

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

**Eighty-First Session
February 23, 2021**

The Committee on Education was called to order by Chair Shannon Bilbray-Axelrod at 1:32 p.m. on Tuesday, February 23, 2021, Online. 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/81st2021.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Shannon Bilbray-Axelrod, Chair
Assemblywoman Brittney Miller, Vice Chair
Assemblywoman Bea Duran
Assemblyman Edgar Flores
Assemblywoman Michelle Gorelow
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Lisa Krasner
Assemblywoman Elaine Marzola
Assemblyman Richard McArthur
Assemblywoman Rochelle T. Nguyen
Assemblywoman Jill Tolles
Assemblywoman Selena Torres

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Moises (Mo) Denis, Senate District No. 2

STAFF MEMBERS PRESENT:

Kristi Robusto, Committee Policy Analyst
Amanda Marincic, Committee Counsel
Nick Christie, Committee Manager
Sarah Baker, Committee Secretary
Melissa Loomis, Committee Assistant



OTHERS PRESENT:

Jonathan P. Moore, Ed.D., Deputy Superintendent of Student Achievement,
Department of Education
Chris Daly, Deputy Executive Director, Government Relations, Nevada State
Education Association
Hawah Ahmad, representing Clark County Education Association
Mary Pierczynski, representing Nevada Association of School Superintendents
Rebecca Feiden, Executive Director, State Public Charter School Authority,
Department of Education
Tambre Tondryk, Executive Director of Operations, Beacon Academy of Nevada
Erica Valdriz, Fundraising Coordinator, Government Affairs, Vegas Chamber
Victor Salcido, Executive Director, Charter School Association of Nevada
Bradley Keating, Director, Government Relations, Clark County School District
Steven Cohen, Private Citizen, Las Vegas, Nevada
Yvonne Sweeten, Private Citizen, Las Vegas, Nevada

Chair Bilbray-Axelrod:

[Roll was called. Committee rules and protocol were explained.] We have two bill hearings this afternoon. We will hear Senate Bill 83 (1st Reprint) first. I will open the hearing on S.B. 83 (R1). The bill revises provisions relating to certain assessments.

**Senate Bill 83 (1st Reprint): Revises provisions relating to certain assessments.
(BDR 34-527)**

Senator Moises (Mo) Denis, Senate District No. 2:

I am presenting Senate Bill 83 (1st Reprint). The bill before you today comes as a recommendation from the Legislative Committee on Education (LCE). I had the pleasure of serving as the vice chair of the LCE. Several colleagues on this Committee served on the LCE as well, including Assemblywoman Miller, who served as the chair; Assemblywoman Gorelow; and Assemblywoman Tolles.

I will begin with a brief background that explains what led to this recommendation. Due to the shift to remote learning resulting from the coronavirus pandemic, on March 20, 2020, the U.S. Department of Education (ED) announced it would allow states to submit a waiver from

federally mandated testing and other requirements for the school year 2019-2020. On the same day, Nevada Department of Education (NDE) announced it had submitted the waiver request to the ED. The request was later approved. In September 2020, the U.S. Secretary of Education indicated no additional waivers would be granted to states for 2020-2021.

On February 22, 2021, the U.S. Department of Education provided guidance to the states maintaining that while the agency will not be waiving federally mandated exams this year, the ED is offering flexibility in administering those tests and the use of testing results. The federal agency emphasized the need to administer assessments as a result of the COVID-19 pandemic. The data will be used as a source of information for parents, educators, and the public to target resources and support, rather than for accountability purposes. As some schools and districts were not able to safely administer statewide summative assessments this spring and other school districts wished to prioritize learning time, the ED further noted it supports flexibility in this regard.

According to guidance provided by state education leaders, the flexibilities afforded states include: a waiver from certain federal accountability and school identification requirements for the 2020-2021 school year while maintaining the state and local report card requirements including those to disaggregate data by student subjects; flexibility in the administration of assessments by considering a shortened version of the statewide assessment; offering remote participation; and/or extending the testing window which could include offering multiple test windows and/or extending the testing window into this summer or the fall, which would be school year 2021-2022.

With that background in mind and because this changed overnight due to the information the federal government released yesterday, I will now explain S.B. 83 (R1). It authorizes NDE to temporarily waive or pause the requirement to administer certain federally required examinations that measure the achievement and proficiency of students if the ED allows for such a waiver or pause. If such a waiver is allowed, section 1 of the bill also authorizes NDE to temporarily waive or pause certain reporting requirements based on assessment results measuring student achievement and proficiency. The bill also makes conforming changes to other statutes related to the temporary waiver or pause to administer such assessments.

While the ED has indicated it will not provide for blanket waivers from assessments this school year as was done last year, there are still reasons this bill is needed. The legislation would allow the opportunity to provide such waivers should a similar need arise in the future. The bill would give the state the ability to provide for the waivers if the ED changes its guidance on this matter for this school year. This concludes my presentation. I would be happy to answer questions. I have Dr. Jonathan Moore on the line to help answer your questions.

Chair Bilbray-Axelrod:

I believe Dr. Moore may want to present some issues we anticipate with the federal guidelines.

**Jonathan P. Moore, Ed.D., Deputy Superintendent of Student Achievement,
Department of Education:**

To reiterate what Senator Denis shared with you, the ED issued guidance regarding the accountability and school identification and the state's ability to apply for a waiver in that area. It also noted, regarding the administration of assessments, that states should continue to plan for administration with certain flexibilities in mind.

Chair Bilbray-Axelrod:

I would ask if committee counsel would chime in. I think there is some confusion regarding the annual report of accountability section in relation to the federal guideline.

Amanda Marincic, Committee Counsel:

To clarify, section 1 authorizes the Department of Education to temporarily waive or pause the requirement to administer examinations. If those examinations are waived or paused, they do not have to report the information in their report of accountability. The report of accountability still needs to be submitted, just not the information related to the assessment if that requirement is waived.

Chair Bilbray-Axelrod:

If the NDE wants the bill to also conform with the reporting requirements under state law, is an amendment needed?

Amanda Marincic, Committee Counsel:

If the NDE would like this bill to also apply to a waiver from the federal requirements that do not relate to the assessments and examinations, it would be amended.

Chair Bilbray-Axelrod:

If we wanted this to apply to the testing requirements as well, we can amend it. Thank you for the clarification. I will now open to questions from Committee members.

Assemblywoman Hansen:

Regarding what we just went over in section 1, this would authorize NDE to waive or pause but not have to report the information. So, we will have the information, but it does not have to be reported to the federal government. If we wanted access to that information as state officials, would we have access to it?

Senator Denis:

I am not sure about that. Dr. Moore may be able to provide insight.

Jonathan Moore:

According to the guidance released by the federal government, the waiver that was just released would allow for states to not implement or report the results of its accountability system.

Assemblywoman Torres:

I have a question regarding star ratings for schools. Will they be impacted by this, or is the language in this bill permissive enough so they will not be impacted by the scores they receive on those assessments?

Senator Denis:

The bill does not address the star rating system.

Jonathan Moore:

That is correct. It would be the Department's intention to freeze star ratings as we have from the 2018-2019 school year.

Assemblywoman Torres:

Does NDE currently have the capacity and ability to freeze the ratings? Does this bill just allow for them to continue to do that? If the superintendent and NDE deem it necessary for this year, can they still do that?

Jonathan Moore:

Under the most recent guidance from the U.S. Department of Education, each state receiving the accountability and school identification waiver would be required to support all of the previously identified schools. In our case, that would be from the 2018-2019 school year. Yes, the waiver allows for that.

Chair Bilbray-Axelrod:

I am going to go back to Assemblywoman Hansen's question. It is my understanding that we would have the information available to us. Even though it is not being reported to the federal government, we would have it for our own internal information.

Amanda Marincic, Committee Counsel:

That is correct in part. I believe the federal waiver only applies to what is reported to the government; we still collect that information. Section 1, subsection 2 specifically authorizes that if a waiver is in place from the federal government relating to assessments to not include the assessment examination information in the report because those examinations would not have been administered so they would not have that information to include.

Chair Bilbray-Axelrod:

Are there any other questions from the Committee? [There were none.] We will move on to hear testimony in support, opposition, and neutral of S.B. 83 (R1). We will begin with testimony in support.

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

The Nevada State Education Association (NSEA) has been the voice of Nevada educators for over 120 years [[Exhibit C](#)]. In our history, there have been few more challenging times than the one we find ourselves in right now.

That is why NSEA wholeheartedly supported Senate Bill 83 as introduced. In light of the guidance issued by the U.S. Department of Education, we believe NDE should exercise the limited flexibility offered to suspend high-stakes school rankings, extend timelines, and shorten testing time. We further believe S.B. 83 (R1) should be amended to ask the U.S. Department of Education to reconsider the decision not to offer waivers from the testing requirements this school year.

High-tech standardized tests administered during the global health crisis should not determine a student's future, evaluate educators, or punish schools; nor should they come at the expense of precious learning time students could be spending with their educators. Overtesting has been a long-standing concern of classroom educators as decades of standardized tests have shifted the focus in education away from student learning toward a culture of high-stakes testing. Over the last two sessions, NSEA worked with these committees in the Legislature to reduce the burden of standardized testing on our students and educators. This includes helping to pass a 2017 bill from former Senator Joyce Woodhouse to audit and streamline the amount of time and resources spent on state tests. While small changes have been made over the last several years, the current crisis calls for a more substantive overhaul of state testing requirements.

The Nevada State Education Association has consistently expressed concern that existing policy on student assessments, teacher evaluations, and school star ratings compromises the safe operation of schools during the COVID-19 crisis. These mechanisms have failed to

foster the improvements in either achievement or student engagement they were intended to deliver. With a continued reliance on these old schemes, students and educators have counterincentives to come to school when sick; to teach to tests instead of teaching and reinforcing health and safety; and to maximize numbers and time in classrooms, even when that may be outside of health and safety guidelines. Further, drastic improvement in testing results during this most difficult school year, like the MAP [Measures of Academic Progress] reading results in the early grades, highlight just how ridiculous it is to conduct these tests during a pandemic.

This school year, educators across the state have responded in a diversity of ways depending on their district and the status of the COVID-19 crisis in their communities. Districts have tailored their responses to meet the unique challenges they face in their own communities. The state's one-size-fits-all approach to standardized tests misses the mark of this moment. Suspension of elaborate sorting and rating mechanisms, including federal, state, and district mandated assessments, is the smart thing to do.

Hawah Ahmad, representing Clark County Education Association:

The Clark County Education Association represents more than 18,000 licensed professionals in the Clark County School District. We are the largest independent teachers union in the country and in the state of Nevada. We engage in bipartisan advocacy for advancing public education in Nevada.

Students across Nevada have experienced distance education for nearly a full year. Many of these students have experienced inconsistent engagement and learning. Nevada must be responsive to the needs of Nevada's students to minimize the impact of educational inequalities that have been exacerbated by the COVID-19 pandemic. A pause or waiver of standardized testing in accordance with federal guidelines may help our educators put students' skill development at the forefront of their education to ensure that students have the opportunity to enter the workforce or to continue their education. Additionally, with the ability to waive or pause certain examinations and assessments, the state's Department of Education can help educators prioritize the needs of their students without being bound to measurements of achievement and proficiency as prescribed by pre-pandemic times.

The Clark County Education Association supports the work of this Committee moving forward with legislation responsive to the pandemic and supports ensuring that we do everything in our power to ensure students are given opportunities to succeed.

Mary Pierczynski, representing Nevada Association of School Superintendents:

The Nevada Association of School Superintendents is an organization composed of all 17 superintendents. We realize there were some changes made by the U.S. Department of Education yesterday, but we are in support of this bill. We supported it in front of the Senate, and we are still in support.

Chair Bilbray-Axelrod:

Are there any others in support? [There were none.] Is there anyone in opposition of Senate Bill 83 (1st Reprint)? [There was no one.] Is there anyone wishing to testify who is neutral on this bill? [There was no one.] Senator Denis, do you have any closing remarks?

Senator Denis:

As I mentioned, the initial need for this came because of the pandemic that we are in today. By putting this into law, we will be able to respond in the future should we have this need again.

Chair Bilbray-Axelrod:

I will close the hearing on S.B. 83 (R1) and open the hearing for Assembly Bill 68. This bill makes various changes relating to charter schools. Rebecca Feiden will present the bill.

Assembly Bill 68: Makes various changes relating to charter schools. (BDR 34-286)

**Rebecca Feiden, Executive Director, State Public Charter School Authority,
Department of Education:**

I have with me Ryan Herrick, our general counsel, and Tambre Tondryk, who is the executive director of operations of Beacon Academy, one of our sponsored schools. You will hear from Ms. Tondryk at the end of our presentation.

For this hearing, we have provided you with a brief overview of the bill [[Exhibit D](#)]. My presentation will follow the outline of that one-page document. Assembly Bill 68 does three main things. It adjusts the timeline for action on new charter school applications. Existing statute requires that the State Public Charter School Authority (SPCSA) consider an application for a new charter school within 60 days of receipt of the application, or in another mutually agreeable time line. The review process for a new charter school application includes evaluation against the SPCSA's application rubric, a capacity interview, and soliciting input from the local school district. Section 1 of A.B. 68 proposes extending that time line for action on new school applications from 60 to 120 days. This will ensure sufficient time for a robust review, including input from our local school districts.

The second change proposed in A.B. 68 would clarify provisions for termination and closure of charter schools. While the State Public Charter School Authority does not close schools frequently, closure is a critical accountability tool for persistent underperformance. When we close a school, it is important that we are intentional and thoughtful because school closure has a substantial impact on students, families, teachers, and communities.

Charter schools are subject to a performance contract. Statute includes two contract termination provisions. One of the provisions is mandatory, in which the sponsor, such as the State Public Charter School Authority, has no discretion. The other is permissive, and outlines circumstances where the sponsor may terminate a charter contract and close

a school. This bill, in sections 4 and 5, proposes that both termination statutes could be applied to a specific campus or grade level if there are variations in performance. To be clear, "grade levels" means the elementary, middle, or high school portion of a school. Some charter school contracts cover multiple campuses, such as the Pinecrest and Mater Academies in southern Nevada. Some charter contracts cover an entire K-12 program with elementary, middle, and high school. This change would allow the sponsor to target the closure to a campus or grade span of a school—elementary, middle or high school—the portion that is persistently underperforming rather than to be bound to act on either all or none of the campuses or grade spans under that charter contract. This would not require the sponsor to parse out those grade spans and campuses when considering termination; it would rather allow that discretion if there were variation in performance. For example, if a charter contract covered five campuses, and one was persistently underperforming despite repeated efforts to improve while the others were high performing, the sponsor could close the one campus that was struggling rather than closing all five.

The last concept in Assembly Bill 68 relates to schools approved to be rated on the alternative performance framework. I will provide some context on alternative performance framework (APF) schools. All schools in Nevada must be rated on the Nevada School Performance Framework and be given a star rating. A school may also apply for approval by the State Board of Education to be rated on the APF. These schools typically fall into four categories: schools offering credit-recovery programs, behavioral programs, juvenile detention facilities, or special education schools serving students with identified disabilities. In order to qualify to be rated under the alternative performance framework, at least 75 percent of students have to meet one or more of the following criteria: having been expelled or suspended from a public school; having been deemed a habitual disciplinary problem; being academically disadvantaged—which is defined as being two years behind in grades kindergarten through eight, or more than a year behind in credits to matriculate in high school; being under court supervision; or having an individualized education program. There are 30 schools approved by the State Board of Education to be rated on the APF, and most of them are district schools. There are three charter schools being rated on the APF; one is an SPCSA-sponsored charter school, Beacon Academy. The other two are district-sponsored charters.

Returning to A.B. 68, sections 2, 3, and 4 seek to recognize the difference between a typical school and an APF school within *Nevada Revised Statutes* Chapter 388A. As I mentioned earlier, there are two contract termination statutes. One is mandatory; one is permissive. The mandatory statute requires the sponsor to terminate a contract for a school that earns three one-star ratings within a five-year period. For a typical school, this makes sense. For an alternative performance framework school, particularly one like Beacon that serves severely credit-deficient students, a one-star rating may not tell the whole story. In fact, that is why

they are on the alternative performance framework—to be rated with additional indicators that shed light on other measures of performance. Assembly Bill 68 proposes to exempt APF schools from the mandatory termination statute. To be clear, a sponsor could still close an APF school through the permissive termination statutes that these schools would continue to be subject to.

The final change proposed related to APF schools has to do with contract amendments. A charter can request amendment for a variety of reasons—to increase enrollment, change locations, or add a campus. Existing statute requires the sponsor to deny certain amendment requests due to poor performance. Assembly Bill 68 would exempt APF schools from the required denial of an amendment request. Our Board will still have discretion on amendments and can still deny these requests; this change would simply exempt these schools from the requirement to deny the amendments requests. Ultimately, both of these provisions related to APF schools would allow a sponsor to honor the alternative performance framework data and not rely solely on the star rating for schools approved by the State Board of Education to be rated on the APF.

That covers the contents of this bill. To provide a bit of insight into what an APF charter school looks like, we have asked Tambre Tondryk, Executive Director of Operations, Beacon Academy of Nevada, to provide an overview of her school.

Tambre Tondryk, Executive Director of Operations, Beacon Academy of Nevada:

Beacon Academy of Nevada is the only state public charter alternative education high school. Beacon Academy is dedicated to serving students who are 16 years of age or older and meet one or more of the alternative education enrollment criteria found in NRS 385A.740. This year, 98.4 percent of the students enrolled with Beacon are alternative education students; 78.3 percent are credit-deficient; 12.8 percent are adjudicated expelled or suspended; 25.6 percent are special education students; and 16.7 percent qualify under multiple conditions. The severity and at-risk nature of the student population requires a highly personalized, innovative program designed for older high school students. Of our students, 84.1 percent are in the twelfth grade which include cohorts 2019, 2020, and 2021. We have a few students who are still finishing from cohort 2018. Beacon enrolls students through the age of 21 for general education; if they are special education students, they can remain enrolled through the age of 22.

Because most alternative education students have not experienced success in school, they have a general mistrust of school staff and administration. With time and effort, the Beacon staff can change these negative perceptions, attitudes, and beliefs about public schools. The mind shift occurs through the efforts of school social workers, counselors, administrators,

teachers, and support staff. New students are made to feel welcome and encouraged to leave their academic history at the door. We try to give them a fresh start, a do-over. We recognize where they come from and help them overcome their challenges and barriers to help them realize their goals.

Our staff is specialized. They truly care about the special population and work hard to build trusting relationships. Every student is supported by a school social worker and a teacher and is provided an academic schedule individualized for them. Our innovative blended learning program places equal emphasis on the social, emotional, and academic needs of our students and provides numerous mission-specific programs, incentives, and interventions.

We have a very low student-to-teacher ratio. We work with our students to set short- and long-term goals because it is very difficult to keep over-aged students engaged in high school. In the short-term, students can earn two credits in a term to work toward the long-term goal of graduating. We have real-time grade report trackers. We can look at the grades daily to know which students are falling behind and help them in those classes. We have several RTI [Response to Intervention] facilitators. We have Response to Intervention in math, literacy, and science.

I am pleased to report we have had 27 students graduate so far this year. Five of them were from cohort 2018, 10 from cohort 2019, 7 from cohort 2020, and 5 from cohort 2021. Eighteen of them enrolled with Beacon in their fourth or fifth year of high school.

Changes proposed in Assembly Bill 68 are important for our schools since we are rated under the alternative performance framework which is designed for schools just like Beacon. We serve a highly at-risk student population. The APF uses different measures, such as academic progress toward graduation. They look at a five-year cohort graduation rate, student retention rate, and transition.

Chair Bilbray-Axelrod:

We will open the hearing to questions.

Assemblywoman Miller:

I have questions regarding section 4, subsection 6. It states:

If the sponsor of a charter school determines that not all of the grade levels in or campuses of the charter school meet the criteria described in subsection 1 and that the charter school can remain financially viable if the charter school

continues to operate and serve only the grade levels or campuses which do not meet the criteria . . . the sponsor may amend the charter contract to eliminate the grade levels or campuses.

Director Feiden explained this would give her the option to close a single campus if there were five schools and only one was underperforming according to the criteria here. I have concerns about the ability to pick and choose certain grade levels to close within a school. Closing a school is one thing. If one whole school underperforms three times out of a five-year period of rating, there could be systemic issues. If one grade level is underperforming, there are strategies that can be used to help them. It concerns me that this bill does not say that if certain grade levels are underperforming, strategies or goals could be set. Closure is based on whether the school would be better off if grades are eliminated. Management companies could make these same determinations based not just on performance, but on enrollment. If they do not have enough eleventh or twelfth graders enrolled, or enough first graders enrolled, would it be more financially viable to eliminate those grades? If the bill passes, how will we guarantee that those types of decisions are not made? Why would the decision be made based solely on what is financially viable for the charter school?

Rebecca Feiden:

I will point back to section 4, subsection 1, which talks about three one-star ratings in five consecutive years. Star ratings are done at the elementary, middle, and high school levels. While the bill talks about "grade levels," I want to be clear that we borrowed that language from NRS 388A.330. The language in section 4, subsection 6 of the bill says that not all the grade levels or campuses meet the criteria. The elementary level will either meet or not meet the criteria because of the star rating. A middle school will meet or not meet criteria because of the star rating. "Grade levels" is used because there is not terminology for elementary, middle, or high school. We can work to clarify that if it would be helpful.

Regarding your question about the language regarding financial liability, this is action the sponsor could take. The school cannot take this action; the sponsor can take the action. It is an action that could be taken as an alternative to fully terminating a charter contract. The reason financial viability is brought into play is because we must look at compliance and financial viability in addition to academic performance. If we have an elementary, middle, and high school where the elementary and middle schools are not working and the high school is, we could keep the high school. We have to be sure the high school by itself can be financially viable before deeming this to be a meaningful pathway forward. The last thing we want to do is keep a school open without a financial pathway to be successful. I hope that gives some context.

The final thing I want to touch on is improvement. I want to be abundantly clear that our goal is not to close a charter school, although that is an important accountability tool. Our goal is not to have to close any school; our goal is for all of our schools to be successful, which is why our accountability work is so important. That is why we spend so much time talking about academic, organizational, and financial performance with our schools. That is why we conduct site evaluations. That is why we have underperforming schools come and speak to our Board and put forth improvement plans. There are many things that happen along the way to help prevent this scenario. This is not something we want to do, but it is part of the deal. If the school is underperforming consistently, this is the last step in the process.

Assemblywoman Miller:

It does answer my question in a sense, but I am looking for clarity about the ability to make a distinction between groupings of elementary, middle, and high school. Looking at an elementary school's star rating, I may be able to extrapolate that the third-grade or fourth-grade class is bringing the school's scores down and impacting the star rating. If third grade is the class bringing down the scores and the school wants to have high scores, why would we not eliminate third grade? Scores would go up, and the star rating would improve. Now the school would not have to deal with that grade level. What guardrails are in place so this does not happen? Otherwise, it seems like a school could just eliminate a grade or grades because they are underperforming. If we need to start cutting out grades, then is it a systemic issue at the school?

Rebecca Feiden:

The intent behind what we put together is not to cut out third grade or second grade. According to our counsel, there might be language in NRS Chapter 388A that speaks to types of schools—elementary, middle, and high. I would be happy to include language that clarifies that if it would address your concerns. Again, what you suggested was not the intent of the bill, and it would be the sponsor, not the school, taking the action. This is part of our oversight and accountability. I have forgotten what the second part of your question was.

Assemblywoman Miller:

I know this is not the intent, but I also know there can be unintended consequences. What the Charter School Authority would expect and condone is not necessarily what would be happening on the ground. If you had to close a grade level, would that raise other concerns about the school as a whole?

Rebecca Feiden:

I think that could be true. That is why this is not saying we have to only act with a set of grade levels or with a single campus. It is permissive, to give that as an option when there is variation.

I will provide context that might help you understand why we think this change is important. In 2015, when two sections in NRS came to their current form, Pinecrest Academy with five campuses was be rated as one elementary school, one middle school, and one high school. Even though they had five campuses, they received only one elementary, one middle, and one high school rating. Fast forward to school year 2017-2018. The Department decided to rate each campus separately. We think that is the right thing to do; we want that level of detail and understanding. Although it has not happened yet, we see the potential for there to be a mismatch between the language that talks about an entire charter contract and assumes a single star rating under that contract and the reality that there might be five campuses and ten ratings. There could be a couple of one-star ratings here, and a couple of four-star ratings there, and now we have a mismatch to deal with. I hope that helps you understand the impetus for this bill. Accountability is a critical part of this, but we do not want to close a one-star school and at the same time have to close a four- or a five-star school. That would be a disservice to the community. Or vice versa—we would not want to keep a one-star school open because it has a four- or five-star school connected to it. That would be an equal disservice. We have not been put in that position, but we can foresee such a mismatch between what happens with star ratings and how the statutes were constructed. Very likely, there could be a systemic issue, but our intent is to make sure that the statutes line up with how the star ratings and the system we are based on is constructed, not to try to get around the accountability responsibility.

Chair Bilbray-Axelrod:

We will continue to talk offline. There might be an opportunity for an amendment to clarify some of the language to make intent clear for sessions in the future.

Assemblywoman Tolles:

I appreciate the discussion and clarification for the record. This body passed legislation to increase accountability and transparency last session. I commend your work on holding those site visits despite the pandemic. It was a high bar to meet, and you met it in the pandemic when you had to do it virtually. Thank you for taking on the task of doing every site evaluation so this body could benefit from that transparency. I want to make sure that I heard you clearly that there is still discretion here; this is not automatic. This would give you the discretion on a case-by-case basis. It is not making it mandatory that a school is closed. You could also revisit it the next year if it is still a one-star school. Is that correct?

Rebecca Feiden:

There are two existing statutes related to closure and termination. One is mandatory, and one is permissive. Both right now speak largely to the contract as a whole, although there is some grade-level language included in the permissive one. This would add permissive language for us to amend the contract to eliminate grade levels or campuses instead of terminating the contract. Currently, the statutes say we would have to close everything under

the contract. The end result of this legislation is that we could target the closure to where the issues lie, rather than be bound to address the issue across everything covered by the contract. Does that answer your question?

Assemblywoman Tolles:

Yes, that helps. How many grades and how many students would this have had an impact on?

Rebecca Feiden:

We have seen tremendous improvement in this performance of our schools. We currently only have two schools rated as one star. We have about 100 star ratings across all of our schools. We do not necessarily see a significant number of schools that would have been impacted. We have taken some accountability actions with a few schools that resulted, through litigation, in certain segments—elementary, middle, or high school—closing. We do not have a strong need for closure that has not been met, rather we see there could be some mismatch down the road between star rating by campus and level versus the language in the statutes.

Chair Bilbray-Axelrod:

Are there any other questions from Committee members? [There were none.] We will move on to testimony in support, opposition, and neutral for Assembly Bill 68. We will begin with testimony in support of A.B. 68.

Erica Valdriz, Fundraising Coordinator, Government Affairs, Vegas Chamber:

The Vegas Chamber is in support of A.B. 68. The Chamber supports diverse educational opportunity for the students, such as charter schools, in Nevada. We believe this bill continually supports student achievements and the well-being of our students. Thank you for your time. We urge your support for this bill.

Victor Salcido, Executive Director, Charter School Association of Nevada:

The Charter School Association of Nevada represents public charter schools throughout the state, both district-sponsored and state-sponsored through the Charter Authority. We wanted to express our support for A.B. 68 as written. We believe the proposed changes make sense and reflect the reality on the ground where you have a single charter contract that at times serves multiple campuses and where star ratings are assigned on the basis of the elementary, middle, and high school classifications. This simply will make it easier to reflect any accountability measures to that reality. We support it.

Chair Bilbray-Axelrod:

Are there any others in support?

Bradley Keating, Director, Government Relations, Clark County School District:

I represent the Clark County School District. I am here in support of Assembly Bill 68. There are a number of charter schools under the purview of the Clark County School District. We appreciate the work in support of the State Public Charter School Authority working closely with our charter school team to help us ensure that we are evaluating our charter schools correctly, while allowing us some flexibility to work with these schools. We want to make sure all of our schools are promoting achievement and doing the best they can, so we are in support of A.B. 68. I want to specifically thank Rebecca Feiden and Ryan Herrick. It has been a pleasure to work with them over the last two years at the State Public Charter School Authority.

Chair Bilbray-Axelrod:

Are there any others in support? [There were none.] We will now close the testimony in support and move on to opposition.

Steven Cohen, Private Citizen, Las Vegas, Nevada:

The one big problem I have, having deferred moving here by 20 years because of Clark County School District, is the exception language specifically for special education students—a bucket that is growing as a result of COVID-19. I think it allows, potentially, nontraditional schools to get around federal laws such as the Individuals with Disabilities Education Act (IDEA). But I am happy to work with stakeholders on a middle point.

Chair Bilbray-Axelrod:

Are there any other callers in opposition?

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

The Nevada State Education Association (NSEA) has been the voice of Nevada educators for over 120 years [[Exhibit E](#)]. The NSEA opposes A.B. 68, which moves in the wrong direction to enact accountability measures for underperforming charter schools.

During the last session, NSEA pushed for greater accountability for charters. While our proposal to cap expansion was not successful, the Legislature did pass a five-year growth management plan for charters. Interestingly enough, during the same year as the growth management plan was adopted, the Charter School Authority approved nearly 5,000 new charter slots across the state.

While there have been some improvements to charter accountability since last session, including actually conducting site visits, let us be honest with each other. The Charter School Authority is only clearing a relatively low bar of accountability. While it is great the Charter Authority has begun to address baked-in biases against disadvantaged students, when looking at overall charter student populations, charter schools serve proportionately fewer

at-risk students, English learners, and students with disabilities. Even with progress on more diversity in new charter seats, there is no path for charters to achieve parity in the foreseeable future.

During the COVID-19 pandemic, we saw continued unaccountability as many charter schools gamed the system by triple-dipping. They were taking state funds; Coronavirus Aid, Relief, and Economic Security (CARES) Act funds; and Paycheck Protection Program (PPP) funds while playing by their own set of rules.

Given these concerns, NSEA opposes A.B. 68 as we believe language offered in section 4, subsection 6 lessens accountability for underperforming charters. Under current statute, the sponsor of a charter school shall terminate the charter contract of a charter school if a charter school receives three annual ratings established as the lowest rating possible in a five-year period. The new language would instead allow a charter school to continue to operate by only serving those grade levels not underperforming. This could allow a charter school to avoid accountability by just eliminating a single or handful of grade levels. This seems like the State Public Charter School Authority is working around the current accountability standards for underperforming charter schools so they do not have to take the more difficult, but necessary, action of termination.

Chair Bilbray-Axelrod:

Is there anyone else in opposition? [There was no one.] With that, we will close the testimony in opposition and open for testimony in neutral. Is there anyone to testify in neutral?

Yvonne Sweeten, Private Citizen, Las Vegas, Nevada:

I am neutral on A.B. 68. Thank you for letting me speak my comment.

Chair Bilbray-Axelrod:

Are there any others in neutral? [There were none.] We will close the testimony in neutral. Ms. Feiden, is there anything else you would like to say before we close the hearing?

Rebecca Feiden:

We appreciate the opportunity to speak with everyone today and to answer your questions. We look forward to working with the Legislative Counsel Bureau on the grade-level issue that was raised.

Chair Bilbray-Axelrod:

I will close the hearing on A.B. 68. Is there any public comment? [There was none.] Members, are there any comments before we adjourn? [There were none.] Our next meeting will be Thursday, February 25 at 1:30 p.m. This meeting is adjourned [at 2:37 p.m.].

RESPECTFULLY SUBMITTED:

Sarah Baker
Recording Secretary

Joan Waldock
Transcribing Secretary

APPROVED BY:

Assemblywoman Shannon Bilbray-Axelrod, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a letter dated February 23, 2021, submitted by Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, in support of Senate Bill 83 (1st Reprint).

[Exhibit D](#) is a document titled "Assembly Bill 68, What changes are proposed by this legislation" presented and submitted by Rebecca Feiden, Executive Director, State Public Charter School Authority, Department of Education.

[Exhibit E](#) is a letter dated February 23, 2021, submitted by Chris Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, in opposition to Assembly Bill 68.