

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

**Eightieth Session
March 26, 2019**

The Committee on Education was called to order by Chairman Tyrone Thompson at 12:35 p.m. on Tuesday, March 26, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Tyrone Thompson, Chairman
Assemblyman Edgar Flores, Vice Chairman
Assemblywoman Bea Duran
Assemblywoman Michelle Gorelow
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblywoman Connie Munk
Assemblywoman Sarah Peters
Assemblywoman Jill Tolles
Assemblywoman Selena Torres

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Victoria Gonzalez, Committee Counsel
Sharon McCallen, Committee Secretary
Trinity Thom, Committee Assistant

Minutes ID: 703



OTHERS PRESENT:

Candice Liddell, Private Citizen, Gardnerville, Nevada
Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada
Coalition of Legal Service Providers; and representing Washoe Legal Services
Patrick Hirsch, Children's Attorney Project, Legal Aid Center of Southern Nevada
Don Soifer, President, Nevada Action for School Options
Gregory D. Ivie, Attorney, Ivie Law Group, LLC, Las Vegas, Nevada
Anne Rhu, Compliance Specialist, Ivie Law Group, LLC, Las Vegas, Nevada
Lindsay Anderson, Director, Government Affairs, Washoe County School District
Mary Pierczynski, representing Nevada Association of School Superintendents
Jessica Patterson, Private Citizen, Reno, Nevada
Jason Trevino, Chief of Police, Washoe County School District Police Department
Melissa Mackedon, Board Member, Charter School Association of Nevada
Sarah Adler, representing National Alliance on Mental Illness, Nevada
Dan Musgrove, Chair, Clark County Children's Mental Health Consortium
Maurice White, Private Citizen, Carson City, Nevada

Chairman Thompson:

[Roll was called. Committee rules and protocol were explained.] Today is Upward Bound Day at the Legislature. It is also Housing and Homeless Awareness Day. Today we have three bills being presented. We will also have a work session. I will open the meeting to public comment. Public comment is limited to two minutes.

Candice Liddell, Private Citizen, Gardnerville, Nevada:

I am a member of Medical Freedom Nevada and a concerned parent. I am here to speak with you regarding Assembly Bill 123. Our lives and the lives of our children are being directly affected by this bill. One statement that has been overlooked in this bill is that of the Immunize Nevada amendment stating the words, "on a form prescribed by" the health department. We have spoken with the health department [Division of Public and Behavioral Health of the Department of Health and Human Services] and they follow current statutes. The health department has no regulatory power or authority over forms at this point. This law gives them new power. This could obliterate exemptions—maybe not right now with the current form—but every year, they can make it more and more restrictive.

Giving the health department this much power takes all the choice and power away from parents as well as the doctors. I am speaking of the religious exemption portion of the bill. Why is the health department being put in charge of religious exemptions when religion is not at all a part of their jurisdiction? Prescribed forms could lead to coercive language and compelled speech and discrimination against religious groups, taking away the rights of parents with regard to religion. Only two other states have decided to give this much power and authority to the health department—West Virginia and Mississippi. They basically have no medical exemptions available any longer.

It almost does not matter what kind of form we compromised on or how much we worked with Assemblywoman Munk on wording as long as the phrase "form prescribed by" the health department is in the bill, this bill will be a vaccine exemption elimination bill. Please do not allow this kind of authority to be given to the health department. Please ensure that the amended A.B. 123 has provisions for parental choice in the use of any form put forth by the Division of Public and Behavioral Health.

Chairman Thompson:

Is there anyone else here for public comment? [There was no one.] We will now open our work session on Assembly Bill 237.

Assembly Bill 237: Revises provisions governing the reimbursement of certain out-of-pocket expenses for teachers and other educational personnel. (BDR 34-608)

Kelly Richard, Committee Policy Analyst:

Before the Committee today is Assembly Bill 237, sponsored by Assemblywoman Munk, and heard in Committee on March 21, 2019 (Exhibit C). The bill relates to the Teachers' School Supplies Reimbursement Account. It expands the personnel who may access reimbursement and changes the name of the account to the School Supplies Reimbursement Account for Certain Educational Personnel. It allows Nevada's Department of Education (NDE) to award grants to nonprofit organizations which provide school supplies under certain circumstances. Finally, A.B. 237 contains an appropriation for \$4.5 million for each fiscal year of the biennium to carry out the program.

Assemblywoman Munk submitted the attached amendment, which proposes to:

1. Remove the reimbursement process;
2. Provide a stipend at the beginning of each school year for certain educational personnel; and
3. Allow the NDE to determine the method of payment for the stipend.

Subsequent to the hearing on the measure, Assemblywoman Munk also proposed eliminating "school nurse" and "school librarian" from the definition of educational personnel eligible for participation.

Chairman Thompson:

Are there any questions on this bill? [There were none.]

Assemblywoman Munk:

I wanted to add that we are also working with the stakeholders to remove "paraprofessional" from the definition.

Kelly Richard:

I would like to clarify that whoever makes the motion includes in the motion whether or not they want to include the exclusion of "paraprofessional" as indicated by Assemblywoman Munk.

Assemblywoman Hansen:

I will vote yes to vote this out of Committee. Governor Steve Sisolak included funds in his budget for this issue. I want to see how that will work out. I reserve my right to change my vote on the floor.

Chairman Thompson:

I will entertain a motion to amend and do pass A.B. 237.

ASSEMBLYWOMAN GORELOW MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 237, INCLUDING REMOVING "PARAPROFESSIONAL" FROM THE MEASURE.

ASSEMBLYWOMAN KRASNER SECONDED THE MOTION.

Is there any discussion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Munk will take the floor statement.

[Assemblyman Flores assumed the Chair.]

Vice Chairman Flores:

I will open the hearing for Assembly Bill 258.

Assembly Bill 258: Makes various changes relating to the provision of special education in public schools. (BDR 34-760)

Assemblyman Tyrone Thompson, Assembly District No. 17:

Assembly District No. 17 is in the growing City of North Las Vegas, the city in which I was born and raised.

Assembly Bill 258 is intended to help children with disabilities and their families gain access to accommodations in the classroom. These laws are rooted in the Individuals with Disabilities Education Act, a federal special education law. The bill aims to solve a very narrow problem where families have gone through all the processes laid out in state and federal law, are left with an agreement as to what services are to be provided, but are still left without those services.

The struggle begins early in a child's academic career. Signs have to be noticed that the child may have a disability, then an assessment has to occur. The school district will prepare an assessment plan and secure the parents' consent to conduct the assessment. From the time that consent is provided, the school district has 45 days to complete the assessment. As you see, around two months after the child's problem was identified, the school will be ready to meet with the parents to discuss a solution.

In the narrow set of cases we are focusing on here, there is typically an inability for the family and the school to agree on the root of the problem and what educational services should be offered to address it. The family is told that if they disagree with the school's assessment, they can request a second opinion, an independent educational evaluation. By taking that option, the assessment process starts over again, adding another 45 days to the time line.

Finally, after this process has gone on for more than three months, with the family and the school still not able to agree on how to appropriately meet the needs of or serve the child, the family may learn there is something called a due process complaint. Remember, we are at least 100 days in now, and the family has been unable to secure the educational accommodations they feel their child needs. After doing some research and possibly securing legal counsel, the family files a complaint on behalf of the student.

The day the parents file their complaint a new 30-day window begins during which the school district must meet with the parents to try to resolve the complaint through negotiation or mediation. If that process is unsuccessful after 30 days, the due process hearing can proceed. After another 45 days, a final decision must have been reached and distributed to the parties, assuming the parties did not separately reach a resolution agreement. This is now approximately 175 days after the child's problem was first identified—which is nearly the entire school year. At this point, a hearing officer will finally have ruled on what is legally considered to be appropriate services for the child.

This bill is for those families whose challenges do not end there or are at an impasse or nonresolution. Sometimes, even after a settlement or a ruling, the decision or settlement agreement is not complied with. After a year spent advocating for their child, those exhausted parents—who are juggling other parental duties such as jobs and caring for other children—are given a judge's decision telling them they are right, but the only way to enforce that decision is to file a brand-new case in district court for contract enforcement. Sadly, at this point most parents give up. That burden should not be happening. While this bill does not remove that option, it creates another avenue without the delays and costs associated with initiating a brand-new lawsuit. This bill will allow Nevada's Department of Education (NDE) clear oversight to examine the school's compliance with the settlement or hearing officer's ruling.

With that said, I will turn it over to Ms. Bailey Bortolin, the Statewide Policy Director of the Nevada Coalition of Legal Service Policy Providers, and Patrick Hirsch, with the Legal Aid Center of Southern Nevada to walk you through the bill.

Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers:

I will be working from our proposed amendment ([Exhibit D](#)). I would like to thank the stakeholders for meeting regarding this niche area of law. For these families, this is a breaking point and it will make a big difference in their lives. It is not meant to sound flippant, but this is a situation where we have clients who give up and move to California because they have spent years advocating for their child and are unable to secure what we believe federal law entitles them to—a free and appropriate public education.

Section 1 of the amendment creates the ability for parents to file a complaint with the NDE. This process already exists for other avenues in *Nevada Revised Statutes* 388.459. We want to clarify that the state complaint process giving oversight to the NDE can apply in this situation so parents have another choice if this is something that can quickly and easily be addressed or if there has been a miscommunication. You will hear from our attorney in southern Nevada that sometimes parents take the agreement back to the school to show the school district agreed that the school would provide the services and the district is unable to provide them. To start a case in district court is adding at least another year to the time line. District courts cannot quickly and easily resolve these situations. If it is possible to resolve this quickly, we would like to create an avenue that does not require a lawsuit to ensure compliance with what has already been decided. We believe sending that to the NDE through an existing route and process will fix that problem.

The NDE would have the authority to use a variety of means to ensure compliance, so if they find there is a compliance problem, they can quickly and easily—at no cost to any party—address that. The school districts would have an opportunity to present mitigating evidence as to why they do not believe there has been a problem or breach. The NDE would take that into account. I would note that the original version required the use of a hearing officer. The intent behind that was the hearing officers had been assisting the families and the school district in resolving the complaint up until this point. I heard from the school districts that was not fiscally viable because the school districts pay for the use of the hearing officer. We removed that and moved oversight to the NDE in the hope there would not be a fiscal impact to anybody—the parents would not be required to pay for a lawsuit and the school districts would not be required to pay for more hearing time.

We have been asked to remove the ability for the state to order attorney's fees from section 1, subsection 3. They feel it is outside the realm of the current scope of things the Department does. Conceptually, I am happy to remove that.

On page 4 of the amendment, you will see strikeouts removing an unrelated clarification that we believe we can work out with the stakeholders nonlegislatively.

Patrick Hirsch, Children's Attorney Project, Legal Aid Center of Southern Nevada:

This issue does not affect most students, but for those students it does, it can be devastating. As an example, I will discuss a previous client I will call "Amy." Amy was being successful with her in-home therapist using Proloquo2Go, an assistive technology. Her parents wanted

the school district to implement it into her individualized education program (IEP). The school district did not want to use that technology because they did not have anyone in the district who was trained to use it. This led to a due process proceeding. We came to a resolution—the district agreed they would use the technology and would send a staff member to be trained in how to use it properly. The training was due to occur in October. In December, the teacher who had been trained to use the technology left the district. When we followed up with the school district in January to find out who would be trained as a replacement, we were told they were not planning on training any substitute teachers and had not yet hired a replacement teacher for that classroom. When they hired a teacher in February, she began to be trained, but it is not clear if she finished the training before she also left the district. We were again left without a teacher until May. In May, a third teacher was hired and scheduled to be trained. At that point, we were an entire school year into the process. The district had agreed to provide training in this technology but had not yet done so. Without going to court to enforce that right, we had no available means to get Amy the technology.

Another situation where this frequently comes up for our clients is students who have behavioral issues. The district agrees to implement a particular behavior intervention recommended by a therapist or one that had been successful in the past for these students. The problem is, when those situations come up, it is frequently a crisis moment in the classroom. It is easy for a teacher, in the heat of the moment, to forget that particular intervention was agreed upon and fail to use it as agreed.

Those are real-world scenarios where this comes up for our clients. It does not affect a large number of students. Perhaps in one of ten of Legal Aid Center of Southern Nevada's due process hearings, this becomes an issue. For those students impacted, this bill would provide a much cheaper and more efficient way to resolve these problems.

Assemblyman Thompson:

That concludes our presentation.

Vice Chairman Flores:

Are there any questions from the Committee? [There were none.] I would like to invite forward those wishing to speak in support of Assembly Bill 258. We will allow testifiers two minutes.

Don Soifer, President, Nevada Action for School Options:

This bill provides safeguards for protections that are well established under federal law. The advantages that were raised make a good deal of sense. I would add that not only does it save families the potential significant expense of litigation, but the perils of both sides lawyering up and entering the litigation process is a particularly harmful side effect for special needs students, particularly when the changing of medications is underway. This is a commonsense set of safeguards for rights and will benefit Nevada families.

Gregory D. Ivie, Attorney, Ivie Law Group, LLC, Las Vegas, Nevada:

Approximately 95 percent of our cases are special education cases, so we want to testify in support of this bill. We think it is very important for many of the reasons that have already been expressed. These families have already been through a long process through due process. Typically, they do not end up in a hearing, but it is still a long process. They enter into a resolution or settlement agreement. If that is breached, the only recourse is to file in state or federal court, which is both onerous and costly. A lot of people just give up. We think it is important that families have the ability to have a streamlined option to get the provisions of the settlement agreement enforced.

Anne Rhu, Compliance Specialist, Ivie Law Group, LLC, Las Vegas, Nevada:

I have worked in special education advocacy for 30 years. One of our most egregious cases was a student named Eysis. Her story demonstrates the problems with this issue. Eysis has been diagnosed with spastic diplegia cerebral palsy, static encephalopathy with seizure disorder, hydrocephalus with a shunt, and cortical visual impairment. She uses a wheelchair for all of her activities and is dependent upon adults for all of her day-to-day activities. A physical therapy assessment said that Eysis lacks trunk control or core muscle endurance, so she could fall. Further, she is unable to provide for her own pressure release or to move out of her chair at all.

She came to the Clark County School District (CCSD) from Tacoma in 2015. We began representing her in 2017. We filed a due process complaint on November 3, 2017. It was settled by CCSD on January 8, 2018. Included in the settlement agreement was the provision that Eysis would have a one-on-one aide. She did not receive the aide and, to make matters worse, the school removed her beloved teacher and put a substitute teacher in her classroom. Her mother decided Eysis was safer at home, so she opted to homeschool her. She attempted to file a state complaint about the breach of settlement and reported to us that it was sent back to her with a message that she had not filed the complaint correctly. At that point, she gave up and lost all faith in CCSD and us.

We hope that you will pass A.B. 258 so that children like Eysis will have some recourse when a settlement agreement with a district is breached.

Vice Chairman Flores:

Is there anyone else wishing to testify in support of Assembly Bill 258? [There was no one.] Is there anyone present who would like to testify in opposition to Assembly Bill 258? [There was no one.] Is there anyone wishing to speak as neutral?

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

We were engaged in this piece of legislation because, as you heard, there are not a large number of these instances taking place. In Washoe County School District we know of only one case in the past six years when the school district has been in breach of the settlement agreement with a family, but that is one too many. Once the case came to our attention, we cleared it up in a very short period of time. We are still engaged in the process of public policy. The bill sponsor and Ms. Bortolin have been a pleasure to work with as we hashed

out some of the logistical details about what these processes would include. We still have a little bit more work to do. They have agreed to work with us going forward. We want to continue the conversation and ultimately be in support of this legislation.

Mary Pierczynski, representing Nevada Association of School Superintendents:

Ms. Anderson expressed everything that I would have to say.

Vice Chairman Flores:

Is there anyone else wishing to speak as neutral? [There was no one.] Are there any closing remarks?

Assemblyman Thompson:

Even though it has been mentioned numerous times, this bill affects a small number of students. This is a great opportunity to adopt this policy. With the rise of parental engagement, I can see the number increasing. I want to applaud the parents who face a situation like this and do all of the advocacy work that they can to ensure their children have as decent an education as they possibly can. I look forward to working with the school districts to make this as great a policy as we can.

Vice Chairman Flores:

We will close the hearing on Assembly Bill 258.

[Assemblyman Thompson reassumed the Chair.]

Chairman Thompson:

I will open the hearing on Assembly Bill 314.

Assembly Bill 314: Revises provisions governing education. (BDR 34-1057)

Assemblywoman Jill Tolles, Assembly District No. 25:

I am here to bring forward Assembly Bill 314. Assembly Bill 314 seeks to add clarification to the law regarding the use of "non-traditional" instructional days, known as digital days, and other means for providing access to lesson plans during school closures due to health or safety concerns—inclement weather, emergencies, or other hazardous circumstances. This bill provides enabling language that establishes a process for districts to apply for approval from Nevada's Department of Education to use non-traditional instruction days under certain circumstances and within certain parameters if they can satisfactorily demonstrate all issues of compliance have been addressed.

We have heard a little bit about digital days. We see more states across the United States attempting to find innovative ways to address lesson plans and requirements for meeting certain hours and days when we have inclement weather, hazardous disasters, or hazardous materials situations. One situation brought to my attention was a school closure due to heating, ventilation, and air-conditioning (HVAC) problems where the classrooms were 118 degrees.

Approximately 12 states have looked at innovative ways of addressing attendance requirements and still meeting the lesson plan needs. This bill seeks to address a process to be put in place enabling local school districts to start the discussion in conjunction with parents, students, teachers, staff, administrators, and the community. They can then submit a plan addressing how non-traditional instruction days would be implemented; addressing specific concerns like equity and accessibility for students who do not have access to technology, English language learners (ELLs), students with disabilities, or students with individualized education plans (IEPs); and dealing with staffing concerns and communicating with parents. The state Superintendent of Public Instruction has final approval or veto power of the districts' applications.

I would like to walk through an amended version of A.B. 314. It includes input from the Department of Education to help strengthen the requirements for compliance and expands the definition beyond digital days to non-traditional instruction days.

On the mock-up ([Exhibit E](#)), you see that section 2 uses the term "non-traditional instruction day" to mean "including, without limitation, a lesson sent and completed through electronic means, or provided through physical means ahead of time and returned to school within a set timeframe." It also provides the details that this instruction is provided to a pupil by a teacher as part of a traditional course, may be completed by a pupil from any location, and is graded by a teacher.

Section 3, subsection 1, outlines that the Superintendent of Public Instruction may, upon application by the board of trustees of a school district, authorize a school district to utilize non-traditional instruction days due to health or safety conditions. Section 3, subsection 2, clarifies it grants the discretion to the Superintendent of Public Instruction.

Section 4 outlines what some of the compliance stipulations might contain. Section 4, subsection 1, paragraph (a), instructs that the program of instruction for non-traditional instruction days needs to ensure that each pupil receives a minimum number of minutes of instruction to be determined by the Department in order to determine to be an equivalent to a day in session. Paragraph (b) ensures that each pupil has access to technology. Paragraph (c) goes on to ensure the program of instruction meets the needs of pupils who are identified as being at-risk, eligible for programs to support families who are low-income, English language learners, and pupils with disabilities, including, without limitation, pupils with an IEP. Paragraph (d) provides a method of verification for the participation of each pupil and ensures lack of participation does not negatively impact pupils who have been opted out of the program and must be provided equivalent in-class learning to compensate for non-participation.

Paragraphs (e), (f), (g), (h), (i), and (j) of section 4 deal with additional concerns about the extent to which pupils participate—ensuring that teachers and pupils receive adequate training, ensuring that teachers are accessible to pupils on that day, and providing an option for parents to provide feedback about the program including methods for calculating the minimum number of students participating so we have a reporting mechanism and a method

for compensation for non-contract staff. Section 4, subsection 2 outlines further details about how the board of trustees shall notify the parents.

Section 5 deals with a non-traditional instruction day of school being counted as a day of school for the purposes of providing the minimum number of days of free school. Section 6 deals with the Department adopting regulations necessary to carry out the provisions of sections 2 through 6, including standards for determining whether a condition is a health and safety concern necessitating the closure and the minimum number of minutes of instruction required pursuant to section 4. It adds clarifying language that the Superintendent of Public Instruction may deny an application if one or more of the requirements in section 4 are not sufficiently addressed.

Section 6, subsection 2 adds that the district may appeal the denial of an application based on a process established by the State Board of Education. A submission of a program must be provided prior to the start of the school year and be included with the annual calendar approval process.

Section 7, subsection 4 has been stricken. The section was applying non-traditional instruction days to individual students for family emergencies and so forth. I felt that was outside of the scope of this discussion in regards to specific school or districtwide closures due to health and safety concerns.

Section 8 provides the clarifying language "unless the school district uses a program of instruction using a non-traditional instruction day of school pursuant to sections 2 to 6." Section 9 adds a subsection 6: "The board of trustees of a school district may adopt a policy to exempt pupils who use a non-traditional day of school pursuant to subsection 4 of NRS 388.090." In the final language, there will be a new section to clarify that this bill applies to charter schools and private schools.

In the audience are members of the Department of Education and school districts who are available to answer technical questions.

Chairman Thompson:

At this time we will open the hearing to questions from members of the Committee.

Assemblywoman Torres:

I have a few concerns with the bill, mostly from a statutory and educator perspective. My first concern is in section 2, subsection 2 that states the lesson has to be graded by a teacher. As an educator, I can guarantee you that I do not grade 100 percent of the work my students do. A lot of work in the classroom is conversation, discussion, lecture, and using manipulatives. Not all instruction is graded. I do not think this should be in statute. Was there a specific reason you included that the work done at home needed to be graded by a teacher?

Assemblywoman Tolles:

I appreciate there are practitioners on the Committee to add to the substance of the law. This is to address concerns about accountability. If students go home with manipulatives, with a worksheet packet, or choose to engage in various lesson modules through electronic means, there has to be some sort of accountability to make sure they did the work and did not just play all day and have nothing to show there was substantive learning going on. If there is a way to expand that beyond "graded" and some other way to check participation, I am open to hearing language suggestions. It is important to have the accountability piece because one of the big concerns about these types of programs is that there is no accountability that actual work is done at home.

Assemblywoman Torres:

I think it is important to note that in current educational practice, educators are encouraged to grade based off formative and summative assessments. This would not meet any of those requirements. As an educator, a practitioner, I would push to meet those needs because formative and summative assessments are data-driven. This would not allow for us to have data-driven instructional practice in our classroom. I know that is where our districts are leaning at this moment.

Assemblywoman Tolles:

This bill is not authorizing statewide that these programs are allowable. It is only putting in place the process by which a district could demonstrate they have met those concerns at the district level and can get the approval by the Department of Education. The district would have to demonstrate meeting the educational goals of the Department of Education.

Assemblywoman Miller:

As an educator, I question the term "substantive learning." That implies that the learning process that goes on in the classroom through discourse, the ability to evaluate children's understanding and to shift gears to make sure they are grasping concepts, and the integrative practice to develop that skill, could be done the same on a computer. This sounds as if educators would make a lesson plan that would be busy work. I do not believe that type of work would be substantive learning. Can you explain the need for this? Most states make up days at the end of the school year if there have been snow days, the plumbing breaks, or there has been a natural disaster. Because of this past winter, many states' students will be in school for at least another week or so. Why do we not just make up those days at the end instead of trying to classify days that will not be rich in learning, the same as a school day?

Assemblywoman Tolles:

This bill is agnostic on whether districts should implement this. This bill only puts into place a process by which districts can seek to be compliant and address those issues. I am not here to defend if this is right; this needs to be done at the local level in conjunction with staff, administrators, parents, and families with the approval of the Department of Education to ensure we are meeting those needs. You may hear testimony from others who would speak to their reasoning for wanting to pursue this at the district level because, as you just explained, those days are often tacked onto the end of the school year. That can run into

difficulties with graduation dates. Even more, it ties into that word "substantive." Many school districts are saying because days are tacked on at the end of the year and encroach into summer plans, families may have planned to go out of town or students have already lined up summer jobs so students may not attend. Or, if they do attend and it is after end of the year testing, it is no longer substantive or instructive.

How do we provide an opportunity for students to engage in learning either through work packets that are handed out at the beginning of the semester or the beginning of the year that students know they have to work on throughout the semester or year and can use them at home? Or manipulatives or some sort of digital assignment that would have some educational value versus just not attending at the end when it encroaches into summer. I think that is what many of the districts across the United States have been trying to address.

Assemblywoman Hardy:

To clarify, do districts already do something like this or will this put something into place so that if they want to do it, things will be uniform?

Assemblywoman Tolles:

This is enabling language, putting the process in place for school districts to provide a plan to be approved or rejected by the Department of Education. It would not be uniform or mandated across the entire state; it was not written that way. This bill is in response to a request for clarifying language since some schools and districts were implementing this. The Department of Education came back saying there was no clarification in statute to authorize this. If there are schools or districts that want to seek to utilize this, they have to have a process in place to make sure we are meeting the needs of equity, the concerns about the students without access to technology, students with IEPs, students with disabilities, and issues related to staff. This would put the mechanism in place.

Assemblywoman Peters:

Thank you for this bill. My children were in a district where this happened last year. My children may not be in the same schools—that was another issue that came up. I do not see that addressed in this bill. Would this plan be cohesive within a district, or could it be used in parts of the district or in different grade levels? What is the intention behind having the district put together this plan?

Assemblywoman Tolles:

If you have suggestions about the language of the bill, I would be happy to have a conversation. The way it is written now, it would apply to an entire school district or a specific school that needed to close. If there were some sort of a hazardous materials disaster or the malfunction of an HVAC unit, the situation would be school-specific. That does not mean there may not be part of the district's plan that would address concerns at a grade level. If some students have access to technology and others do not, we do not want to put a student in a situation where they would be singled out or there might be a stigma attached. That is a concern that has been raised. It would be up to the district to be able to

address those concerns through the local process. I imagine that would be a significant discussion in evaluating the completeness of the plan at the Department level.

Assemblywoman Hansen:

Thank you for bringing this bill to help our school districts get some clarity on how they are going to handle digital days if they decide to opt in. When the school year is extended due to snow days, the added days are not substantial as far as instruction goes because everyone is antsy and the teachers have had a long year. My children reported they went to school and watched a movie. The days were fun, but they are not necessarily substantive. With all the technology options we have, I would assume there would be minimal days involved for a district that opted in. I would hope the digital day might be something that addresses students who disconnect in class. Maybe the digital days would excite them a little.

I have a clarifying question. When we say the language is enabling, the districts can decide for themselves if they will participate in digital days; if the district does participate, if a school uses a digital day, only that school uses it. Is that correct? It would be internal within the district as well.

Assemblywoman Tolles:

It is enabling for them to pursue the process. They would still have to have the approval by the Department of Education.

The choice we have before us as a Committee and why we are here is because there was a need for clarifying what was lacking in statute. We could clarify by just banning digital days altogether. The reason I went this route was to give the districts a chance to provide a plan as 12 other states have. It gives them an option; it does not shut that door completely, but requires that if a district wants to do this it has to go through these benchmarks to make sure it is equitable and being used properly. Right now, we have cases where it has been used without that process.

Regarding innovation, we do not know what the future is going to look like. We do not know what technology is going to evolve that will address some of these issues in new and innovative ways that could be exciting. We do not know where we are going to be 5, 10, or 20 years from now—accessibility issues may not be a concern, there may be new innovative ways. I felt it was worthwhile to bring this bill forward to have this in place so that as we expand with our understanding of how to address these issues and with technologies available we will have a plan in place to be able to expand with it.

Assemblywoman Torres:

I have a few more concerns with this piece of legislation building off the idea of creating this work, if it was non-traditional and not just digital. I am thinking of several communities in which they would not be able to have digital days for 100 percent of the students. Many students would not have access to technology at home. There would have to be some type of prior planning. As an educator, I create units and plan cohesively. Monday through Friday are planned. If school were canceled on a Tuesday, I would have to pick up on Wednesday

what I had planned for Tuesday. I do not do random minilessons; there is always a plan. We plan weeks in advance, sometimes months in advance. I am concerned that we would just be giving students unrelated assignments. We would not be able to differentiate. I have many ELL students, many students with IEPs, and special education students. There would not be that same level of differentiation. When I differentiate in the classroom, I am asking those students where they need help. We would not be able to provide that. I cannot think of a single way I would be able to provide that level of care and quality of instruction through this type of legislation.

I am also concerned about section 4, subsection 1, paragraph (a) of the amendment. I am concerned about putting into statute assurance that each pupil receives the minimum number of minutes of instruction. Working with children and as a professor, you know that sometimes our lessons do not go as planned. I might plan for a lesson to take 15 minutes, but it can end up taking the whole class period. Or I plan for a lesson to take an hour, and it ends up taking 15 minutes so you have to figure out what to do next. I am concerned about that, statutorily.

Assemblywoman Tolles:

You are concerned about being able to provide something meaningful in the middle of your semester for all of your students with all of their needs. That would be a great conversation to have with the school districts to find out if it is even feasible. The district could decide it was not. But it would draw the conversation back to your district and your classroom. Looking at models from other states, one of the ways they have accommodated that is by developing partnerships within the community, including alternative placement at a library or a Boys and Girls Clubs of America facility. They included that in the non-traditional instruction language. They also included face-to-face instruction or teachers being available by phone to individual students during that time. There are a lot of different ways districts across the states are having these conversations. This bill is just about opening the door for districts to have the conversations.

Assemblywoman Miller:

Could you give us an example of other states that have implemented this? We compare ourselves to other states and the education systems in other states. When we compare these other states, I would like to look at per-pupil spending, financial allocation, and class sizes of these other states.

Assemblywoman Tolles:

I appreciate that another part of the plan would be to the extent that resources are available. The states I know of that have implemented something similar are Indiana, West Virginia, Georgia, Virginia, Ohio, Minnesota, South Carolina, Kentucky, Alabama, Pennsylvania, Illinois, Tennessee, and Wisconsin. Pennsylvania, Illinois, and Tennessee are in pilot programs. It would be applicable here, too, that it would be up to the Department of Education to create some sort of regulatory environment where it is a pilot program. Maybe they could start it on a smaller scale and see how it goes. By putting the final approval or veto power in the Department of Education, that could be part of the discussion.

I sent an email to all of you yesterday regarding Kentucky. They put together a comprehensive guidance document for their non-traditional instruction program [*The Non-Traditional Instruction Program*, Kentucky Department of Education]. It is one of the most comprehensive documents I was able to find in looking at other states. It dives into the creative ways they have dealt with community partners, the ways they have addressed many of the concerns about equity or how to meet contractual obligations with noninstructional staff. It goes into detail and can serve as a good guidance document to consider.

Assemblywoman Miller:

Of the states you mentioned, was there any differentiation about where this is being practiced? All of these states, including Nevada, have urban areas with more accessibility to schools and rural areas where a student may be an hour or two hours from the school. Is this something that was being practiced in those extreme cases? Was there a difference between urban and rural when it came to the districts that were using this?

Assemblywoman Tolles:

Looking at that list, you can find examples of rural and urban areas. I will give you an example. I do not know that this breaks out in terms of the urban versus rural questions, but I will give you some statistics from Kentucky. They have an average 7.8 snow days per year. They had a series of years when they had 20 snow days. You can understand their motivation for addressing this. They have slowly piloted this program since 2011. Between 2011 and 2018, they have provided 1,166 instructional days. I can share their detailed statistics with the Committee. I can also share with you all of the resources that are available regarding those other states. This discussion needs to take place at the local level. We are not here promoting or prohibiting; we are giving districts the mechanism by which the local district make its case and point to those examples.

Chairman Thompson:

We will open the meeting to testimony in support of Assembly Bill 314.

Mary Pierczynski, representing Nevada Association of School Superintendents:

Because this legislation is permissive, and because it is up to the districts and input from parents, teachers, and administrators in the districts before school boards make decisions whether to have non-traditional education days, we are in support. The other thing this legislation provides is if the district decides to implement this, there is a lot of oversight involved by the Department of Education. We think it is a good piece of legislation to provide the oversight and give some parameters to districts. The key issue is that it is permissive.

[Assemblyman Flores assumed the Chair.]

Vice Chairman Flores:

Is there anyone else wishing to speak in support of Assembly Bill 314?

Jessica Patterson, Private Citizen, Reno, Nevada:

I am the parent of two students at Hunsberger Elementary School in Washoe County School District. I am also the parent-teacher organization president. I came today to show some parent support for A.B. 314 proposed by Assemblywoman Tolles. The bill addresses the need concerned parents have and provides a solid framework for districts to provide schools and families a good plan for snow days. While there are many logistics to work through at the district and school levels, I believe passing this bill is essential so we can get to work on making these plans so they can overcome what did not work in the past. It is 2019. We are ready to take this on and not have to come back to school during summer break.

Vice Chairman Flores:

Is there anyone else wishing to speak in support? [There was no one.] Is there anyone wishing to speak in opposition to Assembly Bill 314?

Bailey Bortolin, representing Washoe Legal Services:

I want to thank Assemblywoman Tolles for meeting with me about our concerns. I appreciate the intent and the balancing act she is attempting to do here. Representing foster children and children with disabilities, we understand this is permissive and will have oversight. Perhaps in a vacuum there is a perfect way to do this, but we believe if it is not perfectly done the first time, there will be an invasion of privacy of low-income students and of students who have disabilities. We struggle to articulate a path forward for how this could be done in a way that would not expose the children who are low-income. You would have to identify every student that needs accommodations or needs something different than the typical digital day, because if four students come in the next day and turn in paper packets because they did not have access to technology, the rest of the class will see that. We struggle to identify those students who are on the edge, who we may not know are in the foster care system but are living in our weekly motels downtown—how do we identify their needs? Will they have supervision?

On page 6, line 40 of the bill, I struggle with the note that if students do not complete the assignments, it would be held against them as an absence. Students who are struggling oftentimes do not have parents who can take the day off to ensure the students are spending the day doing schoolwork. It would disproportionately contribute to the lack of success of students who do not have the family support that many of us had. As a matter of policy we believe education policy needs to work for all students regardless of whether they have parents in the home. This will probably rely too much on parent involvement for us to be able to get there. We appreciate the intent, but we have concerns.

Vice Chairman Flores:

Is there anyone else wishing to speak in opposition? [There was no one.] Is there anyone wishing to speak as neutral to Assembly Bill 314? [There was no one.] Are there any closing remarks?

Assemblywoman Tolles:

I feel bad. I brought in technical experts, but we did not get to use them. I appreciate the questions and your suggestions and recommendations, particularly about grading. I would appreciate your support. If we do not support a mechanism, we might have to have another conversation about whether to make it explicitly clear that non-traditional days are not allowed. I am not sure how the Committee would follow through with that. If there are ways to improve upon the language, I would ask for your support.

Vice Chairman Flores:

I will close the hearing on Assembly Bill 314. I will open the hearing on Assembly Bill 378.

Assembly Bill 378: Makes various changes relating to the transportation and admission of certain persons alleged to be a danger to themselves or others to certain facilities or hospitals. (BDR 34-711)

Assemblywoman Alexis Hansen, Assembly District No. 32:

I am here to present Assembly Bill 378. With me today is Jason Trevino, Chief of Police for Washoe County School District. Also with me is Christy McGill, from the Office for a Safe and Respectful Learning Environment, Department of Education. We come before you to talk to you about the evaluation, observation, and the treatment of young people who may be a threat to themselves or to others. It is an honor for me to be able to bring this bill to you today as I have worked with many incredible individuals at Nevada's Department of Education (NDE), Washoe County School District Police Department, the Clark County School District Police Department, and some of our rural outreach people—people concerned and engaged with the youth of Nevada. I feel very encouraged that these people have oversight and work with our children.

Assembly Bill 378 is intended to create consistency among the school districts in handling cases in which a student needs to be immediately transported for a mental health evaluation. It came to my attention that school districts within the state are treating students who need an immediate mental health evaluation in different ways. Assembly Bill 378 creates consistency by making two important clarifications. First, in the case of an application for emergency admission, a parent or legal guardian does not need to consent to the admission in order for the admission to take place. Second, in the case of an involuntary court-ordered admission, a school police officer is explicitly authorized to file the petition. The measure also requires the department's model plan for the management of a suicide or crisis to include a procedure for transporting a student deemed to be in need of a mental health evaluation.

In crafting this bill, I wanted to be extremely careful to protect the rights of parents while providing the clarity needed to ensure that the students who need immediate treatment are transported for evaluation, even in cases where the student's parent is unable or unwilling to provide consent for that evaluation. Under existing law, an application for emergency admission of a person alleged to have a mental illness may be made by the spouse, adult

child, legal guardian of the person, or by a law enforcement officer, agent of the Department of Health and Human Services, physician, physician's assistant, psychologist, marriage and family therapist, clinical professional counselor, social worker, or registered nurse. An application for emergency admission must include a certificate completed by a psychologist, a physician, or certain other behavioral health care providers stating that the health professional has examined the person and concluded the person has a mental illness and, because of that illness, is likely to harm himself, herself, or others.

As you can see, the process utilized to access this treatment is not undertaken lightly and only certain highly qualified individuals are allowed to make the application for emergency admission. None of that is being changed in A.B. 378. You should have received a friendly amendment by Dan Musgrove, the chair of Clark County Children's Mental Health Consortium ([Exhibit F](#)). We felt it was inferred that parental notification would apply; but for the sake of clarity, we have inserted that the parents would be notified that the child had been taken to a facility.

I will now turn some time over to Chief Trevino so he can let you know what is behind this bill. He will also go through the bill. Christy McGill from NDE will be here to answer questions.

Jason Trevino, Chief of Police, Washoe County School District Police Department:

To summarize 13 years of a passion project for our police department and me, this issue came to my attention in 2005 when I transferred to the school police department from the Washoe County Sheriff's Office. The first time I encountered a suicidal juvenile and started preparing the paperwork to have the juvenile taken in on an involuntary committal, my training officer stopped me and told me I could not do that because the student was a juvenile. I did not understand that because the relevant law spoke of "any person." We had a philosophical debate on the meaning of "person." That is where this idea began.

For several years since 2005, we have worked with local hospitals and the providers in our area trying to figure out why we could not take a juvenile into custody on an involuntary committal. We believed a juvenile was, in fact, a "person" under *Nevada Revised Statutes*. We have tried to work through this locally. We have worked with the Office of the Attorney General at the law enforcement summit. We made some great headway, but quickly found out we were not the only ones in this predicament.

As law enforcement, we are aware that Nevada and the country are in a mental health crisis. We quickly realized that the most vulnerable segment of our society, our children, cannot legally be taken in for the help they need if a parent or guardian is not willing to consent to treatment. Our goal is not to take in every juvenile who may have some sort of depression or something like that. That is not the intent whatsoever. We are talking about those children who meet the criteria and definition under current statute to be taken in under involuntary committal.

A lot of people could not understand why we would want to take in a juvenile without a parent or guardian's consent since the parent should be able to make that choice for the child. What if the reason that juvenile was suicidal was because of something that is occurring to them at the hands of the parent or guardian? Now we are put into a position where that comes to our attention at the police department or at the school district; law enforcement gets involved, whether school police or outside law enforcement. We contact the parent because the hospital will not admit the student without a parent or guardian's consent, but the parent says we cannot transport the child, the parent will come pick up the juvenile. It could be the parent was the reason the child is suicidal. We hate to give these hypotheticals, but if a student was being molested by a parent or guardian, the parent or guardian would be afraid that if the student talked to a professional, that abuse would be exposed and the parent would be in a legal predicament.

Unfortunately, that actually happened to us two years ago. An interest call came through SafeVoice—a tip about a school shooting that was to take place that would be perpetrated by a female student. That is statistically not the norm; you do not hear of that very often, although there are a couple of outliers. Immediately our attention was piqued because it was such an outlier. The female student was suicidal, but wanted to take a couple of people with her who had caused her some problems along the way. The true heart of the matter was that the student was suicidal. When she was placed on emergency suspension pending evaluation with the school, she ingested a bottle full of pills. Luckily, she was found in time by the parent who called for the Regional Emergency Medical Services Authority. The student was transported to the hospital. Under a doctor's care, she divulged that the reason for all of her suicidal and homicidal ideation was due to the fact she was being molested by the other parent. Unfortunately, my grim, darkest-place hypothetical actually came to be. It is heartbreaking because we know there is nothing we can do currently in northern Nevada to address that.

Three years ago, I was visiting with the Clark County School District Police chief. We talked about the mental health crisis. I mentioned I thought it was crazy we could not help students with Legal 2000 forms. He asked me what I was talking about. I told him we could not do a Legal 2000 on students. He said his team did five or six of them a week. I asked him if we were talking about the same thing. He said we absolutely were. A student is a person under *Nevada Revised Statutes*. That blew the doors wide open. We found out Clark County does do Legal 2000 involuntary committals on juveniles. We were told it is because of a court ruling that has not been produced for us. Clark County hospitals say a juvenile is a person. That reignited the fire in Washoe County and in rural counties. At the law enforcement summit, we talked with chiefs and sheriffs from rural counties that have the same problems with juveniles. Every county outside of Clark County has this discrepancy about whether you can take in a juvenile for Legal 2000. Assemblywoman Hansen was willing to take this on for me, to try to get parity across the state. The goal here is to help the student who truly needs the help; it is not to overrule parents' rights or anything of that nature.

The other important thing is that every time we have a mass casualty incident at a school in the country, we go back and analyze what could have been done differently, what could have prevented the incident. Predominately, we see the individuals who commit these horrible and horrific crimes had mental health issues. This happened in the Parkland, Florida, shooting—there was a lot of discussion about whether the shooter should have been involuntarily committed, but commitment was not allowed. We can look at the situation and see how the outcome might have been different if the intervention had been in place.

Our involuntary committal law covers suicidal or homicidal ideation. Oftentimes, we run into issues where juveniles are very homicidal in their ideation, but are not making specific threats; therefore, it is not even an issue where we can charge them with a crime. Under this existing law, as long as the juvenile is deemed a person, we could take them in for the help needed and potentially not only help that student, but also keep the rest of our school population safe.

From March 3, 2018, to current, we have had 61 suicidal juvenile calls in Washoe County School District, not including calls to SafeVoice. These are calls that originated from the schools. When we first started having these discussions about two months ago, Clark County School District Police Department had initiated 62 involuntary committals. This is not something that is going to go away; it needs to be addressed so we can make sure these juveniles get the help they need.

[Assemblyman Thompson reassumed the Chair.]

Chairman Thompson:

We will open for questions from the Committee.

Assemblyman Flores:

What you are saying makes sense to a layperson like me who does not deal with this every day. I appreciate your clarifying all of that. Is the reason that you do not want to notify the parent up until the admission premised on the fact that you want the child to have an opportunity to have one-on-one time with a physician? If I had a child and I knew he or she was about to be taken from the school to the hospital, I would want to know from the moment that was decided so that I could make my way to the hospital. I am trying to balance that with the reality of what you just stated—that if the parent may be the problem, had the parent gone to the hospital before or at the same time as the child, the child may have not had the opportunity to speak openly. I agree with the consent side, saying you will do this no matter what the parent says. I am just trying to balance the notification side so the parent can be notified as soon as possible.

Jason Trevino:

The answer is exactly what you stated. Clark County had one incident this year involving involuntary committal. They actually had to arrest the mother for obstruction because she was physically interfering with the officer who was trying to transport her child. The idea is to give the officer and the juvenile the chance to get to the facility, get checked in, and get

the notification made so the parent can come, but not interfere with that process. We do not want to create a secondary issue and more trauma for the juvenile by seeing the parent involved in a physical or verbal altercation with school staff, hospital staff, or officers.

Chairman Thompson:

Are there any further questions from the Committee? [There were none.] We will now welcome anyone who would like to testify in support of Assembly Bill 378.

Melissa Mackedon, Board Member, Charter School Association of Nevada:

We are very excited for the opportunities this bill will provide us to make a consistent plan for the mental health of our students. As an educator, I needed to use this in the past, but it was not allowed. We also support the friendly amendment that will provide for notification after a student is transported.

Sarah Adler, representing National Alliance on Mental Illness, Nevada:

We are in support of this bill. We are doing some good work in this state related to first episode psychosis, trying to identify, respond, and support youth who are in a mental health crisis, but that does not mean we do not need this bill.

Dan Musgrove, Chair, Clark County Children's Mental Health Consortium:

The Legislature created the consortiums back in 2001. There is one for rural counties, one for Washoe County, and one for Clark County. On those consortiums we have parents, teachers, people from the school districts, providers, and people from the juvenile justice system. We have been talking about this for a very long time. Obviously, Clark County is dealing with the problem differently than everywhere else. Our understanding is that the Clark County District Attorney decided a "person" could be a child. We wondered what we could do about this and appreciate Assemblywoman Hansen and Chief Trevino's bringing this forward. We support it. You see my amendment ([Exhibit F](#)) in which we wanted to make sure the parents knew about it and could react in an appropriate time setting. I appreciate Assemblyman Flores' questions. I think it fleshed it out correctly.

Mary Pierczynski, representing Nevada Association of School Superintendents:

We are in support of this bill and the consistency this will allow throughout the state.

Chairman Thompson:

Is there anyone else in support of Assembly Bill 378? [There was no one.] Is there anyone present who would like to testify in opposition to the bill? [There was no one.] Is there anyone present who would like to testify as neutral to the bill?

Maurice White, Private Citizen, Carson City, Nevada:

I testify strictly on my own behalf. I, too, have had concerns with this bill regarding parental notice. Upon being able to review the proposed amendment, I may change my view to support on the bill.

Chairman Thompson:

Is there anyone in southern Nevada wishing to testify? [There was no one.]

Assemblywoman Hansen:

I appreciate those who have come and testified and the amount of time and thought that have gone into collaboration on this bill. My great thanks goes to all the stakeholders who brought together all of their experience and wisdom to craft legislation that could provide consistency where it is much needed so we can protect those who are really hurting from hurting themselves or others. That is our intention. We want to show the respect to process this.

Chairman Thompson:

We will close the hearing on Assembly Bill 378. We will open public comment. [There was none.]

We will meet at 12:30 p.m. on March 28 and on April 2.

The meeting is adjourned [at 2:08 p.m.].

RESPECTFULLY SUBMITTED:

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

Joan Waldock
Transcribing Secretary

APPROVED BY:

Assemblyman Edgar Flores, Vice Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for [Assembly Bill 237](#), presented by Kelly Richard, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is a proposed amendment to [Assembly Bill 258](#), presented by Bailey Bortolin, Statewide Advocacy, Outreach and Policy Director, Nevada Coalition of Legal Service Providers.

[Exhibit E](#) is a proposed conceptual amendment to [Assembly Bill 314](#) presented by Assemblywoman Jill Tolles, Assembly District No. 25.

[Exhibit F](#) is a proposed amendment to [Assembly Bill 378](#), submitted by Dan Musgrove, Chair, Clark County Children's Mental Health Consortium, presented by Assemblywoman Alexis Hansen, Assembly District No. 32.