

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

**Seventy-Eighth Session
May 31, 2015**

The Committee on Education was called to order by Chair Melissa Woodbury at 10:55 a.m. on Sunday, May 31, 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. 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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

Assemblywoman Victoria A. Dooling (excused)



GUEST LEGISLATORS PRESENT:

None

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:

Steve Canavero, Ph.D., Deputy Superintendent for Student Achievement,
Department of Education
Patrick Gavin, Director, State Public Charter School Authority
Nicole Rourke, Executive Director, Government Affairs, Community and
Government Relations, Clark County School District
Lindsay Anderson, Director, Government Affairs, Washoe County
School District
Lauren Hulse, Executive Director, Charter School Association of Nevada
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro
Chamber of Commerce

Chair Woodbury:

[Roll was taken. Committee protocol and rules were explained.] I am going to open the hearing on Senate Bill 460 (2nd Reprint).

Senate Bill 460 (2nd Reprint): Revises provisions related to the statewide system of accountability for public schools. (BDR 34-1108)

**Steve Canavero, Ph.D., Deputy Superintendent for Student Achievement,
Department of Education:**

I am honored to present Senate Bill 460 (2nd Reprint) to you today on behalf of Senator Becky Harris, Chair, Senate Committee on Education. I want to point out that there are three distinct pieces to this bill. The first two are applicable to all schools in the state.

Early in this session, Chair Woodbury and Chair Harris came to the Department of Education sharing a similar concern. That concern was how do schools, such as The Delta Academy, which enrolls our most vulnerable students—students with individualized education programs (IEP), students who

are adjudicated, behind in credits—be fairly and accurately measured in the statewide system of accountability? The statewide system of accountability is supposed to rate all schools. There are some schools for which we have a challenge rating in the sense that they feel like they are different, unique, or alternative in terms of the student population that they serve. We worked with the chairs of the education committees and came up with two very similar bills. Ultimately, this bill before you represents a distillation of that thinking.

The first two components of the bill apply to all schools; it is the development of an alternative framework, and the State Board of Education would adopt rules or regulations related to what the framework would contain. There are two areas that their regulations must address. One of those is the progress of pupils enrolled in these alternative performance framework schools, and the other is reporting results on the statewide assessments.

The third section of the bill describes the process that schools would go through in order to achieve this designation. The Department will generate some forms, and schools would apply through their district or their sponsor. Again, this applies to all schools. If you are a charter school or a noncharter public school, you work through your trustees, your sponsor, then you work to the state, and the state would designate you as eligible for the alternative performance framework.

Section 3, subsection 3 talks about eligibility. Eligibility is determined around who you serve, and why you are a school. The list includes students who have been expelled, have habitual disciplinary problems, and are academically disadvantaged—which we define as being retained in the same grade more than once or having deficiency in credits—and students who have IEPs. Once a school is identified, it would work through and be rated by the alternative performance framework rather than the state's traditional framework that applies to all nonalternative public schools.

The second of the three components in S.B. 460 (R2) that apply to all schools is in section 3.25, subsection 2(c), to "Include a method to provide grants and other financial support, to the extent that money is available from legislative appropriation, to public schools receiving one of the two lowest ratings of performance pursuant to the statewide system of accountability for public schools." We needed a way in law to access some of the funds that you are contemplating to provide to support struggling schools.

Sections 3.5 and 4 are specific to charter schools. Section 4 introduces the notion of a restart. In 2013, the Legislature put in an automatic closure provision. Charter schools that received the lowest rating for three consecutive

years would be automatically closed. This is something a number of states have. It is a really strong statement for performance. In addition to closure or termination, section 4 includes new language that talks about restarting a charter school under a new charter contract. It essentially dissolves the legal entity that was there and that was underperforming; you are able to establish a new legal entity there with a new contract. Section 4, subsection 4, has been included with a clear desire to limit the disruption to pupils who are in an underperforming charter school. Here you have the ability to restart with very little disruption to pupils, a new school, a new contract, and new governance.

We are also changing in section 4 that the lowest possible rating is for any three out of five years. Another concern was the application of this automatic closure provision given the transition to the new assessments and the new statewide assessments. We will not be able to measure growth for pupils with these new assessments that we delivered in the 2014-2015 school year, so we will not issue statewide ratings. We needed to pause accountability in this particular section of law. For that reason, section 4 only begins in the fall of the 2018-2019 school year and would be the first time this provision would actually be in effect.

Chair Woodbury:

In section 3.25, subsection 2(c), if you were able to get those grants, would they be used for programs that we are putting into statutes in other bills, or would regulations be put into place to decide what that money could be used for?

Steve Canavero:

There could be a number of places, especially in federal law and the federal monies we receive. Specifically, though, there is \$2.5 million that was adopted in the budget to support turning around our lowest performing schools.

Assemblyman Stewart:

How many schools would fall under this?

Steve Canavero:

These are only those that we looked at and that we understood had this population. The only information we collect are IEP and habitual disciplinary students. We had about 12 schools we thought would be automatic and easy, and those were traditional and district schools. There could be others that do apply which we are not thinking of.

Assemblyman Stewart:

Having toured The Delta Academy and talked to the administrators and teachers there, with the nature of their student body, it is not too likely that they are going to improve greatly overall because they have such a transient population. It is one of the last chances for the students who come there. Is there a provision in the bill that would take that into account? They do not have much to begin with as far as potential for a large number of graduates. I hope that is taken into account in some way.

Steve Canavero:

We believe that is the intent of the framework, to ensure that those students receive the absolute best that a school has to offer. If those students are behind in credits, we would measure credit attainment over time in addition to the standard set of proficiencies and other assessments. While they are there, we would also look at what growth is occurring. We would hope that the school would have a pre- and a postassessment so that when students arrive, they perform a diagnostic and know the students' skills and what they need. They would then be able to build those skills specifically and measure them upon exit. We believe the framework is important, to not excuse accountability, but then to fairly measure accountability for schools that serve students with special and unique needs.

Assemblyman Flores:

I have had the opportunity to visit The Delta Academy and I understand the challenges of their community. What are we going to do to make sure that the vision does not change? Say that I am The Delta Academy and I am going to serve these types of students from underrepresented communities and we need those schools to do that. Then we put them in this alternative framework mindset. What are we going to do if the following year they change their vision? What are we doing to make sure they continue those efforts and they are adequately meeting those needs?

Steve Canavero:

With a charter school, it is called mission creep when we approve you to serve this particular student population, but then two years later we find out that you are not actually serving them at all. That is a problem with fidelity to their contract. That would be a sponsor/charter school issue that they would have to resolve. That could be saying that they are in breach of their contract because they are not serving the students they said they would serve in the manner they said they would serve them. That is just as concerning to an authorizer as many of the other areas. On the district side, they tend to be more single-purpose programs specifically designed to do that work, and the system itself is structured to identify students who may need that support, then deliver

them to that particular campus. As it changes, we would need to revisit their designation as a school that qualifies for the alternative program framework; then, if necessary, we would pull them out if that changes.

Assemblyman Flores:

One of the big issues in some of these schools is getting the student to show up. For whatever reasons they have going on at home, they do not show up. When we talk about the alternative performance framework, there may be a demand that we do not currently have that we provide some type of transportation for students. Is that something that is contemplated, or is that something that we cannot even talk about because we cannot demand that of a charter school?

Steve Canavero:

Transportation is certainly a challenge, especially on the charter side, as we know and we hear from many of the schools. This bill, however, would not deal with that particular challenge or issue. It is transportation on one side, and it might be nutrition on another; this is agnostic to those particular challenges. Mostly, we have to set up a structure that measures outcomes and fair measures of outcomes for those schools that serve those students.

Assemblywoman Joiner:

If we have about 12 schools that this bill will affect, I am curious as to what will happen to these schools if this bill does not pass. I understand that we are allowed to do this now because we received the federal waiver, is that correct? Is this alternative performance framework that we are looking at only for this specific group of schools?

Steve Canavero:

Yes. Our regular Nevada School Performance Framework (NSPF) applies, and then this would be the alternative to that. We have built in a number of "if/then" scenarios under the NSPF, our traditional framework that was designed by a number of stakeholder groups in Nevada a few years ago. It is going under review right now to ensure that we can improve upon what already exists. There are a number of if/thens. For example, if you do not have enough students in a small school in the first years, then we roll it to the third year so that we can get running averages for schools. That helps us catch some of the small remote rural schools. The one area that the Department recognized over a year ago was the need for an alternative framework. We had a work group at the Department that worked for a number of months and understood that this was an issue that the Legislature would take up, so we pulled back. We provided the report to staff and the legislators to help inform their work.

Assemblywoman Joiner:

What happens to these schools if this does not pass? Is there anybody in danger of losing their charter?

Steve Canavero:

If it does not pass, the Department of Education would still pursue its work in creating an alternative performance framework. We do not absolutely have to have this law in place; however, this law strengthens our ability to continue to develop and to provide an alternative framework.

Assemblyman Elliot T. Anderson:

I want to look at the eligibility to use the alternative performance framework. Why is it not a requirement that you have performance data to show that there is a problem and that they may need to be judged by something differently? Would that be a way to tighten that up a little more to ensure that everyone does not try to fit into that eligibility label?

Steve Canavero:

If I understand your question, you are thinking that if you look at school performance data prior to eligibility, and if the performance data indicated some kind of mismatch, it would be eligible?

Assemblyman Elliot T. Anderson:

We have a performance framework already and I would assume it is already getting rated.

Steve Canavero:

Some schools are not receiving a rating due to the nature of their population. For a school that serves students for three months like an adjudicated school or a court-mandated school, oftentimes the students are not there long enough to have a substantial enough population to rate that school. We only measure a school for students who were there on the first day, or the first quarter, and who also take the assessment at the end of the year. Sometimes that population is not large enough.

Assemblyman Elliot T. Anderson:

We have talked about section 4 before, but can you explain exactly how the restart process would work?

Steve Canavero:

This is a result of a lot of conversation on the Senate side. The first bill had a substantial amount of language that went through. If you look at section 4, subsection 4, "The Department shall adopt regulations governing procedures to

restart a charter school under a new charter contract pursuant to subsection 1." This was born from a desire and intent, rather than just talking about revocation or termination of a contract, that we use this new term called restart to limit the disruption to students at the school site. If a school is underperforming and it falls under this provision, you could restart the school. That means you could take the governance and the legal entity and walk it out of the building while you walk in a new contract and a new governance structure, like new governing body members, a new principal, or new teachers so that those students do not show up the next day and the school has padlocks on the door.

Assemblyman Elliot T. Anderson:

If you recall, my previous concern with this section is that there is no limit on it. In the State Public Charter School Authority's bill, we amended some limits so that there could be a certain amount of reconstitutions. I am worried that the exceptions can swallow the rule. Is there any way to tighten that up?

Steve Canavero:

You bring up a nuance that is really important to expand on. The notion of reconstituting a governing body versus restarting under a new charter contract are two different things. Reconstituting a governing body is simply bringing in up to 40 percent of new governing body members—you would pull out some of the governance structure and install new. I think of it as a strategy to increase performance. Under the automatic closure provision, with a school that has been underperforming consistently, you could try reconstituting the board once, and they are still underperforming. With a restart under a new charter contract, it means that legal entity dissolves. It is for all intents and purposes a revocation of the written charter or a termination of the charter contract. It is a bit of a play with words, but ultimately under a new charter contract the key under that provision is essentially a brand-new school and brand-new contracts. Therefore, you are able to have a new program without any of the entangling contracts that may have previously existed that did not contribute to the improvement or achievement of the school.

Assemblyman Elliot T. Anderson:

Maybe it would help if you could explain exactly what happens once it is restarted and what the Department would be doing. I see you would be adopting regulations. It is hard to contemplate exactly what we are doing without some understanding of what the Department would do in those regulations.

Steve Canavero:

You will see in the bill that there is a clear intent to ensure that the pupils who are already enrolled in the school will continue to be enrolled in the school.

We would have regulations that try to ensure that the students who wish to remain at the school site could remain there. We would also have regulations to expedite the proposal for a new charter to come in to run that school.

We also know that there will be some contracts that the new governing body under the new charter would want to maintain. To the extent possible under the new regulation, we would want to help that process.

Assemblyman Flores:

Could you tell us how this will benefit us moving forward in terms of incentivizing charter schools to help our underrepresented communities?

Steve Canavero:

It will help in two ways. The first is that the Legislature has declared its intent to accurately and fairly measure schools that wish to take on a very specific mission to work with specific students. There is a lot of attraction there. It is in law. It is recognized. If you are a charter and you wish to serve a particular student body—special needs, adjudicated youth—you can. There is a provision in law already where you can have a single-gender charter school for students with habitual disciplinary issues.

Importantly, regarding the automatic closure provision, we are telling the charter community at large that we would like charters to contribute to the solution in our state, but we will not allow charters to contribute to the problem of underperformance in our state. That is attractive to charter organizations and to those who work in charter schools who wish for nothing other than for the charter sector to continue to excel. They agree with the quid pro quo; with the flexibility and freedom that you provide to us, we will provide you results. If we do not, you hold us accountable. Those two areas are key for schools whose sole purpose and mission is to work with very sensitive student populations and to do a really good job.

Assemblyman Stewart:

This is a very difficult situation. We want to be tough enough so people are not trying to reduce the standards, yet it might be the best you can get and still not be good enough to stay open. My experience with The Delta Academy is that there are good people there and it is a good facility, yet I am not sure they are ever going to be that successful because of the clientele that they have.

Chair Woodbury:

I am going to ask anyone in support of S.B. 460 (R2) to come up.

Patrick Gavin, Director, State Public Charter School Authority:

I want to thank Senator Harris, the sponsor of this legislation, and Assemblywoman Woodbury, who put together something very similar on the Assembly side. They shared many of the same thoughts on this and looked in a very thoughtful and careful way at how we work with this very small subset of schools that are serving profoundly challenged populations. We all know that it is critically important that every school be accountable for outcomes for our children. That said, schools and children start at different points and there is a very small subset of schools for which the traditional yardstick is not appropriate. It is important that we identify what schools these are and come up with an appropriate, rigorous, high-quality means of measuring what they are doing. It is also important that we look at not only the schools that are struggling under our traditional framework that serve these populations, but also schools that may be moderately successful under our existing framework. It is important to recognize those schools that are doing extraordinary work as proof points for what is possible for our academically challenged youth.

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

We also support S.B. 460 (R2). We have 20 alternative schools: behavior schools, continuation schools that help our adjudicated youth, and 4 special education schools that assist our most at-risk and in-need students that have IEPs.

We had staff that worked with Mr. Canavero in the interim on the working group for this framework. We feel that it is very important that there is a tool that actually measures their performance. In our 20 alternative schools, youth are not there the entire year, not just because of transiency, but because we hope to move them back into their comprehensive school after their behavior has been corrected. We need a tool that measures the performance of the school while they are there. We fully support this alternative framework.

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

I will agree with what has been said. We have schools that would qualify under this framework. I would like to address Assemblywoman Joiner's question about what the consequences would be if we do not do this. I will anecdotally say that if we continue to measure schools under the existing framework that does not take into account who they serve, they get a one-star or two-star rating and there are a couple of consequences that are demoralizing for the staff to think that their work there, while it is amazing, is not the same as what is going on in a comprehensive high school or a different type of setting.

Also, with some of the legislation targeting underperforming schools, those schools may end up on a list to become turned over or closed. I do not think they will ever be selected because I do not think that is the intent of the legislation, but to even be on that list causes someone who goes to work at that school every day to wonder if 50 percent of their job is going to be gone or if the work they are doing is not good. Psychologically, when we put those one-star or two-star labels on schools, let us do it because that is reflective of what is happening in that school, not because of the circumstances in which they are operating. We are in support, we participated in the working group, and we look forward to seeing this roll out.

Assemblyman Stewart:

Ms. Anderson, in the Washoe County School District, how many schools do you have that would qualify in this category?

Lindsay Anderson:

I think three. There may be more. It depends on how the language turns out.

Assemblyman Stewart:

Ms. Rourke, you have eight?

Nicole Rourke:

No, we have 20 alternative schools that would qualify, and 4 special education schools that we believe will qualify.

Assemblyman Stewart:

So 27 altogether.

Chair Woodbury:

And the charter school makes 30, right?

Nicole Rourke:

I did not count all of them. I will let Patrick Gavin speak for his charter schools, but The Delta Academy is a Clark County School District-sponsored charter school and would also qualify.

Assemblyman Stewart:

So counting the charter schools you would be at 28.

Chair Woodbury:

Mr. Gavin, would you have more than that?

Patrick Gavin:

It is possible. There are several schools that have argued that they may qualify for this. Until such time as legislation passes and we work with the State Board of Education on this, I do not want to say that any one of them would qualify, but certainly if they do, we want to work with them. I have learned a lot about The Delta Academy in particular and think it is a very interesting program. I am hopeful we will be in a position to measure how they are actually doing based on their population. I am excited by the opportunity to begin to invite in organizations which do work with these kinds of students from other states and have held off because of the way our current framework works. This presents an opportunity for us to bring in really high-quality organizations that do work with these populations for the future.

Lauren Hulse, Executive Director, Charter School Association of Nevada:

We are in support of S.B. 460 (R2). Because The Delta Academy was not able to be here, I will let it be known that they are one of our member schools and we worked with them in addressing their concerns. Because of automatic closure, their middle school program is rated a one-star right now. If they continue to be rated one-star in the current framework, they would be closed. That is why it is so important to develop this alternative performance framework so that we can rate them, and other schools like them, the way they are supposed to be.

I would like to address Assemblyman Stewart's concern about still not being able to perform up to the level they need to be to stay open. There is one school which has been rated for the 2013-2014 school year, and there will be a pause this year. There will be another legislative session before it would be closed. Then we, as an association, will be working with the State Board of Education and the Department of Education in developing regulations for the alternative performance framework. There are enough people out there that recognize the issue and have the same concerns. As a state we will be able to make sure these schools that are dealing with these types of populations do not just get shut down because of the way the law is written. I do not know if that makes you feel any better, but it is something that a lot of people have concerns about in the state.

Assemblyman Elliot T. Anderson:

I am confused because Mr. Canavero said that we do not get data on these schools, and now you are saying they are one-star. Can you clear that up?

Lauren Hulse:

I believe what he was referring to was in section 3, subsection 3, for whether their mission addresses all of those issues that are listed.

Steve Canavero:

For some of the alternative schools that would clearly fit the definition, we do not receive enough data to then categorize them with a star under the Nevada School Performance Framework. That is absolutely correct. There are other schools—Pioneer High School, for example—that we actually can rate and do rate under the NSPF, but they believe they are not traditional and should go under the alternative framework. We have seen both scenarios.

Assemblyman Elliot T. Anderson:

I want to make sure that we do not have people hiding under this label. I do not know if there is a way to distinguish that and write it in the bill. Let us think about it.

Lauren Hulse:

I wanted to point out that this past year was the first year The Delta Academy's middle school program was able to be rated. The prior two years they were labeled as not rated because of the issues of not being able to collect the data. This was the first year the middle school program was able to receive and be given a rating.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:

The Las Vegas Metro Chamber of Commerce would like to offer its continued support of this bill. As you know, these schools and charter schools play an important role in our educational system in Nevada. We believe this is a practical and reasonable approach. Obviously, they serve a special population that should have an alternative system for evaluation.

Chair Woodbury:

Is there anyone else in support of S.B. 460 (R2)? [There was no one.] Is there anyone who would like to testify in opposition to S.B. 460 (R2)? [There was no one.] Is there anyone who would like to testify as neutral to S.B. 460 (R2)? [There was no one.] Mr. Canavero, do you have any closing remarks?

Steve Canavero:

I appreciate the time of the Committee and your engagement.

Chair Woodbury:

I am going to close the hearing on S.B. 460 (R2). We will take a one-minute recess and when we come back we will decide if we are going to take action on this bill.

[Meeting recessed at 11:34 a.m. and reconvened at 11:43 a.m.]

Chair Woodbury:

I will accept a motion to do pass S.B. 460 (R2).

ASSEMBLYMAN GARDNER MADE A MOTION TO DO PASS
SENATE BILL 460 (2ND REPRINT).

ASSEMBLYMAN ARMSTRONG SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Elliot T. Anderson:

I just had a great conversation with Mr. Canavero and Dale Erquiaga, Superintendent of Public Instruction, Department of Education. I had a few concerns with the way section 4 was drafted, recognizing that it is a little late for amendments. We have an agreement that the regulations that are being drafted will take care of my concerns for the interim to ensure what happens if we do not have a new charter contract with the same operator. Next session we will work on a trailer bill to tighten it up. I thank Mr. Canavero for being willing to make that agreement because it is important to ensure we do not have a loophole swallow the rule.

Chair Woodbury:

Do you want Mr. Canavero to put something on the record?

Steve Canavero:

We all have the same intent in mind to ensure that these are high-quality schools and that the regulations that we adopt will include language that specifically addresses a change in the education management organization or the charter management organization that is required under the restart provision.

Woodbury:

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

THE MOTION PASSED. (ASSEMBLYMEN DOOLING AND
EDWARDS WERE ABSENT FOR THE VOTE.)

Assemblyman Gardner will take the floor statement.

[Meeting recessed at 11:45 a.m. and adjourned at 8:38 p.m.]

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblywoman Melissa Woodbury, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Education

Date: May 31, 2015

Time of Meeting: 10:55 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster