

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
May 29, 2015**

The Senate Committee on Education was called to order by Chair Becky Harris at 3:47 p.m. on Friday, May 29, 2015, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Becky Harris, Chair
Senator Scott Hammond, Vice Chair
Senator Don Gustavson
Senator Mark A. Lipparelli
Senator Joyce Woodhouse
Senator Moises (Mo) Denis
Senator Tick Segerblom

STAFF MEMBERS PRESENT:

Todd Butterworth, Policy Analyst
Betty Kaminski, Committee Manager
Beth Ann Reykers, Committee Secretary

OTHERS PRESENT:

Dale A.R. Erquiaga, Superintendent of Public Instruction, Department of Education
Patrick Gavin, Director, State Public Charter School Authority
Joyce Haldeman, Clark County School District
Jessica Ferrato, Nevada Association of School Boards
Scott Baez, Washoe County School District
Mary Pierczynski, Ed.D., Nevada Association of School Superintendents
Ray Bacon, Nevada Manufacturers Association

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Chair Harris:

I open the work session on Assembly Bill (A.B.) 448.

ASSEMBLY BILL 448 (2nd Reprint): Revises provisions relating to education.
(BDR 34-746)

Todd Butterworth (Policy Analyst):

Assembly Bill 448 was sponsored by the Assembly Committee on Education and was heard by the Senate Committee on Education on May 26.

I will now read from the work session document ([Exhibit C](#)).

Senator Woodhouse:

I do not believe A.B. 448 and the Achievement School District is necessary. The Clark County School District (CCSD) has a strong turnaround school program. There are a number of schools in that program. Some of them have succeeded to the point that they could be removed from that program. The Washoe County School District (WCSD) also has a turnaround school program. Only one school that is performing unsatisfactorily remains in its turnaround program, and the WCSD is working with it.

I reiterate; I do not think this bill is necessary. I prefer we implement the positive pieces of legislation passed by this Committee, including the zoom schools and victory schools programs.

I will be voting no on A.B. 448.

Senator Gustavson:

I like the intent of A.B. 448. I believe we need this program. I do have some concerns about how the bill will affect schools in the rural districts. Some schools in rural Nevada are just barely getting by. I am concerned about them.

I am going to support A.B. 448 now, but reserve my right to change my vote when the Senate hears this bill.

Senator Denis:

Like Senator Woodhouse, I have concerns with some of the provisions within A.B. 448. I agree there are some great programs in schools. I do not think we need to do this at this time and I will be voting no on A.B. 448.

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Senator Segerblom:

I join with my colleagues and oppose A.B. 448. While I agree it may be a good concept, I am strongly opposed to turning over public resources, including school buildings, to a private entity.

I will be voting no on A.B. 448.

SENATOR HAMMOND MOVED TO DO PASS A.B. 448.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS DENIS, SEGERBLOM AND WOODHOUSE VOTED NO.)

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Chair Harris:

I now close the work session and open the hearing on A.B. 483.

ASSEMBLY BILL 483: Makes various changes relating to the compensation of certain public school employees. (BDR 34-1198)

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

Assembly Bill 483 is a pay-for-performance and enhanced-compensation measure. It touches upon some of the same underlying statutory language as discussed during the meeting of the Committee of the Whole earlier this week when we heard Senate Bill (S.B.) 511. It will provide up to \$5,000 to as many as 1,000 new teachers as incentives to teach in at-risk schools.

SENATE BILL 511: Establishes the Teach Nevada Scholarship Program and incentives for new teachers in certain schools. (BDR 34-1277)

Section 1 of A.B. 483 adds new language to *Nevada Revised Statute* (NRS) 391, which pertains to personnel in our public school system. Assembly Bill 483 is directed to local school district personnel only.

The language requires the board of trustees of each school district to reserve a portion of its budget for pay-for-performance and enhancement programs.

Nevada Revised Statute 391.168 has required pay-for-performance and enhanced-compensation plans for 2 biennia, but those plans have not always been implemented. This bill establishes a deadline of July 1, 2015, for local boards of trustees to have plans for performance pay and enhanced compensation in place.

Assembly Bill 483 requires the local school districts to reserve and allocate sufficient funds from their general operating budgets to give up to a 10 percent annual bonus to not less than 5 percent of teachers and administrators in the district. Assembly Bill 483 requires the funds to be set aside in a separate account and not be subject to normal collective bargaining, as are the balance of the districts' general operating funds.

In a sense, this is like the minimum expenditure requirement for textbooks that was initiated and amended in approximately 2003, whereby the districts are required to set aside a certain portion of their funding for textbooks.

Assembly Bill 483 follows the same theory. School districts will be required to set aside this money to be provided as additional compensation to teachers and administrators.

The calculation prescribed in A.B. 483 is derived from base salary. Contributions made to the Public Employees' Retirement System, health insurance premiums or any other benefits paid by a school district are not included in the calculation for the required set-aside. If a new teacher starts at a base salary of \$35,000 a year, that is the calculation used to generate the set-aside figure.

Assembly Bill 483 requires local school districts to place 10 percent of the base salaries paid to teachers in a trust account beginning in school year (SY) 2016-2017. Contracts are already being negotiated and plans are in place for SY 2015-2016. This legislation will take effect in SY 2016-17. Before contract negotiations begin, this money shall be set aside. The regular steps and lanes of a salary scale will be developed with the bargaining groups, but then the money would be available for a pay-for-performance program for teachers and administrators.

The fund can be perpetuated for 1 extra fiscal year. If the money is held aside but not all awarded in that year, it is allowed to be held for 1 additional year,

but it cannot be held forever. We do not want an account to grow and funds to be unused. If the funds are not used, they will revert to the State General Fund. Section 2 of A.B. 483 amends the existing statute by doing two things: it removes the pay-for-performance and enhanced-compensation programs from the collective bargaining process, and it includes teachers and administrators working in underperforming schools as eligible recipients. This is in the same spirit as S.B. 511.

We want to focus on improving performance in at-risk schools, those schools with students in poverty, and underperforming schools. We want our enhanced-compensation programs and our pay-for-performance programs to focus first on staff serving in schools having the most need. It would be wonderful if we focused on all schools, but there is a requirement in A.B. 483 to address these schools specifically.

Governor Sandoval requested this bill in his State of the State address. He believes it is a small but critically important piece of education reform. Performance pay and enhanced compensation are vehicles for enhanced accountability in our school system. We know we cannot do as much as we would like to do for our educators. Assembly Bill 483 is a means to reward the best teachers in order to retain them in the classrooms. This Committee has processed many pieces of legislation focusing on recruitment and retention efforts for our most in-need classrooms. Great work has been done in this area. Assembly Bill 483 is the final piece.

Senator Lipparelli:

Is the bonus a one-time occurrence, or is it an increase in salary that perpetuates over time?

Mr. Erquiaga:

It is referred to in NRS 391.168 as an increase in base salary, but it is a local school district plan. Assembly Bill 483, together with the NRS, allows a district to provide pay for performance or enhanced compensation. Enhanced compensation could be an ongoing adjustment to base salary. Pay for performance is often contemplated as a one-time bonus or a temporary enhancement to base. This statute leaves the decision in the control of the local boards of trustees.

Senator Lipparelli:

If this bill rewards superior performance based upon whatever criteria is established by a school district for a particular year, but then 2 years later that performance does not persist, could there be a decline in compensation? This could be a reason for a teacher or administrator to continue his or her great work.

Mr. Erquiaga:

A teacher or administrator has to continue to earn the pay for performance or enhanced compensation or it will go away.

Chair Harris:

If a teacher is teaching at a 1- or 2-Star school and improves students' performance, would this teacher's enhancement pay go away once the school earns a 3- or 4-Star rating?

Mr. Erquiaga:

The performance enhancement could be discontinued if that is the way the program is written by the local board of trustees. If the program written by the board states only individuals working in those 1- or 2-Star schools were eligible recipients, then your example would be accurate.

Assembly Bill 483 mandates that local boards of trustees must give appropriate consideration to implementation in at-risk and 1-Star schools, but it does not limit it to those schools. The Department of Education (NDE) suggests the program start there, given the limited funds available, but it is not exclusive.

Senator Denis:

Could a teacher earn the pay-for-performance pay 1 year, lose it the next year and then get it back in a third year?

Mr. Erquiaga:

That is conceivable. It is dependent upon how the local school board of trustees writes its policy.

Senator Denis:

Will the local districts determine the criteria?

Mr. Erquiaga:

Yes, the local school boards of trustees will determine the criteria. Assembly Bill 483 requires the funding plan passed by the local board shall be submitted to the State Board of Education for review. While NRS 391.168 has required a plan, there have been no consequences for the lack of implementation of that plan.

It is important for the State Board of Education to hold a hearing where it highlights the performance of quality educators and the local school districts describe how they are rewarding excellent performance. Plans are reviewed at the State level, but plan development is a local board of trustees' decision.

Senator Denis:

Teachers and administrators who work in 1- and 2-Star schools face different challenges than other schools. These challenges could make it impossible for teachers to get to whatever levels they need to achieve to earn additional compensation. I hope districts consider these aspects when they are developing their local plans.

Mr. Erquiaga:

I agree.

Chair Harris:

The definition provided for 1- and 2-Star schools typically applies only to elementary and middle schools. Are we going to apply this to high schools, to those that have graduation rates of 60 percent or less? All teachers, regardless of where they are in the primary through secondary school continuum, should qualify for performance pay or enhanced compensation.

Mr. Erquiaga:

Yes, all teachers regardless of grade-level taught could potentially qualify for pay for performance or enhanced compensation.

Patrick Gavin (Director, State Public Charter School Authority):

The State Public Charter School Authority supports A.B. 483.

Joyce Haldeman (Clark County School District):

The CCSD testified neutral during the hearing held by the Assembly Committee on Education. The CCSD endorses the policy component of A.B. 483. Providing

incentives to teachers who teach at the schools where they are needed the most is the right thing to do. For that reason, the CCSD supports S.B. 511.

The CCSD is opposed to the requirement within A.B. 483 that existing Distributive School Account (DSA) funds shall be set aside for its implementation. This presents a challenge for the CCSD. The superintendent of public instruction stated it is exactly the same principle as textbook funding. It is not. Funding for textbooks is an enhanced apportionment that comes to the CCSD and is then set aside. Similar to funds allocated for class size reduction, it was set aside specifically so that it cannot be included in collective bargaining.

Assembly Bill 483 requires the CCSD to take money out of the DSA and set it aside to be used as bonuses for a certain segment of its teaching population. It directs the manner in which the CCSD can use its budget. It is problematic for the CCSD.

The CCSD would have fully supported A.B. 483 had there been funding attached to it, like there is with S.B. 511.

The CCSD is appreciative of the attention that education has received during the 78th Session of the Legislature and for the hundreds of millions of dollars that the Governor has included in his budget for education enhancement. We fully support so many of these great programs.

The problem is that they are categorical funding streams that will be administered from the NDE as flow-through monies to the local school districts. The funding does not funnel into the DSA. Those of you who are aware of the budget compilation process are aware the districts are concerned about the shortfall in the DSA funding.

Every local school district is working on budget cuts at the local level. I know it seems so contradictory because we have received additional dollars in so many places in education. Yet, the base funding is less than local school districts anticipated. Every school district in the State is making budget cuts. This afternoon, I submitted the reduced budget for my department and a list of the items that will be eliminated because of the district's budget cuts.

Adding the requirements enumerated in A.B. 483 will mean every school district will have to amplify its existing cuts even farther. The CCSD is already in the

process of cutting approximately \$50.2 million from its budget. Passage of A.B. 483 will result in cutting an additional \$13 million from its budget.

I encourage the Committee to consider that S.B. 511, a bill that does very similar things with the same policy in mind, is a much better vehicle for this opportunity. I encourage you to support it, because it comes with funding. We should see how S.B. 511 works. Let us see if we get the best teachers at those schools, so we can demonstrate how useful this would be. In the future when this bill is considered, I ask that funding be brought with it.

Jessica Ferrato (Nevada Association of School Boards):

The Nevada Association of School Boards (NASB) supports the testimony provided by the CCSD. It is opposed to A.B. 483.

The NASB is opposed to unfunded mandates in general. It considers A.B. 483 an unfunded mandate. We support S.B. 511. We think A.B. 483 and S.B. 511 are similar, but we are much more comfortable with S.B. 511.

The rural districts are going through similar budget cutting processes as described by the CCSD. Implementing A.B. 483 on top of the cuts will be a challenge.

Scott Baez (Washoe County School District):

I echo the comments made by my colleagues. The WCSD stands in opposition to measures that inflict an unfunded mandate on our district. The problem is complicated by budget cuts that the WCSD is also experiencing.

The WCSD also supports the funded provisions of S.B. 511, which could accomplish many of the same goals as A.B. 483.

Mary Pierczynski, Ed.D. (Nevada Association of School Superintendents):

The Nevada Association of School Superintendents is opposed to A.B. 483 for the same reasons that have already been heard.

Ray Bacon (Nevada Manufacturers Association):

I love the provision that A.B. 483 applies to personnel at all schools. It is a huge step in the right direction, but I see nothing in the bill that binds the arbitrator to wall-off the funds. If that is not accomplished, the program will be ineffective.

Right now, the biggest problem we have is that an arbitrator can take any funds he or she can find. That is why we segregate the funding provided by the other bills. Assembly Bill 483 does not segregate these funds, so I am not sure it will work.

Mr. Erquiaga:

I differ from the CCSD. The minimum expenditure requirement for textbooks is no longer funded. It has been funded at times, but it was suspended during the Great Recession; so the local school districts did not have to comply with its provisions. The suspension has lapsed for this proposed budget. The local districts have stated one of the reasons they are experiencing budget shortfalls this year is because they have to spend their own money on textbooks. I submit to the Committee that it is not their money; it is taxpayers' money.

I think the expenditure requirement segregates money in exactly this way. It has just not been implemented. Often, the Legislature has earmarked money for textbooks, but not in every session. Assembly Bill 483 is the same; we are providing the money.

This Session, S.B. 511 was processed. The Legislature did this because it saw no forward movement from the districts on pay for performance plans. The local districts did not implement them in 2013. The districts were told quite strongly to implement them by 2015 and a deadline was applied.

Assembly Bill 483 is a good bill and is necessary.

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Chair Harris:

I will now close the hearing on A.B. 483. There being no further comment or business before the Committee, the meeting is adjourned at 4:14 p.m.

RESPECTFULLY SUBMITTED:

Beth Ann Reykers,
Committee Secretary

APPROVED BY:

Senator Becky Harris, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.B. 448	C	8	Todd Butterworth	Work Session Document