

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-ninth Session
June 1, 2017**

The Senate Committee on Education was called to order by Chair Moises Denis at 10:50 a.m. on Thursday, June 1, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Moises Denis, Chair
Senator Joyce Woodhouse, Vice Chair
Senator Tick Segerblom
Senator Pat Spearman
Senator Don Gustavson
Senator Scott Hammond
Senator Becky Harris

GUEST LEGISLATORS PRESENT:

Assemblywoman Dina Neal, Assembly District No. 7

STAFF MEMBERS PRESENT:

Todd Butterworth, Policy Analyst
Asher Killian, Counsel
Linda Hiller, Committee Secretary

OTHERS PRESENT:

Steve Canavero, Superintendent of Public Instruction, Department of Education
John Vellardita, Executive Director, Clark County Education Association
Brett Barley, Deputy Superintendent for Student Achievement, Department of Education

Chair Denis:

I will open the work session on Senate Bill (S.B.) 430.

SENATE BILL 430: Eliminates the Achievement School District. (BDR 34-793)

TODD BUTTERWORTH (Policy Analyst):

Senate Bill 430 was sponsored by the Senate Education Committee. The original bill proposed to repeal statutory provisions related the Achievement School District (ASD) enacted through A.B. No. 448 of the 78th Session.

I have submitted a work session document ([Exhibit C](#)). Chair Moises Denis proposed a comprehensive amendment in response to testimony during a recent hearing on S.B. 430. The proposed changes retain the core components of the ASD while creating a new school improvement option known as "A+ schools". The amendment enables parents whose children attend an underperforming school to petition for certain school turnaround options to be undertaken by the school. It also requires the Department of Education to negotiate a performance compact with certain underperforming schools. It prescribes other operational guidelines for the ASD.

STEVE CANAVERO (Superintendent of Public Instruction, Department of Education):

The first proposed change relates to reporting requirements. The intent is to ensure there are the same basic reporting requirements for schools within the ASD, for charter schools and for A+ schools. Those details can be found in sections 13 and 14 of the proposed amendment. In addition, there are enhanced reports required from charter and A+ schools. An A+ school is an achievement charter school operated pursuant to an A+ school contract.

Throughout Proposed Amendment 5084 is the term "eligible for conversion." The term is defined in section 24, subsection 1, paragraphs (a) through (g). When a school is eligible for conversion, it may or may not be selected for the process.

CHAIR DENIS:

If a school is eligible but not selected for conversion, what is the next step?

MR. CANAVERO:

When a school is not selected, a performance compact is offered. If the compact is not accepted, the school will be considered again for conversion in the next annual performance review cycle.

CHAIR DENIS:

When a school is not selected, the school district could decide the next course of action from among several options. The school's performance may be improved and, thus, not be eligible for conversion in the next review. Is that correct?

MR. CANAVERO:

Yes, that is accurate. Returning to the proposed amendment, section 8, subsection 5, paragraph (b) addresses the roles parents play in this process and the requirement that at least one and not more than three petitioners represent all of the persons who sign petitions for changing the status of their schools. The intent of this requirement is to focus the responsibility on just one or a few people. This is important in establishing a point of contact for each petition.

Section 10, subsection 2 addresses independent administrators. The language is in response to concerns about these administrators having authority outside of that of a public employee. The section provides that independent administrators are appointed by the Executive Director on behalf of the ASD. As a result, authority resides with the Executive Director who is a public employee.

CHAIR DENIS:

Can you clarify the intent of section 10, subsection 2?

MR. CANAVERO:

Yes, this language has been reviewed by Asher Killian, Counsel for the Senate Committee on Education. The section reads, "An independent administrator may take the following actions" Mr. Killian has suggested, and we agree, the language should be changed to read "an independent administrator may recommend the Executive Director take the following actions." This would ensure authority resides with the Executive Director.

CHAIR DENIS:

At what point of the process is the independent administrator involved?

MR. CANAVERO:

The independent administrator works with the site organizational team and makes recommendations to initiate a contract to begin the following school year.

CHAIR DENIS:

The independent administrator would be working with schools which are in the improvement process. The administrator will make recommendations to the Executive Director of the ASD in your office. Is that correct?

MR. CANAVERO:

Yes, that is correct. Returning to the proposed amendment, the original language of S.B. 430 provided for discussion or negotiation within a collective bargaining agreement (CBA). The CBA would be in force at an A+ school. Section 10, subsection 2, paragraph (h) allows for a school team to request or negotiate a waiver for that particular school site to individualize its program. The sections reads, the school through a recommendation of the Executive Director would have the ability to "Negotiate one or more changes to or waivers of any part of a collective bargaining agreement which covers an employee of the public school in the process of conversion to an A+ school." This allows schools to provide specific waivers within the CBA.

CHAIR DENIS:

We want to have flexibility but also want to be careful not to make unintended changes.

JOHN VELLARDITA (Executive Director, Clark County Education Association):

We are comfortable that the CBA is left intact. The collective bargaining agreement includes provisions for requesting waivers of conditions of the CBA.

MR. CANAVERO:

Section 9, subsection 2 clarifies that a performance compact must be a three-year agreement pending annual reviews. All contracts this section contemplates are reviewed annually and may be rendered null if all terms, conditions and outcomes are not met. The intent of a performance compact is to have schools go through reviews every year, but we want to be clear that the compacts are three-year commitments.

CHAIR DENIS:

If a school's team chooses to enter into a compact, the school is committed for three years. However, progress will be reviewed annually. It sometimes takes as long as two years to see results and change. How does the review process account for this?

MR. CANAVERO:

Yes, section 9, subsection 2 applies only to schools or districts taking advantage of performance compacts. The compact would outline required progress. We know there is a ramp-up period for schools new to the process and would account for this in the compact, much the same way it is done in Victory and Zoom schools.

The goal is to improve schools to a designation of three stars in three years. We ask if the school is doing what the school team said it would do. This is known as fidelity to implementation. We ask whether we are seeing the types of expected results on the leading indicators that assure the school is on a path to three stars in three years. We understand there may be some lag in the improvement of performance, but we would expect results to follow. The language of the compact would be specific. Here at the policy level, the language is broad.

BRETT BARLEY (Deputy Superintendent for Student Achievement, Department of Education):

Section 8 of Proposed Amendment 5084 relates to the process of submitting a petition to convert a public school to an achievement charter school or to request the board of trustees of the school district to enter into a performance compact. Section 8, subsection 12 of the proposed amendment details permissions for district and school employees to engage in the petitioning process outside of their working hours.

SENATOR HAMMOND:

Teachers can communicate with parents regarding the petition process when teachers are off work and on their own time. Is that correct?

MR. BARLEY:

Yes, section 8, subsection 12 states that during work hours, district or school employees cannot participate in any organized petition effort. The key term is "organized." Answering questions for parents does not qualify as an organized effort to collect signatures or engage in a petition process. Employees could feel comfortable speaking to parents or answering their questions.

SENATOR HAMMOND:

Because teachers have many ways to communicate with parents, this is helpful information. Teachers will be allowed to answer questions from parents.

SENATOR HARRIS:

As long as there is no organized effort and employees do not use school resources, communication about petition processes is allowed. Can employees use school computers to communicate with others about petitions? Will they be required to use personal communication devices as an alternative?

MR. BARLEY:

As I read section 8, subsection 12 of the proposed amendment, work computers and work email addresses can be used as long as it is not an organized effort.

SENATOR HAMMOND:

It would not be permissible to send a group email with information regarding a petition process. That would be considered an organized effort.

MR. BARLEY:

That is accurate.

CHAIR DENIS:

Would a school be permitted to share information regarding the status of the school's performance and an ongoing petition process?

MR. BARLEY:

Yes. We would hope schools would keep their school communities and parents informed.

CHAIR DENIS:

A change has been made in section 8, subsection 9, paragraph (c). Can you explain?

ASHER KILLIAN (Counsel):

The paragraph relates to a petition requesting that a school revert to regular public school status and leave the ASD. If such a request is received, the Executive Director shall consider termination of the contract. Earlier language stated the Executive Director shall terminate the contract.

MR. CANAVERO:

The intent is to be certain the transition from the ASD is working and that funding remains in place.

CHAIR DENIS:

Can the Executive Director decide not to consider the petition?

MR. BARLEY:

If a school is petitioning for reversion from an A+ school or the ASD to a traditional public school or to another category of school, it is not a decision parents can make on their own. They will need to work with their local education agency. If they are asking to be selected as a Relnvent or turnaround school, the city or the school district would need to be consulted. This section facilitates the process.

ASSEMBLYWOMAN DINA NEAL (Assembly District No. 7):

I appreciate the changes on page 7, section 10. I still have some discomfort with the sole judgement of the independent administrator and whether this was an appropriate delegation of authority to an entity. We may be crossing bounds. The proposed amendment requires that it will be a public person. There is still a question of whether this is the right way to delegate authority because that supersedes any decision policy or regulation of the board of trustees. I understand, and we had debate; I appreciate the creativity and the flexibility. I am trying to get comfort around the sole judgement of the independent administrator. It should never be decided by one person. It should be decided by a group and a group conversation.

Section 10, subsection 2, paragraph (e) states, "Supersede any employment decision by the board of trustees" Paragraph (h) of the same section states, "Negotiate one or more changes to or waivers of any part of a collective bargaining agreement," but we are not clear about the framework.

I am uncomfortable with the prospect of giving authority to supersede employment decisions to one person, even if he or she is a public employee. We have had many conversations about the framework and the scope of the authority. I still do not have clarity.

If a policy is waived, what is the justification? There is no language in the proposed amendment requiring justification. Why is it necessary to waive a particular policy or regulation? This amounts to an individual stepping over a board of trustees without parameters.

Section 16 states that, the board of trustees of the school district in which an A+ school is located shall not assign any pupil who is enrolled in a public school in the school district or any employee who is employed in a public school district to an A+ school. This is confusing. What happens if an A+ school falls within other schools' attendance zones? How do we apply this language to existing attendance zone requirements?

Section 18 reads that the governing body of an A+ school and its volunteer members are immune from liability for civil damages. Who is responsible for advice? Did this authority exist previously, in any form? This section needs to be discussed further. Yesterday, I was directed to section 17, subsection 2 and language related to indemnification. However, the indemnification and arbitration of differences is between the governing body and the board of trustees. Who is the governing body? I understand it is a group created within the A+ school. Is this an additional encroachment of authority? Who typically had this duty before there was agreement concerning an indemnification clause?

CHAIR DENIS:

Are you asking about a non-ASD school?

ASSEMBLYWOMAN NEAL:

Yes.

CHAIR DENIS:

I expect it would be the board of trustees.

ASSEMBLYWOMAN NEAL:

This is concerning because we want the board of trustees to be a party in the process, but we also want to allow for its authority to be superseded.

Section 22, subsection 3 states that the ASD may, within budgetary limitations, contract for the services of a consultant. What kind of services? To do what and for whom? It is not clear.

Section 24 addresses reports of progress made by schools. The data are disaggregated by subgroups. There have been no changes to these provisions. I want to ensure there is evidence that all students within a school are making progress. We must be cognizant of requirements of the federal Every Student Succeeds Act (ESSA).

Section 25, subsection 6 states that an achievement charter school may request that the Executive Director amend the contract and grant such a request as is in the best interest of the pupils of the State. What other parties are there to assist in this effort? I have been concerned about turning more power over to the Department of Education. If a contract is amended, students are affected. Amending a contract should be an open process with diverse groups participating. One person may define the best interests of the pupils differently than another. Children do not bounce back from poor educations.

CHAIR DENIS:

Your opinion is important. In our discussions regarding waivers, I have suggested that any requests for waivers should be entered into a report. We should be able to have access to the types and details of requests for waivers.

MR. CANAVERO:

We could include language in the proposed amendment to require a report from the State Board of Education to the Legislature or the Legislative Committee on Education.

In response to some of Assemblywoman Neal's concerns, section 10 relates to an independent administrator and making recommendations to the Executive Director. This occurs at the beginning of the development of a contract and a school's performance plan. The process of a final decision, especially if a waiver of any statute is contemplated, is addressed in section 12. Any waiver of statute embedded in a contract would go through the State Board of Education. Waivers that are presented during public meetings would have to be approved. The requestor would be required to make a case for the waiver and explain the expected outcome.

There are two aspects involved. One is the development of a vision for the school embodied in the contract, and the second is the approval of the contract. If it involves any waiver of law or regulation, the State Board would be involved.

Assemblywoman Neal expressed concern about section 16 and attendance zones. Our intent in forming A+ schools is to give the schools autonomy with latitude in terms of the direction and vision. Schools will be led by a principal and a school team. We do not intend that A+ schools be removed from the school system.

On the subject of indemnifications and liability, we recognize we have work to do. Section 17, subsections 2 and 3 outline two aspects of liabilities. We would utilize the regulatory process to further flesh out where the liability risk is transferred through the process.

Language in section 18 is copied from Senator Ford's bill relating to volunteers who serve on school district reorganization teams. As we ask for volunteers to serve on school organizational teams (SOT), we want to be certain they are protected from liability in their roles on the teams.

CHAIR DENIS:

There is a bill this Session providing immunity to those who serve on SOTs.

MR. CANAVERO:

Yes, that is accurate. Returning to the proposed amendment to S.B. 430 and the subject of ensuring all students succeed in all schools, we are committed to helping all students. The role of equity is not lost on me. Our ESSA plan is critical. Our aggregate schools' score places a heavy emphasis on gap reduction between particular groups of students.

The A+ schools plan is a whole school intervention. The ideas around subgroup reporting and subgroup monitoring should be a part of our performance compacts. When we lay out expectations for performance, we will include requirements for improving performance for all students.

ASSEMBLYWOMAN NEAL:

My concern regarding aggregate and disaggregate reporting is that aggregate reporting can sometimes hide or shield actual outcomes. Disaggregated reporting will give us the whole picture. A 4-Star school could be serving two subgroups and leaving two other subgroups behind. An aggregated reporting system would not reflect the poor outcomes of half of a school's students. If we are going to do the work of academic achievement, we need to make all students 4-Star students.

MR. CANAVERO:

Our ESSA advisory group helped the State Board build a plan under the ESSA. The approved budget funds numerous empirical reports to guard against the problems Assemblywoman Neal has discussed. We do not want to mask subgroup underperformance based upon aggregated reporting.

SENATOR SPEARMAN:

Can you explain section 25, subsection 7 of Proposed Amendment 5084 to S.B. 430? With respect to the power of the Executive Director, the section states,

A decision of the Executive Director to approve or deny an application to operate an achievement charter school or to approve or deny a request to amend a contract pursuant to subsection 6 is a final decision for the purpose of judicial review.

MR. CANAVERO:

The intent is to ensure that where we see underperformance or lack of performance in a particular charter school, we can terminate the contract as quickly as possible. The language of the section protects the ability to pivot quickly. Without it, we may be involved in a protracted adversarial process. We want to ensure students' best interests are protected.

SENATOR SEGERBLOM MOVED TO AMEND AND DO PASS AS AMENDED S.B. 430.

SENATOR HAMMOND SECONDED THE MOTION.

SENATOR SEGERBLOM:

To do nothing is not a solution. We need to take action because we do not want private charter schools running our schools. Senate Bill 430 provides the framework for helping schools while keeping them in the public realm.

SENATOR HAMMOND:

I do not necessarily agree with Senator Segerblom, but I do agree that it would be a mistake to not do to anything. Parents should have the ability to have input in their children's schools. Senate Bill 430 will allow parents some choice.

SENATOR WOODHOUSE:

I support the motion with reservations. I was opposed to the ASD legislation last Session. Over the course of the Interim, we saw the negative effects of the ASDs. This is a compromise that I can support with reservations.

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CHAIR DENIS:

I do not disagree with your comments. Senate Bill 430 is the beginning of the process. In two years, we can review the progress.

SENATOR HARRIS:

The summary of S.B. 430 should be updated to reflect changes made by the proposed amendment.

CHAIR DENIS:

The reprinted version of the bill will reflect those changes when it moves to the Assembly.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:
I will adjourn the meeting at 11:53 a.m.

RESPECTFULLY SUBMITTED:

Jan Brase,
Committee Secretary

APPROVED BY:

Senator Moises Denis, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 430	C	28	Todd Butterworth	Work Session Document