

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

**Seventy-Eighth Session  
May 4, 2015**

The Committee on Education was called to order by Chair Melissa Woodbury at 3:17 p.m. on Monday, May 4, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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 Victoria A. Dooling  
Assemblyman Chris Edwards  
Assemblyman Edgar Flores  
Assemblyman David M. Gardner  
Assemblyman Pat Hickey  
Assemblywoman Amber Joiner  
Assemblywoman Shelly M. Shelton  
Assemblywoman Heidi Swank

**COMMITTEE MEMBERS ABSENT:**

Assemblywoman Olivia Diaz (excused)  
Assemblyman Harvey J. Munford (excused)

**GUEST LEGISLATORS PRESENT:**

Senator Becky Harris, Senate District No. 9

Minutes ID: 1083



**STAFF MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

James M. Benthin, Private Citizen, Reno, Nevada  
David W. Carter, representing Nevada Legislative Affairs Committee  
John Griffin, representing Amazon.com, Seattle, Washington  
Barbara Dragon, Legislative Liaison, ParentalRights.org/NEVADA  
Lynn Chapman, State Vice President, Nevada Families for Freedom  
Joy Trushenski, representing Nevada Legislative Affairs Committee  
John Eppolito, Private Citizen, Incline Village, Nevada  
Linda Buckardt, Private Citizen, Las Vegas, Nevada  
Nicole Rourke, Executive Director, Government Affairs, Community and  
Government Relations, Clark County School District  
Lindsay Anderson, Director, Government Affairs, Washoe County School  
District

**Chair Woodbury:**

[Roll was taken. Committee protocol and rules were explained.] I will open the hearing on Senate Bill 463 (2nd Reprint).

**Senate Bill 463 (2nd Reprint): Revises provisions relating to education.  
(BDR 34-411)**

**Senator Becky Harris, Senate District No. 9:**

I appreciate the opportunity to present Senate Bill 463 (2nd Reprint) on behalf of the Senate Committee on Education. This bill addresses the need for student data privacy on website and mobile education applications. There has been a great deal of discussion this past year and during this session regarding student data privacy. Many have raised concerns about student information systems operated by the school districts, the sharing of data at the state and federal levels, and Nevada's Statewide Longitudinal Data System. While continued vigilance in these systems is often discussed, we think one of the biggest issues in student data privacy is the use of applications and other items used in the classrooms that are not necessarily regulated.

There are scores of education technology start-up companies marketing their services directly to teachers and they are offering their applications free of

charge, often to try to get a foothold in the schools and classrooms. In and of itself, that is not necessarily a bad thing because many of these applications offer very novel and adaptive learning technologies that can turbocharge the education process, get students excited about learning, and provide teachers with useful insight on how students learn and why they might be struggling. However, these new digital tools have also left school technology officers scrambling to keep track of which companies collect student data information and how they use it.

With the best of intentions, a teacher can sign up for a new application and load it onto students' devices without the knowledge of parents or anyone in the district. We felt that could be extremely risky. It can also be a huge problem for large school districts. To minimize these risks there are data governance steps that can and should be taken at the local level. There are also some public policy measures that can mitigate the risks directly at the vendor level. Last year, California passed landmark legislation to do exactly this. The industry has also offered model legislation to improve data accountability in education applications. Senate Bill 463 (R2) incorporates what my committee believes to be the best provisions of the legislation proposed both by the industry and the state of California.

Here are some key elements to S.B. 463 (R2). The bill provides that the educational records of a student belong to the student and his or her parent and declares that it is the public policy of this state to protect the educational records of students, including their personally identifiable information. The bill requires application vendors to disclose in writing to both teachers and school or district leadership the types of personally identifiable information collected, how the information is used, the vendor's data security plan, and any material changes to the plan. The bill also requires that parents or students over the age of 16 be allowed to review the personal information as gathered and have that information corrected or deleted by request through a school board or governing body. We are going to make an amendment because the age keeps changing, and I will deal with that directly when I am finished. We are now looking at age up to 18.

It also places strict limits on the use of personally identifiable information by the vendor in the school, including a prohibition on targeted advertising and the sale of personally identifiable information. A vendor violating certain provisions of the law is subject to civil penalties up to \$5,000 per violation. The bill allows the limited transfer of personally identifiable information and only after certain notifications have been made. It also allows aggregated student information to be used for limited purposes. It is important that data security not impede the ability to generate useful information to improve education.

In addition, because so many software systems are subject to a contract of some type, this bill's provisions cannot be modified through a separate contract.

Finally, given the complexity and gravity of this issue, the bill requires related professional development to be provided to our educators. When you consider the thousands of teachers employed in Nevada and the thousands of education applications available, it is impossible for school leaders to monitor and vet every application finding its way into a classroom. Senate Bill 463 (R2) advances the cause of student data privacy by training our educators to be more vigilant and by requiring vendors, should they want to offer their services in Nevada, to follow certain guidelines and take all reasonable steps to protect student information.

We thought we had a final version to present to you, but as I mentioned, I am working with the Clark County School District (CCSD). As we are talking to all of the different stakeholders, we found that the federal law requires that a student be age 13 and Federal Educational Rights & Privacy Act (FERPA) allows you to go up to 18 years of age. My legal counsel is working with stakeholders and identifying what that appropriate age is. You can see that it was 13 years, now it has been changed to 16 years, and I think we are going to change it to 18 years. I am willing to have input from your Committee as to what you think the appropriate age would be, and CCSD will be here with an amendment to change that age to 18 as well as ask for a tightening of the definition so that we are not inadvertently including Infinite Campus as well as some testing software into the parameters of the bill. We are really just helping the districts to create a policy so that student data can be protected; these applications will still be able to be utilized in the classroom without the worry that our students' information is being sold for marketing or pecuniary gain purposes.

**Chair Woodbury:**

When you say up to age 18, do you mean that they have to be at least 18 years old, or students from any age up to 18 years of age?

**Senator Harris:**

Any age up to 18. It is anticipated that in the list of documents the school sent home at the beginning of the school year that there would be a data privacy form where parents would consent to allow their student's information to be utilized for these applications. They have an opportunity to know what kind of applications are out there and they are consenting for that type of adaptive learning. If in the absence of parental consent, at 18 a student could then consent to either engage or create a profile or do the other things this bill deals with.

**Assemblyman Hickey:**

You mentioned that there would be professional training and development in association with the use of these applications, and since they are proprietary in nature, do they in any way contribute to the expense of that professional training? How are those expenses covered?

**Senator Harris:**

The bill does not contemplate any type of donation or a fee from those particular industries. Professional development would be something school administrators are able to provide based on their individual district guidelines as they are created.

**Chair Woodbury:**

In section 6, subsection 7, of Proposed Amendment 6918 ([Exhibit C](#)) it says, "A school service provider that violates the provisions of this section is subject to a civil penalty in an amount not to exceed \$5,000 per violation." If there were a breach in a group of students' information and it was disseminated, would the violation be per pupil, or per incident?

**Senator Harris:**

That would probably be something for the Attorney General to decide on how they would pursue that particular violator and whether or not they would list out each violation per pupil or as a class. If you would like it to be clarified, I am sure we could work on some clarifying language.

**Chair Woodbury:**

Do you want it to be up to the Attorney General, or more specific?

**Senator Harris:**

Yes.

**Chair Woodbury:**

Seeing no more questions from the Committee, I will call on anyone in support.

**James M. Benthin, Private Citizen, Reno, Nevada:**

I believe the privacy of student data needs to be protected and guarded. The Family Educational Rights and Privacy Act (FERPA) of 1974 was originally intended to protect personally identifiable information of students and to allow parents access to this information. Over the past two administrations these laws have been watered down. Once, they provided adequate protection; now they do not.

In 2008 under President George W. Bush, the new regulations were reinterpreted to allow states, school districts, and schools themselves to share personally identifiable information from student records without parental notice or consent. Any third party or company designated by the school as a school official, including contractors, consultants, volunteers, and other parties to whom an educational agency or institution has outsourced institutional services or functions, would also be allowed to receive student information. In 2011 these rules were again watered down. The American Civil Liberties Union called this regulatory change a significant new privacy invasion. I believe because the federal government has failed to protect the data of our students that we as a state have to do this. I urge your support.

**David W. Carter, representing Nevada Legislative Affairs Committee:**

I support James Benthin's comments as well as S.B. 463 (R2) as presented by Senator Harris with the proposed mock-up of Amendment 6918 ([Exhibit C](#)), understanding that there may be some minor changes with the ages. I feel the additional verbiage in the amendment is necessary for the bill.

**John Griffin, representing Amazon.com, Seattle, Washington:**

I would like to thank Senator Harris. She has been more than accommodating and willing to work with all interested stakeholders in this bill. It has been a tough issue with regard to minor definitions, a word here, and a comma there that could have major implications. Through her efforts and work on this bill, it is significantly improved for the benefit of Nevada students. To the extent of the comments and questions, if there are any additional amendments or changes to this bill, Amazon.com is happy to continue to work with Senator Harris and members of this Committee.

**Assemblyman Hickey:**

What is the connection with Amazon.com, these types of applications, and this bill?

**John Griffin:**

There were a number of different providers and companies working on this, particularly a couple of trade associations. Versions of this bill are happening in many other states. Amazon.com is the largest Cloud provider in the world for Cloud computing and has a major interest in all kinds of Internet service-type issues. For example, some of the language in an earlier version of this bill could wrap up something as simple as a student searching a normal Internet site for information on a term paper. We are trying to tighten up those definitions to fit within the student data and student privacy that Senator Harris is seeking. That is the long way of saying that Amazon has an interest in everything.

**Barbara Dragon, Legislative Liaison, ParentalRights.org/NEVADA:**

I submitted a letter from our organization with regard to S. B. 463 (R2) which I will read into the record ([Exhibit D](#)).

By way of introduction, ParentalRights.org/NEVADA is a group dedicated to preserving the right of parents to make decisions for their children. We are writing today with regards to S.B. 463 (R2), scheduled to be heard in the Assembly Education Committee on Monday, May 4, 2015.

ParentalRights.org/NEVADA supports S.B. 463 (R2) as amended and passed by the Senate. We believe the protection of pupils, and their families, is of paramount importance. Senate Bill 463 (R2) acknowledges the privacy right of students and provides direction to school service providers on collection, use, transfer, and protection of student data.

Protecting pupils is a non-partisan issue and one we should all take seriously. We appreciate the opportunity to support S.B. 463 (R2) and ask you to vote in favor of this bill.

I would like to add that we have reviewed the amendments and would agree with Senator Harris to raise the age back to 16, and/or 18 and that parents are the last bastion of safety. It is always up to them to make that final decision with regard to their children.

**Lynn Chapman, State Vice President, Nevada Families for Freedom:**

We, too, are in support of this great bill. It is really going to be helpful for parents and for students. We are glad to see that the age requirement was going to be moved up from 13 to 16, and now maybe 18, which would be a lot better.

I had the same question regarding the \$5,000 penalty. Was that going to be per student or every incident? Leaving it up to the Attorney General is probably a wise idea as he knows the laws.

My daughter has had her own phone for the past five years, but I keep getting phone calls from the U.S. Department of Treasury from people with foreign accents, asking for my daughter at my phone number. I do not know what is going on—perhaps her college records have been hacked into. I know this is happening and privacy for students and families is very important. Please vote yes on this bill.

**Joy Trushenski, representing Nevada Legislative Affairs Committee:**

I am an unpaid lobbyist and I live in Carson City. I support S. B. 463 (R2) and I commend Senator Harris for presenting this bill. I do agree with raising the age to 18, which is one of the amendments. I believe we need to protect our children from the massive data collection which, under Common Core State Standards, includes 200 to 400 points of data which would go to the federal government and other third parties. This is a blatant violation of our constitutional rights to privacy. Parents have a right to control their children's information.

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

I am still having trouble understanding how Amazon is a stakeholder in my child's education. I have not heard that argument made yet to satisfy me. However, I am in support of this bill. It is the best thing we have. I would much rather see an opt-out where we can keep our children's data away from the Department of Education.

**Chair Woodbury:**

Mr. Eppolito, if you are in complete support you can come up, but if you disagree with some parts of it you need to come up as neutral.

**John Eppolito:**

We have not seen the amendment from the Clark County School District, have we? How do we know we are in support if we have not seen the amendment?

**Chair Woodbury:**

If you are not sure, come up as neutral.

**Linda Buckardt, Private Citizen, Las Vegas, Nevada:**

I think that a \$5,000 fine for companies taking or selling data on our children is not enough if you own a multibillion dollar company.

**Chair Woodbury:**

Ma'am, are you in support?

**Linda Buckardt:**

I am in support of this bill, and I approve of all of the things people have already said.

**Chair Woodbury:**

Is there anyone else in support of S.B. 463 (R2)? [There was no one.] Is there anyone who would like to testify in opposition to S.B. 463 (R2)? [There was no one.] Is there anyone who wishes to testify as neutral to S.B. 463 (R2)?



**John Eppolito:**

I was in support of the original bill because that was all we had. I would much rather see an opt-out. The data that the Department of Education has on my four children has major flaws. That is the point I am trying to make. We do not know what data. We have not seen the data. Four children's data out of 400,000 was looked at and we saw a lot of problems with that data. Unfortunately, the Department of Education said there was no problem with their system. I do not trust the Department of Education. I believe this Committee is the last line of defense. We need to see what the data is. We do not know what the Clark County School District amendment is, but we think the original bill would have allowed that and I am in support of the original bill.

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

We do not have a formal amendment. We have been working with Senator Harris on this bill, looking at age, compliance with FERPA, and looking at the definition. We would like to see it be age 18 because that is currently the age that is in compliance with FERPA, and for compliance reasons it certainly makes it more simple for our staff and for training. Also, we would like to see a tightening of the definition to ensure that it does not encompass Infinite Campus and other testing vendors that may interfere with our reporting on accountability. We look forward to some additional changes.

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

We are here in the neutral position for the reasons you have already heard from the Clark County School District. We appreciate Senator Harris continuing to work with us on these issues, and it sounds like we will be back with some adjusted language.

**Assemblyman Stewart:**

Are you both okay with the age 18 and under amendment?

**Lindsay Anderson:**

Yes, sir. Thank you.

**Chair Woodbury:**

Is there anyone else who would like to testify as neutral to S.B. 463 (R2)? [There was no one.] Senator Harris, would you like to come up for closing comments?

**Senator Harris:**

I appreciate your allowing me to testify on behalf of my committee with regard to this bill today. As you can see, we have a few more minor things to address so we will be working with both Clark and Washoe Counties to make sure we can have some tightened language for your Committee to review prior to any work session you may have. I urge your support.

**Chair Woodbury:**

I am going to close the hearing on S.B. 463 (R2). We have three bills on work session, and I am going to have Kristin Rossiter walk us through them.

**Senate Bill 208 (1st Reprint):** Requires certain notice to be provided to certain parents and legal guardians when a new charter school will begin accepting applications or an existing charter school expands enrollment or opens a new facility. (BDR 34-729)

**Kristin Rossiter, Committee Policy Analyst:**

Senate Bill 208 (1st Reprint) is sponsored by Senators Harris, Hardy, Gustavson, Denis, and Farley and was heard in Committee on April 27, 2015. [Read summary of S.B. 208 (R1) from work session document ([Exhibit E](#)).] Two amendments have been proposed by Assemblywomen Swank and Joiner and are included in a mock-up that follows this summary page. There are fiscal notes for this bill, although they indicate no fiscal impact.

ASSEMBLYMAN ELLIOT T. ANDERSON MOVED TO AMEND AND  
DO PASS SENATE BILL 208 (1ST REPRINT).

ASSEMBLYMAN ARMSTRONG SECONDED THE MOTION.

**Assemblywoman Joiner:**

I would like to clarify for the record that as I do not recall proposing this amendment, I have a question about it. I am okay with the amendment either way, I just wanted it clarified for the record.

**Chair Woodbury:**

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND MUNFORD  
WERE ABSENT FOR THE VOTE.)

**Chair Woodbury:**

Assemblyman Elliot T. Anderson will take the floor statement.

**Senate Bill 313 (1st Reprint): Authorizes the governing body of a private school or a university school for profoundly gifted pupils to provide a program of distance education. (BDR 34-1032)**

**Kristin Rossiter, Committee Policy Analyst:**

Senate Bill 313 (1st Reprint) was sponsored by Senator Kieckhefer and first heard in Committee on April 27, 2015. Senate Bill 313 (R1) authorizes the governing body of a private school or a university school for profoundly gifted pupils to provide a program of distance education. It also revises provisions governing apportionments and allowances from the State Distributive School Account to include students who are enrolled full-time in such a program provided by a university school for profoundly gifted pupils. This bill is effective on July 1, 2015 ([Exhibit F](#)). There are no amendments and no fiscal notes for this bill.

ASSEMBLYMAN ARMSTRONG MADE A MOTION TO DO PASS  
SENATE BILL 313 (1ST REPRINT).

ASSEMBLYMAN ELLIOT T. ANDERSON SECONDED THE MOTION.

**Chair Woodbury:**

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND MUNFORD  
WERE ABSENT FOR THE VOTE.)

**Chair Woodbury:**

Assemblyman Armstrong will take the floor statement.

**Senate Bill 390 (1st Reprint): Revises provisions relating to charter schools. (BDR 34-78)**

**Kristin Rossiter, Committee Policy Analyst:**

Senate Bill 390 (1st Reprint) was heard in Committee on April 27, 2015 and was sponsored by Senators Harris, Hammond, Farley, and Lipparelli. Senate Bill 390 (R1) authorizes preference for enrollment at a charter school to be offered to students attending a public school that: exceeds its intended enrollment capacity by more than 25 percent; or in the preceding school year, received one of the two lowest ratings under the statewide system of accountability for public schools.

If offered, these enrollment preferences must first be provided to students residing within two miles of the charter school and then to other such students

applying for enrollment. Additionally, each school district is required to post on its website a list of schools in the district exceeding their enrollment capacity by 25 percent or more. This bill is effective on July 1, 2015 ([Exhibit G](#)). There are no amendments and no fiscal notes for this bill.

ASSEMBLYMAN EDWARDS MADE A MOTION TO DO PASS  
SENATE BILL 390 (1ST REPRINT).

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

**Chair Woodbury:**

Is there any further discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN DIAZ AND MUNFORD  
WERE ABSENT FOR THE VOTE.)

**Chair Woodbury:**

Assemblyman Edwards will take the floor statement. Is there anyone here for public comment? [There was no one.] This meeting is adjourned [at 3:47 p.m.].

RESPECTFULLY SUBMITTED:

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Sharon McCallen  
Committee Secretary

APPROVED BY:

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Assemblywoman Melissa Woodbury, Chair

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

**EXHIBITS**

**Committee Name:** Assembly Committee on Education

**Date:** May 4, 2015

**Time of Meeting:** 3:17 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 463 (R2)	C	Senator Harris	Mock-up of Proposed Conceptual Amendment 6918
S.B. 463 (R2)	D	Barbara Dragon, <a href="http://Parentalrights.org/NEVADA">Parentalrights.org/NEVADA</a>	Letter of Support
S.B. 208 (R1)	E	Kristin Rossiter, Committee Policy Analyst	Work Session Document
S.B. 313 (R1)	F	Kristin Rossiter, Committee Policy Analyst	Work Session Document
S.B. 390 (R1)	G	Kristin Rossiter, Committee Policy Analyst	Work Session Document