the teachers are not spending time getting the permissions slips back. They still get the incentives for meeting certain thresholds of response for their classroom, but the passive permission is a means of taking the burden off the teachers. We understand that they are pressed for time with everything else.

**Assemblyman Hickey:**

It is essentially an opt-in as opposed to an opt-out. Is that correct?

**Sandra Larson:**

Correct.

**Assemblyman Gardner:**

Are there any protections for the pupils if they refuse to participate? Are the children and the parents notified of their rights? During the test, you said that they can opt out of answering certain questions. Is that information provided to the student by the teacher prior to the survey, or is it stated on the survey itself?

**Sandra Larson:**

The survey itself notifies students they can decline any questions.

**Mary Wherry:**

To your concern, Assemblyman Gardner, in elementary school the students in Carson City are sent home with a Pee-Chee containing literature and information from the teacher and the school on a regular basis. Some parents read the information, and some parents do not. The parents would get the information ahead of time, regardless of whether it was passive or active permission. They would see the example of the survey and could decide whether they want their child to participate. This all happens prior to the survey occurring, not the day of the event.

**Assemblyman Gardner:**

You were talking about incentives given to teachers if they were getting back the permission slips. If you have a class of 20 students and 5 of them refuse to answer, will there be any kind of negative repercussion towards the teachers or towards those students?

**Sandra Larson:**

The incentive structure is based on response rate. It does not account for students who opt out. If the student declines, that is not held against the teacher. In a county where there is active permission, the teacher needs the permission slips back regardless of whether the student will participate. Currently, under an active permission status, we have to have those permission slips back in order to let the child participate. As parents know, getting stacks and stacks of paper each week from your child's teacher can be confusing. Parents may see it as just another survey and not necessarily return the permission slip. The teachers will have to know whether the student is allowed to participate. The teachers are not penalized for children who decide not to participate in the survey. The incentive is to help encourage the teachers to get all the permission slips back so the school district has an idea of who can participate. The incentive structure is based on response. There is more of an incentive if teachers get 80 percent of the permission slips back versus 30 or 40 percent.

**Assemblyman Gardner:**

It is my understanding that the law currently requires permission from the parents before the students can take these surveys. This bill would change that. Every student will be included unless a parent or child opts out. Is that correct?

**Sandra Larson:**

Yes, that is correct.



**Assemblywoman Diaz:**

What are some examples of grant opportunities our state has not been able to capitalize on due to the lack of data collection?

**Mary Wherry:**

In 2011, we were not represented in the CDC data. The first time I became aware of that was in 2013, when we used the incentive process with the teachers. However, it is not a process that we have the finances or manpower to sustain. That is one of the reasons why we went for this change in statute.

I received an email from one of the coalition members in Elko County. When their school board changed from active to passive permission, their participation rate went from 41 percent to 82 percent just in one year. It has afforded them twice the data on their county. I do not know what grants Elko County may write for since they now have statistics about the risk factors for their youth. I believe it is a matter of what grants we could now compete for because we do have data about our youth. I know that there are grants we have not received, perhaps because we did not have compelling data. I could ask one of my staff members whether she believes that is a factor. If it is, I could certainly get that information for you. We were not able to successfully compete for several chronic disease grants recently.

**Linda Lang, Director, Nevada Statewide Coalition Partnership:**

Ms. Wherry is correct that we have jeopardized some of our current funding because of the lack of data, and we are missing out on some federal funding opportunities. One of them is the Drug-Free Communities Support Program grant. About 10 or 12 years ago, all of the community coalitions across the state received this funding. The federal government requires we collect core measures. Currently, because of the active consent, in our rural counties especially, we are not receiving the number of surveys we need to get valid data. We are looking at trying to report for some of our rural communities that are applying for these grants. Clark County and Washoe County data are reported to the Department of Education separately. Data from the remainder of the state is reported collectively and represents the balance of the state.

The Safe Schools/Healthy Students grants have already been mentioned. I spoke with the NyE Communities Coalition director before this hearing. She indicated that they are being negatively impacted by the inadequate data that they are able to provide for this current grant. The community coalitions across the 17 counties in Nevada rely on local data to drive their decisions. We recognize that the funding in this state is very limited, so we are constantly looking for new granting sources from the federal government. In recent years, we have not had the core measures to provide the outcomes that we need.

**Assemblywoman Diaz:**

With the core measures, do you have to follow up with gathering more data every year? How do these measures work in terms of frequency? Core is new to me in this context.

**Linda Lang:**

I apologize for speaking lingo to you. An example of a core measure is the perception of the harm of a substance, such as alcohol, marijuana, or prescription drugs. Another core measure is lifetime usage, broken down by various drugs or 30-day usage. These are all questions asked on the survey. Usually the federal government requires reporting every two years. Our YRBS is conducted every two years. If we can get the data, we can provide the outcomes that we need.

**Assemblyman Armstrong:**

My question is related to the survey itself, because it sounds as if it is an extensive survey. How many questions are currently on the survey, and how long does it take to administer?

**Sandra Larson:**

The survey itself cannot exceed 99 questions. It is timed for a high school so a student can complete it in one class period. The CDC has done a lot of testing to ensure that all students can finish the survey. What they have been able to identify is that that number of questions can always be completed. Teachers often administer the survey during second period. We do work school-to-school and district-to-district to find out what class period and what schedule works best for them and arrange the sampling frame of who participates based on what works for the school.

**Assemblyman Armstrong:**

Are these questions being tailored just for grant writing, or do we switch out questions all the time if we have that 99-question threshold?

**Sandra Larson:**

There is a set of core CDC questions. They allot a given set of state-added questions. Nevada has added questions. For example, Ms. Wherry brought up the question of nutrition and food sustainability. That is a state-added question to meet a need for Nevada. This year I think we had eight to ten open question slots. We had an advisory committee that included Ms. Lang. They listed their concerns and where some gaps could be filled in meeting specific information. We have some flexibility in only a few questions.

**Assemblyman Armstrong:**

Who has the ultimate responsibility for deciding which questions are on the survey?

**Sandra Larson:**

We have finalized the questions ourselves within the Division of Public and Behavioral Health in agreement with everyone on the advisory committee. The questions then go back to the CDC for review to ensure they are standardized and validated questions and appropriate for the given population. They basically clean up our questions.

**Assemblyman Edwards:**

One of the concerns I have heard from my constituents is the amount of time that children have to learn. As everyone knows, we have an education system that is not where we want it to be. Parents are concerned about any time spent away from education. It sounds as though we are doing these surveys in every grade and every year. How often are they given? What is the cost involved? How much time are we taking away from the teachers and staff who have to go through the permission slips to see who is in, who is out, and what all the results are? What is the real, tangible benefit from all this time and cost?

**Mary Wherry:**

At this point in time, we have only been conducting the survey every other year. I do know the coalitions, some of the school districts, and other partners would like us to conduct it every year because they are using it for evaluation methods for the grants. We have only been conducting it in high schools, but there is an appetite for us to reach out to middle schools because we are seeing youth who are using substances, such as alcohol and tobacco, at earlier ages. When we do not have the data to know exactly at what age youth start to engage in risk behaviors, we do not know at what age to target intervention to help them avoid engaging in those high-risk behaviors. Engaging in high-risk behaviors affects their ability to learn. If we are asking nutrition questions, for example, that is targeted to getting adequate nutrition information, which also affects their ability to learn.

We believe there is a relationship between the information we are collecting from the survey and our ability to target how to better engage students' ability to learn. There is a direct correlation between the cause-and-effect relationship. The survey is only given once every other year at this point in time. The net relationship there is that Safe School/Healthy Students grant is bringing in \$2.2 million a year every four years. The Partnerships for Success grant is bringing in \$2.5 million a year for five years.

Ms. Larson could tell you how many CDC grants she is bringing in each year and the dollar amount associated with those. Each of those grants that we write and bring in is based on our ability to represent the population and the needs of the population. That can only come from the data that we collect and how we can compel the federal government to fund the unmet needs of the population that we represent.

**Assemblyman Edwards:**

It sounds as though you are hitting up one year of students every other year. It is not the same group; therefore, you do not have a longitudinal survey that is yielding you what you are looking for.

**Mary Wherry:**

They are representative samples.

**Assemblyman Edwards:**

From what you were just saying, you still hit the same year group with the same questions, but you cannot find out the information about when certain problems are starting because you are still hitting the wrong year group. If you had a question about STDs and you wanted to find out when youth were becoming sexually active, if you are hitting tenth graders and they are not there yet or they are there, you do not know when they started or when they are going to start. You keep hitting the tenth graders. You keep asking the same cohort group the same questions, expecting a different result.

**Mary Wherry:**

That is why the question has been to target middle school students to find out. I think that is why the coalitions and the other people who are writing for grants want to include the middle schools in the surveys. Other people external to the state are conducting telephone surveys, et cetera. If you read national surveys, there are reports that show Nevada youth and other youth across the nation are engaging in substance use at younger ages. If we were to have consistent Youth Risk Behavior Survey (YRBS) data from middle schools that gave us longitudinal information every year or every other year, we would be able to have a sample survey over time that showed us representatively whether youth are engaging in high-risk behavior and at what point in time across our county.

**Sandra Larson:**

I would like to clarify a few things that I think may help answer your question. This is not a longitudinal survey. We are not following one given person over the course of their time through high school or middle school. It is a cross-sectional survey given every two years to these individuals. What we are actually able to do is compare behaviors among ninth graders. What do our

ninth graders look like this year? What do our ninth graders look like two years from now, and so forth? What we are able to do is identify trends in risk behaviors.

For example, I can highlight that this data has been very beneficial in Clark County. Specifically, the Southern Nevada Health District has put a lot of money and effort in tobacco prevention in Clark County. Because we have this surveillance data and have been able to look at tobacco use among high school students over time, we are able to make inferences that these are correlated. Our prevention dollars have actually shown a decrease in tobacco use among high school students. Do keep in mind that this is cross-sectional data. We cannot necessarily make associations between the data, but we can make correlations between different ideas, such as our prevention dollars actually showing a reduction in behaviors in youth. We can also get better ideas if one predicts the other, or if certain behaviors are associated with each other.

As Ms. Wherry mentioned, the survey is conducted every two years. We receive a small federal grant from the CDC in the amount of \$65,000 which basically covers incentives. There is a lot of other funding that we are able to bring together to get this going. In terms of the middle school survey that you mentioned, that is not the same survey as the high school survey. It is a modified survey with certain questions not included. For example, the middle school survey does not ask about sexual behaviors.

**Assemblywoman Joiner:**

What percent do we have in responses right now? What is our average on this most recent one?

**Sandra Larson:**

In the 2013 survey it was 71 percent. We need at least 60 percent to give data back with any sort of confidence. Eighty percent is even better; we put that as our cutoff. We weigh the data and give it back to the community. We would like to see that percentage a lot higher. For example, in 2013, Clark County was 64 percent, barely making the cutoff. They are such a large jurisdiction that even they alone being below that 60 percent could sink the entire survey and the response rate.

**Assemblywoman Joiner:**

I had an interesting experience a couple of weeks ago. I was participating in the Point-in-Time Count for the homeless youth here in Reno. It struck me as to how those are the very youth we do not currently count. They are couch surfing; they do not have parents at home who are signing their permission slips. As a parent myself, it is incredibly difficult for me to be on schedule

signing permission slips. You have to be incredibly organized to do that. I am concerned that our data is skewed in that we are missing the very ones we need information about. Do they have mental health issues? Do they have drug issues? Not only are we missing out on some grants, potentially we should be applying for some to help these youth that we are not even thinking of. Would this help that?

**Mary Wherry:**

That is our concern. Without what we believe to be more representative data, we are not capturing what the true issues are. We are only capturing data on an underrepresented population.

**Sandra Larson:**

In the coming survey year, we are expanding and including the behavior schools as well. We hope to have a more representative sample. The money the CDC gives us only provides for them. They only want a sample of schools, which is around 10 or 13, the majority being in Clark County. We do a full census of every school in Nevada. We are looking at over 100 schools, including the behavior schools. While we understand we cannot get some of those students you mentioned, we believe including the other behavior schools helps make the data a little more representative of those different students, and not just the students who are there every day with good attendance, their parents signing every permission slip.

**Assemblyman Edwards:**

It sounds like the federal government gives us \$65,000 in grant money and that barely covers the cost for incentives, but it does not seem to cover the cost of the survey, issuing it, analyzing it, and getting results. What is the complete cost, from start to end, of preparing the survey, getting the permission slips, all the administrative time, school costs, analysis of the data, and presenting in some kind of a fashion so that we understand the information?

**Sandra Larson:**

Our cost at the agency and the Division of Public and Behavioral Health is \$200,000 a year.

**Mary Wherry:**

That is our cost. In terms of what the productive or nonproductive time would be for the school district, we do not collect that data. We have a couple of representatives here from the school districts who may be able to speak to that. The school districts do collect other survey data, and that is going to be part of their issue with the bill as it is currently written that we need to iron out. We do not want to leave that unaddressed because the bill as it is currently

written does have some challenges for the school districts. If it were not for some of these other grants that we apply for, we would not be able to subsidize the true cost of collecting all the data, especially when it is reaching out to the charter schools and trying to get a more representative sample of the children who probably have the greatest needs.

**Assemblyman Elliot T. Anderson:**

To be clear, if you were going to be getting any of this data, it would be totally confidential. Secondly, what is the cost of not doing this? If you were going to spend money, could you spend it effectively to make a difference in improving the lives of children without this data?

**Mary Wherry:**

The data is completely anonymous. Without this data, I do not know how we could successfully compete. We already leave millions and millions of federal dollars on the table in comparison to other states. We are one of the poorest-performing states in terms of health outcomes, especially for our youth. We do not have good representative data to tell the story of the unmet needs. That is our greatest challenge. When we are writing grants, we struggle to collect good data county by county. Our county partners have been pushing us and partnering with us up to this point. They are your constituents, struggling to go after dollars to represent your counties and your communities, to bring dollars in, and to make a difference.

**Assemblyman Elliot T. Anderson:**

What I was trying to get at was not so much about leaving federal dollars on the table. What I am talking about is if we are going to spend and appropriate money, we need to know what the problem is and if what we are doing is effective. I do not think we can spend money wisely and effectively without data to know what the problem is and if our programs are being effective. I do not think we should appropriate money if it is going to be wasted and not improve the lives of children. Do you think that you can make a difference in the lives of children without data to show what effect, if any, your programs are having?

**Mary Wherry:**

I think Ms. Lang could do a better job answering your question. We have our Safe Students/Healthy Students grant, which is a cooperative agreement with the Substance Abuse and Mental Health Services Administration. We had to create a logic model for Washoe, Lyon, and Nye Counties. Each of those school districts has specific plans that they are going to be implementing for their districts. Each of them has evaluation criteria. Ms. Lang could speak as to

how they are planning to use this and other data to measure the effectiveness of that.

**Linda Lang:**

I would like to paint a broader picture than the data being used just to seek our federal funding. The community coalitions do use it for that purpose but, as important, they use it for community-level planning. All of the key stakeholders from the communities come together. Law enforcement, school districts, health professionals, parents, and service clubs rely on this data. They do collect other forms of local information, such as focus groups and anecdotal data, that are very important. The fact of the matter is that we, at the community coalition level, are asked constantly how we know what we are doing is working? How do we know if we are making a difference? We have wonderful anecdotal stories. That is not what the Legislature has asked us for in the past. You want the outcomes. You want us to show the trends over the years that what we are doing at the local level is actually making a difference in the lives of children. My coalition partners and I believe that the investment made to get the data to provide us with some consistent outcomes is very important. It does affect the lives of children because there is planning at the local level that occurs around this data, not just related to substance abuse, but to wellness and health issues as well.

One last item I would like to inform you of is that this data is not just used by the state and the community coalitions. Every coalition puts this data out, not in its raw format, and provide it to all their community partners, who then utilize it to secure additional funding, like our family resource centers, the Boys and Girls Club of America, and other youth organizations. Those organizations also need this data to provide to the sheriff's department to get grants from the Office of Traffic Safety of the Department of Public Safety, for example. It goes beyond just the coalitions and the state using the information. It is also used by our local community partners. I keep stressing the rural areas, but that is because this is all they have. They do not have multiple surveys and other avenues and resources. Hopefully, that gave you a broader picture.

**Assemblyman Elliot T. Anderson:**

Yes, it did. It is hard for us to complain about your collecting anonymous data when we are the ones that request you to show us performance metrics to ensure you are not wasting taxpayer money.

**Assemblyman Gardner:**

We have talked about the extra grants that may be available. Do we have a dollar amount of how much those would be, or that we think they would be?



I am looking through a lot of these questions as I am reading through the Youth Risk Behavior Surveillance System report from 2013. Some of them make absolute sense to me. Some of them mention physical fights. It does not say where that physical fight occurred or what happened in that fight. It could have been a fight with their brother or a fight in a bar. The survey does not seem to go into that kind of detail, so I am wondering how that information is helpful in determining whether the things we are doing in the schools are actually helping these students.

**Sandra Larson:**

I cannot speak on behalf of the actual dollar amounts for grants that we could have lost by lacking some of this data. To your second question, if you read the Centers for Disease Control and Prevention (CDC) Youth Risk Behavior Survey (YRBS) website, you can see these are health risk behaviors. We can make general accusations. I had mentioned before about looking at items together. You can look at the differences among children who are engaging in physical fighting in general. I agree, it does not specify where the fights have occurred, but it is looking at the health risk behavior. To the CDC, physical fighting is a risk, as is the use of alcohol, drugs, and substances. We are looking at predictor variables in what could be later consequences.

We have published a lot of research based on the YRBS, looking at factors that are related to each other. For example, are those individuals who engage in physical fighting more likely to be using drugs or alcohol? By making some of those associations, we can get a better idea of what our youth in Nevada look like. Nevada participates in YRBS for the CDC sample in general. I believe we have been collecting this data since 1993, so we have data over time.

This bill is specifically aiming to improve a more representative sample of Nevada. We do have control of some of the questions, but they are all derived from the CDC. We need a standard in the schools in order to look at our students over time and address what we have identified at the national level as the main health topics: alcohol use, tobacco use, and physical violence. We then provide the information to the key stakeholders in Nevada to guide programming and intervention. I wish I could give you a dollar amount. We just know anecdotally that we have missed out on grant funding.

**Mary Wherry:**

There was a report written this last year, and I think it was released by the Lincy Institute of the University of Nevada, Las Vegas. It is not directly attributable to the YRBS, but it does speak to how many millions of dollars Nevada potentially leaves on the table.

**Assemblywoman Swank:**

I want to return to costs. I believe you said it would be about \$200,000 to implement this, plus the cost of teacher time. You mentioned a couple of grants earlier involving \$2.5 million and \$5 million over five years. It seems to me all we are investing is \$200,000 plus salaries. Even if we doubled it to \$400,000, we are bringing back millions of dollars. If it were a business, that would be a really good return on investment.

**Mary Wherry:**

Just to underscore, those are not state dollars we are investing. The \$200,000 we are investing are federal dollars.

**Chair Woodbury:**

You had mentioned an amendment or changes that you thought needed to be added to the bill. Will you repeat what those are?

**Mary Wherry:**

Clark County and Washoe County have reached out to Sandra Larson. There are some language issues that they have with the original bill. It had an impact on how the schools actually conduct a number of surveys. They do surveys all the time. I think it did have unintended consequences to the counties. There are several people here from Clark County and Washoe County. I know they want to work with us and with your staff on cleaning up some of that language. We are already having discussions, but we will work with whomever you would like us to work with.

**Chair Woodbury:**

That would be great if you could work together on that.

**Assemblyman Edwards:**

I would like to get the reports you released after the surveys. I do not necessarily want to go back to 1993, but can we get the last three or four reports that will demonstrate what the surveys were, what the conclusions were, and then what kind of grant money would have been sought based on those findings?

**Mary Wherry:**

Is there anyone in particular you want us to work with?

**Chair Woodbury:**

I believe the representatives from Clark County School District and Washoe County School District will explain what they want when they testify. That would be great if you all could get together.

**Mary Wherry:**

We are willing to partner with whomever.

**Assemblywoman Dooling:**

Can I also get a copy of that survey?

**Mary Wherry:**

We will submit it to the Committee.

**Chair Woodbury:**

If the Committee has no further questions, I am going to take testimony in support of A.B. 26.

**Lindsay Anderson, Director, Government Affairs, Washoe County School District:**

We are here in support of A.B. 26. In the Washoe County School District, we already use the passive consent model for the YRBS, so we want to support that work with this bill. We do have some concerns about the language allowing us to do other student surveys, climate surveys, and safety surveys about students in school and being able to tie them back to particular teachers and classrooms. We will be happy to work with staff to make sure we address those concerns.

**Nicole Rourke, Executive Director, Government Affairs, Clark County School District:**

Before I begin my testimony, I would like to share some good news. Northwest Career and Technical Academy won their regional competitions for the 2015 National Science Bowl on January 31. Northwest Career and Technical Academy swept the competition with a score of 82 to 22 and received \$5,000 for its science department. The team will travel to Washington, D.C., in April for the national competition.

The Clark County School District does support this bill. The language changes we are proposing deal with the definitions of "survey," "evaluation," "analysis," and those kinds of things. Like Washoe County School District, we want to ensure that we are not prevented from what we are currently doing, such as health screenings and other mandated issues.

**Donnell Barton, Administrator, Food and Nutrition Division, State Department of Agriculture:**

We are in support of A.B. 26. We would use the information from the YRBS because we have the new meal pattern for school lunch and school breakfast. It would help us in knowing if those new meal patterns are actually having an

impact with students consuming fruits, vegetables, and dairy and getting more physical activity.

**Assemblyman Stewart:**

These surveys, then, are beneficial to you at the level that you are working at in the districts.

**Nicole Rourke:**

Yes, they are.

**Lindsay Clark:**

Yes.

**Donnell Barton:**

Yes.

**Chair Woodbury:**

Anyone else in support?

**David W. Carter, Private Citizen, Carson City, Nevada:**

I support the idea. I do have several problems with some of the items in the bill and would suggest a few amendments. One is taking away school time. As I have mentioned before, I worked for several years in school districts. I know how much time is already spent with teachers having to take away from teaching time to deal with everything—not just these surveys, but everything. These surveys could be sent home and the parents could also be involved in filling them out. This would allow the opportunity for parent/child discussions and would not use the class time. It could be done in a way so no one has any idea who filled out the survey or who did not. Right now, if students opt out, they are opting out and everyone knows it. This way, that confidentiality would be maintained.

**Chair Woodbury:**

Sir, are you in support?

**David Carter**

I am supporting with that type of amendment, which may bring it back to where we stand now. I feel it would be improved by not using the classroom time, but using home time to complete the surveys. I agree that this information is valuable, but I do have problems with taking away anything from class time.

**Chair Woodbury:**

Anyone else in Las Vegas or in Carson City in support? [There was no one.]  
If you are in opposition to A.B. 26, please come up.

**Janine Hansen, representing Nevada Families for Freedom:**

I am the state president of Nevada Families for Freedom. This is a very important issue to us. We were involved in the national battle for the Family Educational Rights and Privacy Act (FERPA), which initiated this law in our state back in the 1980s. *Nevada Revised Statutes* (NRS) 392.029 was passed in the 1997 Session. Senator Ann O'Connell was the author of that legislation. The reason for the legislation was because nationally there were developed programs of extensive invasion of family privacy with regard to these surveys and questionnaires taking place. There was a federal law to help prevent it, and Nevada passed NRS 392.029, which states in subsection 3, "Except as otherwise provided in 20 U.S.C. § 1232g(b), a public school shall not release the education records of a pupil to a person, agency or organization without the written consent of the parent or legal guardian of the pupil." Subsection 4 states, "If a public school administers a program which includes a survey, analysis or evaluation that is designed to elicit the information described in 20 U.S.C. § 1232h, it must comply with the provisions of that section." From what we have heard today, some school districts may currently be in violation.

We had a bumper sticker a few years ago that was very popular. It said, "One nation under surveillance." Every day we are under more and more surveillance. This certainly helps our children realize that all of their personal information is now public as they begin to be sensitized to the fact that all of this is to be given to the schools. I have concerns about that. It breaks down the natural barrier to privacy.

In an effort to have transparency, these 99 questions should have been posted on the Nevada Electronic Legislative Information System (NELIS). I looked but they were not there. We should all have access to those 99 questions being used in the state of Nevada so parents, teachers, everyone on this Committee, and the public can have access to them. Over the years, we have been interested in active rather than passive parental consent. What is the reason for that? Because school districts and others are complaining that parents are not involved. We exclude them because we do not want to be bothered with their active parental consent. We are changing the current law to make it inactive parental consent. In other words, everyone is included in the survey unless their parents say no. Parents want to be involved, but once again, with this bill, parents will be cut out. Their active parental consent will be eliminated. We are very much against that. It also says that parents would have to be told

who has access to this information. We would like to know who has access to it as well for getting federal grants, which I will talk about in just a minute.

I am assuming these are paper surveys. Where do they go? Who has access to those paper surveys? If it is a small classroom, a teacher could probably identify who filled out a particular survey even without a student's name on it. It is not very anonymous in that regard. There may be some very personal information about their family. Also, the participation is voluntary. They are going to ask middle school students whether they want to participate or not? Or high school students, when they have all that peer pressure to participate. It needs to be by parental consent. Of course, I agree that students ought to be able to opt out if they want, but there are some problems with that.

In addition, I have a problem with this whole idea of federal grants. Nevada receives about 25 percent of its funding for state government from federal grants. We are not an independent sovereign state. We are a vassal of the federal government because we continue to accept these federal grants and mandates. When the state of Nevada and the people in the state of Nevada complain about federal control, it is because our Legislature, both Democrats and Republicans, have continually accepted the idea that because we have our hand out for federal grants, we also accept these costly federal mandates.

We heard that this survey does not pay for itself. These are not federal grants; these are tax dollars. This is not money that appears from the federal government. You and I paid the tax dollars that are used in these federal grants. Because of that, we are being enslaved as vassals in our own state because we want the money from the federal government. This is a vicious cycle, which never allows us as individuals or our state to be free of the mandates of the federal government, which more and more break down our liberty.

We see that that is what has happened. We have this privacy-invading questionnaire, which we need so that we can get more money from the federal government so that we can further enslave ourselves to the mandates of the federal government. I find the whole thing of overturning this, which has taken 30 years to develop pupil and parent privacy in the FERPA law and the state law that was passed here, very objectionable—just so we can have our hand out for more federal grants. We will never be free of the federal oppression we experience until we begin to reject the idea that this money from the federal government, our tax dollars, is free money. It is not free money in any way.

We are very much in favor of maintaining active parental consent. We are very much in favor of maintaining the current law on parent and pupil privacy, which we feel protects families. It protects individual students. It is very important that we do not become "one nation under surveillance." It is easy and convenient to do it in the schools, but I think it is a program which will have high costs in the end, where our individual liberties and family privacy will be severely jeopardized because we cannot ever be sure who will break into the database, who will have access to those papers, and how they will be used. None of that is guaranteed. What will happen in five years, or ten years, or later on? We do not know. We have no way of knowing. We do oppose this bill and want to maintain the current statute which protects parent and pupil rights and privacy.

**Assemblyman Elliot T. Anderson:**

We heard a few conclusions of law about FERPA. Could we get an opinion and a ruling of legal counsel's interpretation?

**Karly O'Krent, Committee Counsel:**

Under existing law, a public school is prohibited from administering a program that requires the pupil to take a survey that is designed to elicit certain personal information, or in the case of an unemancipated minor, without the prior written consent of the parent. Because the new language in this provides that the pupil may refuse to participate in the survey analysis or evaluation that is designed to elicit this information, the federal provisions do not apply. As a result, a pupil can be administered this survey without running afoul of the federal provision.

**Chair Woodbury:**

Does that answer your question?

**Assemblyman Elliot T. Anderson:**

Yes, thank you.

**Janine Hansen:**

I was not referring to the new bill. I was referring to the current law, where we were told by Washoe County that they were using passive consent to do these surveys now.

**Chair Woodbury:**

Current federal law or state law?

**Janine Hansen:**

Current state law and federal law.

**Chair Woodbury:**

Can you clarify that?

**Karly O'Krent:**

The current state law makes reference to the federal law, so NRS 392.029, subsection 4, provides that if a public school administers a program which includes such a survey, it must comply with the provisions of that federal law. In the event that these schools are administering a survey and not requiring that a pupil take that survey, they are still in compliance with the federal provision.

**Lynn Chapman, representing Independent American Party of Nevada:**

I am the Washoe County chairman for the Independent American Party. We are opposed to the bill. I made so many notes it is mind-boggling. One thing we are upset and worried about are breaches that have occurred over the years. The collecting of private student data, lax control of information, and sharing of information with third parties is always a problem. In the last two months of 2013, names, identification numbers, and the free lunch designations of 15,000 former students in the Long Island, New York school district were posted online by a 17-year-old student who hacked in and downloaded the information. Names, birthdates, sex, and eye exam results of 2,000 students in Chicago were posted online after they received free vision exams at school. That information is from *Education Week*, January 22, 2014.

These things happen a lot. This is something to be very scared about. A lot of information is being hacked all the time. I thought it was interesting that a teacher, Michelle K., commented to *The Washington Post* website, "On any given day, I can say exactly where each of my students is academically because I am a professional. I know my job and I know my kids. I do not need a computer to analyze the data and my students." The teachers can talk to students. The teachers see their students every day. We feel that teachers can ask parents for information if they need help. I do not think it should be involving our children.

I think some of these questions are outrageous. Some of the questions I will be sharing with you were asked of public school pupils in the last several years. Some of the questions were:

"How important is religion in your life?"

"Do you hate your parents?"

"Do you lie and cheat?"

"Are your parents divorced or never married?"

"What TV programs does your family watch?"

"Do you worry about dying soon?"



"Do you wish you were never born?"

"Do you think people would be happier if you weren't around?"

"How often do you get drunk?"

"How old were you the first time you had sexual intercourse?"

"Do you have a boyfriend and/or girlfriend now? Name them."

It talks a lot about suicide and dying. I do not think those are appropriate questions to be asking students. I think this is outrageous. I think it is interesting because we, the voters, do not ask you, the elected officials, these types of questions. I think those would be very interesting answers.

Regarding opting out, as a homeschool consultant for many years, I have spoken with many parents. It was interesting that a lot of them would bring up the fact that opting their children out of a program was something that they would try to do at times. It is funny because the opt-out form never made it home, or when it was sent in, the children still went to whatever they were opting their children out of. The children still went because the school could not find the opt-out information.

I do not know if this is the National Security Agency or the National Education Association. Some of these questions have been very eye-opening. I certainly encouraged any child I had in school never to answer any questions like that. If the teacher or the school had a question, they could ask the parent. We are the ones who have the responsibility for our children. These types of questions are not acceptable.

**Virginia Starrett, Private Citizen, Gardnerville, Nevada:**

I am a former college English professor in the state of California. I have taught at Western Nevada College as well. I have taken an interest in Common Core, in particular, which has led me to an interest in how education is being delivered in the state of Nevada. I heard about this bill earlier today but had not read it. When I read it, my hair stood on end, and so here I am now talking to you. I am definitely for active parental consent, but I am also very much against data mining and using students in order to garner federal money for any program whatsoever in any state of the United States.

I think it is abysmal that any government agency, including the state of Nevada, could decide that it would be a good idea to sacrifice their students, their students' privacy, and their students' own personal information, to garner dollars from the federal government under any circumstance. It is well known that the federal government under the current administration is trying to put into place data collection on students from birth to the workforce. U.S. Secretary of Education Arne Duncan himself has made it very clear in public statements that

it is his wish to have it so a student could be tracked to find out whether taking a particular program in kindergarten helped that student do better in high school, which in turn helped that student garner a better wage when he got into the workforce.

There is no end to the amount of data collection that the federal government would like to see states get. They are using federal grants as carrots to talk states into participating in these programs. The state of Nevada has already consented through its acceptance of the government grant money to build Statewide Longitudinal Data Systems (SLDS). It is gearing itself up to be a member of the crowd that is going to actually participate in this program.

All of the testimony I have heard so far today was about a particular survey given in Nevada right now. It seems to me they have no relevance to this bill overall, because that is just a particular survey that just happens to be given right now. That does not cover any other kind of survey, analysis, or evaluation that could be cooked up tomorrow that would have a lot of different information in it. You would have given permission for students to have that information taken out of their little heads. Fourth-graders, third-graders—they are certainly going to know to object to something like that, are they not? I think this is really a trick, in a way, on you, and I hope you are smarter and that you know not to get sucked in.

**John Eppolito, Private Citizen, Incline Village, Nevada:**

When I first read the bill yesterday, it sounded pretty good. I emailed it out to about a dozen people. About eight or nine of them responded with issues. I was still undecided. After Janine Hansen's testimony, I was still undecided, but after Ms. Starrett testified, I do not think I am undecided anymore because I think Ms. Starrett is on to the crux of the issue.

The proponents are just talking about one 99-question survey. Assemblyman Edwards, I have a feeling they also use Common Core math, because a 99-question survey in a 50-minute period is two questions per minute. My son is in high school. I do not think most of his friends could do that survey with any kind of thought at all. I also noticed, in Washoe County School District a lot of time is wasted. Our math scores are low; our English language arts scores are low. We waste all kinds of time on surveys and ridiculous things that do not have anything to do with education or school.

I would like to follow up on what Ms. Starrett said. The goal of these 400-plus data points from the National Center for Education Statistics is to get all the states to submit information. Forty-seven have been given lots of money. Nevada has been given \$10 million to develop this SLDS. A lot of

these questions are totally inappropriate. This may be for another time, but I have a handout for the Committee. However, I do not know how to get it to you. I think Ms. Starrett is onto something. I am now opposed.

**Chair Woodbury:**

Is there anyone else in Carson City or in Las Vegas in opposition to A.B. 26? [There was no one.] Is there anyone wishing to testify as neutral? [There was no one.] Ms. Wherry or Ms. Larson, would you like to make any closing comments? [They did not.] I will close the hearing on A.B. 26. I will open the hearing on Assembly Bill 107.

**Assembly Bill 107: Revises provisions relating to reports of accountability for public schools. (BDR 34-407)**

**Chair Woodbury:**

This bill was requested by the Legislative Committee on Education, which meets during the interim period. Assemblyman Elliot T. Anderson served on that committee, and he will start things off.

**Assemblyman Elliot T. Anderson, Assembly District No. 15:**

I am here today to present Assembly Bill 107 for your consideration. I would like to open my testimony by providing the members of the Committee with background information on this measure, and then I will highlight the bill's key provisions. [Continued to read from prepared testimony ([Exhibit C](#)).]

The Legislative Committee on Education concluded that if schools reported student achievement data, broken out by race and family income, then schools and policymakers would be better equipped to target interventions to students in need and measure the impact of new or existing programs on student performance. It will help us ensure that we are not throwing money at a problem, but throwing money with smart solutions to solve problems.

The bill requires that the annual accountability reports, prepared by each school district, include information on students in each racial demographic group, including those who are identified as multi-racial and who are eligible for free and reduced lunch under federal guidelines. [Continued to read from prepared testimony ([Exhibit C](#)).]

By expanding accountability reporting to include achievement data on our lower income student groups, we can ensure that all our students get the support they need.

I would also like to note that Superintendent Dale Erquiaga is here and will be presenting an amendment to include breakfast as well as lunch, since he is working with First Lady Kathleen Sandoval on a new breakfast program. It is a friendly amendment and well within the intent of this Committee's request. [Continued to read from prepared testimony ([Exhibit C](#)).]

That concludes my remarks. Thank you for taking the time to consider this bill. I am happy to answer any questions.

[Assemblyman Stewart assumed the Chair.]

**Assemblyman Gardner:**

I was looking through the bill and the fiscal notes. You said that most of the information is already being provided. What, exactly, does this change? As far as I know, most of this information is already being collected. Is it just being sent to someone different?

**Assemblyman Elliot T. Anderson:**

I would think it would be as easy as running a new query on the software. You would have to ask the districts about that. The testimony during the Legislative Committee's interim sessions was they could simply pull up the report. Whenever there are new elements, it can have a cost. In this case, the data is already available. It would just be a matter of compiling it with a different query into the system. That is my understanding.

[Assemblywoman Woodbury reassumed the Chair.]

**Chair Woodbury:**

Is there anyone wishing to testify in support of [A.B. 107](#)?

**Dale A.R. Erquiaga, Superintendent of Public Instruction, Department of Education:**

With me is Donnell Barton from the Food and Nutrition Division of the State Department of Agriculture. I want to amplify Assemblyman Anderson's opening remarks. The Department of Education does support this measure. To the question from Assemblyman Gardner, this data does already exist. It is aggregated in different columns, if you will. The Department of Education and the schools report performance information about free and reduced-priced students and about African-American and other racial and ethnic group students. What we do not do is tell you if a student is in both categories or what their performance level looks like. As Assemblyman Anderson indicated, the data is all flagged. This would require the reports from the schools and the districts to run that query and prepare a report. The purpose, of course, is so

we can understand how different students from different life circumstances are achieving. That then helps schools design interventions to help them. Today, we limit the pathways down which a school can go.

For that same reason, as Assemblyman Anderson noted, I am here not on behalf of Governor Sandoval but on behalf of the First Lady. I was appointed by the Governor to the Governor's Council on Food Security, which the First Lady chairs. It deals with hunger-related issues throughout our state. In its first year, the Council has primarily focused on young people in our schools. I am here today wearing that particular hat. One of the Council's goals is the expansion of the school breakfast program. Most of you are familiar with the school lunch program. We also run school breakfast programs. Those programs are now run by Donnell Barton and the Department of Agriculture. They used to be in the Department of Education, so we have this symbiotic relationship.

What the Council is asking for is that this bill also include breakfast information. The way the bill is written, it is about free and reduced-price lunch. We would suggest that you include breakfast in the bill as well, in order to aggregate and disaggregate the data to see both categories. The other request I have for you, which is not reflected in the draft amendment prepared by your legal staff, is that there is a difference between eligibility and participation. Donnell Barton can answer those questions for you. For me, the simple version is many children at our schools may be eligible for free and reduced-price lunch or the breakfast program, but a much smaller percentage of them actually participate.

We believe we should see the difference in performance between those two categories. Eligibility denotes some measure of poverty. Participation denotes that we have addressed the root outcome of that poverty is hunger. We would be able to see if those students' performance at school improved. There is a working belief that hungry children cannot learn. We all seem to know that. We want the data to demonstrate for us what is actually happening in our schools.

Those would be the two friendly amendment requests that I have for you: that we include breakfast as well as free and reduced-priced lunch, and that we include participation as well as eligibility. The only other item I would bring to your attention is this bill speaks only to the school- and district-level reports. *Nevada Revised Statutes* (NRS) 385.3572 also requires a state report. You may wish to have this data aggregated at the state level. It is certainly acceptable to us if you do so. The English language learner bill that was processed in 2013 requires this kind of reporting in the state report. You may wish to consider that as a model as you take this bill under advisement.

**Chair Woodbury:**

How do you determine eligibility and participation?

**Donnell Barton, Administrator, Food and Nutrition Division, State Department of Agriculture:**

Two different ways. There are a variety of ways we can determine eligibility. The first one is with applications. The family fills out an application and turns it in. Based on their income, they would be determined to be either free or reduced. It is at 135 percent of the federal poverty level for free students. We also do what we call direct certification. Each month, we get electronic files from the Supplemental Nutrition Assistance Program and from the Temporary Assistance for Needy Families program through the Department of Health and Human Services. Those are downloaded to the districts, and they do a match. If those children are matched at that level, they automatically receive a letter from the district that they are eligible for free meals. We also do the same thing with the food distribution program on the Indian reservations. That program is run out of our office as well, so it is a pretty easy download for us because we are the owners of that data. At most districts, they have a person who certifies homeless or migrant students. They also would be free.

The food service division actually receives money for a free, paid, and reduced child. For lunch, the school gets \$3.00 for a free child, \$2.60 for a reduced child, and \$0.30 for each paid child. Each day the children go through the lunch line they use identification numbers so they are not easily identified as to which benefit they are receiving. The district collects those numbers, rolls them up into a claim, and turns them in. We compare the number of meals that were claimed against the number of students who were eligible to come up with the participation rate.

**Assemblyman Armstrong:**

If we already have the data and we can just run queries, is it best to be done in an annual report or on an as-needed basis? What benefit would an annual report produce, especially if we are implementing those new programs now?

**Dale Erquiaga:**

The vehicle we have is an annual report of accountability. We would have to add new reports at the Department of Education. The Department of Agriculture aggregates this information by school. They can report it on federal fiscal year or a state school year. They could deliver that information to the schools as the schools requested it. For the state's purpose, there is only one report done on an annual basis. That is the vehicle we have chosen to give us overall accountability, as well as future instructional advice.

**Chair Woodbury:**

I have a question regarding section 1, subsection 1, paragraph (c). Who will do the comparison of pupils' retention rates and graduation rates? Will the Department of Education do it, or will the districts do it before they send you the information?

**Dale Erquiaga:**

This is language that mirrors what is required for English language learners. This information exists at the local level, not at the Department level. At the Department level, we are familiar with working with graduation rates, dropout rates, and scores on the examinations administered pursuant to state law. Retention rates and grade point averages are held at the local level, so we have to work together on that.

The existing statute in section 4 of the bill prescribes the means by which we will gather that information. I prescribe a form, upon consultation with a denominated group of folks. We will essentially send a form. That form will go to Donnell Barton, because she has this information. It will also have to go to the districts for them to provide the other data points.

**Chair Woodbury:**

Is there any further testimony in support of A.B. 107?

**Elisa Cafferata, Private Citizen, Reno, Nevada:**

I am speaking from my experiences over the last two decades working with the Complete Count Committees for the United States Census. Throughout Nevada, we have worked to ensure that we get very robust returns on the census over the years and to be sure that we really understand what our population in the state looks like. I know in many conversations I have had with folks from the NAACP, Hispanic Services, and some of these organizations that deal with our communities of color, it is very important that we see performance in our schools in our state by race.

One of the concerns that has come up that will hopefully be addressed is that two decades ago the census added a category of "mixed race," where people could say that they had more than one race distinction. We started losing the ability to track African-American or Hispanic populations. Hopefully, this will help us track those performances in a better way over a long period of time. We support this work to improve the accountability in terms of how well our schools are performing for our students in all different categories.

**Scott Baez, Coordinator, Government Affairs, Washoe County School District:**

We also support the additional reporting categories as required by A.B. 107.

**Nicole Rourke, Executive Director, Government Affairs, Clark County School District:**

We also support A.B. 107. We already have much of this data and look forward to reporting it.

**Assemblywoman Shelton:**

This might not be the appropriate question to ask you, but I was noticing on the fiscal notes that Douglas, Lincoln, and Lyon Counties are saying they already do this report, and they already collect this information. Nye County said they would be impacted by about \$60,000. Do you know what they are doing differently that not everyone else is doing?

**Nicole Rourke:**

I represent the Clark County School District. I believe that Mary Pierczynski representing the rurals will come up and explain that. Briefly, I do know that many of the rurals have different data systems. I think that is probably where that comes in.

**Jodi Tyson, representing Three Square:**

I want to raise support for A.B. 107. We are applying for private funds to help with the implementation of increased school breakfast opportunities in Clark County. We are being asked in grant applications what the measurement is by the state and how they actually put that information out to the public to show progress on our legislative policy and outreach activities. We are looking at being able to cite state, district, and school reports as part of the accountability back to the community about what we are doing to progress on these goals.

**Yvette Williams, Chair, Clark County Black Caucus:**

We are very excited about it. We spoke many times during the interim legislative session on many issues impacting African-American students. We were very thrilled to see this come forward today. We are strongly in support of this bill.

On October 1, 2014, The Office for Civil Rights of the United States Department of Education sent a letter addressing the legal obligations under Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. The 37-page document clearly outlines what must be made available to all on equal terms and calls our attention to disparities that persist in access to educational resources, and to help address those disparities and comply with the legal obligation to provide students with equal access to these resources without regard to race, color, or national origin.



This particular bill helps to address those issues. It helps to provide an annual accountability report identifying proficiency gaps, and also to inform policy and programs that will help ensure that we, as the state of Nevada, are in compliance with the United States Department of Education and the Office for Civil Rights. Also, it provides measurements of our successes as well as our failures, and what we need to do to improve by subgroup. This also allows you as legislators to inform policy to make sure that all children are learning, and that all children have access to equal education. I would also like to state that we would support the amendments brought forth by our state superintendent. We look forward to celebrating the passing of this bill very soon.

**Chair Woodbury:**

Is there anyone else in Carson City who wishes to testify in support of A.B. 107? [There was no one.] Is there anyone who wishes to testify in opposition to A.B. 107? [There was no one.] Is there anyone who wishes to testify as neutral to A.B. 107?

**Mary Pierczynski, representing Nevada Association of School Superintendents:**

You have heard from two of our members, Washoe County and Clark County, who are working with Infinite Campus, their computer system. They feel confident that they are going to be able to provide this information. The other 15 rural districts are also very aware of the importance of information on our free and reduced-rate lunch students and how they are doing. I think 55 percent of the children in the state participate in free and reduced-rate lunch.

The rural districts are anxious to comply with this. The only concern, and the reason I am speaking neutral for those folks, is that they are on a different computer system. The goal is, of course, to have everybody on Infinite Campus eventually, but right now they have the information; it is a matter of the cross-referencing. We may be looking to the Department of Education to help us out with some technical assistance to provide the information.

**Jessica Ferrato, representing Nevada Association of School Boards:**

We are basically in the same spot. I wanted to echo the comments that Ms. Pierczynski made. We are here to work with the Department of Education.

**Chair Woodbury:**

Is there anyone else wishing to testify as neutral? [There was no one.]  
Assemblyman Anderson, do you have any closing comments? [He had none.]  
I will close the hearing on A.B. 107. Is there anyone here for public comment?  
[There was no one.] This meeting is adjourned [at 5:02 p.m.].

RESPECTFULLY SUBMITTED:

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Joan Waldock  
Committee Secretary

APPROVED BY:

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Assemblywoman Melissa Woodbury, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Education

**Date:** February 16, 2015

**Time of Meeting:** 3:15 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 107	C	Assemblyman Elliot T. Anderson	Prepared testimony