

SENATE BILL NO. 253—SENATOR GOICOECHEA

MARCH 6, 2019

JOINT SPONSOR: ASSEMBLYMAN ELLISON

Referred to Committee on Education

**SUMMARY**—Revises provisions governing the suspension of licensed school employees. (BDR 34-582)

**FISCAL NOTE:** Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ***[omitted material]*** is material to be omitted.

AN ACT relating to education; revising provisions governing the suspension and admonition of a licensed employee of a school district; requiring the superintendent of a school district to provide written notice and the opportunity for a hearing before suspending a licensed employee of the district; authorizing a superintendent to suspend without pay a licensed employee who has been charged with certain crimes and benefits until the final disposition of the criminal charges; making certain other revisions relating to the suspension of licensed employees; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires an administrator charged with the supervision of a licensed employee of a school district to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed. (NRS 391.755) **Section 4** of this bill authorizes the suspension and admonition of a licensed employee for the same conduct.

Existing law authorizes the superintendent of a school district to suspend a licensed employee without prior written notice or a hearing if: (1) the superintendent believes that grounds for dismissal of the employee exist; or (2) the employee has been officially charged but not yet convicted of certain crimes. (NRS 391.760) Existing law also authorizes dismissal of a licensed employee for conviction of those crimes. (NRS 391.750) **Section 11** of this bill removes the authority of a superintendent to suspend a licensed employee without prior notice or the opportunity for a hearing. **Sections 4-6 and 11** of this bill instead require a



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superintendent to provide: (1) written notice of a suspension at least 10 days before the suspension becomes effective; and (2) an opportunity for an informal presuspension hearing. **Section 5** of this bill provides that, if the employee is suspended because he or she has been charged with but not yet convicted of certain crimes, the informal presuspension hearing must be limited to whether the employee has been charged with the crime.

Existing law requires the superintendent of a school district to begin dismissal proceedings within 5 days after a suspension based on grounds for dismissal or a criminal charge becomes effective. (NRS 391.760) **Section 11**: (1) revises this time to 10 days for a suspension based on grounds for dismissal; and (2) removes this requirement for a suspension based on a criminal charge. **Section 5** instead provides that a suspension based on a criminal charge continues until the final disposition of the charge. If the charge is dismissed or the employee is found not guilty, **section 5** requires the employee to be reinstated with back pay, plus interest, and seniority. If the employee is convicted, **section 5** requires the superintendent to commence dismissal proceedings. In addition, the suspension of the employee continues until the conclusion of those dismissal proceedings.

Existing law provides that a licensed employee who is suspended based on grounds for dismissal or a criminal charge is entitled to continue to receive his or her salary and other benefits until the date on which dismissal proceedings are commenced. (NRS 391.760) **Sections 5 and 11** of this bill remove this entitlement with respect to a licensed employee who is suspended based on a criminal charge. **Section 11** additionally provides that, after dismissal proceedings are commenced, a licensed employee who is suspended based on grounds for dismissal is no longer entitled to continue to receive his or her salary and other benefits.

Existing law authorizes a licensed employee who is suspended based on grounds for dismissal or a criminal charge to continue to receive his or her salary from the date on which the dismissal proceedings are commenced until the conclusion of those proceedings if the employee furnishes to the school district a bond or other security that is acceptable to the board. (NRS 391.760) **Sections 5 and 11** instead require such a bond or other security to be acceptable to the superintendent.

Existing law authorizes a superintendent to discipline a licensed employee by suspending the employee with loss of pay at any time after a hearing has been held. (NRS 391.760) **Section 6** of this bill requires: (1) such a suspension to last for not more than 10 consecutive school days; and (2) such a hearing to be informal. **Section 6** also authorizes the employee to decline the hearing. **Sections 1, 2 and 7-10** of this bill make conforming changes.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 388A.533 is hereby amended to read as follows:

388A.533 1. All employees of a charter school shall be deemed public employees.

2. Except as otherwise provided in NRS 388A.5342, the governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment



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1 decisions with regard to its employees pursuant to NRS 391.650 to  
2 391.830, inclusive, *and sections 4, 5 and 6 of this act* unless a  
3 collective bargaining agreement entered into by the governing body  
4 pursuant to chapter 288 of NRS contains separate provisions relating  
5 to the discipline of licensed employees of a school.

6 3. Upon the request of the governing body of a charter school,  
7 the board of trustees of a school district shall, with the permission of  
8 the licensed employee who is seeking employment with the charter  
9 school, transmit to the governing body a copy of the employment  
10 record of the employee that is maintained by the school district. The  
11 employment record must include, without limitation, each  
12 evaluation of the licensed employee conducted by the school district  
13 and any disciplinary action taken by the school district against the  
14 licensed employee.

15 **Sec. 2.** NRS 388B.410 is hereby amended to read as follows:

16 388B.410 1. All employees of an achievement charter school  
17 shall be deemed public employees and are not employees of the  
18 Department.

19 2. Except as otherwise provided in a collective bargaining  
20 agreement entered into by the governing body of an achievement  
21 charter school pursuant to chapter 288 of NRS, the principal of an  
22 achievement charter school may make:

23 (a) All decisions concerning the terms and conditions of  
24 employment with the achievement charter school and any other  
25 matter relating to employment with the achievement charter school;  
26 and

27 (b) All employment decisions with regard to the employees of  
28 the achievement charter school pursuant to NRS 391.650 to  
29 391.830, inclusive ~~H~~, *and sections 4, 5 and 6 of this act.*

30 3. Upon the request of the governing body of an achievement  
31 charter school, the board of trustees of a school district shall, with  
32 the permission of the licensed employee who is seeking employment  
33 with the achievement charter school, transmit to the governing body  
34 a copy of the employment record of the employee that is maintained  
35 by the school district. The employment record must include, without  
36 limitation, each evaluation of the licensed employee conducted by  
37 the school district and any disciplinary action taken by the school  
38 district against the licensed employee.

39 **Sec. 3.** Chapter 391 of NRS is hereby amended by adding  
40 thereto the provisions set forth as sections 4, 5 and 6 of this act.

41 **Sec. 4. 1. *Written notice pursuant to NRS 391.760 or***  
42 ***section 5 or 6 of this act must state the date on which the***  
43 ***suspension becomes effective. Such written notice may be provided***  
44 ***by any lawful means, including, without limitation, by:***



1       (a) *Electronic mail to the electronic mail address maintained*  
2 *by the school district for the licensed employee; or*

3       (b) *Depositing the notice with the United States Postal Service,*  
4 *properly addressed and postage prepaid, for delivery by first-class*  
5 *mail to the licensed employee's last known mailing address.*

6       2. *Except as otherwise provided in subsection 4 of section 5 of*  
7 *this act, a suspension must not become effective until at least 10*  
8 *days after written notice is provided pursuant to subsection 1.*

9       3. *A licensed employee may be suspended pursuant to NRS*  
10 *391.760 or section 5 or 6 of this act and admonished pursuant to*  
11 *NRS 391.755 for the same conduct.*

12       **Sec. 5. 1.** *A superintendent may suspend a licensed*  
13 *employee who has been officially charged but not yet convicted of*  
14 *a felony or a crime involving moral turpitude or immorality until*  
15 *the final disposition of the charge. Before the suspension takes*  
16 *effect, the superintendent shall provide:*

17       (a) *Written notice of the suspension pursuant to section 4 of*  
18 *this act; and*

19       (b) *The opportunity for an informal hearing.*

20       2. *An informal hearing held pursuant to subsection 1 must be*  
21 *limited to determining whether the licensed employee has been*  
22 *officially charged with a felony or a crime involving moral*  
23 *turpitude or immorality. The actual guilt or innocence of the*  
24 *employee must not be considered in the hearing.*

25       3. *Except as otherwise provided in subsections 4 and 5, upon*  
26 *the suspension of the license of an employee, the salary and other*  
27 *benefits of the employee are suspended.*

28       4. *If the charge is dismissed or the licensed employee is found*  
29 *not guilty, the employee must be reinstated to his or her position*  
30 *with back pay, plus interest, and seniority. If the employee is*  
31 *convicted of the crime for which he or she was suspended:*

32       (a) *The superintendent must begin proceedings pursuant to the*  
33 *provisions of NRS 391.680 to 391.810, inclusive, and sections 4, 5*  
34 *and 6 of this act to carry out the dismissal of the employee; and*

35       (b) *The suspension of the employee continues until a final*  
36 *determination is made during those proceedings.*

37       5. *A licensed employee who is suspended pursuant to this*  
38 *section may furnish to the school district a bond or other form of*  
39 *security which is acceptable to the superintendent as a guarantee*  
40 *that the employee will repay any amounts paid to him or her*  
41 *pursuant to this subsection as salary during a period of*  
42 *suspension. If such a bond or security is accepted, the employee is*  
43 *entitled to continue to receive his or her salary from the date on*  
44 *which the bond or other security is accepted until the final*  
45 *disposition of the charges or the conclusion of any dismissal*



1 *proceedings, as applicable. The superintendent shall not*  
2 *unreasonably refuse to accept a form of security other than a*  
3 *bond. An employee who receives a salary pursuant to this*  
4 *subsection is liable for repayment of the amount received if the*  
5 *employee is subsequently dismissed or not reemployed as a result*  
6 *of a decision of the board or a report of a hearing officer.*

7 6. A licensed employee charged with a felony or a crime  
8 involving immorality or moral turpitude who waives his or her  
9 right to a speedy trial while suspended from employment may  
10 receive not more than 12 months of back pay and seniority upon  
11 reinstatement if the employee is found not guilty or the charges  
12 are dismissed, unless proceedings to dismiss the employee are  
13 commenced for another ground set forth in NRS 391.750.

14 7. The superintendent may recommend that a licensed  
15 employee who has been charged with a felony or a crime involving  
16 immorality or moral turpitude be dismissed for another ground set  
17 forth in NRS 391.750, if appropriate.

18 **Sec. 6. 1.** A superintendent may suspend a licensed  
19 employee for any reason set forth in NRS 391.750 with loss of pay  
20 for not more than 10 consecutive school days. Before imposing  
21 any such suspension, the superintendent shall provide:

22 (a) Written notice of the suspension in accordance with section  
23 4 of this act; and

24 (b) The opportunity for an informal hearing.

25 2. A licensed employee may be suspended more than one time  
26 during the employee's contract year. Unless circumstances require  
27 otherwise, each suspension must be progressively longer than the  
28 previous suspension, but not more than 10 consecutive school  
29 days.

30 **Sec. 7.** NRS 391.650 is hereby amended to read as follows:  
31 391.650 As used in NRS 391.650 to 391.830, inclusive, *and*  
32 *sections 4, 5 and 6 of this act*, unless the context otherwise requires:

33 1. "Administrator" means any employee who holds a license as  
34 an administrator and who is employed in that capacity by a school  
35 district.

36 2. "Board" means the board of trustees of the school district in  
37 which a licensed employee affected by NRS 391.650 to 391.830,  
38 inclusive, *and sections 4, 5 and 6 of this act* is employed.

39 3. "Demotion" means demotion of an administrator to a  
40 position of lesser rank, responsibility or pay and does not include  
41 transfer or reassignment for purposes of an administrative  
42 reorganization.

43 4. "Immorality" means:

44 (a) An act forbidden by NRS 200.366, 200.368, 200.400,  
45 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265,



201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.820 and has been given notice of reemployment. The term does not include a person who is deemed to be a probationary employee pursuant to NRS 391.730.

6. "Probationary employee" means:

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.820; and

(b) A person who is deemed to be a probationary employee pursuant to NRS 391.730.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

**Sec. 8.** NRS 391.655 is hereby amended to read as follows:

391.655 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.650 to 391.830, inclusive, *and sections 4, 5 and 6 of this act* do not apply to:

(a) Substitute teachers; or

(b) Adult education teachers.

2. The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.650 to 391.800, inclusive, *and sections 4, 5 and 6 of this act* do not apply to:

(a) A probationary teacher. The policy for evaluations prescribed in NRS 391.685 and 391.725 applies to a probationary teacher.

(b) A principal described in subsection 1 of NRS 391.825 with respect to his or her employment as a principal.

(c) A principal who is employed at-will pursuant to subsection 2 of NRS 391.825.

(d) An administrator described in subsection 2 of NRS 391.830.

(e) A new employee who is employed as a probationary administrator primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or



1 administrator, including, without limitation, a principal and vice  
2 principal.

3 ➡ Insofar as it is consistent with the provisions of NRS 391.825 and  
4 391.830, the policy for evaluations prescribed in NRS 391.700 and  
5 391.725 applies to any administrator described in this subsection.

6 3. The admonition, demotion and suspension provisions of  
7 NRS 391.650 to 391.800, inclusive, *and sections 4, 5 and 6 of this*  
8 *act* do not apply to a postprobationary teacher who is employed as a  
9 probationary administrator primarily to provide administrative  
10 services at the school level and not primarily to provide direct  
11 instructional services to pupils, regardless of whether licensed as a  
12 teacher or administrator, including, without limitation, a principal  
13 and vice principal, with respect to his or her employment in the  
14 administrative position. The policy for evaluations prescribed in  
15 NRS 391.700 and 391.725 applies to such a probationary  
16 administrator.

17 4. The provisions of NRS 391.650 to 391.800, inclusive, *and*  
18 *sections 4, 5 and 6 of this act* do not apply to a teacher whose  
19 employment is suspended or terminated pursuant to subsection 3 of  
20 NRS 391.120 or NRS 391.3015 for failure to maintain a license in  
21 force.

22 5. A licensed employee who is employed in a position fully  
23 funded by a federal or private categorical grant or to replace another  
24 licensed employee during that employee's leave of absence is  
25 employed only for the duration of the grant or leave. Such a licensed  
26 employee and licensed employees who are employed on temporary  
27 contracts for 90 school days or less, or its equivalent in a school  
28 district operating under an alternative schedule authorized pursuant  
29 to NRS 388.090, to replace licensed employees whose employment  
30 has terminated after the beginning of the school year are entitled to  
31 credit for that time in fulfilling any period of probation and during  
32 that time the provisions of NRS 391.650 to 391.830, inclusive, *and*  
33 *sections 4, 5 and 6 of this act* for demotion, suspension or dismissal  
34 apply to them.

35 **Sec. 9.** NRS 391.660 is hereby amended to read as follows:

36 391.660 Excluding the provisions of NRS 391.730, 391.825  
37 and 391.830, the provisions of NRS 391.650 to 391.830, inclusive,  
38 *and sections 4, 5 and 6 of this act* do not apply to a teacher or other  
39 licensed employee who has entered into a contract with the board  
40 negotiated pursuant to chapter 288 of NRS if the contract contains  
41 separate provisions relating to the board's right to dismiss or refuse  
42 to reemploy the employee.

43 **Sec. 10.** NRS 391.755 is hereby amended to read as follows:

44 391.755 1. Whenever an administrator charged with  
45 supervision of a licensed employee believes it is necessary to



1 admonish the employee for a reason that the administrator believes  
2 may lead to demotion or dismissal or may cause the employee not to  
3 be reemployed under the provisions of NRS 391.750, the  
4 administrator shall:

5 (a) Except as otherwise provided in subsection 3, bring the  
6 matter to the attention of the employee involved, in writing, stating  
7 the reasons for the admonition and that it may lead to the  
8 employee's demotion, dismissal or a refusal to reemploy him or her,  
9 and make a reasonable effort to assist the employee to correct  
10 whatever appears to be the cause for the employee's potential  
11 demotion, dismissal or a potential recommendation not to reemploy  
12 him or her; and

13 (b) ~~[Except as otherwise provided in]~~ *Unless the employee is*  
14 *suspended pursuant to* NRS 391.760, *or section 5 or 6 of this act,*  
15 allow reasonable time for improvement, which must not exceed 3  
16 months for the first admonition.

17 ➔ The admonition must include a description of the deficiencies of  
18 the employee and the action that is necessary to correct those  
19 deficiencies.

20 2. An admonition issued to a licensed employee who, within  
21 the time granted for improvement, has met the standards set for the  
22 employee by the administrator who issued the admonition must be  
23 removed from the records of the employee together with all  
24 notations and indications of its having been issued. The admonition  
25 must be removed from the records of the employee not later than 3  
26 years after it is issued.

27 3. An administrator need not admonish an employee pursuant  
28 to paragraph (a) of subsection 1 if the administrator has been  
29 informed by the superintendent that the superintendent intends to  
30 recommend the dismissal of the employee to the board in the  
31 manner set forth in NRS 391.822, 391.824 and 391.826.

32 4. A licensed employee is subject to immediate dismissal or a  
33 refusal to reemploy according to the procedures provided in NRS  
34 391.650 to 391.830, inclusive, *and sections 4, 5 and 6 of this act*  
35 without the admonition required by this section, on grounds  
36 contained in paragraphs (b), (f), (g), (h), (p), (s), (t) and (u) of  
37 subsection 1 of NRS 391.750.

38 **Sec. 11.** NRS 391.760 is hereby amended to read as follows:

39 391.760 1. If a superintendent has reason to believe that  
40 ~~[cause exists]~~ *a ground set forth in NRS 391.750* for the dismissal  
41 of a licensed employee ~~[and the superintendent is of the opinion that~~  
42 ~~the immediate suspension of the employee is necessary in the best~~  
43 ~~interests of the pupils in the district,]~~ *exists,* the superintendent may  
44 suspend the employee ~~[without pension takes effect, provide notice]~~  
45 *until the board issues a decision or the hearing officer issues a*





1 *report, if the report is final and binding, concerning the dismissal.*  
2 *Except as otherwise provided in subsection 4 of section 5 of this*  
3 *act, the superintendent shall, before the suspension takes effect,*  
4 *provide:*

5 (a) *Notice of the suspension pursuant to section 4 of this act;*  
6 and ~~[without a]~~

7 (b) *The opportunity for an informal hearing.* ~~[Notwithstanding~~  
8 ~~the provisions of NRS 391.750, a superintendent may suspend a~~  
9 ~~licensed employee who has been officially charged but not yet~~  
10 ~~convicted of a felony or a crime involving moral turpitude or~~  
11 ~~immorality. If the charge is dismissed or if the employee is found~~  
12 ~~not guilty, the employee must be reinstated with back pay, plus~~  
13 ~~interest, and normal seniority. The superintendent shall notify the~~  
14 ~~employee in writing of the suspension.]~~

15 2. Within ~~[5]~~ 10 days after a suspension *pursuant to this*  
16 *section* becomes effective, the superintendent shall begin  
17 proceedings pursuant to the provisions of NRS 391.680 to 391.810,  
18 inclusive, *and sections 4, 5 and 6 of this act* to effect the *licensed*  
19 *employee's dismissal.* ~~[The]~~ *Except as otherwise provided in*  
20 *subsection 4 of section 5 of this act, the* employee is entitled to  
21 continue to receive his or her salary and other benefits after the  
22 suspension becomes effective until the date on which the dismissal  
23 proceedings are commenced. ~~[The superintendent may recommend~~  
24 ~~that an employee who has been charged with a felony or a crime~~  
25 ~~involving immorality be dismissed for another ground set forth in~~  
26 ~~NRS 391.750.]~~ *Except as otherwise provided in subsection 4, after*  
27 *the dismissal proceedings are commenced, the employee is no*  
28 *longer entitled to continue to receive his or her salary and other*  
29 *benefits.*

30 3. If ~~[sufficient grounds for dismissal do not exist.]~~ *the*  
31 *licensed employee is not dismissed at the conclusion of the*  
32 *dismissal proceedings,* the employee must be reinstated with full  
33 compensation, plus interest.

34 4. A licensed employee who ~~[furnishes]~~ *is suspended pursuant*  
35 *to this section may furnish* to the school district a bond or other  
36 *form of security* which is acceptable to the ~~[board]~~ *superintendent*  
37 as a guarantee that the employee will repay any amounts paid to him  
38 or her pursuant to this subsection as salary during a period of  
39 suspension . *If such a bond or other security is provided, the*  
40 *employee* is entitled to continue to receive his or her salary from the  
41 date on which the dismissal proceedings are commenced until  
42 the decision of the board or the report of the hearing officer, if the  
43 report is final and binding. The ~~[board]~~ *superintendent* shall not  
44 unreasonably refuse to accept *a form of security* other than a bond.  
45 An employee who receives *a* salary pursuant to this subsection



1 ~~[shall repay it]~~ *is liable for repayment of the amount received* if the  
2 employee is *subsequently* dismissed or not reemployed as a result of  
3 a decision of the board or a report of a hearing officer.

4 5. A licensed employee who is convicted of a crime which  
5 requires registration pursuant to NRS 179D.010 to 179D.550,  
6 inclusive, or is convicted of an act forbidden by NRS 200.508,  
7 201.190, 201.265, 201.540, 201.560 or 207.260 forfeits all rights of  
8 employment from the date of his or her arrest.

9 6. A licensed employee who is convicted of any crime and who  
10 is sentenced to and serves any sentence of imprisonment forfeits all  
11 rights of employment from the date of his or her arrest or the date on  
12 which his or her employment terminated, whichever is later.

13 ~~[7.— A licensed employee who is charged with a felony or a~~  
14 ~~crime involving immorality or moral turpitude and who waives his~~  
15 ~~or her right to a speedy trial while suspended may receive no more~~  
16 ~~than 12 months of back pay and seniority upon reinstatement if the~~  
17 ~~employee is found not guilty or the charges are dismissed, unless~~  
18 ~~proceedings have been begun to dismiss the employee upon one of~~  
19 ~~the other grounds set forth in NRS 391.750.~~

20 ~~—8. A superintendent may discipline a licensed employee by~~  
21 ~~suspending the employee with loss of pay at any time after a hearing~~  
22 ~~has been held which affords the due process provided for in this~~  
23 ~~chapter. The grounds for suspension are the same as the grounds~~  
24 ~~contained in NRS 391.750. An employee may be suspended more~~  
25 ~~than once during the employee's contract year, but the total number~~  
26 ~~of days of suspension may not exceed 20 in 1 contract year. Unless~~  
27 ~~circumstances require otherwise, the suspensions must be~~  
28 ~~progressively longer.]~~

29 **Sec. 12.** 1. The provisions of this act apply to any suspension  
30 or dismissal imposed on or after the effective date of this act. Any  
31 suspension of a licensed employee of a school district pursuant to  
32 NRS 391.760 imposed before the effective date of this act remains  
33 valid and the licensed employee remains subject to the terms of that  
34 suspension.

35 2. Any provision of a collective bargaining agreement that is in  
36 effect on the effective date of this act which conflicts with the  
37 amendatory provisions of this act is void and unenforceable with  
38 respect to any action taken on or after the effective date of this act.

39 **Sec. 13.** This act becomes effective upon passage and  
40 approval.

