



**NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE ON EDUCATION
(*Nevada Revised Statutes 218.5352*)**

SUMMARY MINUTES AND ACTION REPORT

The second meeting of the Nevada Legislature's Legislative Committee on Education (LCE) was held on December 11, 2009, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/75th2009/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Joyce Woodhouse, Chair
Assemblywoman April Mastroluca, Vice Chair
Assemblywoman Marilyn Dondero Loop
Assemblyman Harvey J. Munford
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT (Excused):

Senator Shirley A. Breeden
Senator Bernice Mathews
Senator William J. Raggio

OTHER LEGISLATORS PRESENT:

Senator Steven A. Horsford
Assemblywoman Debbie Smith

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Carol M. Stonefield, Supervising Principal Research Analyst, Research Division
H. Pepper Sturm, Chief Deputy Research Director, Research Division
Kristin C. Roberts, Senior Principal Deputy Legislative Counsel, Legal Division
Joi Davis, Program Analyst, Fiscal Analysis Division
Melinda Martini, Senior Research Analyst, Research Division
Maryann Elorreaga, Senior Research Secretary, Research Division

OPENING REMARKS

- Chair Woodhouse called the meeting to order and thanked the Committee members and members of the public for attending the meeting. She then said:

In November, U.S. Secretary of Education Arne Duncan released the final application for more than \$4 billion for the Race to the Top fund. To access these funds, states must enter a competitive grant process. The competition rewards states that have raised student performance in the past and have the capacity to accelerate achievement gains with innovative programs. It is designed to spur educational innovation. Nevada could receive up to \$175 million in federal education grants; funds that would go directly to the school children of Nevada. In these difficult economic times, I am sure we are all aware of the importance of those funds and the urgency with which we must approach this competition. One of the requirements of the competition is that states may not have legal, statutory, or regulatory barriers to linking student achievement and teacher evaluations. Nevada does not currently meet this requirement and therefore we cannot currently apply for these funds. In my mind, and I believe in yours as well, this is unacceptable. It is our moral responsibility to do what is best for Nevada's children. Nevada could use these funds for programs to make our children's learning experiences so much better. We cannot let this opportunity slip through our fingers. This is all about protecting the future of our children. That is why we are here today, to learn about this competition; what Nevada stands to gain and to lose and what needs to be done so that Nevada's school children do not lose out and what will make us more competitive for these funds. This is the first in a series of Committee meetings and hearings focusing on this important topic. It is so very important for us to hear proposals from various individuals and entities and organizations as to what you believe we should do. It is then incumbent upon us to think seriously about these proposals, pursue conversations with each other and you, and determine what we can and must do to give Nevada the best possible application for the Race to the Top funds and thus, to provide critical funds to improve and provide education opportunities for students across our great State.

PRESENTATION ON THE RACE TO THE TOP FUND (SECTION 14006, TITLE XIV, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, PUBLIC LAW NO. 111-5)

- Carol M. Stonefield, Supervising Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), referred to the "Race to the Top (RTTT) Program

Executive Summary” ([Exhibit B](#)) and reviewed the requirements which must be met for states to be eligible to receive funds under the program.

Those requirements are:

1. The states’ applications for funding under Phase 1 and Phase 2 of the State Fiscal Stabilization Fund program must be approved by the United States Department of Education prior to the state being awarded a RTTT grant; and
2. At the time the state submits its application, there must not be any legal, statutory, or regulatory barriers at the state level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation.

Ms. Stonefield then reviewed the Priorities listed in the Executive Summary. There is one Absolute Priority, one Competitive Preference Priority, and four Invitational Priorities.

Ms. Stonefield, along with H. Pepper Sturm, Chief Deputy Research Director, Research Division, LCB, and Melinda Martini, Senior Research Analyst, Research Division, LCB, reviewed and explained the six RTTT Selection Criteria ([Exhibit C](#)) listed in the Executive Summary. Those criteria are:

1. State Success Factors;
2. Standards and Assessments;
3. Data Systems to Support Instruction;
4. Great Teachers and Leaders;
5. Turning Around the Lowest-Achieving Schools; and
6. General (Making education funding a priority, ensuring successful conditions for high-performing charter and innovative schools, and demonstrating other significant reform conditions).

REPORT ON THE STATUS OF POLICIES AND PROGRAMS IN NEVADA RELEVANT TO ELIGIBILITY REQUIREMENTS AND SELECTION CRITERIA OF THE RACE TO THE TOP FUND

- Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education (DOE), said the RTTT application requires each state, as an absolute priority, to address six specific areas: (1) state success factors; (2) a general information category; and (3) four specific reform categories that include standards

and assessments, data systems to support instruction, great teachers and leaders, and turning around the lowest achieving schools. He said a key factor included in the RTTT application is the requirement tied to the percentage of Local Education Agencies (LEAs) that agree to participate in the reform efforts. Each school district within a state can decide if it will participate; a state cannot mandate participation. Dr. Rheault said the U.S. Department of Education provided nonbinding guidance to each state that suggested a range of funding for which each state might qualify. Nevada has been identified as a Tier 4 State with a range of possible funding from \$60 million to \$175 million. Dr. Rheault said although the range was only suggested, it probably would be followed fairly closely since the criteria in the application to determine the funding level included the size of the state, the percentage of LEA participation, and the activities proposed in the application. Dr. Rheault then reviewed the six Selection Criteria and commented on Nevada's likelihood of meeting the requirements of each. He noted the barrier imposed by *Nevada Revised Statutes* (NRS) 386.650 which prohibits the use of student achievement data in the evaluation of teachers. (A summary of Dr. Rheault's testimony has been submitted and is included in these minutes as [Exhibit D.](#))

PRESENTATIONS ON POLICIES AND PROGRAMS IN NEVADA RELEVANT TO ELIGIBILITY REQUIREMENTS AND SELECTION CRITERIA OF THE RACE TO THE TOP FUND

- Senator Steven A. Horsford, Clark County Senatorial District No. 4, submitted a written statement ([Exhibit E](#)) and said reaching a consensus on an alternative to current Nevada law that bars the State from competing for and receiving up to \$175 million in RTTT funds was possibly the most important task the LCE would undertake during the current interim. Those funds would help Nevada move forward with much needed improvements in the K-12 education system, enhancing children's skills in critical fields such as science and mathematics, as well as offering more help to schools that are struggling to meet academic standards. In summary, Senator Horsford addressed the Committee Chair and said he was sure that under the Chair's leadership the Committee would use the opportunity to improve the quality of education for every child in Nevada.
- Assemblyman Munford asked if Senator Horsford was recommending that Nevada apply for RTTT funding under Phase I.
- Senator Horsford replied that the Committee would first need to reach a consensus regarding the language in the NRS which prohibits application for funds. He stated his opinion that an application could be completed for the January 19, 2010, submission deadline.
- Assemblywoman Mastroluca said she respectfully disagreed with Senator Horsford. She opined that Nevada could see what was wrong with its application based

on feedback from other states and by waiting and making sure Nevada submits the most solid application possible there would be a better chance of receiving a larger grant.

- Assemblyman Stewart said he shared the opinion of Assemblywoman Mastroluca. Nevada needs to take the time necessary to complete the best application possible.
- Assemblywoman Debbie Smith, Washoe County Assembly District No. 30, Chair, Interim Finance Committee's Subcommittee for Federal Stimulus Oversight, said she appreciates the work of the LCE and echoed Senator Horsford's comments regarding the importance of the RTTT issue. She said the language in NRS 386.650 needs to be changed to allow Nevada to apply for RTTT funds. Assemblywoman Smith noted Assembly Bill 3 (Chapter 10, *Statutes of Nevada 2007, 23rd Special Session*) which provided funding for a teacher pay for performance pilot program. She said although the funds for the program were lost in the recent budget cuts, perhaps money from the RTTT grant could be used to fund the program. Ms. Smith urged the Committee to encourage the Department of Education and school superintendents to work quickly so the best possible application could be submitted.
- Lynne Warne, President, Nevada State Education Association (NSEA), said the NSEA has consistently advocated education funding in Nevada and supports the State's efforts in applying for RTTT funds. She said the NSEA also understands that there is a statutory prohibition to linking student test scores and teacher evaluations. Therefore, the Association began working with representatives from United States Senator Harry Reid's office in Washington, D.C., and, through them, representatives from the U.S. Department of Education to craft language that would address the issue of teacher evaluations but would also remove the eligibility barrier that Nevada faces. She then referred to changes in NRS proposed by NSEA ([Exhibit F](#)):
 1. The first change is to NRS 288.150(2)(i) Discharge and disciplinary procedures, ***subject to the provisions of subsection 1 of NRS 386.650.***
 2. The second proposed change is to NRS 386.650(1)(h) deleting "but must not be used for the purpose of evaluating an individual teacher or paraprofessional," and adding ***The information may be considered, but must not be used as the sole criterion, in evaluating the performance of an individual teacher, paraprofessional or other employee, or in taking any disciplinary action against an employee. The provisions of this paragraph prevail over the provisions of any agreement negotiated pursuant to Chapter 288 of NRS, to the extent of any conflict between them.***

Ms. Warne said the wording is consistent with federal regulations and with NRS 391.3125. She further noted that the proposed changes to NRS 386.650 would remove the eligibility barrier and make evaluation procedures a subject of mandatory bargaining. The proposal appropriately leaves it up to the districts and the impacted

employees to develop the evaluation process and specify the precise role student achievement data would play.

- Joyce Haldeman, Associate Superintendent, Community and Government Relations, Clark County School District (CCSD), said the solution to the problem of the barrier to RTTT funds in NRS 386.650 would be to remove the 15 words that prohibit linking student achievement to teacher evaluations. She said she opposes adding teacher evaluation to the list of items subject to mandatory bargaining. The language proposed by NSEA provides a “convoluted” method to inhibit the use of student achievement to evaluate teachers which contradicts the barrier which needs to be removed. She said the RTTT is a highly competitive grant and Nevada already has hurdles to overcome to be considered for funding. This is not a time to “quibble” language. She said the intent should be clear to remove the barrier by removing the 15 words and not adding further language that would then cloud the intent. Adding or changing statutory language beyond the elimination of the 15 words could jeopardize the State’s chance of receiving the funds.
- Bill Hoffman, General Counsel, CCSD, referred to a document titled “CCSD Licensed Employee Appraisal System” ([Exhibit G](#)) and said it is inadvisable and unnecessary to add teacher evaluations as a subject of mandatory bargaining. The 1975 Legislature created the list of subjects of mandatory bargaining. In the 1983 and 1985 Legislative Sessions, efforts to add performance evaluations to the list of subjects of mandatory bargaining were unsuccessful. The reason that the Legislature rejected those efforts exists in NRS 288.150(3)(c), which specifically states that management has the right to determine appropriate work performance standards. He concluded by stating the CCSD is of the opinion the Legislature has established the substance and process for evaluations and the districts and unions have worked cooperatively over the years.
- Terri Janison, President, CCSD Board of Trustees, said the CCSD needs the RTTT funds to prepare its students in all areas of education. She said CCSD has already begun work in the four core education reforms outlined in the RTTT criteria:
 1. Adopting the standards that prepare students to succeed in college and in the workplace;
 2. Building data systems that measure student growth and success and training teachers and principals to use the data to improve instruction;
 3. Recruiting, developing, rewarding, and retaining effective teachers and principals; and
 4. Turning around lowest-achieving schools.

She said the ability to make improvements in other areas is directly affected by revenue sources and noted that in these economic times all resources should be explored and best efforts put forth to obtain additional funding.

- Christopher B. Reich, General Counsel, Washoe County School District (WCSD), submitted a document titled “Testimony Statement Concerning Eligibility for Race to the Top Fund” ([Exhibit H](#)) and said he was appearing before the Committee to share the WCSD’s support for eliminating the language in NRS 386.650 that disqualifies the State of Nevada from being eligible to apply for RTTT funds. He said he was also conveying WCSD’s concerns regarding NSEA’s proposed changes to Nevada law which would expand the scope of mandatory bargaining to include employee evaluations.
- Sharla Hales, Past President, Nevada Association of School Boards, and Member, Douglas County School District (DCSD) Board of Trustees, submitted written testimony ([Exhibit I](#)) and a document titled “Douglas County School District Framework for Teaching” ([Exhibit I-1](#)). She said much had been discussed regarding the limitation NRS 386.650 places on the use of test scores in teacher evaluations but not much had been mentioned about that limitation applying only to tests within Nevada’s accountability system. She noted that quality instruction was the most important factor within Nevada’s schools that determines the degree of student achievement. The Student Achievement Element of the Framework is one of many ways quality instruction is supported. She said the DCSD Board of Trustees’ Board Policy 308 states that “The primary purpose of evaluation and supervision of certificated personnel is to promote personal growth and competence that, in turn, will result in the improvement of the instructional program.” Ms. Hales said teachers are protected from unwarranted discipline under Chapter 391(“Personnel”) of NRS and asked that the right of the school districts to determine work performance standards be upheld by not adding the evaluation process to the list of subjects for mandatory bargaining.
- Caroline McIntosh, Superintendent, Lyon County School District (LCSD), referred to minutes of the September 22, 2009, LCSD Board of Trustees meeting. She said she wanted to be sure the LCE is aware that the Board voted to encourage the Nevada Legislature, through a letter of support to the Nevada Association of School Boards (NASB), to remove the language in NRS 386.650 that prohibits the use of student assessment results in teacher and staff evaluation to enable Nevada to be eligible to apply for RTTT funding.
- Randy Robison, Nevada Association of School Superintendents, said the No Child Left Behind Act of 2001 requires schools, school districts, and states across this country to compile gather, disaggregate, and analyze data. The data is to be used to improve student achievement. Mr. Robison explained that amending NRS 386.650 is not an attempt to harm or undermine teachers. The goal is to help students utilize the opportunity afforded by the RTTT grant application process.

PUBLIC COMMENT

- Veronica Meter, Vice President of Government Affairs, Las Vegas Chamber of Commerce (LVCC), said the LVCC represents 6,500 members that employ 200,000 Nevadans. The business community has an interest in assuring Nevada provides quality education which leads to qualified and skilled future employees for Nevada. She said the LVCC has long advocated performance pay for teachers to incentivize and reward excellent teachers for significantly improving student achievement. Ms. Meter said the LVCC supports changing Nevada laws to allow the State to be eligible to receive RTTT funds. She said the LVCC opposes the inclusion of employee evaluations in mandatory bargaining.
- Linda Heiss, Nevada System of Higher Education (NSHE), said the NSHE supports Nevada's application for the RTTT grant and offered to answer questions the LCE members may have regarding postsecondary education as it pertains to the grant.
- Chanda Cook, Director, Southern Nevada Region, Public Education Foundation, said her organization is committed to assist the DOE staff in preparing the strategies for Nevada's education reform and meeting the requirements of the RTTT grant.
- Ken LoBene, Director, U.S. Department of Housing and Urban Development, Las Vegas, Nevada, said he was appearing as the Chairman of the Youth Council for Workforce Connections. He said his organization recognizes the importance of bringing as much money as possible into Nevada for education and supports any changes needed to ensure Nevada's eligibility for RTTT funds.

Also entered into the record were a letter from the NASB ([Exhibit J](#)) and a written statement from Ray Bacon, Executive Director, Nevada Manufacturers Association ([Exhibit K](#)).

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Maryann Elorreaga
Senior Research Secretary

Carol M. Stonefield
Supervising Principal Research Analyst

APPROVED BY:

Senator Joyce Woodhouse, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Carol M. Stonefield, Supervising Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is a document titled “Race to the Top (RTTT) Program Executive Summary,” provided by Carol M. Stonefield, Supervising Principal Research Analyst, Research Division, LCB.

[Exhibit C](#) is a document titled “RTTT Selection Criteria,” provided by Carol M. Stonefield, Supervising Principal Research Analyst, Research Division, LCB; H. Pepper Sturm, Chief Deputy Research Director, Research Division, LCB, and Melinda Martini, Senior Research Analyst, Research Division, LCB.

[Exhibit D](#) is the written summary of testimony given at the December 11, 2009, meeting of the Legislative Committee on Education, provided by Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of Education.

[Exhibit E](#) is the written testimony of Steven A. Horsford, Clark County Senatorial District No. 4.

[Exhibit F](#) is a document submitted by Lynne Warne, President, Nevada State Education Association (NSEA), citing changes to the *Nevada Revised Statutes* proposed by the NSEA.

[Exhibit G](#) is a document titled “CCSD Licensed Employee Appraisal System,” submitted by Bill Hoffman, General Counsel, Clark County School District (CCSD).

[Exhibit H](#) is the December 11, 2009, written testimony of Christopher B. Reich, General Counsel, Washoe County School District titled “Testimony Statement Concerning Eligibility for Race to the Top Fund.”

[Exhibit I](#) is the December 11, 2009, written testimony of Sharla Hales, Past President of the Nevada Association of School Boards, and Member, Douglas County School District (DCSD) Board of Trustees.

[Exhibit I-1](#) is a document titled “Douglas County School District Framework for Teaching,” provided by Sharla Hales, Past President of the Nevada Association of School Boards, and Member, DCSD Board of Trustees.

[Exhibit J](#) is a December 10, 2009, letter from the NASB to the Chair and members of the LCE concerning the use of student assessment results in the evaluation of teachers and staff.

[Exhibit K](#) is a written statement submitted by Ray Bacon, Executive Director, Nevada Manufacturers Association.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.