

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

**Seventy-Ninth Session
March 1, 2017**

The Committee on Education was called to order by Chairman Tyrone Thompson at 3:17 p.m. on Wednesday, March 1, 2017, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B 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/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Tyrone Thompson, Chairman
Assemblywoman Amber Joiner, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Olivia Diaz
Assemblyman Chris Edwards
Assemblyman Edgar Flores
Assemblyman Ozzie Fumo
Assemblywoman Lisa Krasner
Assemblyman William McCurdy II
Assemblywoman Brittney Miller
Assemblyman Keith Pickard
Assemblywoman Heidi Swank
Assemblywoman Jill Tolles
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Karly O'Krent, Committee Counsel
Sharon McCallen, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Craig M. Stevens, Director, Intergovernmental Relations, Government Affairs,
Community and Government Relations, Clark County School District
Anna Slighting, representing Honoring Our Public Education, Las Vegas, Nevada
Lindsay Anderson, Director, Government Affairs, Washoe County School District
Chris Daly, Deputy Executive Director of Government Relations, Nevada State
Education Association
Jessica Ferrato, representing Nevada Association of School Boards
Mary Pierczynski, representing Nevada Association of School Superintendent; and
Nevada Association of School Administrators
Ed Gonzalez, representing Clark County Education Association
John Hawk, Chief Operations Officer, Nevada State High School, Las Vegas, Nevada
Ryan Reeves, Chief Operating Officer, Academica Nevada, Las Vegas, Nevada
Jonathan P. Leleu, representing Charter School Association of Nevada
Lorne Malkiewich, representing K-12, Inc., Herndon, Virginia
Melissa Mackedon, Principal and Executive Director, Oasis Academy, Fallon,
Nevada
Jay Schuler, Private Citizen, Reno, Nevada
Patrick Gavin, Executive Director, State Public Charter School Authority
Brett Barley, Deputy Superintendent for Student Achievement, Department of
Education
Kathleen Conaboy, Private Citizen, Reno, Nevada
Eve Breir, Principal, Imagine Schools at Mountain View, Las Vegas, Nevada
Jeanette Belz, representing Friends of ACE Charter High School, Reno, Nevada
Paul Klein, representing Nevada Connections Academy, Reno, Nevada
Laura Granier, representing Nevada Connections Academy, Reno, Nevada
Rachelle Hulet, Administrative Director, American Preparatory Academy, Las Vegas,
Nevada
Andrea Damore, Curriculum Coordinator, Beacon Academy of Nevada, Las Vegas,
Nevada
Tambre Tondryk, Principal, Beacon Academy of Nevada, Las Vegas, Nevada

Chairman Thompson:

[Roll was taken. Committee protocol and rules were explained.] Today, we will hear
Assembly Bill 49 and Assembly Bill 78. We will start out with A.B. 78.

**Assembly Bill 78: Revises provisions relating to the establishment of charter schools.
(BDR 34-343)**

**Craig M. Stevens, Director, Intergovernmental Relations, Government Affairs,
Community and Government Relations, Clark County School District:**

Assembly Bill 78 is a bill that will help communities prepare for growth. It does so by making sure school districts, charter schools, charter associations, and the Department of Education are working together in order to provide a quality education for every student across the state. I want to clearly state for the record that A.B. 78 is in no way allowing for school districts to have a say where charter schools will be placed. Further, this bill does not give school districts any veto power over decisions made by charter sponsoring entities. We are not bringing this bill forward to create difficulties for incoming charter schools. Any testimony suggesting so is misrepresenting Clark County School District (CCSD) Board of Trustees' intent of sponsoring A.B. 78.

I would like to provide a broad overview of A.B. 78, move to more specific language, then, if needed, go line by line for the changes we are seeking.

Chairman Thompson:

It has been requested that we go through the whole bill. Keep the flow, and if it is needed, we will pause for questions.

Craig Stevens:

Assembly Bill 78 does three things. One, it reinforces and expands upon provisions currently in law that require charter school sponsors, the Department of Education, and school districts to come together to create an evaluation of the needs of the geographic area in which a new charter school is being proposed. Second, A.B. 78 would require that, throughout the application process, a charter school's application must address this evaluation and state how it is going to support the plan. Third, the bill requires notification and consultation between new charter schools, their sponsors, and the school district where the new charter school will be located. Those are the three things we are trying to do with this bill.

Moving toward the specifics of A.B. 78, section 2, subsection 5 [slide 2, ([Exhibit C](#))] is currently in statute, *Nevada Revised Statutes* (NRS) 388A.220. This part of the statute requires the charter sponsor, the Department of Education, and, "to the extent practicable," the local school district where the charter school will be located to create an evaluation based on the academic needs of the pupils. One of the things we are trying to change is remove the words "to the extent practicable."

In our discussion with charter sponsors, the evaluation has not been done, has never been done, and the school district has not been approached to take part in these discussions. Again, this is current law. We are trying to ensure this evaluation is done. We are trying to emphasize the importance of working together on this statute for a commonsense solution so school districts may participate in this process. The reason for this is both charter schools and school districts are expanding, thanks to many of those who are in this room and the

Nevada Legislature for rolling over our bond in the 2015 Session. We are actually able to build new schools and replace schools that need to be replaced. As we know, the charter school world is also expanding. With this expansion comes responsibility that we are serving students. That is what this evaluation will help address. As we are growing as a school district, as a charter authority, and as those who are providing education services to students, we must do it in a smart way that is efficient, serves the needs of students, and makes the best use of taxpayer dollars.

This past election, Washoe County passed a ballot measure where they can now build new schools. In addition, the Tesla Gigafactory has had a significant impact on schools in northern Nevada. As these particulars begin to take effect in our communities, we need to have a strategic plan in order to figure out how everyone will attack that growth. Therefore, any evaluation on the growth and need of a school district should involve a school district itself so all parties can work together to figure out how to best serve students.

Currently, the evaluation must simply include the academic needs of students. We also think this evaluation needs to accommodate demographic changes, who is being served, and what choices they have available so we can strategically plan how to best serve students in general. Again, the school districts, if practicable, should be a part of that discussion. In CCSD, we serve the majority of the students. How can we properly plan for schools coming online without the school district being a part of those discussions?

Another reason, perhaps, that the evaluation has not been used is because there is really no impact to that evaluation. What we are trying to do in this bill is require a charter school to explain how they are going to be a part of that evaluation and what effect they going to have on a school district as part of the application process. We can all agree that no public school, charter or traditional school, should be opened if it does not serve some function to address student need. I would like it made clear, again, the discretion is up to the charter sponsor to determine how it is effectively aligning with that plan. The school district has no say. There is no litmus test. It is simply to help charter schools and their sponsors refocus the process on serving all students, and on the need for quality education choices.

In the application, the charter school would have that evaluation and would have to say how it is going to fit into that evaluation. It is up to the charter sponsor to determine if they do so or not. I imagine that many of the charter schools that are coming in are doing this already.

The third thing our bill does is put a requirement on incoming charter schools and/or their sponsors to consult with school districts. That is what a charter school application process is for. It is a consultation. It is not an opportunity for school districts to prevent a charter school from entering a neighborhood.

As Patrick Gavin, Executive Director of the State Public Charter School Authority can tell you, there are numerous challenges when opening up a new charter school. Many of these challenges go unnoticed by the general public, but they are very real and important. One of these challenges is the effect a new charter school may have on a school district. This is not

a complaint that students and families may choose a charter school over a traditional school. In fact, at CCSD, we welcome the competition. However, it takes great time, effort, and resources to plan for the first day of school. When a school district has no knowledge that a charter school is opening up, it cannot take into account changes to the student body, transportation needs, as well as where to put their teachers and administrators. The last thing anyone wants is disruption to a student's ability to learn when suddenly a school has to address classroom programs and all of the things I just mentioned, based on something we could have known six months earlier. Assembly Bill 78 will help these transitions become more efficient.

To illustrate this point, I want to bring to your attention an issue that is currently ongoing in Las Vegas [slide 3, ([Exhibit C](#))]. In CCSD, we have many schools, but we have two elementary schools that we call sister schools: Addelmar D. Guy and Eva M. Wolfe Elementary Schools. They are right next to each other. What we mean by sister schools is they share a boundary, resources, professional development, and more. They work together hand-in-hand in order to improve the education of students. As you can see, they are neighbors.

Not long ago, the principal of Guy Elementary School noticed some construction going on right next door. They did not know who was doing the construction or what was being built. There was initial concern that the construction was not secure enough and that students could wander onto the site and be hurt. It was also a concern to make sure all the students were safe, especially when they were leaving school. The location of the entrance of the school caused many students to go by the construction site. It was not until the principal read the paperwork on the fence that she was notified that the construction was a new charter school coming in. In fact, this is how CCSD was notified. Because we were notified so late, conversations between the new charter school, Guy, and Wolfe Elementary Schools did not begin until two months ago—this past December. In fact, only one discussion has occurred between the principals of the schools. The majority of the interaction has been with the construction company that is building the school.

It was through these discussions with the builder that staff at Guy Elementary School learned two of the school sidewalks are going to be torn up due to the construction. The sidewalks are going to be on West La Madre Way and Valley Drive. These sidewalks are the main routes students use to walk to school and through the front door. Twelve special education buses use this area for pickup and drop-off. Parents who drive their children to school use this area for pickup and drop-off as well. As of yet, there is no workable solution to help Guy Elementary School ensure that students can safely and easily access their school. There are other ongoing issues due to this situation.

The road that was built to help provide access to the new charter school has certain requirements where water lines cannot be placed underneath. The new charter school is going to have to tap into Guy Elementary School's water line, which is fine. However, it will require construction within the school to allow this to happen. The new charter school does not have a transformer on their side of the street so they are going to have to build a new one.

I believe it can only be built on the other side of Guy Elementary School. Again, this is something we understand. We are building schools and know this is difficult. It is no way the fault of the school or the principal at the charter school. The construction for the transformer will require being near Guy Elementary School or on their campus.

The construction of the sidewalks, water line, and a transformer started today, March 1, 2017. As you know, we have students in school right now. This would affect them, especially if they are going to be doing things at school and the school site.

Due to some complications, not CCSD's fault, construction has been put off indefinitely, and we know of no timetable when the construction may resume. Guy Elementary School has a concern that construction may be ongoing during Smarter Balanced Assessment Consortium (SBAC) testing. The concern is that when they begin this process, students will not be able to get to the school, or will have difficulty if crossing guards have to take them out of the way. We are dealing with an elementary school. We are not dealing with a middle or high school. We are dealing with children who are going to be in third grade taking a high-stakes test, perhaps for the very first time in their lives.

Beyond the immediate concerns of these situations, there are other concerns such as transportation. As you can see from this example [slide 3, ([Exhibit C](#))], we have two schools that have transportation going on around them. With a new school, how will that add to the congestion of the neighborhood? How will that affect how students walk to school? We have no problem with the charter school moving there; however, finding out the way we did, and that they are trying to open for the next school year, is inefficient. Given enough time, we could figure these issues out by getting everyone to the table to find workable solutions as to how we can get students into the school safely and still provide for the needs of the ongoing construction next door. Instead, these decisions are happening day-to-day, which is extremely inefficient, and we feel they could cause a severe interruption to student learning. This is why A.B. 78 is so important. We hope that by allowing us to consult, not make a decision, or make any sort of veto, just consult on when a charter school is approved, we can then properly plan in order to make sure we are using our facilities as efficiently as possible.

Assemblyman Pickard:

When I first read this bill, I was frankly a little upset by it. I was certain I had misread it. After this presentation, I think I read it correctly. It seems that the district is approaching this from a really paternalistic standpoint; we know best, so you must consult with us first. We are in last place. When we go to section 5, subsection 5—the charter schools have to demonstrate that they are being established in response to population growth or demographic changes—I do not think that is true. I think their existence, the reason they crop up, is because parents feel the education of their children is insufficient. Another reason may simply be for the purpose of the academic outcome that they are seeking. So this subsection may be a little misguided.

The construction argument is a red herring. Something is going to go in there, whether or not it is a charter school or a 7-Eleven. Whatever goes in there, it is going to need a transformer, which is going to be put in the right of way, not necessarily on school property per se. Those are all necessary things that the school would have to deal with no matter how that site is developed. The thing that bothered me the most is probably the least significant, which is section 1, subsection 3. What business is it of the district to decide what goes in an independent party's contract? This, to me, seems to be an overreach of the district. I would like you to comment on that.

Craig Stevens:

The intent of the bill was never to be paternal. The intent is to ensure that the needs of the students of every county are being met. That is really what we are trying to do, to consult with all parties that are providing education in the area so that we are able to strategically provide a quality education for all students. If you look at the charter schools in Clark County at the moment, and under the leadership of Patrick Gavin, they have moved in a different direction. There is a ring around the county where our charter schools are. We have needs, and allowing us to identify what those needs are will actually help the process itself to get charter schools to areas where they are needed.

Assemblyman Pickard:

I appreciate that and believe that there is room for discussion. We do not want to have both sides acting blindly about what the other is doing. Some coordination is helpful. I look at an experience in my own neighborhood where we had a private school that wanted to go in just down the street from Del E. Webb Middle School. The traffic is horrendous as it is, so there should be some coordination from a logistical standpoint.

My point is about the approach. Do you think the charter schools exist for a purpose other than to meet the needs of the students, so the districts feel they should be consulted to make sure the charter schools are actually there to serve the students?

Craig Stevens:

The role of this consultation is not for us to tell anybody if they are serving those roles properly. All we are simply trying to do is figure out how we can meet the needs of students. We are happy to discuss this with anyone, if it will help move that conversation along. We are not trying to say what is right or what is wrong. We have a need in the school district. We are growing and they are growing so working together is what this bill is trying to do.

Assemblyman Pickard:

Should that consultation be voluntary and not mandated?

Craig Stevens:

It should be voluntary inasmuch as the principals want to communicate with each other, sure. However, the sponsor of that charter school should let the school district know that there is a charter school coming so it may plan accordingly. It may be a career and technical

education (CTE) type school, so a certain type of enrollment may be expected. Then we can plan our resources so we do not have to move teachers and administrators and disrupt the school day. When we do these kinds of things, we want to make sure our taxpayer dollars are spent efficiently, and how we do that is by planning. If we have no idea that students are not going to be showing up and there is an opportunity to know that, we think that is smart planning.

Assemblyman Pickard:

I can see your point. Thank you.

Assemblywoman Miller:

When we are talking about location and logistics, can you tell us how close in proximity the charter school actually is to those two schools?

Craig Stevens:

I do not have the exact measurement. As you can see from the map, [slide 3, ([Exhibit C](#))], they are right next door to each other.

Assemblywoman Miller:

I appreciate the other logistical concerns about testing and recess. I am trying to figure out why there is opposition to this bill. Charter schools receive public funding, correct? As with public funding and public standards, the same rules should apply. As you mentioned, charter schools are on the perimeter of the county, and if charter schools are placed where they are needed, we have the whole center of the county where they are not represented. I look at the two school sites, and I see a charter school that could be opening within walking distance. Could you tell us what would happen if, for instance, 500 students decided to join the charter school? I know what happens when it comes to count day and planning. I know the school budgets are done months before the end of the school year. I have also seen the tragic happenings of count day when the school has to lose teachers and classes have to be ripped apart because of unforeseen planning. What would happen if everyone just decided to go to the charter school?

Craig Stevens:

First and foremost, the largest effect it would have is on the programs in the school as well as what the school could offer. If there are not enough students to offer a certain program, that program cannot happen and that teacher will have to teach at another school where that program is offered. Transportation is another issue. Our Attendance Zone Advisory Commission (AZAC) requirements are that we strategically plan how many students we will have and the bell times. If students do not show up, then we are going to have to rework our transportation system to go to different times, and that will affect other schools on down the line. The further out we can prepare for the upcoming school year, the better off we will be.

The biggest opposition that I have heard to this bill is that the school district is trying to control where and what charter schools are entering the state. That is not the case. However, what we are trying to do is, perhaps if there is work happening at or around the school, work

together to decide that maybe a better time would be during winter or spring break, or that something can be done the summer before or after, when students are least affected. We want to say we can work with you and we are ready to compete with you, but we want to make sure that our students are safe, are happy, and that we are using our taxpayer dollars effectively.

Assemblywoman Tolles:

Perhaps the point of contention here is possibly the word "consultation." If it could be replaced with "notification," maybe that would change the dynamic of the discussion. I am certainly sympathetic to looking at the map and the needs for any school to have to prepare accordingly. Maybe the question is, Would you be open to that consideration?

Craig Stevens:

We are hoping strategically to infer that there would be discussions, nothing vetoed, and we would not say they could not be there. Notification would be a great start. I am happy to speak to anyone about the bill and how we can get that worded properly. When the bill language came out, that word "consultation" seemed to be a hang-up for many of the folks. I have asked if there was a word that is better, and Assemblywoman Tolles, you are the first person to come forward with a different word. We are happy to work with whomever on how we get to a place where everyone is happy, but at the same time, make sure we do what this bill needs to do.

Chairman Thompson:

Thank you, Mr. Stevens, and I appreciate Assemblywoman Tolles for offering a different word. Sometimes notification does not imply discussion. We have to find something between notification and consultation, because it sounds like no one feels comfortable with those words.

Assemblywoman Tolles:

Looking at that map, and it is a great visual, it seems to me that it would go through either the city, county, or regional planning. That is where the gap occurred. I am sympathetic to traffic and we know that street must look like a disaster at 9 a.m. and 3 p.m. Can you speak to the initial step from a regional planning perspective, in terms of location? Would that be addressed at the county, city, or regional planning level?

Craig Stevens:

One of the initial iterations of what we are considering is that part of that evaluation process should consider county and city, and perhaps have them at the table to give their expertise on the needs of traffic and things of that nature. I know you are going to hear a bill much later in the session regarding procurement of land and all of the things charter schools have to go through, so perhaps the two can be worked together in some way.

Assemblyman Edwards:

I have a process question. Each charter school has to be approved by either the county or the state. When that approval is given, the state or the county knows that the school is going to

be built somewhere, and they probably have a general idea of where. I do not understand how, if it is chartered by the state, it would not be talking with the county to let them know, and if it is chartered by the county, why the school would not know. I am baffled by the surprise of where the charter schools go. It is also important to note that, yes, the charter schools do ring around a lot of the city, but that is mostly because of the price and availability of land, not because they are only trying to serve a certain population. In fact, I would submit to you that some of my constituents have indicated that their children go to school with children who come all the way over from Summerlin to attend a charter school on the east side. Why are the bureaucracies not talking to each other? It seems the school district is blaming the charter schools for that failure.

Craig Stevens:

I did not mean to seem to be blaming anybody, sir. Those who can sponsor charter schools are the Nevada System of Higher Education (NSHE), the State Public Charter School Authority (SPCSA), or school districts. Currently, only the SPCSA is actively seeking applications. One of the difficulties here is the school that is now moving to this site was originally planned to be in Henderson, Nevada. Unfortunately, they could not procure the land, but they were able to find property in North Las Vegas. It is not as clean and simple as "this is the school" and "this is where it is going to go," because of the land issues that charter schools have to deal with. However, the communication with the SPCSA moving through the process, which is what this bill addresses, helps us understand where the applications are coming from, and helps us plan better.

Assemblyman Edwards:

What I do not understand is why we need to pass a law to tell high-paid administrators how to do their jobs when they are supposed to be the professionals. I am at a loss as to why it has to come to the Legislature to simply demand that people communicate with one another.

Craig Stevens:

Beyond just the notification, there are other requirements in the bill which are creating this evaluation so that we get a better idea of growth and to figure out where the needs of students are. Perhaps notification can be worked on, but at the same time, these things need to happen so that school districts can run efficiently. If that is not happening, and a grievance occurs, this is where we come to fix it.

Assemblyman Edwards:

I want to make sure we understand that you can say what the intent is, but what the words say is not equating to what you are saying. There is room in the interpretation of the words of this bill where it does become much more restrictive. I am concerned about that as well.

Craig Stevens:

To be put on the record, that was not our intent, and we are happy to work with whoever to make sure the intent is appropriately put into the bill so that people are comfortable.

Assemblyman Elliot T. Anderson:

I am missing what the controversy is with "consult," because the plain meaning, according to Merriam-Webster, is "to ask the opinion of." It means to infer, it means to discuss, and I am missing the harm with this considering that we no longer have one central planning authority for school districts because of choice options like charter schools. What is the harm in getting everyone talking? Can someone explain to me why talking is bad?

Craig Stevens:

It is already state law that the SPCSA or the sponsor of the charter school, the Department of Education, and, if practicable, the school district shall create this evaluation. We are simply saying get rid of the "practicable." The school district should be a part of this conversation. Let us do these evaluations that are already in state law.

Assemblywoman Swank:

Are the charter schools currently volunteering this information?

Craig Stevens:

The evaluation information?

Assemblywoman Swank:

No, the placement of where they are putting in their schools. Are they sharing that information with CCSD?

Craig Stevens:

To my knowledge, no.

Assemblywoman Swank:

In looking at that map, I could swear people are just trying to avoid my district. I am right in the middle of Las Vegas Valley, and I can vouch that we have some empty schools that I am sure folks would love to see used. I am very good at helping people reuse old buildings, as everyone knows. We also have a lot of empty lots in the downtown area that are available and that are not overpriced.

Assemblywoman Tolles:

I want to clarify, anytime there is a permit that is pulled for new construction, does it go before the city and does it have to go through two public hearings? If there was a notification process, can the school district participate in that as well?

Craig Stevens:

We certainly could participate in that avenue. However, there are many times where it could become cumbersome, and we are trying to streamline the system so that everyone is talking. We are not trying to say where a school can move. We want no input in that. We just want people to know where schools are going and how we can plan better in the future. Perhaps

there is a way that we could ask the city or the county to notify people. That is one method we can look into. As long as we get the notification in a timely manner, that is what we are looking for.

Assemblyman Pickard:

Having developed many buildings over the years, it is my understanding that if you are within certain proximity, and certainly, if you are next door, you have to notify the neighborhood of any development you are doing. As was mentioned, this process takes months, if not years. Is there anyone at the district who pays attention to these things when they get the notice, or is the district simply waiting for others to feed them the information?

Craig Stevens:

We have our own department which monitors these types of things, but property and other matters happen so quickly that it is difficult to stay on top of it. If there is a formal notification system that can be put in place to ensure that everyone is getting that message, that is what we are asking for.

Assemblyman Pickard:

If six to nine months is not enough time, how much time do you think the district would need in order to make those planning decisions?

Craig Stevens:

I do not know the answer to that question. I would like to get back to you.

Assemblyman Edwards:

The individual you were just talking about who actually receives the notifications and tracks them, is he an administrator? What is his pay grade, where does he work?

Craig Stevens:

He is an administrator with CCSD who oversees CCSD's charter schools.

Assemblyman Edwards:

He is a senior person within the administration?

Craig Stevens:

I am not sure how I would define senior person.

Chairman Thompson:

We will ask for support for A.B. 78 in Las Vegas.

Anna Slighting, representing Honoring Our Public Education, Las Vegas, Nevada:

I am speaking on behalf of Honoring Our Public Education (HOPE) today ([Exhibit D](#)). I am also speaking coupled with my experience as a four-year member of the CCSD Attendance Zone Advisory Commission (AZAC), as well as a current member of

CCSD's Oversight Panel for School Facilities. I am thrilled to see A.B. 78 with the request for charter schools to consult with their local school district on location sites. I will give you my example so you may see that Mr. Stevens' example is not just an anomaly.

I am from the Summerlin area, and while on AZAC, I was part of the process to rezone the overcrowded Summerlin schools. During the process, a charter school decided to build at the same time that Senate Bill 119 of the 78th Session and Senate Bill 207 of the 78th Session rolled over bonding. It was unbeknownst to CCSD of the charter school's location intention. What is now Vassiliadis Elementary School was included on the shovel-ready list at a location just a few blocks away from where the charter school sited themselves. The charter school went up and opened up last year, too late for CCSD to make any changes to their plans. Summerlin schools were not yet on a year-round calendar like many of the other schools were throughout the Valley. Because of the small relief the charter school provided to surrounding schools, CCSD could have held off on that Summerlin location for a few more years, and used those valuable new construction resources at any number of other possibilities.

Assemblyman Pickard, I do not see this bill as paternalistic. Construction aside, I see this as a responsible way to spend public money.

I was the one who included a hot-spot map ([Exhibit E](#)) and enrollment numbers ([Exhibit F](#)) that are required from CCSD by Senate Bill 390 of the 78th Session. I think this bill is quite complimentary to S.B. 390 of the 78th Session. This information and a myriad of other demographic information can be publicly found at dzg.ccsd.net. I chose to include the elementary hot-spot map today as a reference point to CCSD's need of strategic planning for new school construction.

I am very aware of Assemblywoman Swank's concern for not having more charter schools in her area. Clark County School District needs to have the ability to consult with charter schools on where charters best serve communities when CCSD may not have the resources to build a whole new school. Clark County School District schools require a lot of land and transportation access as they serve larger enrollment numbers, whereas charters can quickly open up to smaller populations using less space. Assembly Bill 78 has the potential of creating friendly relationships between CCSD and charters from the beginning as they work together in using the limited resources each have to find solutions for the communities that need new schools the most.

On a brief side note to touch on the complimentary nature of S.B. 390 of the 78th Session, and [The Chairman stopped the testimony because of the time limit. Testifier concluded with closing remarks.] I am in favor of A.B. 78, because I do see it as an efficient and responsible way of spending public monies. [Additional testimony was provided in written format ([Exhibit G](#)).]

Chairman Thompson:

Is there anyone else in support of A.B. 78 in Las Vegas? [There was no one.] Is there anyone in support of A.B. 78 in Carson City?

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

The Washoe County School District (WCSD) is here in support for the reasons that you have heard. I am going to take every opportunity here at the Legislature to say thank you for Senate Bill 411 of the 78th Session, which allowed us to put up a ballot question that our voters generously approved. We are going to be building schools in Washoe County. We agree that this additional collaboration to make sure that with the limited resources available, we are building schools in the best possible places where the need exists, is the best way we can move forward.

We have some recent examples in WCSD where we did not find out until the planning process. Sometimes that is too late in terms of when we allocate teachers and when we make decisions that are often months and years in advance of where we decide to build a school; so the sooner, the better. We are happy to work on whatever the wordsmithing might be.

Chris Daly, Deputy Executive Director of Government Relations, Nevada State Education Association:

We are in support of A.B. 78. The Nevada State Education Association (NSEA) represents 40,000 educators across the state, and we are committed to ensuring a high-quality education for every Nevada student.

Assembly Bill 78 is a good start. It will facilitate communication between school districts and charter schools to allow for better planning of resources by a school district in anticipation of the opening of a charter school. Information related to population growth, demographic changes, and the academic needs of students in the geographic area to be served by the proposed charter school are essential to smart planning. We believe that this is necessary in order to ensure fair access for all students to public school options ([Exhibit H](#)).

Jessica Ferrato, representing Nevada Association of School Boards:

We are here in support of A.B. 78. We think this bill will help collaboration between the districts and the charter schools. We need to be thinking about our communities as a whole, and where we best need to be to meet our students' needs.

Mary Pierczynski, representing Nevada Association of School Superintendents; and Nevada Association of School Administrators:

We are in support of A.B. 78. This bill is to ensure conversation between charter schools and the school districts, not just in Clark County, but around the state. I see that as a benefit for everyone concerned.

Ed Gonzalez, representing Clark County Education Association:

We, too, are in support of A.B. 78. We agree with Assemblyman Anderson. Talking does not hurt. This is the first time we have had these issues. For those of you who were here last session for Assembly Bill 321 of the 78th Session, the charter police bill, one of the things that the Las Vegas Metropolitan Police Department did when they were having trouble with school police—they did not know where the charter school was—thanks to them for coming to the Legislature because that bill was passed. If a charter school is being built, just let people know and they can adjust accordingly.

Chairman Thompson:

At this time, we will go to opposition for A.B. 78 in Las Vegas.

John Hawk, Chief Operations Officer, Nevada State High School, Las Vegas, Nevada:

Our high school is a five-star, eleventh and twelfth grade, dual-enrollment public charter school with a mission to successfully transition students to college—personally, academically, and socially. I am against this bill, and Nevada State High School is against this bill.

I like the way we talk about collaboration. Never was I consulted about this bill from CCSD or any of the associations that were up there presenting to you on this bill.

Assembly Bill 78 is a gift to school districts that will provide them with a unique ability on deciding whether or not a proposed charter school will ensure the best interests of pupils and the efficient use of public money. This bill falls short in face of innovation, better solutions for students and families, and impedes the replication and expansion of successfully proven charter school models in the state of Nevada.

Current school district moratoriums give the public an indication that these districts have limited support for charter schools and their alternative methods of education. This bill will simply give districts greater influence and control over charter school replication and expansion. Conversely, one might ask the school districts if they would be willing to consult with each and every charter school in their district to ensure the best interests of pupils and the efficient use of public money before moving forward on a new building. This bill is not in the best interest of public education, and Nevada State High School is in opposition to A.B. 78.

Assemblywoman Swank:

I want to point out that this bill, in no way, gives CCSD any kind of veto power. All it does is allow conversations to happen. That needs to be very clear when people testify in opposition to this bill. They need to stick to the bill and remember that it is not giving them veto power.

Assemblyman Flores:

To echo the sentiments of Assemblywoman Swank, I would appreciate, for those who are in opposition, if you could follow your opposition by pointing to a specific section in the bill that you are concerned with. It makes it easier for me to be able to see the language through your lens as opposed to just speaking broadly about your opposition.

Chairman Thompson:

Mr. Hawk, I want to give you that opportunity. Do you want to come up and state a specific section in the bill?

John Hawk:

Mine was "ensure the best interest of pupils" and the "efficient use of public money." I do not have the bill in front of me, so I cannot cite the exact section. Perhaps someone here can give the exact section.

Amelie Welden, Committee Policy Analyst:

I believe that language is in section 2, subsection 5, ". . . ensure that the best interests of pupils and the efficient use of public money"

John Hawk:

Yes, thank you.

Ryan Reeves, Chief Operating Officer, Academica Nevada, Las Vegas, Nevada:

We are a charter school support organization. I will reference section 4, which edits NRS 388A.243. These are the basics you must show in order to have a charter approved. The new language now requires that in order to get a charter approved, you must show ". . . evidence of a need for a charter school in that location or serving that geographic area based on population growth, demographic changes and the academic needs of the pupils"

While this is saying that it is only for consultation purposes, ultimately, you are now saying that multiple items—one of which is academic needs—are to be defined by whom, the district with whom we are consulting, or someone else? Thus, this could lead to denial of charters. Frankly, academic needs and geographic growth are not to be determined by a district or even the State Public Charter School Authority. The charter school movement and the change that has happened demonstrate that parents are now having a significant voice on what their needs are. In an area that may have an achieving school that is not overcrowded, that has significant parent demand for a new or different program that they seek to obtain through a charter school, they should be able to do so.

Furthermore, all charter applications contain questions from the SPCSA, which is currently the only authorizing entity that asks about the location in which a charter school will be

located. Those applications are then posted online and publicly available. The pending applications that are out there right now can be obtained by any district at any time. For those reasons, I do not see why this bill would be necessary, and I think it should not be passed.

Assemblyman Elliot T. Anderson:

I appreciate your tying it down to a specific section of the bill because that is important to me as well. We have planning processes for a reason. Land use is not just for schools. It is not just for any type of business. The reason we have these processes is because it makes no sense to have 20 charter schools serving students in Summerlin versus spreading them out and serving all of the neighborhoods in the Valley. Would you agree that every child deserves school choice, not just parents in Summerlin?

Ryan Reeves:

I definitely agree. Obviously, as an advocate for charter schools, I agree that school choice is important, and it is my hope that charter schools grow to all parts of the city. There was a member of the Committee earlier who mentioned the lack of charter schools in her area, and it is certainly something that I hope is addressed.

I, in no way, want to see charter schools operate without the school districts knowing where we are coming from. My point is simply to state that information is out there now. It is available from the moment a charter is first applied for. When existing charters expand to a new location, that expansion can only be approved by the SPCSA as an amendment to their charter, which, once again, occurs through public hearings before the property is even zone-approved in most instances. Thus, these are slow, deliberate processes that are publicly available to anyone who is interested to see them.

Assemblyman Elliot T. Anderson:

I am looking at the NRS and I want to clarify who is exactly doing that approval. I am not sure I read the amendment to that section as leaving it in the hands of the district. Can we get some clarification on who is approving the applications?

Karly O'Krent, Committee Counsel:

An applicant to form a charter school applies to the sponsor of the charter school for approval. It is not the district.

Assemblyman Elliot T. Anderson:

Thank you for the clarification because I do not want the "consult" issue to get mixed up.

Assemblywoman Swank:

I do not see the issue in having good communication with CCSD. Whenever you start any business, you are going to look at the demographics and make sure there is a need in that area where you place any kind of business. Working with any organization that is in the same business seems like a no-brainer. Because these charter schools are funded by public dollars, it is important to have a good, close, working relationship, and to look at all of the

demographics and information that this bill is asking for. We should provide that to CCSD as good partners in public education. I just do not see the reason for this opposition.

Assemblyman Edwards:

Thank you for bringing that section out for discussion. I would have to agree with you that this could easily be interpreted that the charter schools would have to provide an exorbitant amount of evidence of need before they could get approved. Also, where it talks about serving the geographic area, if they were to decide that you are not in the right area, they could force you to move from a piece of land that you could afford to a place you could not afford. That would make it a moot issue, as you could not operate your business.

It is also important that we bring out that the charter schools are not given money to buy the land or to build the buildings. They have to take it out of their own working money. I think the charters should have a whole lot more freedom to choose where they are going to go and which demographics they are going to serve. As successful as you are, you could not be that successful if you were picking the wrong places, the wrong demographics, and the wrong environment. Your success proves that you do not need this, and I would reiterate, this is simply saying that the school districts are not doing their job of consulting with you, and they are blaming you for their failure to communicate.

Assemblyman Pickard:

Mr. Reeves, as we look at section 4, subsection 1(b), where it says that in the application you are required to show ". . . evidence of a need for a charter school in that location or serving that geographic area based on population growth, demographic changes and the academic needs of the pupils . . .," can you tell me if those are all necessary components for a charter school? Do you need all three in order for a charter school to come into existence?

Ryan Reeves:

No. What you need is one thing. You need a parent demand for what you are offering. Any area where those parents want to attend that program, they will choose to attend your school regardless of those other factors. Not that those factors are ignored by charter schools when seeking where to open, because, of course, we do need to have parents enroll, and those issues often signify an area where a charter school can be more successful and have a larger enrollment. Ultimately, the main issue is parent desire and demand to attend.

Assemblyman Pickard:

If your charter school, for example, was coming into existence as a result of parent demand, and the population growth or the demographic change were not driving factors, would the mere fact that you were responding for one particular purpose and you had support potentially jeopardize your charter altogether if you did not have these factors as written?

Ryan Reeves:

As written, I believe it would. Yes.

Chairman Thompson:

Is there any other opposition for A.B. 78 in Las Vegas? [There was none.] We will come to Carson City.

Jonathan P. Leleu, representing Charter School Association of Nevada:

Our executive director, Pat Hickey, regrets he was unable to attend today's hearing. Accordingly, our board has given me a statement to read into the record ([Exhibit I](#)).

With Nevada's education system striving to create measurable reforms and new funding models to move the Silver State out of the state's abysmal school-performance rankings, cooperation and consultation are essential to making the improvements we are all striving for. However, A.B. 78, with all its good intentions, will unfortunately erect more barriers than bridges to building strategic partnerships between Nevada's education stakeholders. Clark County School District, by placing a moratorium of its own on new district charter schools, has already made its position clear that it is not in favor of charter school expansion. If CCSD wants the ability to regulate charter schools, the district should again sponsor their own charter schools and regulate them as they choose.

Following are just a few reasons why A.B. 78 hampers and does not help public charter schools become a better complement to traditional schools in the districts:

1. Charter schools provide a public school choice for Nevada parents in meeting their children's needs. Giving school district officials the power to require charter school applicants to prove they will ". . . ensure the best interests of pupils and the efficient use of public money . . ." which comes from page 3, lines 27 and 28, would seem to impede that personal choice decision of families and taxpayers to send their children to another public school option.
2. With respect to A.B. 78's requirement for charter school applicants to meet the needs of pupils ". . . resulting from population growth and demographic changes in the geographic areas to be served by the charter schools . . ." which comes from page 3, lines 39 through 41, it should be noted by the Committee that charter schools are already at a distinct disadvantage because of the lack of dedicated funding for charter facilities in Nevada. Until this inequity is resolved in Nevada, charter applicants cannot always predict where their schools will be located and makes it nearly impossible for charter applicants to provide concrete answers about location in advance to a school district.
3. In addition, A.B. 78's requirement for charter school applicants to provide ". . . evidence of community support for the proposed charter school . . ." which comes from page 5, lines 41 and 42, would give school districts, not parents and children, the opportunity to oppose a charter school they may see as a competitor. The growth of public charter schools [The Chairman stopped the testimony because of the time limit. Testifier concluded with closing remarks.]

The comments regarding land use and zoning is my job for 20 months out of the year. You are absolutely right. That is a very public forum and the place for these issues to be discussed. Communication is always the best option. That is exactly what the Charter School Association of Nevada is striving to achieve.

Lorne Malkiewich, representing K-12, Inc., Herndon, Virginia:

Our client has a philosophical objection to determination or approval of location of a charter by the school district. We do appreciate Mr. Stevens' clarification. I do not think he could have been clearer that he does not intend any kind of veto power.

I would point out one place where the phrase "consultation" could be problematic. If you look at page 3, the sentence that goes from lines 31 through 41, the charter schools' powers include evaluating applications and approving applications that the sponsor determines meet these various needs; then specifically on line 41, ". . . as determined in consultation with the school district in which the charter schools are located" That section makes it sound like you make the determination in consultation. It does not say to consider other factors. If you do decide to move forward with this, something is needed to clarify that this is advisory, that the sponsoring authority is free to ignore the recommendations or not follow the recommendations and may consider other information.

Melissa Mackedon, Principal and Executive Director, Oasis Academy, Fallon, Nevada:

I am with Oasis Academy in Fallon, Nevada. I certainly do not want to be viewed as anti-consultation. I am all for consultation, but I would argue that the opportunity for consultation is alive and well. These are publicly noticed meetings. The charter applicants must answer every question that has been brought up here today from location; growth strategy; how many students they are going to have in the first, second, third years and beyond; as well as any additional campuses they open. Any changes in location which have occurred must also be approved in a publicly noticed meeting. There are a lot of opportunities for consultation already, in addition to the planning meetings that are going on.

I also have concerns that some of the language as written in A.B. 78 could be interpreted by districts to mean they do have a bit of veto power. As someone who opened a charter school in a rural community, our district actually did have declining enrollment at the time the school opened. The way this is written makes it seem like because we had declining enrollment, perhaps we did not check all of the boxes for warranting a charter school to open, when, in fact, we had an overwhelming response from parents. We are filled to capacity and have been from the day we opened with an extremely long waiting list. The parents have made the stand that there is a need for a charter school, and they support the option.

Assemblyman Elliot T. Anderson:

I want to be unambiguous in what my fear is and why I like these provisions that require consultation. I have seen charters fight neighborhood notification provisions when charter schools open up in a neighborhood. In my opinion, there is cherry-picking by going into areas where they can expect good results. Traditional public schools do not have that ability. They do not have the ability to say they are just going to serve the areas where it is expected

that students have more support at home. That leaves out areas like my district, when people just focus on areas where they can always expect good results. It is not to say that my district does not get any service from charter schools; that is not what I am saying. However, this is a huge fear of mine and why it is good for there to be consultation with the district. Mr. Leleu, as a land use planner, you would admit it is not good for one geographic area to be saturated with the same type of service or business. That is one constant of land use planning, is it not—not to plan inefficiently?

Jonathan Leleu:

Yes, I would agree with that completely. I did not get a chance to finish the statements. We, of the Charter School Association of Nevada, are fully onboard with consultation. Unfortunately, that is not the way this particular bill reads. We are opposed as the bill reads today. However, we are engaged in constant conversations with the school district and Mr. Stevens. I talk with him every single day. What we are hoping to do is wordsmith this bill such that it reflects the bill's true intent. Mr. Stevens has made it very clear that he does not intend to veto. We do not believe that he intends to veto. The way the bill reads is not completely clear. We want a chance to take a look at the language, wordsmith it a bit, and come back with a bill that really meets what the bill's intent is.

Assemblyman Elliot T. Anderson:

We have already clarified for the record in section 4, for example, that the applicant is going to the sponsor. The person making the determination on the application is the sponsor. It is not the school district. In all of these sections, it is not the school district making the final decision, unless they are acting in their capacity as a sponsor. Is that correct?

Jonathan Leleu:

Yes, that is absolutely correct. The decision is ultimately the sponsor's. However, allowing the school district to review the contract is an undue burden upon these charter schools that ought not to exist. These schools should exist on the same level and collaborate as equals.

Assemblyman Elliot T. Anderson:

Thank you for working with the district, and I sure hope this bill comes out unanimously because this is not something that should be controversial.

Assemblyman Pickard:

I will echo my colleague's sentiment on that. I believe that consultation is important. With respect to the approval, I am certainly not concerned about the charter school authority in terms of their approval; I am concerned about the evidence that would be required by this bill in order to obtain a charter, including components that are not necessary for charter schools to be successful.

My question has to do with the application process itself. It is my understanding that the application process includes a public hearing or an event where opponents can step up and challenge. I recognize that Mr. Stevens was very clear; it is not a veto power. However, we are priming the weapon that would be used in opposition at the hearing. That puts the district

in a superior position, or in a position to take advantage of the information they might gain. When talking about consultation, is there an opportunity to consult with and to discuss the issues of placement and curriculum? If we are in a career and technical education (CTE) context, would they be able to understand the purpose so they can have some forward planning without divulging information that could potentially risk torpedoing the boat before it left the harbor?

Melissa Mackedon:

Yes. There is a hearing where they can offer any opposition. Clark and Washoe County School Districts, as well as others with expertise in charters, have been invited numerous times to sit in on the application interview process for those schools to make a recommendation to the SPCSA. While they have historically been invited, it is my understanding that in recent years, they have passed up the opportunity that they were given to sit on the panel that would then make a recommendation to the SPCSA. There is a lot of opportunity, and I know we would welcome their expertise on those panels going forward.

Jay Schuler, Private Citizen, Reno, Nevada:

I am the parent of an online virtual school student. I believe in notifying the school district of a new charter school and consulting with the district. Section 1, subsection 3, is not in the best interest of the pupil. Consulting with the school district on a new charter school is instantly limiting what a charter school is going to be able to do. A school having to show the best interests of pupils, the efficient use of public money, population growth, and providing a proposal of location and evidence of need for a charter school is, again, a move to control and limit charter schools and the ability of a student to choose an education that is right for that child.

We all know that children learn differently. We have different learning styles and abilities. They need to choose a learning environment that is best for the child. By charter schools having to show evidence to a school district of a need for the school, the district could argue with that charter school that the population growth does not need or accept another school. However, I disagree with that. Just because there is an empty school building sitting in the middle of Las Vegas, maybe that school does not justify my child's needs. I do not care about the school district. I care about finding the best education for my child. If that is a charter school or an online charter school, so be it.

When Walmart opens a new store, they do not consult Target, so why should a charter school consult a school district? The school district will instantly argue that there is not enough population in the area to justify another charter school just because they do not feel there is a need. As long as there is a student and a parent looking for a better option, there is a need.

Chairman Thompson:

Is there anyone neutral in Las Vegas? [There was no one.]

Patrick Gavin, Executive Director, State Public Charter School Authority:

I am speaking as neutral on A.B. 78. Mr. Stevens has raised some thoughtful points. The intent he has articulated today is certainly rather different than the initial language that came out and we continue to work very collaboratively with him on this matter. I would note, Melissa Mackedon, in addition to being the principal of Oasis Academy in Fallon, Nevada, is also the vice chair of the SPCSA.

There is a specific evaluative rubric to determine whether or not schools are actually meeting these standards. We specifically require that schools identify a target community within the district, by geography—a school zone or a census tract—and/or educationally disadvantaged status, as that term is described in federal law. We require a clear and compelling rationale for the selected community based on academic need; a demonstrated commitment to serving that target population; an explanation for how that proposed model meets community academic needs; and a clear explanation for how that model and commitment to serve align with the mission and vision of the SPCSA.

Just to be clear, the mission and vision of the SPCSA is 60,000 students by 2020 in four- and five-star schools that mirror the demographics of their local communities. We are very much on target for that goal. We have more than doubled the percentage of students with disabilities to now approaching the national average just in this past year. Our student population, for the first time, is minority white. Indeed, if you look at schools that were approved since the inception of the SPCSA in 2011, our demographics are rapidly beginning to mirror those of CCSD as a whole. I want to note those things for the record.

I would also say that we have been extraordinarily collaborative with the school district. I have the privilege to sit as an ex officio member of the Nevada Association of School Superintendents, and I see our school district superintendents on a monthly basis. I have built very good personal relationships with them. Certainly, there are areas where we disagree, but we all care about making sure that we have excellent outcomes for students. In the case of CCSD in particular, I have, on at least three occasions, sent either the chief financial officer or Deputy Superintendent Wooden a copy of our most recent pipeline showing exactly, to the extent we know, where schools are going.

Can we be better and more communicative on that? Yes. We certainly recognize that districts have a legitimate need to know what is going on and if someone is popping in down the street. Sometimes, timelines just move very quickly.

Brett Barley, Deputy Superintendent for Student Achievement, Department of Education:

As mentioned earlier, there is a requirement in NRS 388A.220 for consultation, if practicable. Many of these meetings are held in public settings. This may be an instance where government agencies need to do a better job of working together and communicating with one another. We would not want to see an unintended consequence, where a charter school's ability to choose a location that best meets the needs of its students, its program, or

parental choice, would be unintentionally inhibited. The Department would be more than willing to continue to work with all of the stakeholders you have heard today to ensure that the existing law works as intended.

Kathleen Conaboy, Private Citizen, Carson City, Nevada:

I have spent the past ten years advocating in this building on charter school policy. For the past five years, I was a member of the State Public Charter School Authority, and for four years during that time, I was Chair of the SPCSA.

Last session, this body passed Senate Bill 509 of the 78th Session, and there are requirements in that bill for the Department of Education to work with all sponsors of charter schools to look at things that collectively impact the schools and the districts. Some of this had to do with enrollment lotteries, some of it with strategic charter school planning. The issues addressed in this bill are probably anticipated by the growth of the charter school sector and as the bill is reworked, perhaps some of the considerations that were deliberated about in S.B. 509 of the 78th Session can be revisited.

Craig Stevens:

Thank you for allowing us to present this bill. It was a good and robust discussion. We are happy to work with everyone who had issues with the bill to see if we can get to a good place. One thing I would like to say is if a charter school owns the building, those types of meetings happen. If the charter schools lease, that makes it much more difficult and many of the charter schools do lease their buildings. Perhaps there is a solution there as well.

Chairman Thompson:

Is there anyone else neutral on A.B. 78? [There was no one.] We will close out the hearing on Assembly Bill 78, and open up the hearing for Assembly Bill 49.

Assembly Bill 49: Makes various changes relating to charter schools. (BDR 34-255)

Chairman Thompson:

I appreciate that you submitted a PowerPoint (Exhibit J) that people can follow, and you broke things down into certain segments, but I notice there are many acronyms. If you could, please reference the words, then go to the acronyms. Before you begin, I note on your presentation that you have put "Submitted by the Governor on Behalf of the State Public Charter School Authority." Could you please speak to that? On the bill, it just says State Public Charter School Authority (SPCSA).

Patrick Gavin, Executive Director, State Public Charter School Authority:

I apologize. I was trying to be clear that this was not a bill that was sponsored by a particular member. As an Executive Branch agency, the Office of the Governor ultimately determines what bills move forward. If I misworded that, it was not intentional; it was to reflect this was something we worked on in extensive consultation with the Governor's Office and with their support.

Chairman Thompson:

I just want the clarification, and I would like legal counsel to help with that. There are a certain number of bills that the Governor has, and I do not want to misrepresent if that is not the case.

Karly O'Krent, Committee Counsel:

Echoing what Mr. Gavin just said, the State Public Charter School Authority does not have independent authority to submit a bill draft request to the Legislative Counsel Bureau (LCB). Existing law, in *Nevada Revised Statutes* (NRS) 218D.175, provides that for regular sessions such as this one, the Governor's Office can request the drafting of not more than 110 legislative measures. This request was approved by the Governor, and is being submitted as one of the Governor's 110 legislative measures pursuant to that provision.

Patrick Gavin:

For those of you who were here last session, I will say that though this is a long bill, it is substantially shorter than the last one by at least half. When I initially drafted this language, I was excited that it came out to 18 pages, but when it was turned into LCB language, it got longer. I would like to thank Mr. Asher Killian and Ms. O'Krent from LCB for being extraordinarily helpful in crafting this language.

There are seven themes, all related to charter schools in this particular bill [slide 2, [\(Exhibit J\)](#)]:

- Student Civil Rights
- Talent Pipeline
- Authority Governance and Operations: Sections 15-18
- Applications and Amendments
- Clarifying Provisions of Charter Contracts: Sections 4, 19, 23
- Accountability
- Balancing LEA and Contract Manager Responsibilities with State Agency Role

Relating to student civil rights and public funds, the language in sections 6 through 10 of Assembly Bill 49 was drawn primarily from the New York and Washington, D.C. charter school laws [slide 3, [\(Exhibit J\)](#)]. We do this in an attempt to address parent concerns regarding issues that many of you have called me about, and to provide some mechanism for us to intercede and investigate and then hold schools accountable for ongoing violations. For instance, a constituent might say their child was excluded from a particular school, or that there was some other untoward issue related to student civil rights. We base this, in part, on the challenges we uncovered during the investigations of financial mismanagement at both Silver State Charter School and Quest Academy. This Legislature and the Interim Finance Committee (IFC) approved funding for forensic audits at both schools. Significant accountability action has been taken related to both schools based on the findings of those forensic audits.

We are incorporating a friendly amendment from the Clark County School District (CCSD) [slide 3, ([Exhibit J](#))], limiting the provisions of sections 8 and 9, making them specific to the SPCSA. Clark County argued, quite persuasively, that as a local government, it already has many of the authorities and powers listed in here, and it has independent appropriating authority to pay for an investigation. It also has auditors on staff. They do not feel it is as necessary for CCSD as it is for SPCSA as a small 13-person agency, with me as the only member of the authorizing staff. The rest of our staff is primarily local educational agency (LEA) support, district-level support, or they manage our state and federal funds.

We also have a friendly amendment from Academy for Career Education (ACE) High School [slide 3, ([Exhibit J](#))] that, rightfully so, provides for a mechanism that allows a charter school to appeal the decision of a sponsor to require them to undergo some kind of investigation or audit to ensure there is no overreach. They can go directly to the state Superintendent of Public Instruction for the determination. Ultimately, we do not want to be in a position where we are micromanaging or where someone can perceive we are conducting witch-hunts. We want to be in a position where, if there are legitimate or verifiable complaints, we have some mechanism for intervening. We continue to be in consultation with the schools we oversee. A student's civil rights and the security of public funds are essential and nonnegotiable. I view my job as three things: to make sure the children learn; to make sure that children's civil rights and the rights of the public are maintained; and to make sure that public funds are used appropriately. If we do this, we will have a high-performing sector, and one that reflects the demographics of our communities.

A second area of focus is the talent pipeline [slide 4, ([Exhibit J](#))]. Assemblywoman Diaz brought forth a really thoughtful amendment to Senate Bill 509 of the 78th Session to allow for some flexibility with regard to teacher licensure with the provision that any school that takes advantage of that offers an alternative route to licensure (ARL) program. The purpose of this bill is two-fold: to ensure there is an appropriate and streamlined route for that ARL approval which meets all requirements. What I do not want is a situation where the timelines of the Commission on Professional Standards in Education wind up conflicting with the timelines for our approvals and people wind up a year or two late in being able to open up this program.

Bringing in high-quality ARL models is the subject of a support letter sent to the Chairman from an out-of-state charter school director who has identified that this gap, the issue of how we train our own teachers and how we make sure they are licensed, is actually one of the biggest stumbling blocks keeping them from coming to Nevada ([Exhibit K](#)).

During the last minute while drafting S.B. 509 of the 78th Session, the reference was left as a direct cite to the *United States Code* instead of the actual definition of a highly qualified teacher being added. With the passage of the Every Student Succeeds Act (ESSA), that reference is now wrong.

What we have done is gone back to the original language in that section, section 27, subsection 7, and removed the reference to the No Child Left Behind Act (NCLB) citation and replaced it with the legal definition to provide clarity to schools and authorizers.

We have two friendly amendments I would like to put on the record. The first is from ACE High School, and it is in section 26, subsection 2(c). Many of their teachers are actually not licensed through the Department of Education, but through the Department of Business and Industry; for example, for business courses or construction technology. That licensure process is different from the "highly qualified" provisions in this bill and a previous statute that are required of academic teachers. We want to make sure this school is not put into a place where it is inadvertently out of compliance because the statute does not align with how things actually work in practice for its children. They have requested the elimination of the existing language in statute which puts them into a position where they are set at a higher standard than what is true for other vocational schools. We want to make sure they are on a level playing field. This has been a barrier for the growth of career and technical education (CTE) charters. Again, we do not put a school in a position where it is in a catch-22 or cannot comply with the statute. This statute does not reflect reality.

Chairman Thompson:

Let us pause for questions regarding the two sections of student civil rights and public funds, and then go to the talent pipeline.

Assemblyman Pickard:

I have some real concerns with this bill. Specifically, where we are talking about transparency issues in section 5, subsection 2, we are carving out any of the publicly traded companies. I understand that we may have some proprietary information issues that we may have to deal with, but we are talking about investigation and pursuit of claims. I am assuming that would also have to do with financial management. I am concerned that we are now cutting off access to transparent information. The first section to trip me up is in section 9, subsection 2. Certainly, if there is money available, the sponsor performs the investigation. In paragraph (b), we are asking the school, the defendant in the action, to fund the investigation up front. I do not have a problem with the outfit that may have been adjudicated as having been in violation of some rule, and thus making the investigation worthy, but how does that stand in constitutional measures in line with the idea that we are innocent until proven guilty? Why should they pay the price first?

Patrick Gavin:

I will touch on section 5 briefly, although I had not talked about section 5 yet. You asked a very thoughtful question. We currently ask for this kind of information. We want to have a sense that they are actually solvent or if there are any issues with regard to their material finances—particularly if someone is going to be providing financial management services or is going to be employing staff. With a nonprofit, for instance a charter school network, typically that information is readily public. In most cases, it is filed with the authorizer, wherever their home state is, much like any charter school does here with their audit.

Like with any procurement, particularly any government procurement, this is a contract between us and an entity where we are going to create a school. This contractor is essentially a subcontractor that is providing a significant service to us. In some cases, schools outsource almost all of school management to such companies, which is permissible under our law. It does raise the question of what happens when there is a situation where we are surprised because there is some degree of financial issue with either a nonprofit or a for-profit organization. My intent here, if that is proprietary information of a privately held entity, is it would be improper and might open the state to legal risk if we were to disclose that information to competitors, for example. It is important that the public body have someone employed to review it, or their staff does. We need to balance that with the rights of the other party. That is very important. If there is a better way to accomplish this, I am more than happy to work with you on that.

We have historically been the only charter school sponsor that is not a local government. We have no independent appropriating authority to do a line item transfer from a reserve account or from anywhere else in our budget to fund, for example, the investigation we conducted with Deloitte of the two schools that I mentioned.

Let me give you a brief history of what happened there. In August of 2014, we received the initial complaint from board members of those two schools regarding money missing, or lack of clarity about what was going on with public funds. We did not actually ink a contract to commence that investigation until June 2015. During that time period, I had multiple meetings before the Interim Finance Committee and the State Board of Examiners where we had to walk through why this was necessary, which included disclosing that there was information on servers—a server that was mysteriously wiped clean. A lot of things can disappear in a number of months, not the least is more money. In the case of one of the schools, they went from having a relatively minor fund balance issue, to being technically insolvent, to the point where I had to appoint a receiver because they were not going to make payroll within the next two weeks. That is the intent here. If there is a better way to fix this problem without having to get exempted from the State Budget Act, I am more than happy to figure out what it is.

Assemblyman Pickard:

I would think that getting either a line item in the budget to do the investigations or to have some way of obtaining emergency funds would be better than putting it on the shoulders of the defendant who would ultimately have to front the investigation cost, then collect it back if that investigation turned out not to move forward. They are still out the money. I would encourage that direction instead.

Patrick Gavin:

I am willing to figure out if we can make that happen. I just want to make sure we are not in a position that we do not get the line item. Your solution is preferable.

Assemblyman Pickard:

Yours is a legitimate concern.

Assemblyman Edwards:

Since the United States is such a litigious society, I do have the same concern that if the defendant has to pay for the investigation, and is hit with multiple investigations, how much money are we talking about? Can they really afford it?

Patrick Gavin:

That is a reasonable concern. We would have to be quite limited. I am not in a position to speculate on that at this time.

Moving on to authority, governance, and operations [slide 6, ([Exhibit J](#))], section 15 of A.B. 49 is attempting to limit the actual or perceived conflicts of interest of Authority members. We have a suggested amendment from members of the SPCSA which I have discussed with the Governor's Office and which they support. While it would state that it is clearly improper for vendors or for the actual individual who is being regulated—for example, a board member of a school—the fact of the matter is that, historically, some the most active and informed members of the SPCSA have been people who work in schools. Much like the State Board of Education, we have people who work directly in schools or in districts.

This is an attempt to strike a balance in two ways. One is to say it is permissible to have some subset of charter school employees who are on the SPCSA. However, limit that number so it cannot get to the point where it is an entire quorum of people giving the perception that the parties being overseen are also doing the overseeing, while still trying to balance out that level of expertise and commitment.

In addition, require that no such individual may be employed by a one-, two-, or three-star school. Reserve this for schools that are the highest level of performance within the state. We think that strikes a nice balance with the different concerns that are raised.

You will be shocked to know that under current statutes, it is not clear who can fire me. Someone should be able to remove me. In S.B. 509 of the 78th Session, we proposed that could be done by the majority of the SPCSA. It was actually this Committee that articulated some concerns about that, and it was stricken from the bill. We came back to look at another way to find a solution this session, and based on consultation with the Governor's Office, they were of the opinion that we should mirror the process that is currently used for the state Superintendent of Public Instruction. The SPCSA would nominate or recommend three individuals; it would be the Governor's choice, and that individual, rather than being a termed individual, would shift from a three-year term to serving at the pleasure of the Governor.

Also, mirroring the language in the statute that empowers the state Superintendent, we would align the authority of the SPCSA Executive Director with that of other branch agencies to eliminate the ambiguity around whether it is the SPCSA members who have budgeting and staffing authority, which they have no independent or appropriating authority to do.

Similarly, we would ensure that it is very clear who works for whom, and that individual staff of the SPCSA do not have some reporting relationship either direct or dotted line to the SPCSA.

Assemblywoman Swank:

The SPCSA recommends three individuals to the Governor, the Governor appoints one who becomes the Executive Director, the Governor can remove the Executive Director, and then it says in section 17 that the Executive Director can hire people, including the staff. I want to make sure that people who feel they are being treated unjustly still have an appeal process. Correct?

Patrick Gavin:

At the present time, there is only one other unclassified staff member of the SPCSA, and that is the deputy director position which oversees our LEA operations. Every other employee is a member of the classified service. They have the same due process rights for grievance and appeal that any other state employee would have.

Assemblyman Pickard:

I am concerned that we are concentrating authority in the Executive Director and removing it from the SPCSA. It gives me concern that the SPCSA is almost taking an advisory position. I recognize that if we make the change and make the Executive Director subject to potential removal by the SPCSA, they then regain that authority. I do not see any amendments on this. Is there an amendment to provide for some kind of appeal and review to the SPCSA or the judicial review that I am not seeing?

Patrick Gavin:

We provided amendment language to staff, and the encouragement we received from the Chairman was discussed in this context.

Assemblyman Pickard:

It is your representation that some kind of appellate review is going to be worked into the language.

Patrick Gavin:

With regard to the staffing question?

Assemblyman Pickard:

Yes, with regard to the removal of the Executive Director and the staff process of appeal.

Patrick Gavin:

The Governor could remove the Executive Director. As an unclassified employee, I have very few appellate rights. With regard to the employees of the agency who are not members of the unclassified service, they receive the same supports and appeal rights that any state employee has. They would go to the Division of Human Resource Management,

Department of Administration, they would fill out an online form on Nevada Employee Action and Timekeeping System (NEATS) expressing their issue, and then there is a mechanism for resolving the issue. That is standard for all state employees.

Assemblyman Pickard:

In referencing section 15, subsection 4, you mentioned there is a conflict to have active participants be members of the SPCSA. I do not see that conflict per se because most of the NRS Title 54 boards are run by active participants, whether they be doctors, lawyers, or others. They are working in the field, but then they are also acting in a supervisory or disciplinary capacity. Would you agree that it would be important to have people who really understood the workings of the charter school be on the SPCSA? Did I understand you correctly to say that language is also being amended so that we do not overload the SPCSA with the "practitioner would always win" type of situation?

Patrick Gavin:

Going back to slide 6 ([Exhibit J](#)), the language in red is the proposed amendment that would allow for some membership.

With relation to the "why," charter schools are a \$300 million sector of this state's economy. It is 100 percent state and federal money. We have schools that are larger than our median school district. The largest charter school in the state brings in something like \$33 million per year. Only Clark and Washoe County School Districts, and possibly Carson or Elko School Districts bring more. That is a lot of money. That is a way of saying we are no longer a cute, fluffy, little sector with a lot of 200-student schools. With that expansion comes responsibility in terms of the impact and the risk to public funds, the integrity of those funds, and ensuring we are being good stewards of taxpayer dollars. We must also ensure that our children are getting the support they need to be successful academically, and that all of their rights are protected.

We need to think of ourselves a little more like the Nevada Gaming Control Board or the Public Utilities Commission of Nevada in terms of the level of responsibility. As the oversight body that creates these entities and has the authority to destroy them as necessary, based on violation of law or academic performance, it is critical that we ensure there is a perception of integrity and this is not just the fox guarding the hen house.

Regarding the transition to alternative framework [slide 8, ([Exhibit J](#))], there are three sections to this. The most important are sections 1 and 2 of A.B. 49. There is additional conforming and clarifying language in sections 11 and 25 as well. Alternative framework is a really important innovation that was sponsored by members of the Assembly Committee on Education, although it came out as part of Senate Bill 460 of the 78th Session. It created, for the first time, a mechanism for evaluating the performance of schools that serve high-need alternative populations. Our intent here is to provide a pathway, or clarify in statute, what the pathway entails, what needs to happen from a school policy perspective and in terms of sponsor action, for a school that is currently not in that alternative education category, but wishes to transition over.

We have accepted a friendly amendment from CCSD and Beacon Academy. In the drafting of A.B. 49, we inadvertently eliminated the 75 percent provision which says you need to be more than 75 percent of any of the following aggregated categories: students who are more than two years behind academically by credits, students with individualized education programs (IEPs), students who have been judged in need of some type of supervision, and students who have otherwise been suspended or expelled. Those are the main groups of students addressed as very high-need populations that are extraordinarily vulnerable.

We are attempting to provide a pathway for that school to amend its charter relationship with us to say they are only going to serve this population exclusively. Existing law allows this to make sure that they are not in a position where, based on the vicissitudes of who signs up on a particular day, they do not wind up below that 75 percent threshold. The ability to create an exclusive population is very limited in statute. We do not do this for gifted and talented students. The expectation is that all schools are mirroring the needs of the demographics of their communities. That is required in statute already. However, for this unique subset of schools, this kind of exclusivity is appropriate.

In addition, it is providing a mechanism for the sponsor to review the necessary amendments to the academic program in the event that a previously undesignated school moves into the 75 percent or more alternative education population. The sponsor can then verify that the school knows what they are getting into with social supports and academic programmatic changes to ensure that they are successful. This is much like we would do with any type of de novo review of an application that has just come before us.

Chairman Thompson:

Are there any questions from the Committee? [There were none.]

Patrick Gavin:

This application review [slide 9, ([Exhibit J](#))] is in section 21, subsection 4, and was requested by the Office of Finance, Office of the Governor. It states that the identity of the team of reviewers that is assembled to review a proposed charter school application is confidential for five years after the review of an application. This is unless it is ordered to be disclosed by a district court pursuant to the appeal provisions that are already in statute.

My understanding is that this was suggested based on similar provisions in policy related to the review of contracts by state employees or other parties to ensure it limits the ability of a third party to influence those recommendations and decisions. This is something that will likely have some very robust discussion. I worry about making these things confidential, and although there is a compelling public purpose for that, it does require and deserve thoughtful discussion.

We have already talked about protecting proprietary information [slide 10, ([Exhibit J](#))]. Next is limitations on appeal [slide 11, ([Exhibit J](#))]. Existing law allows an applicant to appeal the SPCSA's denial of a charter application. The local school districts, as well as NSHE institutions, have the authority to directly sponsor schools. Currently none of those are

actively receiving, reviewing, or approving applications, although there are three school districts which currently have charter schools in their portfolios. At this time, for the purposes of most new charters, we are the sole authorizer of record. We are also, under statute, the appeal body for NSHE and district denial. In the event that NSHE or a school district denies an application, it is forwarded to the SPCSA for additional review, and then the SPCSA can directly sponsor the school. This is not like some other states where the state can overturn the decision and then kick it back to the local district for sponsorship. In oversight, we actually take on the responsibility for whomever we approve.

When this statute was first written in 1997, there was a reasonable concern that a local school district or the State Board of Education—which previously had my job—might be reluctant or hostile authorizers for a variety of reasons. We have not seen that, but it was a concern at the time of the initial drafting. It is reflected in many other states as well.

We are not hostile. Some might feel we are growing too fast. We have gone from 14,000 students in 2011 to more than 31,000 students this year. The good news is the diversity of our portfolio is more than it has ever been. Based on the most recent data from the statewide system of accountability, schools we have sponsored since 2011 dramatically outperformed the state as a whole, as well as the schools that were authorized prior to our creation. We think it is appropriate for some limitation on judicial review, but still provide a mechanism for going to court on this in the event the SPCSA changes its mindset and becomes less approachable and less friendly toward high-quality applicants.

We have also proposed that parallel sections be added in relation to the review of amendments. At this time, there is no provision in this statute for judicial review of amendments, of revocations, or of nonrenewals. We propose this to provide some avenue for people to appeal.

In contracts [slide 12, ([Exhibit J](#))], there are changes in a couple of different sections of A.B. 49. The negotiation process for a charter is the approval process. It is extensive. It is at least 60 days long. We have historically taken longer in collaboration with the applicants to give a thorough review of the application and the material elements that will shape how this school works academically, organizationally, and financially, and how it will comply with state and federal law. In addition, we review the things that are unique to any school such as the location, as well as what the enrollment configuration of that school is going to be, both in year one and throughout the six-year term of that relationship.

We feel we are already performing extensive negotiations as part of that process, and the final approval of that application by the SPCSA concludes the process. Our standard contract essentially incorporates all of those elements that we have negotiated in. We have found that there have been points where some parties want to push back, and for one reason or another, do not care for a particular provision that is a standard requirement of the SPCSA. We felt it was important that we clarify that we adopt that standard form. In the event a school presents a compelling justification as part of the application process, we can certainly make modifications. Virtually everything that is in that contract reflects existing

statute, existing regulation, or the policies that we are required by statute to adopt, as either under a state agency role as a sponsor or under our federal LEA role which is where civil rights come up.

This is a different type of contract procurement than going out to buy pencils or computers. The state needs a certain number of pencils, copier toner, and computers every year. Whatever the vendor may be, that award is predicated on the fact that there is a specific and explicit need for that product. Let us be candid here, we need high-quality schools, but that is a very different level of business need. Our best alternative to a negotiated agreement, in the event we cannot come to terms, is to simply say, It has been nice talking to you, but we need to move on to other providers for our needs.

Slide 2 ([Exhibit J](#)) refers to the other section on contracts incorporated in sections 4, 19, and 23 of [A.B. 49](#). We are striking "negotiate" and replacing it with "develop" a contract.

Slide 13 ([Exhibit J](#)), is the Every Student Succeeds Act (ESSA) passed in December 2015. It is the newest iteration of the Elementary and Secondary Education Act of 1965 that was most recently reauthorized as the No Child Left Behind Act (NCLB) of 2001. There were some elements of ESSA that now override elements of what is in our statute. First and foremost, section 13 of [A.B. 49](#) is providing, particularly in the area of charter school accountability policy, that we collaborate with the Department of Education to ensure there is no misalignment in what is currently in our law, versus what ends up in the statewide plan. There have been points in time when people have argued there is ambiguity between what is required under our law versus what was actually in the NCLB waiver which was approved by the federal government in 2012.

The key areas are in section 24 of [A.B. 49](#), which essentially updates the accountability provisions of [Senate Bill 509 of the 78th Session](#) in a couple of ways. The most important is it updates, under federal law, the cutoff for determining whether a school is a low-performing school and has moved the graduation rate requirement from 60 percent to 67 percent. I do not believe this would materially change the number of schools in the state portfolio that are currently subject to potential sanction, but it is important that we comply with the letter of federal law on this.

You will see conforming changes in a couple of other places in the document as well. This was language we had actually talked through extensively in this Committee in 2015, but it was not included in the final adopted language. There is a material difference in whether a school "is" an elementary, middle, high, or vocational school or whether it "operates" as one. We have schools that might operate as all four. That creates some ambiguity as to whether these provisions apply to them. Under state law, NRS 388.020 makes it very clear that a charter school is a public school that is created in accordance with the charter school law [slide 15, ([Exhibit J](#))]. It does not distinguish in any way between grade levels. It is one single body corporate and is accountable for the performance, either good, bad, or mediocre, of any level of program that it operates. It was critical that we made sure that was clear.

Similarly, in section 24, subsection 1(g), we want to be clear that the statewide system of accountability for public schools is specifically aligned with ESSA. Based on the immediate context of the language, it was not quite clear.

There is language in section 14 of A.B. 49 that is laudable and aspirational, fostering "a climate in this State in which all charter schools, regardless, of sponsor, can flourish." I would say that we are doing that. That is how we got from 14,000 to 31,000 seats in a three-year period. I would also say that our schools are more diverse, and we have three districts now where charters are more than 10 percent of the school population. There is a lot of flourishing going on. That said, this could also be interpreted to say that the SPCSA has some kind of affirmative duty to help schools flourish. Instead of being the oversight body, the SPCSA has some obligation to provide additional services or guidance on how to fix problems that are someone else's responsibility. We currently operate on less than a 1 percent fee. Collectively, the schools that we oversee have a hundred times my revenue and all the independent appropriating authority in the world to use those resources as they see fit, including funding consultants. As a state agency, we are not set up to do that. I cannot be in a position to come back asking for a work program for some specific service that I do not have in-house because someone feels it is my job based on the existing language in the law.

[Assemblywoman Joiner assumed the Chair.]

We are offering an amendment [slide 14, ([Exhibit J](#))] to section 14, subsection 2, of A.B. 49, that reads "The provisions of this chapter shall not be construed to create a duty for the State Public Charter School Authority to provide any assistance, support or services to a charter school not sponsored by the Authority" We want to be helpful and supportive, but we cannot be in a position where our lack of resources or lack of expertise in some arcane area of school operations makes us somehow culpable for the poor choices of a group of adults who bring in a hundred times our revenue.

Vice Chair Joiner:

We will pause here for Committee questions.

Assemblywoman Swank:

I am seeing that you are striking "which is not otherwise required by law." I am wondering why you would strike that because if it is required of you by law, you are going to have to do that. Could you explain that?

Patrick Gavin:

What we are trying to be clear about is that our responsibility is related to oversight and to holding schools accountable. We are not a service provider or a vendor. I am not aware of anything other than the language regarding helping schools flourish. The ambiguity that exists where we wear multiple hats as a state agency, as a sponsor of charter schools, and as an LEA, is an area which creates some vulnerability to us if, at some point, it is decided we

should act more like a district. I do not believe that is what our schools want. They would like more autonomy from us than we are currently able to offer due to our constraints as an LEA.

[Assemblyman Thompson reassumed the Chair.]

Assemblywoman Swank:

For the record, if this body, or a future body, makes a decision that is somewhat contrary to this section, it is still binding for your agency, even if you strike that language. Correct?

Patrick Gavin:

I think that is accurate. I would hope that whoever is in this seat would come up to you and point out the challenges that we would have in implementing whatever that might be so we could talk it through. By services, I do not mean our core role as providing oversight and accountability for schools and being an effective performance manager. To the degree that you were to create a mandate for that, I would have no concern about that whatsoever. If you decide, at some point, that I should be providing lunch programs, bussing, or directly providing special education services, I would have an issue with that, and I would come back to have very respectful, albeit very clear, conversations of where my concerns are.

Assemblywoman Swank:

I agree with that, except if there is a future body that decides that is what you should do, that is what you should do.

Patrick Gavin:

I work for you, so yes, I work for the people of Nevada.

Assemblyman Pickard:

I want to circle back to section 14, subsection 1(c), the striking of the language. I understand that, in subsection 2, you are making it clear that there is no duty to perform or to support other than supervisory. Is the language you are striking important to the extent it is giving, not just aspirational, but some directive to the authority that we are focusing on to ensure we are in a positive environment, where these schools can flourish? My concern with this is that if a court were to review what we have done, and we were to adopt this, then a court or a future Legislature could interpret that to mean that we deleted this language as the intent. Given that you are proposing subsection 2, would that obviate the need to delete that language? What is the problem by not deleting it?

Patrick Gavin:

This is currently a matter that is actually subject to ongoing litigation. I would be more than happy to discuss it offline with you.

Assemblyman Pickard:

I would like to have that conversation.

Patrick Gavin:

This is the charter school definition question we spoke of earlier [slide 15, ([Exhibit J](#))]. It was not only an ESSA issue; it is also something I want to highlight: "is" versus "operates."

This is the final piece in which I anticipate there will be some robust conversation [slide 16, ([Exhibit J](#))]. This is an attempt to balance our responsibilities as an LEA with obligations to adopt an extensive array of policies and requirements in our district role, subject to both state and federal law. An example might be a special education Section 504 [of the Rehabilitation Act of 1973] complaint where the parent of a student who has a nonacademic disability feels that their rights have been violated. There is a requirement under federal law that we adopt specific policies in that area. Similarly, there are, based on a quick word search of NRS Chapter 388A, at least 30 different references to the term "policy." Most of those do not give any independent rulemaking authority to the SPCSA to be able to actually put forth that policy as a regulation. This creates tension where we have obligations under statute to adopt policies, standards, performance frameworks, contracts, and forms that are not necessarily anticipated under our rulemaking authority. We are expected to do the same thing as everybody else, but our context is a little different. This is an attempt to try to resolve that without having to ask you for the authority to basically do an extraordinary amount of rulemaking, which might not work fast enough or be flexible enough to meet the expectations under state and federal law for many of these areas, particularly the federal expectations.

Chairman Thompson:

Wrap up these last few slides, then we need to get on to the questions in support or opposition.

Patrick Gavin:

There are already existing due process provisions in NRS Chapter 388A which are in some ways more generous than those typically provided for most state agencies [slide 17, ([Exhibit J](#))]. That includes, for example, the option to resubmit a charter application, which is not something that typically happens. Similarly, in a case of revocation or a closure decision, there is an opportunity for notice, a cure period, a hearing to determine whether that cure is satisfactory, and then there is the determination of how to hold the school accountable, particularly this concept of a satisfactory cure. That is quite different from the general administrative expectation of a showing of findings of facts and conclusions of law related to whether there has been a violation and what the consequence should be. This provides, in many ways, a much more generous opportunity for schools to fix a problem or to demonstrate that they have a concrete plan that they can execute to remedy the deficiency.

That creates conflicting standards of review and application between the due process provisions that exist for all charter schools versus what is in NRS Chapter 233B, the Nevada Administrative Procedure Act (APA). There is a general concept of law, *lex specialis derogat legi generali*, which is to say, the specific law trumps the more general laws.

We have a very specific provision related to how due process works for the charter schools, which we would argue is more specific and, hence, is the applicable standard versus the APA. This was an issue that was raised by the National Association of Charter School Authorizers (NACSA) [slide 18, ([Exhibit J](#))]. We are the only charter school authorizer in the state that is subject to the provisions of the APA. No other body is, including the Achievement School District. To the knowledge of NACSA, and certainly my professional knowledge having worked in dozens of states around the country, we are the only peer agency that is subject to these kinds of provisions. If we look at other states such as Texas, their process is that the authorizer of the school will go before an administrative law judge, present evidence, and the administrative law judge will make a recommendation to the sponsor, the authorizer. The authorizer may take that recommendation or move in a different direction. Their decision is final and is not subject to any appeal.

There is ample precedent for full or partial exemptions [slide 19, ([Exhibit J](#))]. We are not asking for any exemption from the rulemaking process for those areas where we do have authority under regulation. It is related to this specific area of contested cases.

Assemblywoman Miller:

As we talked about accountability and specifically where it said people from the "bottom three tiers" [slide 6, ([Exhibit J](#))], that implies that those are charter schools that are not performing as well.

Patrick Gavin:

Yes. Under the proposed amendment, they would be precluded from service on the SPCSA.

Assemblywoman Miller:

I am looking at accountability and it is talking about putting accountability over the charter schools. Does that then imply that with this exemption, the Authority would be able to close charter schools that are not performing?

Patrick Gavin:

The SPCSA is actually the entity that determines who gets approved, who gets an amendment, who is told they need to close their doors, or a host of other accountability actions. That authority cannot currently, nor does this bill contemplate that those authorities could ever, be delegated to staff. That is the core role of the SPCSA now and has been since its inception.

Assemblywoman Miller:

Has the SPCSA closed down charter schools?

Patrick Gavin:

At the present time, we have issued two notices of intent to schools based on performance issues. We give them the appropriate process, including the cure period.

Assemblywoman Miller:

How long is that period?

Patrick Gavin:

The cure period is limited to 90 days at the maximum. We must also conduct all of the hearing and any evidentiary pieces within that time. In practice, we are really looking at about a 45-day cure period. Then there is the process for reviewing that evidence, having the hearing, and then determining what is an appropriate consequence, up to and including the revocation or termination of the charter.

Assemblywoman Miller:

What are the performance levels or findings that determine there needs to be some type of intervention? Forty-five days sounds like a turnaround. It sounds like a restaurant, where the temperature is wrong—you have a couple of days and then we are coming back. When we are dealing with children and students, are you focusing on achievement, performance of teachers and students and staff? What is it you are looking at when you are holding them accountable?

Patrick Gavin:

There are essentially three areas which can prompt the revocation of a charter or the renewal of a charter. There are specific things laid out in statute. The first is academic performance. Currently, having a graduation rate below 60 percent empowers the sponsor to revoke that charter; similarly, if you are an elementary or middle school and in the bottom 5 percent of all schools statewide or any other level of nonperformance as defined by the SPCSA or the Department of Education. At this time, the most material is three consecutive years of two-star performance or below. With due credit to Assemblyman Anderson, in 2015, this Committee sponsored legislation to require automatic revocation of any written charter for any school that has been at the one-star level for three consecutive years. In 2015, we changed that to any three out of five years, in part to deal with this potential ambiguity with the pause.

Assemblywoman Miller:

When charter schools are failing, what do you attribute that to?

Patrick Gavin:

We do not know. We are not a research entity. Our role is not to determine the cause of nonperformance. When there is a determination, for example by the Department, that a school is underperforming based on their authority to calculate a graduation rate, it is our responsibility to then issue a notice of intent, or at least consider the issuance of a notice of intent to revoke, and then to take other steps. As we operate on 1 percent of other folks' revenues, we cannot possibly be the problem solver for all of those things. As with any public school or other entity, performance failure, whether academic, organizational, or financial, is attributable to the leadership and the governance of that entity to hold that entity accountable and step in way before I show up.

Assemblywoman Swank:

I am going back to section 14 [slide 14, ([Exhibit J](#))]. When we were talking about section 14, you mentioned ongoing litigation. The Legislature does not get involved in anything that would interact with ongoing litigation. I want to confirm that there is nothing in this bill that will in any way interact with this ongoing litigation.

Patrick Gavin:

I do not believe there is any attempt to short-circuit current litigation. This is merely for anything moving forward.

Assemblywoman Swank:

Section 12 shows the rating system [slide 4, ([Exhibit J](#))]. I am looking at a charter school that received one of the three highest ratings of performance. Can you briefly remind me how that works?

Patrick Gavin:

Ultimately, I do not make the determinations about what star rating a school is. When we say these things, we are talking about the one- through five-star. When we are saying the top highest, we are talking about three-, four-, or five-star schools. The star system is the statewide system of accountability. It was developed by the Department of Education in consultation with the public, and was reviewed and approved by the U.S. Department of Education. It was approved by the State Board of Education as well.

Assemblywoman Swank:

In referring to section 12, subsection 2, how do we know if the ratings from another state are equivalent? How do we know they are coming from a reputable state charter school? Some states do things better than we do, and some states do things much worse than we do.

Patrick Gavin:

This language actually mirrors existing statutory language in other sections of the statutes, most notably in the Charter School Financing Law that was passed in 2013 [[Senate Bill 384 of the 77th Session](#)] which has this same provision. Many states are moving to a system that is also five tiers, an A through F, or a star system. It has become increasingly common due to ESSA. When we look at a school in Florida, we are looking to see if they are an A, B, or C school. When we look at Texas, they are adopting a letter grade system as well. Arizona is also moving to that system. You are correct that this is an area where additional capacity would be helpful for us to compare to other similar states. That is why we have asked for the added positions.

Assemblyman Elliot T. Anderson:

As I have told you privately, the default for me on waivers from the APA is a no. I would like to see a comparative breakdown of the procedures you referenced being better than the APA. If something provides broader protection and procedures than the APA in a contested case, then I am not sure it will be a problem as long as it provides a greater level of due process. I would like to see a breakdown before I am ready to decide on the waivers.

As for section 4, subsection 2, where it talks about the assignability and delegation of certain rights related to a contract, it looks like you have left out some of the things you can delegate under a contract. You talked about nondelegation of duties, responsibilities, and obligations, but what about the rights? It seems conspicuously missing because you can assign rights under contracts. That might be something to discuss with the Legal Division of LCB. Was it your intent to leave out anything? Say that someone has a duty to provide security under a charter contract. Your intent is not to prevent a governing board from telling you to hire security. Can you clarify that for the record?

Patrick Gavin:

I will answer those three questions briefly. Yes, we will get you the information related to the breakdown on the APA waivers. That makes sense to me regarding the rights piece. It was not our intention to carve that out.

Secondly, while it is permissible to delegate, with appropriate oversight, the operation or the taking of action to a staff member or vendor, ultimately the responsibility for performing that function, and seeing that it is done well rests with the governing body of the school. That responsibility includes delivery of academic results or good financial management. They are the contract holder and the ones who are ultimately accountable.

Assemblywoman Krasner:

I am looking at A.B. 49 exhibits, specifically the letter from the Nevada Parents for Online Education ([Exhibit L](#)). In the fourth paragraph, second sentence, it says, "Whenever a decision is being made about the future of any public school, there ought to be an explicit requirement that fair notice be given to impacted parents on the specifics of the decision and then a fair chance to testify about it. Anything less is un-American and takes away a parent's voice and due process rights." Do you know what these parents mean when they write that? What are they alluding to?

Patrick Gavin:

I cannot speak to any language in the bill that would limit or, in any way, inhibit or prevent a parent from providing input related to a decision of the SPCSA. We have bent over backwards to be accommodating to parents. Whenever this body is not in session, we have our meetings here in the Legislative Building. That enables a larger population to attend, either here or in Las Vegas, and also observe the proceedings online over the Internet, much like you do here in Committee.

Chairman Thompson:

Literally overnight, I have received a lot of emails of concern. We need to take the time, offline, to look through the bill because if the same questions keep coming up, it has to be in there somewhere. There are questions regarding parents being able to speak freely. They also feel like part of this bill is eliminating the right to be heard and have that two-way dialogue. I can share the emails with you. It is really concerning as this goes back to the first

section that you talked about regarding students' rights. In any kind of learning environment, we cannot cut that short. I would not want to see us limit that. If anything, in a bill, it should be more open and transparent.

Patrick Gavin:

I concur wholeheartedly. During the last two budget requests, we have asked for more resources to be able to engage in community and parent participation. Unfortunately, with constraints on resources, that request was not able to be supported. It is generally best practice to hold community forums on these issues prior to making decisions so that parents understand. We have not been able to move that forward. It is an area that is a learning issue for many of the initiatives we have adopted over the past several years. When things feel like they are "happening" to parents and families, and they do not know beforehand, they do not feel like they have a voice at the table and that can result in the feeling that we, as a state, are not listening to the people who put us here.

Assemblywoman Tolles:

Can you walk us through exactly what the notification process for parents looks like today?

Patrick Gavin:

At the present time, we do not have access to contact information for parents. I have no authority to reach out. I have been advised by counsel that it would be improper and problematic for me to even go to Infinite Campus. Currently, our process consists of official notice to the school, which is required under statute and regulation as clearly prescribed in *Nevada Administrative Code* (NAC) Chapter 386. With relation to notification of the public and parents, we have typically done that through a press release, and we send that out to anyone who is signed up for any of our listservs. I even send it to Infinite Campus administrators to ensure we tell as many people as possible.

Chairman Thompson:

Can you point to any reference in the bill? As I mentioned, we are inundated with lots of emails. It must be someplace in the bill.

Patrick Gavin:

I do not believe there is language that is being cut or that is being added that would further restrict that. In the event this Committee feels that providing some formal process for notice to individual family members is necessary, we can absolutely talk about how we can accomplish that. It is possible. Some schools might prefer to tell parents their side of the story on their own, versus having a state agency do it for them. Historically, that has been the process. Schools notify families of these kinds of actions.

Assemblywoman Tolles:

Is it possible to amend that into this bill? May I also recommend that we use the word "consult" somewhere in A.B. 49?

Patrick Gavin:

I believe it is possible to amend it into the bill. With regard to "consult," that is something we should talk about to determine what kind of language it should be.

Assemblywoman Diaz:

I am interested in section 15, subsection 4, where it says, "A member of the State Public Charter School Authority must not be actively engaged in business with or hold a direct pecuniary interest relating to charter schools" In it, you list the people who may not serve on the SPCSA and I wonder why that list. Is there a conflict of interest? Have things occurred that you have learned from? I am interested in the rationale.

Patrick Gavin:

We are a \$300 million sector that is entirely dependent on public funds, which is a different thing than being the regulatory body for osteopathic medicine, for example, where people are making market-based decisions with their money about what they are going to do. In our case, people are making decisions about public money. We are also pretty big and we will be doubling our size by 2020 in terms of revenues as a sector. We will have well over \$500 million of public funds going into the charter school sector. It is critical to be above reproach. We think of ourselves as being a more mature entity, like the Public Utilities Commission of Nevada or the Nevada Gaming Control Board. We have compromise language in a proposed amendment [slide 6, ([Exhibit J](#))] to allow some limited representation from employees of schools; for example, a school leader or teacher from a four- or five-star school. We would limit that up to two to still provide useful input from those who do the work. We have members now who are employees of schools or charter school networks, and they are extraordinarily thoughtful and active participants and do an incredible amount of work. This is not reflective of any issues with individuals who currently serve or have served on the SPCSA. It is about what we need to do to ensure that there is public confidence in this. One of the issues we have from parents is the concern of why we are doing this. They are asking if this is because our school will gain by enrolling students if their school closes. I do not think this is anyone's intent at all. Again, it is a perception issue.

Assemblywoman Diaz:

I am glad to see the employee part. If you work for a school, it should not preclude you from participating if you are teaching. I appreciate that amendment.

Chairman Thompson:

Is there anyone in support of A.B. 49 in Las Vegas?

Eve Breir, Principal, Imagine Schools at Mountain View, Las Vegas, Nevada:

Imagine Schools at Mountain View is a kindergarten through Grade 6 charter school. We have grown from approximately 500 students on two campuses to nearly 700, placing us at capacity after a merger of our two sites two years ago. Imagine Schools at Mountain View has consistently performed above standards, both academically and fiscally. Imagine Schools has been recognized as a Nevada Highlighted School in the area of character development. We are the recipient of the national Promising Practices Award in establishing

a growth mind-set among students, staff, and families, in addition to receiving many other awards, recognition, and dollars to support our educational needs over the past six years.

We relocated from Spring Valley to the Centennial Hills community during the summer of 2015. This relocation, approximately 12 miles north, was an important, yet challenging, time for our school community. We recognize the importance of continuing to build strong relationships with our families; therefore, we acquired buses, and for the past two years have transported approximately 200 students to our site. To our students, this equates to about 30 to 45 minutes each way on the bus, and we would not have it any other way.

The students, staff, families, and principal are proud of the work we do each day. The care and concern we have for our families are exhibited in the testimonials and the tears parents have in their eyes when they leave our school, and sometimes return. Our recent charter renewal stated that Imagine Schools at Mountain View is one of the strongest performers in the SPCSA portfolio.

The Charter School Association of Nevada is a supporter of A.B. 49's alternative route to licensure recommendation ([Exhibit M](#)) because we live the critical teacher shortage struggle every year. Having the ability to grow talent and continue to do what is best for students is imperative to the success of Imagine Schools at Mountain View in education and Nevada as a whole.

Annually, we have faced turnover rates and have exhausted efforts to locate and hire the best of the best in the talent pool. The opportunities to grow teacher talent through the ARL pipeline will simultaneously and most importantly grow students. Year over year, we are purposeful about teacher retention efforts, and the support of A.B. 49 would provide significant advancement in the work schools are able to do in growing high-quality educators. We do not serve children at risk, but rather children at hope, without exception. Every child deserves equality in education and access to the most effective teachers and school environments where they are loved and cared for and learning every day.

We support A.B. 49 and invite each and every one of you to come and see the amazing work we are doing at Imagine Schools at Mountain View in Las Vegas.

Chairman Thompson:

Is there anyone else in Las Vegas in support of A.B. 49? [There was no one.] We will come to Carson City in support of A.B. 49.

Jonathan P. Leleu, representing Charter School Association of Nevada:

I received a statement that I have been asked to read into the record ([Exhibit M](#)). The Charter School Association of Nevada (CSAN) supports the State Public Charter School Authority's (SPCSA) bill, A.B. 49. We believe that an effective educational ecosystem for all schools, especially public charter schools, requires a careful balance between the

autonomy schools need to ensure success for Nevada's increasingly diverse student population, and the accountability necessary to ensure schools are operating effectively in all material respects.

Assembly Bill 49 reflects a strong understanding of this balance, and includes several provisions that will help Nevada charter schools thrive, better serve high-need student populations, and build successful teacher pipelines, while providing stronger fiscal transparency and clearer processes to support charter school parents in advocating for their children.

The Charter School Association of Nevada is especially pleased with A.B. 49's provisions giving high-performing charter schools access to grow their own talent pools by allowing them to create alternative-routes-to-licensure programs in a far more streamlined process than what currently exists. Assembly Bill 49 also brings much-needed clarity for schools seeking to adopt an alternative performance framework to ensure that schools serving students from high-need student populations have fairer accountability standards. With CSAN's strong focus on ensuring that all charters are transparent in their stewardship of public funds, we very much welcome A.B. 49's restrictions on unsavory financial and property transfer practices.

There are three areas of A.B. 49 that CSAN supports in general, where we are excited to collaborate with the SPCSA to refine some of the language in section 5 of A.B. 49 regarding the disclosure and confidentiality of information from educational management organizations; sections 6-10 of A.B. 49 regarding complaint procedures; and section 15 regarding conflicts of interest for members of the SPCSA. The Charter School Association of Nevada wholeheartedly agrees with A.B. 49's intent of providing more transparency and assurances regarding the capabilities of educational management organizations, due process for parents and students attending charter schools, and preventing conflicts of interest for the SPCSA. However, there are a few areas in each of these sections CSAN will be working with the SPCSA's Executive Director on to clarify the language to better align with the unique needs of Nevada charter schools.

Despite the need to clarify language in these specific sections, CSAN and its members support A.B. 49.

Jeanette Belz, representing Friends of ACE Charter High School, Reno, Nevada:

We are in support of A.B. 49 and want to thank Patrick Gavin for reaching out and working with us on the amendments that he submitted and considered friendly.

Chairman Thompson:

Is there anyone in opposition in Las Vegas?

John Hawk, Chief Operations Officer, Nevada State High School, Las Vegas, Nevada:

Although I generally support the bill, there are sections that are of concern. I will read those sections. Assembly Bill 49 is an ability to further strengthen a charter school system of high

accountability in Nevada. Nevada State High School believes that the bill could assist by more clearly addressing the relationship between the sponsor and the charter school's governing body. In particular, the sponsor has oversight of the governing body, and the governing body has oversight of the school. The school is made up of employees, facilities, contractors, curriculum, and more, all of which are managed by employees or vendors hired by the governing body. Circumventing the governing body's ability to oversee, and legislating that a "person" can directly file a complaint with the sponsor, puts the sponsor in an awkward position of school management and oversight. It creates an undue assistance, support, and service to the charter school, which is essentially what section 14, subsection 2 looks to avoid, whereas, section 9 puts the cost of an investigation on the school. Nevada State High School believes in the ability to cure while allowing a "person" their right to due process. These two thoughts are welcome in strengthening the written charter. In section 6, subsection 3, if the person does not feel that the governing body has addressed the concern, then he or she can submit an appeal to the school's sponsor.

If the Chairman, the Committee, and the writer of the bill would consider a friendly amendment to section 7, subsection 1, and section 8, subsection 1, of the bill to replace "A person who believes that a charter school" with "a person who believes that a governing body of a charter school," this could better align oversight. It would allow a "person" due process while giving the schools the ability to cure potential concerns around safety and the overall well-being of students on a campus at a much better and a much quicker rate. Nevada State High School is, in general, in support of the bill. However, given your rules, we have to oppose.

Chairman Thompson:

That will be something that Mr. Gavin will have to take under advisement. Is there anyone else in opposition to A.B. 49 in Las Vegas? [There was no one.] Is there anyone in opposition in Carson City?

Paul Klein, representing Nevada Connections Academy, Reno, Nevada:

I am here on behalf of Connections Academy, a tuition-free, online, virtual public school. We want to thank the Committee for considering this act and all of the stakeholders for the effort to improve charter school education. However, we are currently opposed as it is written. We would like to work with the Committee, the stakeholders, and Mr. Gavin on things that we think are important. We will do that and look forward to more discussion in the next days and weeks.

Laura Granier, representing Nevada Connections Academy, Reno, Nevada:

There are provisions in this bill that would short-circuit ongoing litigation. In the interest of the three minutes that I have, I cannot detail all of them for you now, but we would be happy to meet offline and provide written information on that to the Committee.

Specifically, in response to the question regarding notification that the parents are expressing concern about, I will tell you that this school was placed on a public agenda for closure in February 2016 without so much as a phone call from the SPCSA staff to explain that it would

occur, or why it was occurring. With respect to Assemblywoman Miller's excellent question about the cure, there is a 45-day period to cure. Currently, the school is subject to a notice of closure based on a single data point; the high school graduation rate. It is a K-12 school serving more than 3,200 students, and it is subject to closure. We ask you, how do you cure a graduation rate in 45 days? The Authority staff have been unwilling to work with us on what is a cure. We have proposed a cure, and we are anxiously waiting to have a meeting with them to understand and get their feedback on our cure. Their position, legally, has been that they do not have to help us figure out what an adequate cure is.

This is not a school lunch program. This is why the language is being stricken about providing an environment where charter schools can flourish. It is so that staff can take the position that they do not even have to try to help a school cure an issue with the graduation rate.

With respect to being a good steward of public funds, the issue with that school is that 49 percent of the 2016 cohort came to Nevada Connections Academy credit-deficient. That is why the school was subject to notice of closure. Yet, it has been said today that it is totally irrelevant that these students became credit-deficient at another high school. That high school is not being held accountable. All of those public funds are not being held accountable. Instead, this school is being punished for accepting these students.

Speaking specifically to the bill's provisions, section 9, subsection 5, creates broad triggers for closure; way beyond what was vetted in Senate Bill 509 of the 78th Session which provides very specific triggers currently codified in NRS Chapter 388A. For example, the high school graduation rate and multiple years of underperformance would be swept completely away and, instead, it would provide a provision so broad that if an employee of the charter school violated any provision of law applicable to charter schools, the SPCSA could initiate closure proceedings or revocation of the charter. This Legislature went to great pains last session to create very specific academic performance triggers.

Similarly, section 11, subsection 4, says if a charter amendment is denied, it cannot be resubmitted for one year unless the SPCSA has invited the school to resubmit. What this means, essentially, could be closure. If a school proposes a cure for an amendment and that is rejected, that would be the end under that provision.

Assemblyman Fumo:

I am concerned about the notice requirement and the fact that any school would not get notice. I would like that addressed. If I understand the graduation requirement, if you take a deficient student who is in his sophomore year, it is counted against you, and that goes from 60 percent to 67 percent. What is your school's graduation rate for students who have been there for four years?

Laura Granier:

It is over 80 percent, approaching 87 percent. With respect to your question regarding notice, for the record I would say there was no notice to the school that they would be pulling the

agenda back in February. The SPCSA decided to table it because the school did not know why they were pulling the agenda. To the SPCSA's credit, they gave us another month. We came back in March 2016, at which point the school was allowed to present evidence to the SPCSA members on whether the notice of closure should issue. The SPCSA voted that the notice of closure should not issue. Subsequently, what has occurred is that these notices of closure are put on a SPCSA agenda, and the school is not allowed to make any presentation to the SPCSA of any evidence as to whether the notice of closure should issue in the first place. The SPCSA's position is that you get a hearing to determine if your cure has been adequate, and that is your due process.

Assemblyman Elliot T. Anderson:

We need to have some discussions offline, in general, about the due process procedures because that is a huge concern of mine. There has never been any intent in the legislative bodies I have served in previously to have such a short period and lack of opportunity to be heard. I want to gather the facts and figures about exactly what has been happening.

My concern and question is regarding the ongoing litigation. You mentioned there were several sections that would intervene in litigation. I would like to have you stop by my office and give me specifics on how those sections would affect litigation. I would also like to hear from our legal counsel about the retroactivity or not, if that is appropriate, Mr. Chairman. I do not read anything as to retroactivity, but I am not sure how exactly it would work with legislation.

Chairman Thompson:

I would like the Legal Division to respond to everything you first said before we even send it to question.

Karly O'Krent:

With regard to any kind of retroactive provision, this bill takes effect July 1, 2017, in the majority of the sections. None of the sections that would take effect before that would be involved in the litigation. They are all for regulations or things of that nature.

Chairman Thompson:

So the second part is okay for the question that was geared toward the panel, correct?

Assemblyman Elliot T. Anderson:

We do not necessarily need an answer here, but we need to get the information about how it affects litigation to our policy analyst and if it would involve the Committee. That is a serious piece of information. I would also like more information about the due process procedures of notice and opportunity to be heard. Both of those are very, very important.

Jay Schuler, Private Citizen, Reno, Nevada:

I am with Nevada Parents for Online Education. I have many objections to this bill. It makes me shake my head. Section 1 basically removes the alternative performance framework for the charter schools except under very narrow circumstances. The school's

mission states that it will only serve and enroll pupils who have been expelled, have disciplinary problems, or are academically disadvantaged. It would be wrong to limit or segregate students based on their behavior or their academic standards.

Section 5 makes charter schools reveal all management education servicers. If publicly traded, their confidential information may be disclosed to any member of the general public upon request. However, information from private, nontraded servicers would stay confidential. That is an unfair playing field.

Section 14 removes the true mission of the Authority, to foster a climate in the state in which all charter schools, regardless of sponsorship, flourish.

Section 15, subsection 4 states a member of the SPCSA must not be active in business with, or hold direct interest in, the charter school. Who better to be on the SPCSA than someone working in the trenches, knowing the day-to-day operations of how a charter school works and the problems they encounter.

Section 28, subsection 2 removes the SPCSA from being subject to contested case provisions of the APA. Parents must have the right to speak and defend the student's choice in school and education.

As you can see, many problems are within this bill. I believe there are those who are looking for more control over the schools and easier ways to close charter schools. Students may come in under grade level and often within two years are at or above grade level and transfer back to a county school for sports or other activities. When the student leaves the school, this looks like a dropout and lowers the graduation rate for that school. If we could track that student—maybe have them sign an affidavit showing that they are going back to a different county school—and remove that student's name from the list of the charter school, it would, again, raise the graduation rate for that school.

I have several children and they are in online and charter schools. My middle son was a student at Washoe County School District. He was failing and entered Nevada Virtual Academy struggling. He received fantastic help and, within two years, was above grade level, passed his exit exams on the first try, graduated, and is now enrolled in college for radiology. That is a huge achievement. We should not be creating obstacles. We should be taking down barriers and giving children the tools and the things they need to be successful.

The Nevada Parents for Online Education hope that you will stay strong and vote no with us on A.B. 49. [Additional written testimony was submitted ([Exhibit N](#)).]

Chairman Thompson:

Is there anyone else in Carson City in opposition to A.B. 49?

Lorne Malkiewich, representing K-12, Inc., Herndon, Virginia:

Our primary concern is with the process issues in relation to the Nevada Administrative Procedure Act. A number of provisions within the law were mentioned, but it did not mention judicial review. Slide 11 ([Exhibit J](#)) refers to an amendment that adds judicial review for key provisions including revocation decisions. We do not know what that amendment says. Certainly, the Administrative Procedure Act providing judicial review would be helpful.

While you adopt legislation assuming good actors, you must consider the reality of bad actors. In sections 6 through 10 in [A.B. 49](#) concerning filing of complaints, Assemblyman Pickard pointed out the problem of having schools front the money for it. Also, consider the fact that all of those sections begin with "A person." It does not say anyone who has a particular interest; any person can file a complaint under sections, 6, 7, or 8. A person who wants to do evil to a charter school would simply need to make a good enough complaint to require an investigation.

Section 22, subsection 4 is one of the few places where there is judicial review. The amendment would severely limit that judicial review.

I understand the change from "is" to "operates," but in section 24, there is a particularly onerous effect. If you say that a charter school "operates" a high school, that provision relates to revocation. Therefore, if you operate an elementary, middle, or high school that is failing, then your entire charter is at risk. Again, all of these relate to the essential need for an effective review.

Changes in the regulatory structure in the mission of the SPCSA exacerbate these problems. The Executive Director serving at the pleasure of the Governor means he is not answerable to the SPCSA. Sections 17 and 18 give the Executive Director extensive authority to hire staff which would then not be subject to review by the SPCSA.

The fostering of climate has been mentioned several times. We also disagree with the provision on the members being able to have interest for the reasons that have been stated by others. There are ethics laws that concern conflict of interest. You have two current members of the SPCSA who serve on charters, and one who testified earlier on another bill who are members of the Authority. We oppose that amendment.

We note the provisions concerning changing "negotiating" to "developing;" it is not dictating. The current language in the law is "negotiate," which I would suggest is similar to "consulting."

We have specific concerns with the alternative performance framework. There is a reference to an amendment that takes out the problem of going from 75 percent to 100 percent. I am still against that, depending on how it looks.

The problem you asked about of why there is nothing in the bill regarding the "noticed" issue—it is not in there. That is exactly the problem. If you search the bill, you will find six references to "parent," all of which are existing language. In all of that blue, bold, underscored language, there is no reference to put the word "parents," or increasing the notice.

Chairman Thompson:

Is there anyone neutral in Las Vegas?

Rachelle Hulet, Administrative Director, American Preparatory Academy, Las Vegas, Nevada:

I am going to be speaking specifically to section 12 that we, at American Preparatory Academy, a K-12 charter school, are in favor of. We currently serve more than 1,400 students at our campus in Las Vegas. We have a wonderful school with great students and families who are working hard in our rigorous academic program.

We also have a wonderful group of talented teachers and staff members at our school. However, we have had a very difficult time finding teachers to hire. As you are aware, Nevada is in the midst of a critical teacher shortage, with CCSD alone having been short 1,000 teachers a year ago. They are short about 500 teachers this school year. The universities are not graduating enough teacher candidates to fill school openings. Fortunately, ARL is available in Nevada, but in its present form, charter schools are unable to participate, benefit, or implement a program to train teachers like the districts are able to. Expanding ARL is a vital need in Nevada's education system.

The critical teacher shortage requires that we somehow recruit more teachers to the education system. Because the colleges and universities are not graduating enough teachers to fill the need, this means finding nontraditional teaching candidates who have the academic credentials—meaning a bachelor's degree—and the ever-important desire to teach children. We need to entice them to enter the world of education by providing a way for them to fast-track their training and become effective teachers.

American Preparatory Academy has a long history of success in recruiting these high-potential, nontraditional teaching candidates and training them to become really excellent teachers. Our professional development program is comprehensive and consists of four proficiency levels that these teacher candidates work through over a one- to three-year time period. They begin with intensive training in the summers, and then move to classroom internships where these teacher candidates work with a certified teacher side-by-side in what we call "teacher-in-training." Once they have met certain proficiencies, they are assigned a classroom, and they continue to receive one-on-one coaching from a master teacher until they have reached level four of our program.

We are very encouraged by the expansion of the ARL and hope that this program is made available to charter schools through A.B. 49. We invite you to come visit our charter school any school day and see our amazing teachers in action. We appreciate your support as we all work together to provide Nevada students with a world-class education.

Andrea Damore, Curriculum Coordinator, Beacon Academy of Nevada, Las Vegas, Nevada:

[Andrea Damore spoke from prepared text ([Exhibit O](#)).] Beacon serves students in Grades 9 through 12 and we are currently transitioning to become the first alternative education public charter school in Nevada. The school plans to qualify as an alternative education school [rated using the alternative performance framework] by the 2018-2019 school year with 75 percent of our students qualifying for enrollment as outlined in *Nevada Revised Statutes* (NRS) 385A.740.

I am speaking today as neutral with the addition of the amendment Director Gavin has presented on sections 1 and 2 of A.B. 49 that would have amended current law. I would like to thank the Director for accepting Beacon's amendment [slide 8, ([Exhibit J](#))] which would have raised the criteria for qualification as an alternative education school from 75 percent to 100 percent.

We attract students who are at risk of not graduating from high school. We attract a unique student population, and also a very professional and passionate staff. Historically, many of the students that come to Beacon Academy are at risk of not completing high school. One of the reasons for this is because we have developed unique scheduling for students with severe credit deficiencies. We provide services for students and families and a flexible schedule which includes one-to-one, face-to-face tutoring with highly qualified teachers.

I would like to point out that there are no charter schools that qualify as an alternative education school in Nevada. Current statute allows any school to apply for the alternative performance framework if at least 75 percent of its enrolled students meet one or more of the qualifying categories. Without the amendment we have presented, A.B. 49 would require charter schools to have 100 percent of their students qualify for alternative education, while noncharter schools would remain at 75 percent. The percentages used among different states range from 50 percent to 90 percent. Colorado has the highest threshold, but it also has 15 different categories in which students may qualify. Higher rates create undesirable dynamics within schools, essentially forcing schools to deny access to high-risk students who perhaps have not fallen back quite far enough to technically qualify. Requiring high rates pushes all parties—school, authorizer, and state—into levels of documentation and monitoring as to their numbers, and that is out of alignment with any intended benefits.

Thank you for your time and the opportunity to contribute to this policy discussion.

Chairman Thompson:

Are you more in support? It sounded like you had a question about the bill, and it sounded like you offered an amendment and it was accepted.

Andrea Damore:

Yes, we are in support with the parts of the amendment.

Chairman Thompson:

Am I hearing that you do not like certain parts though?

Andrea Damore:

I am only speaking to the amendment.

Tambre Tondryk, Principal, Beacon Academy of Nevada, Las Vegas, Nevada:

As my colleague explained, Beacon Academy is currently transitioning to become the first alternative education public charter school in Nevada. As we are making this transition, both current law and A.B. 49, section 2, directly impact Beacon Academy's ability to qualify for this designation. I am speaking as neutral because I would like to provide further information regarding some of the categories that have been left out of the alternative performance framework.

We diligently apply the established enrollment and qualification guidelines outlined in NRS and Legislative Counsel Bureau File No. R126-15. However, the guidance provided in NRS and established rules is too limiting as it fails to consider the student categories of homeless, prior dropout, teen parents, and children in foster care. Each of these categories, however, is prominently featured among state laws referencing high-risk students as part of their accountability system. For example, 17 states cite the prior dropout category among their highest risk groups. The categories are recognized elsewhere as common indicators of high-risk students from federal law to routinely cited research. Among the specific groups, only 22 percent of prior dropouts return to school during the same year. Only 40 percent of teen mothers finish high school. Only 50 percent of foster youths graduate from high school by the age of 18. Among previously homeless, more than 40 percent surveyed said they stopped attending or dropped out of school while homeless.

Currently, Legislative Counsel Bureau File No. R126-15 does not include credit deficiency levels for students transferring midyear, which is a problem at the high school level. Instead, it states the Department will interpret the term "deficiency in the credits required to graduate on time" to mean a pupil who, upon completion of two, four, six, eight semesters of high school, has an established number of credits. At the end of the eleventh grade, or with six semesters of high school, that student has 11 or fewer credits to qualify for an alternative education school. Beacon Academy proposes additional benchmarks in the definition for a deficiency in credits to allow students to qualify for an alternative education program more frequently, using their current academic progress instead of the annual indicator. We suggest that "upon completion of the midyear semester" be included as well ([Exhibit P](#)).

Chairman Thompson:

It sounds to me like we had two testimonies from Beacon Academy. One actually qualifies for support, and technically, yours qualifies for opposition because you came in with some suggestions. When we are talking about this issue, or go to a work session, this helps us.

Tambre Tondryk:

If that is considered opposition because we have suggestions and amendments, then yes.

Chairman Thompson:

You had another representative from Beacon that supported the bill.

Tambre Tondryk:

We were both in opposition overall, but support in light of the amendment on one section.

Chairman Thompson:

You are willing to work with the sponsor, correct? I think we sometimes think opposition is bad, but as we are talking and trying to get the best legislation possible, that is just how it is. Thank you so much.

Tambre Tondryk:

Absolutely.

Brett Barley, Deputy Superintendent for Student Achievement, Department of Education:

One observation from the conversations so far this evening is, when we think about the charter school sector across the country, it was really started as a bargain. You gained additional autonomy for certain accountability requirements, so you got some flexibility in the state code. In exchange, you got held to a very high standard for student achievement. The SPCSA, over the past several months, has taken action to live up to that autonomy for accountability bargain. They have been engaging in authorizer practices that a state would like to see based on that deal. Make no mistake, the goal is good schools, and much of the language you see in A.B. 49 is about strengthening that part of the SPCSA's work.

There are certainly more conversations that need to happen on this bill based on what we have heard today from stakeholders. However, to a large degree, there is much common sense that aligns with work that is already happening in the state that has a maturing charter school environment. This work includes figuring out what makes sense for charters around the alternative performance framework, exclusionary practices, contracting, and of course, alignment with the federal ESSA.

The Department looks forward to continuing these conversations and crafting the best bill possible with all of you.

Assemblyman Elliot T. Anderson:

You are going to have to enlighten me as to why the Department of Education is testifying neutral on behalf of another agency's bill.

Brett Barley:

The Department of Education provides school support to all schools regardless of type. Each year, the Department puts out several lists of schools, and this year for the first time, we put

out a list of high-performing, high-poverty schools. We call that the Shining Stars list. We also put out a list of underperforming schools. The underperforming schools list, now named the Rising Stars Schools list, includes both charter and traditional public schools. In my division of the Department, the Student Achievement Division, we provide support in consultation to all schools regardless of school type. As we think about how best to support those schools' strong authorizing practices, both at the district level and the SPCSA level, there are things we want to try to help foster in the state.

Assemblyman Elliot T. Anderson:

I thought bringing A.B. 49 forward was in consultation with the Governor's Office.

Brett Barley:

As we are sitting here watching the proceedings, we thought it would be valuable to come up and share some comment as neutral based on what the conversation was. There was a lot of talk at the Committee level about the appropriate role, due process, and oversight.

Assemblyman Elliot T. Anderson:

Fair enough.

Patrick Gavin:

This has been a really important and fruitful discussion, and I want to thank all of you individually for the thoughtful feedback you have given. Despite some of the opposition, there is a lot of consensus on many of the elements, and I think we can work together to make this a stronger bill that addresses many, if not all, of those concerns.

Chairman Thompson:

We will close the hearing on A.B. 49, and we will open public comment. Would anyone like to come forward in Las Vegas? [There was no one.] Is there anyone in Carson City? [There was no one.] The meeting is adjourned [at 6:55 p.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblyman Tyrone Thompson, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a PowerPoint presentation titled "Assembly Bill 78," presented by Craig M. Stevens, Director, Intergovernmental Relations, Government Affairs, Community and Government Relations, Clark County School District.

[Exhibit D](#) is written testimony in support of [Assembly Bill 78](#), presented by Anna Slighting, representing Honoring Our Public Education, Las Vegas, Nevada.

[Exhibit E](#) is a copy of a map titled "Clark County School District, 2016 Elementary School Enrollment with State Excluded Pre-K Student, Percent of 2016 Program Capacity," submitted by Anna Slighting, representing Honoring Our Public Education, Las Vegas, Nevada, regarding [Assembly Bill 78](#).

[Exhibit F](#) is a Clark County School District 2016-2017 Monthly Enrollment Report, submitted by Anna Slighting, representing Honoring Our Public Education, Las Vegas, Nevada, regarding [Assembly Bill 78](#).

[Exhibit G](#) is written testimony in support of [Assembly Bill 78](#), presented by Anna Slighting, representing Honoring Our Public Education, Las Vegas, Nevada.

[Exhibit H](#) is a letter dated February 27, 2017, in support of [Assembly Bill 78](#) to members of the Assembly Committee on Education, from the Nevada State Education Association, presented by Chris Daly, Deputy Executive Director of Government Relations, Nevada State Education Association.

[Exhibit I](#) is a document titled "Statement on A.B. 78" from the Charter School Association of Nevada, presented by Jonathan P. Leleu, representing Charter School Association of Nevada, in opposition to [Assembly Bill 78](#).

[Exhibit J](#) is a copy of a PowerPoint presentation titled "Assembly Bill 49" presented by Patrick J. Gavin, Executive Director, State Public Charter School Authority.

[Exhibit K](#) is a letter in support of [Assembly Bill 49](#) authored by Peter Bezanson, CEO, BASIS Schools Inc., presented by Patrick J. Gavin, Executive Director, State Public Charter School Authority.

[Exhibit L](#) is a letter dated March 1, 2017, in opposition to [Assembly Bill 49](#), addressed to Chairman Thompson, from Nevada Parents for Online Education and mentioned by Assemblywoman Lisa Krasner, Assembly District No. 26.

[Exhibit M](#) is a statement in support of [Assembly Bill 49](#) from the Charter School Association of Nevada, authored by Colin Seale, Board Chairperson, Charter School Association of Nevada, presented by Jonathan P. Leleu, representing Charter School Association of Nevada.

[Exhibit N](#) is a letter dated March 3, 2017, in opposition to [Assembly Bill 49](#), addressed to Chairman Thompson, from Nevada Parents for Online Education, submitted by Jay Schuler, Private Citizen, Reno, Nevada.

[Exhibit O](#) is a letter to Chairman Thompson and members of the Assembly Committee on Education, regarding [Assembly Bill 49](#), authored and presented by Andrea Damore, Curriculum Coordinator, Beacon Academy of Nevada, Las Vegas, Nevada.

[Exhibit P](#) is a letter to members of the Assembly Committee on Education, regarding [Assembly Bill 49](#), authored by Tambre Tondryk, Principal, and Andrea Damore, Curriculum Coordinator, Beacon Academy of Nevada, Las Vegas, Nevada, presented by Tambre Tondryk.