

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

**Eighty-Second Session
February 14, 2023**

The Committee on Education was called to order by Chair Shannon Bilbray-Axelrod at 1:31 p.m. on Tuesday, February 14, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Shannon Bilbray-Axelrod, Chair
Assemblywoman Angie Taylor, Vice Chair
Assemblywoman Natha C. Anderson
Assemblyman Reuben D'Silva
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblyman Gregory Koenig
Assemblywoman Selena La Rue Hatch
Assemblyman Richard McArthur
Assemblywoman Erica Mosca
Assemblywoman Clara Thomas
Assemblywoman Selena Torres

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Alex Drozdoff, Committee Policy Analyst
Asher Killian, Committee Counsel
Cameron Newton, Committee Counsel
Nick Christie, Committee Manager



Funmi Sheddy, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

Jhone M. Ebert, Superintendent of Public Instruction, Department of Education
Megan Peterson, Deputy Superintendent, Student Investment Division, Department of Education
Marie Neisess, representing Clark County Education Association
Lisa Guzmán, representing Nevada State Education Association
Marcos Lopez, representing Nevada Policy Research Institute
Dora Martinez, representing Nevada Disability Peer Action Coalition
Lorena Cardenas, Private Citizen, Clark County, Nevada
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada
Mary Pierczynski, representing Nevada Association of School Superintendents
Paige Barnes, representing Nevada Association of School Boards
Peter A. Zutz, Administrator, Office of Assessment, Data, and Accountability Management, Student Achievement Division, Department of Education
DuAne L. Young, Interim Deputy Superintendent, Student Achievement Division, Department of Education
Darlene Anderson, Private Citizen, Henderson, Nevada

Chair Bilbray-Axelrod:

[Roll was called and meeting protocol reviewed.] Today we are going to hear two bills, Assembly Bill 42 and Assembly Bill 54. I will open the hearing on A.B. 42. This measure revises provisions relating to class sizes. To present this measure, we have Jhone Ebert, state Superintendent of Public Instruction, and Megan Peterson, Deputy Superintendent, Student Investment Division.

Assembly Bill 42: Revises provisions relating to class sizes. (BDR 34-276)

Jhone M. Ebert, Superintendent of Public Instruction, Department of Education:

We were going to incorporate the amendments to what we are presenting today instead of treating them as separate [[Exhibit C](#)]. Would you prefer we treat them separately?

Chair Bilbray-Axelrod:

No, that is fine. I want everyone to know, especially for the folks who are watching online, you might pull up the bill, but you want to make sure you pull up the amendment as well because they go hand in hand. It is what we refer to as a friendly amendment because it was made by the Department, which is bringing the bill.

Jhone Ebert:

We are presenting Assembly Bill 42 this morning. As mentioned, the Department of Education submitted a friendly amendment, and I will be speaking to the bill as amended [[Exhibit C](#)]. Our studies on class size in the state of Nevada have been going on since 1979.

With class size legislation first introduced in Nevada in 1989, over the last 34 years, Nevada has iterated multiple policies related to class-size reduction, and A.B. 42 speaks in response to the changing face of our state.

For reporting purposes, A.B. 42 expands class-size reduction to include charter schools and university schools for the profoundly gifted. Reporting has historically applied only to school districts; however, over time we have seen rapid growth within our charter schools. Charter schools currently have about 12.5 percent of the students within our state. If you add the additional 2.5 percent of charter school students who are authorized with individual school districts, that makes up about 15 percent of our student population. With that trend in increased enrollment, we want to make sure we capture the data on class sizes within all of those schools as well as our public schools.

Assembly Bill 42 seeks to center high-quality data collection to support future policy and utilize the class-size reduction reporting by ensuring the data sets are holistic, meaningful, and representative of our state. As heard from school districts and discussed at the State Board of Education, class-size reduction is a regular source of frustration as ratios are difficult to meet due to educator shortages, funding limitations, and restrictions related to the ability to build new school buildings and add classrooms in our rural areas. As the Chair noted, section 7 as amended continues the use of alternative pupil ratios for school districts whose population are less than 100,000 students [[Exhibit C](#)]. To align with research, current trends, and state education policy across the United States while responding to school district notes, Nevada's current class-size ratios continue to be a challenge. We want to make sure that when this reporting transpires, we are taking action on the data. In the law, the state Superintendent of Public Instruction, as well as the State Board of Education, has the authority for sanctions and other pieces. By normalizing and looking at the data differently, looking at the class-size ratios from what currently is to the ones we are recommending and also adding in English language arts (ELA) and mathematics, we believe we will have a clearer picture of what is transpiring across our state. Looking forward to the education funding—we know all those pieces that contribute to the ratios we have—we will be able to see a decrease and then truly support school districts moving forward to have lower class sizes. We are looking at 25 to 1 as the ratio for ELA and mathematics for grades 4 through 6 reporting, as well as 32 to 1 for grades 7 through 12. Those are reports that we have not asked for in the past and so those would be new to the Department of Education (NDE) and available to the public.

Finally, A.B. 42 proposes districts and schools submit their class-size ratio and variance request reports twice a year rather than every quarter. This will reduce the reporting burden by 50 percent without reducing the value of the data collected. Additionally, section 5 as amended requires the names of the schools within the school district, charter school, or university school for profoundly gifted pupils that are requesting the class size variances. Thank you, and we stand ready to answer any questions you may have at this time.

Assemblywoman Torres:

I have a couple of questions about the process for the variances, because I do not know that I have been briefed on this any time recently. Can you first describe what the variance process looks like and then second, explain whether or not NDE has ever denied a variance and what that would look like if they did; for example, why a variance request might be denied or approved.

Jhone Ebert:

Currently, the reports are submitted four times a year to the State Board of Education. The State Board of Education has had it as an agenda item four times a year for as long as I have been in the Department—which is nearly four years—as well as prior reports. I do not believe the State Board of Education has ever taken action on variances that go above the recommended class size. To the why and what they could do—speaking to the time I have been here, we had the pandemic, for one. It was difficult to look at class sizes and what was transpiring in our schools when students were attending either every other day, or they were not in session. Additionally, knowing the teacher/educator crisis we have had most recently and is continuing, the State Board of Education has looked at how we first support school districts and make sure they have the resources they need to drive those class sizes down.

With the funding coming in this legislative session, which you all will be voting on, those types of funding reasonings appear on the reports. There are four reasons for variance requests they may list on the report, and funding is one. They do not have the funding to support the staffing, they do not have a qualified teacher, they do not have enough space within the school building—which we have seen over time; our school districts have grown rapidly in some parts of the state—and then they may list "other." We are moving in the right direction with funding for education and the strategies we are using for retention and recruitment of educators. The State Board of Education and I, the state Superintendent of Public Instruction, look forward to really digging in on these reports and taking action where we can support school districts.

Assemblywoman Torres:

I do not remember when this law went into effect and if legal counsel could help me find that, but if you could explain: If a school was denied, what support has NDE historically provided to schools so that it does not happen? Because we know the reasons class sizes are large. It is those three indicators: a lack of funding, the limited number of teachers—we do not have enough licensed professionals available—and a lack of facilities. We know those are the issues. So, whether or not I send you the report, we know those are the three reasons why our class sizes are so large. My question is, what supports is NDE providing? Has there been a time when NDE has seen, for example, this school district has thousands of class sizes which are significantly larger than they should be, and so these are the supports we are providing? I feel like this is almost creating unnecessary reporting for schools without actually providing the support necessary—teeth for them—for there actually to be smaller class sizes.

Jhone Ebert:

Those components I noted, especially the teacher pipeline, we have been involved in. We have not been involved in construction projects or bonding at the district level but are definitely supportive of those pieces. What I would say about what types of actions the State Board of Education may take in the future is drilling in specifically at those numbers, looking at how zoning is done within a school district, where those students are attending, all those pieces which can contribute to larger than expected class sizes.

Assemblywoman Anderson:

My first question has to do with section 5, subsection 8. Why the change to an annual report versus a quarterly? And to clarify, there is no impact on the funding formula with the change from quarterly to a twice-a-year reporting?

Jhone Ebert:

Yes, that is correct.

Assemblywoman Anderson:

And the main reason for the change was?

Jhone Ebert:

Prior to the Pupil-Centered Funding Plan (PCFP) being put into place, we had categorical funds for class-size reduction. Those categorical funds were grouped into the PCFP to allow school districts more flexibility. So that categorical fund is now in the PCFP.

Assemblywoman Anderson:

I have a question on section 8, subsection 3. Why was the decision made to remove the communication with the board of trustees of each school district with the minimum number of teachers the school district is expected to employ? That is kind of an important thing, for the school district to know what the State is expecting.

Jhone Ebert:

That also is with the categorical funds for class-size reduction. That report was required, and since we no longer have those categorical funds, we removed that report requirement.

Assemblywoman Anderson:

On that same page, in section 8, subsection 1, paragraph (d) there was also the removal of the State Board's reports of money distributed to each school district and review of the plan. Is there any sort of report other than the PCFP? And if so, where would this report be sent? Is it only to the State Board of Education or would it also be sent to the Legislature and the Interim Finance Committee (IFC) in non-legislative years?

Megan Peterson, Deputy Superintendent, Student Investment Division, Department of Education:

After the State Board of Education reviews and approves these quarterly reports, they are forwarded to the IFC. In even-numbered years, there is an annual report due by

November 15. In odd-numbered years, we have a biennial report that is provided to the Legislature.

Assemblywoman Anderson:

I have a follow-up clarifying question. Although this bill is removing that requirement from the report, the expectation is that it will still be reported to the Board of Education? It is not going to be a requirement; it is just going to be an expectation?

Jhone Ebert:

We have been providing those reports. The way it is written right now, we would not be required to, but we continue to provide transparency, as it is one of our goals to make sure everyone has the information they need to make decisions.

Assemblywoman Anderson:

I understand that and appreciate the fact that in your leadership, you do that. However, if we have needed it to be in a law, there is a reason why.

My last question has to do with section 9, subsection 2, paragraphs (a) and (b). Why is the bill removing this information from the school district website? It sounds like this information is going to be part of another area. However, if it is on the website, it should be very clearly stated.

Jhone Ebert:

This information is also in the Nevada Report Card, which is available on the Internet, and so we felt that it was duplicative in nature. A lot of the things NDE is presenting this session are to streamline and create efficiencies but still maintain the transparency, so this information will be available; it just will not be in two places.

Assemblywoman Anderson:

To verify, the Nevada Report Card—is that legislative as well or is that under regulations?

Jhone Ebert:

Yes, that is legislative. We must have all that information posted to the public annually.

Assemblywoman La Rue Hatch:

My question is around class size. You mentioned the pandemic played a role in why all the variances were being approved. But we know we have had the largest class sizes in the nation for some time and that predates the pandemic. We know the State Board of Education has never denied a variance for a large class size. My question is, what in this bill actually guarantees that all the money you are talking about coming to improve class size is actually going to get to the classrooms and is actually going to reduce the class sizes? As it looks, it seems there is a lot of paperwork and a lot of tracking just to write down on paper that we have large class sizes. I would like to know a little bit more about the enforcement.

Jhone Ebert:

If I understood the first part of your question correctly, how does the state Department of Education, with the funding that translates to the school districts, drive those class sizes? One of the key components of the PCFP is to create flexibility. Initially when the dollars flow to the school districts, those are determinations that are made locally, whether it is compensation or class size. All of those things are decisions that school boards of trustees, superintendents, and communities weigh in on to make those very difficult decisions on behalf of children.

We are in an unprecedented moment in time, having conversations we never thought we would have, with an education savings account that is at 15 percent, completely 100 percent funded at this moment in the proposal. We truly believe it is everyone's intent to get to those numbers, but as we know, triple F's in all of the reports, funding, the crisis we have had with hiring—those things over time, and rather quickly, we see changing. And then the State Board of Education will come in and work with school districts, as the example I gave earlier.

Assemblywoman La Rue Hatch:

My follow-up question is, if it is the intention of the school districts to lower class sizes and if, as you say, the PCFP is supposed to be locally based, then why do we have a statewide standard at all? Why would we not just set it as a local decision?

Jhone Ebert:

The research based on what optimal class sizes are, are what have been put in place. This Legislature has asked the State Board of Education to put those numbers in place and on the record. We do know those are best practices.

Assemblywoman Hardy:

If you could go through what the proposed class sizes are in this bill, because I know you added language arts and math classes and then 7 through 12 grades. For those who may not know—if you could clarify what they are currently, what you added, and what the differences are.

Jhone Ebert:

Currently, as prescribed in *Nevada Revised Statutes* (NRS) 388.700, kindergarten is 16 to 1. What is proposed is 18 to 1. In first and second grades it is 16 to 1, and in third grade it is 18 to 1. What we are proposing for the variance request is 20 to 1 in grades 1 through 3. So, grades 1, 2, and 3 are all the same at 20 to 1. In section 5, subsection 2, paragraphs (a) and (b) of the bill, where we are adding additional reporting in grades 4, 5, and 6: 25 to 1. And then seventh through twelfth grade: 30 to 1.

Assemblywoman Taylor:

I am still stuck on why the proposed increase for K-3. We know the research would guide us to lean in the other direction in terms of a smaller class size for increased student achievement.

Jhone Ebert:

I appreciate the question. We have had truly difficult discussions surrounding this. The recommended ratio is 16 to 1 in a second-grade classroom, and we will see reports with classrooms at 27 to 1. What we want to do is peel off those classrooms which are between 16 and 20 students and keep them from the variance numbers and truly look at and dive deep in those numbers that are above the recommended variance request, the 20 to 1. The 16 to 1 still exists as nonbinding; those are optimal, which we would like to get to, but what we are trying to do as a Department is really focus in on the classrooms that are furthest away from the target as opposed to those which are currently closer.

Assemblywoman Taylor:

I know schools all struggle with class sizes due to teacher shortages and the many reasons, some of which you mentioned already. It seems as though this change would give an "out"; that, Okay, we can just go to 18 then, instead of 16. It seems like this change would send a different message cognitively. I certainly recognize, understand, and appreciate the goal to help those classrooms whose numbers are towards the high end. I am just still having a hard time with raising the basement to 18, because 16 is our goal. As you said, 16 is still optimal. This change automatically makes 18 the floor as opposed to encouraging people to really shoot toward that 16. I have a little bit of a challenge with that.

Assemblywoman La Rue Hatch:

I also have a question on that same page. In section 5, subsection 2, the bill discusses adding in the requirements for ELA and mathematics. My question is why only English and math? If we are talking about important subjects in school, I could at least see including core subjects such as social studies and science.

Jhone Ebert:

This bill is presented to you as a starting point, and we look forward to adding any other subjects as we move forward in the conversation and speak with those who are in the field as well.

Chair Bilbray-Axelrod:

This is very much a starting-off point, and I think a few of us would like to drill down a few things.

Assemblywoman Mosca:

Out of our 17 local educational agencies, as well as our State Public Charter School Authority, are any of them currently under this threshold?

Jhone Ebert:

We would need to get back to you on exactly which school districts. Off the top of our heads, we believe that Esmeralda County School District is the only one that is not currently submitting any classrooms for variance, but we will get the specifics to you.

Chair Bilbray-Axelrod:

Yes, if you could let us know, by district, how many variances you are seeing and if you are denying any of them. With that, we will open it up to testimony in support. I am going to make a clarification: If you are testifying in support, you are testifying in support of the bill with the friendly amendment. We have not addressed the second amendment, which was submitted just recently on NELIS [Nevada Electronic Legislative Information System], so, you can look at the amendment submitted by the Department of Education and be in support of the bill with that amendment. Anyone in support? [There was no one.]

Do we have anyone in opposition?

Marie Neisess, representing Clark County Education Association:

The Clark County Education Association (CCEA) represents more than 18,000 classroom educators and other licensed professionals in the Clark County School District (CCSD). I am speaking today in opposition to A.B. 42 [[Exhibit D](#)]. The Clark County School District currently has the largest class sizes in the nation. To make school safety and student learning a top priority, we have to understand that larger class sizes negatively impact student achievement. Larger class sizes affect a teacher's ability to meet the needs of struggling students. Class size negatively impacts at-risk students because it limits the time an educator can spend on small group instruction needed for remediation. Larger class sizes impact student safety, as a classroom can become unmanageable.

This is my twenty-ninth year in CCSD and I have only worked at at-risk schools that have some of the highest number of teacher vacancies, which led to having class sizes well over the recommended levels. We do not think the statute should now reflect larger class sizes when we should be striving to reduce those ratios. The larger class size also has a direct impact on teacher retention. The most effective teachers are often assigned the largest class sizes, as they are viewed as having strong classroom management and students with better outcomes. This leads to teacher burnout and is a major cause of resignations in CCSD.

Currently, school districts can apply for variances to overcrowd a classroom far beyond the currently mandated teacher ratios. In fact, we know from experience that this shifting of the goalposts on teacher ratios will only further embolden districts to continue overcrowding classrooms in excess of the new ratios and applying for variances.

The focus should not be on reducing the number of variance requests. Instead, the focus should be on better recruiting and retaining educators, as well as developing a Nevada educator pipeline, so we can finally begin to reduce the number of students in each classroom. Thank you for your time.

Lisa Guzmán, representing the Nevada State Education Association:

I am not speaking as a CCSD trustee; I am speaking as a representative of the Nevada State Education Association (NSEA). I am in opposition to A.B. 42. The NSEA has been the voice of Nevada educators for over 120 years. The NSEA seeks amendments to A.B. 42 related to pupil-teacher ratios to move Nevada towards an average class size of 20 students.

Common sense tells us, and research confirms, that the number of students in a class makes a real difference for students and educators alike. We know reducing class size has real benefits. For students, smaller class size can close the racial achievement gap, lead to earlier identification of learning disabilities, improve high school graduation rates, improve student behavior, and allow for more engagement in lessons. For educators, small class size improves educator morale, as it allows for more individual and differentiated instruction, less time on paperwork, and stronger classroom management as teachers become more aware of individual student's strengths or weaknesses.

Smaller class size also means safer schools. This is why NSEA includes reaching average class size of 20 students in our marquee Time for 20 campaign. Another provision of Time for 20, to increase educator pay, would increase the pool of qualified teachers applying for open teaching positions, which is necessary to reduce class size. While there are certainly important provisions in A.B. 42, including making pupil-teacher ratios applicable to charter schools, NSEA disagrees with increasing the maximum ratio in grades K-3 [[Exhibit E](#)].

With some of the largest class sizes in the nation, Nevada should be doing everything possible to reduce class sizes across all grade levels. Increasing ratios is movement in the wrong direction. We are also concerned moving from quarterly to annual reporting on variances lifts pressure from both school districts and the state to do better. While most variances are related to the lack of available financial resources, frequent attention on Nevada's large class sizes is necessary to create the political will to increase education funding. Unfortunately, nothing in A.B. 42 forces school districts, or the state, to better adhere to pupil-teacher ratios. The Nevada State Education Association asks the Committee to strike provisions raising class size ratios in grades K-3 and moving from quarterly to annual reporting on variances while including a goal of reaching average class size of 20.

Chair Bilbray-Axelrod:

If both representatives from NSEA and CCEA would please submit your comments to our Committee, we would appreciate that for the record.

Marcos Lopez, representing Nevada Policy Research Institute:

We want to start by saying kudos to NDE for improving the bill with their amendment. However, we must remain in opposition due to two reasons. First, the burdening of charter schools and university schools with unfunded mandates and regulations, as well as the entire concept of classroom size mandates. There is a growing body of research on the national level that is showing this is the least cost-effective means for improving student performance and any gains are very small. In fact, the left-leaning Center for American Progress has also noted the most important determinant for teacher quality, and investing less in classroom size reduction would free up resources that could be used to recruit and retain highly effective teachers. Nevada Policy Research Institute agrees with this and points out that using these funds for greater teacher recruitment means a student will likely meet, see, and receive instruction from a more effective teacher. We encourage future hearings to consider eliminating classroom size mandates as well as the recognition of out-of-state teaching licenses.

Dora Martinez, representing Nevada Disability Peer Action Coalition:

We are disabled parents with nondisabled students, and we strongly oppose A.B. 42. We agree with all the prior callers. As a parent with a disability, having increased classes, as they are already, it has been a struggle to get in touch with teachers. My daughter is having a hard time getting in touch with her teachers because there are 35 students and one teacher in their high school. So please let us do better.

Lorena Cardenas, Private Citizen, Clark County, Nevada:

My daughter is a high school student here in CCSD. I was doing my own research and I found that studies have found smaller classes correlate with better test scores. There was a relaunched star project in which 79 schools were tested, and after four years the students who had been placed in smaller classes were between two and five months ahead of their peers in larger classes, according to this report. So, it is mind-boggling that our legislators would consider any action that would further impact the learning of our students with the outcomes we have. Our students are hurting and it is a national crisis; Clark County has been making headlines and records for their scores. So, any action that would further hurt their learning is not to be taken. I strongly oppose A.B. 42.

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

I see this as a way to perpetuate a dysfunctional system, along with every single measure we have done in the last several sessions. We have raised many different taxes and imposed new ones. We are finding out that the problem has not been solved or has hardly made any progress. This is nothing more, the way I see it, than an incentive to perpetuate the status quo.

I would like to know why it is that other parts of the country, or even the world, have different typical teacher and student ratios. I would like for us to explain that, because maybe we can see what is going on with our population. I know some of you do not want to talk about this. The question is, Why is it that we have a teacher shortage? What could that be? Could it be because of the pay? Could it be because we pushed mandatory vaccines on teachers? And by the way, I still want to know—these lockdowns and passports and jab mandates and everything—have they really worked, because it has been two and a half years or so.

Chair Bilbray-Axelrod:

Okay, let us stick to the bill.

Cyrus Hojjaty:

Well, it does affect it. Could it be because of the violence that has been going on? What is causing the teacher shortage? Now, I will give you my experience. I went to high school at one of the highest-ranking schools in southern Orange County, California. Just one kid could really take down the entire classroom. They can ask questions in terms of how they are, and this is why increasing two or three students could drastically impact the entire classroom. A 2 percent change can make a huge difference, so I urge you all to please vote no on this bill.

Chair Bilbray-Axelrod:

I will open testimony in the neutral position.

Mary Pierczynski, representing Nevada Association of School Superintendents:

The Nevada Association of School Superintendents is an organization composed of all 17 superintendents. We are in the neutral position today pending an opportunity to share the new amendment with the superintendents from around the state. I do want to thank Superintendent Ebert and members of her staff. We had a meeting with them yesterday and feel they listened to some of our concerns and hence an amendment today. We all want smaller class sizes, but it is actually a school district, a community, and a statewide issue. We will continue to support class-size reduction.

Paige Barnes, representing Nevada Association of School Boards:

We are also in neutral. We need a little bit of time to have our association members officially review this amendment.

[[Exhibit F](#) was submitted but not discussed and is included as an exhibit for the hearing.]

Chair Bilbray-Axelrod:

I will close the hearing on [A.B. 42](#) and open the hearing on [Assembly Bill 54](#). This measure makes various changes relating to education. To present this bill, we have Jhone Ebert, state Superintendent of Public Instruction, Megan Peterson, Deputy Superintendent of Student Investment, and DuAne Young, Interim Deputy Superintendent of Student Achievement.

[Assembly Bill 54](#): Makes various changes relating to education. (BDR 34-283)

Jhone M. Ebert, Superintendent of Public Instruction, Department of Education:

As we presented [Assembly Bill 42](#) with the amendment, we will present [Assembly Bill 54](#) in the same way. When we go through the bill we will talk about the specific amended components [[Exhibit G](#)]. Nevada law requires the annual reporting of both pupils who are eligible for and pupils who receive free or reduced-price breakfast (FRB) or free or reduced-price lunch (FRL). This data point has historically been used as a socioeconomic indicator, education data, and as federal requirement. The Department of Education annually collects and reports data on pupils who are eligible for FRL, each year on October 1. Section 2 of [A.B. 54](#) as amended, eliminates the requirement to collect data around students who receive FRB and FRL and continue to collect data around those students who are eligible. I have received a lot of questions, so I want to make sure to specifically clarify: We will continue to report on students who are eligible. Two things to note regarding those who are receiving FRB or FRL:

One, the students who are receiving or who are taking advantage of the opportunity to participate vary from day to day. One day, a student may make a determination that they will participate and receive the meal, and the next day they may not; that is a personal choice that is left with the student. The variation over time is very hard to track for our school districts.

They currently track those who are eligible, and we will continue to track those who are eligible.

Two, federal law does not require us to report receivers. That is another reason for aligning what is current practice at the federal level with state-level practice. Section 2, as amended, seeks to align both the state and federal reporting requirements, and for that reason, we are asking for that change in this bill [\[Exhibit G\]](#).

Moving on to section 4, we propose a change to payments to hospitals that are providing educational services on behalf of our local school districts. Currently, the Department of Education is providing payment directly to the hospitals on behalf of school districts and charter schools. Districts and schools are not always notified when a student has transferred to a hospital education program. Often districts and schools are not aware of the educational programs and instruction the student is receiving while undergoing medical care. There is often not a transition plan. With this bill, we would like to codify that there is more collaboration between the individual school district and a student who is participating in a hospital education program. Section 4 of A.B. 54 would modify *Nevada Revised Statutes* (NRS) Chapter 387 to include the local school or district as a reviewer recipient of the application process, which includes education and transitional plans for a student. It would also establish the school or district as the fiscal steward for the educational needs of the student. This change ensures the district remains responsible for the complete education needs of each student in the district, and the funding distributed to the school or district through the state education funds follows the students to ensure an equitable educational opportunity for every student based on their needs.

Moving on to the next, bigger section of the bill. Existing NRS and NAC [*Nevada Administrative Code*] language regarding the terms "attendance" and "enrollment" was written quite a long time ago and was developed for a paper-based system. With the implementation of a statewide student information system [*Infinite Campus*] eight years ago, these policies were made obsolete. The inconsistent use of the terms "attendance" and "enrollment" in NRS and NAC has caused a great deal of confusion throughout Nevada school districts. At the request of our partners—the school districts—we are looking at those discrepancies and creating consistency across the language, which will help us take actionable steps on the information that is provided to us.

The work group who engaged in the conversations about these measures—including our Nevada School Performance Framework (NSPF) and chronic absenteeism—was composed of Department of Education (NDE) staff, staff of the school districts, as well as accountability staff from the school districts.

Moving on to chronic absenteeism, the recommendations of the work group were formalized, and those revisions have been put into this bill, A.B. 54. We look forward to no longer applying the current definitions through the NDE and the 17 Nevada school districts. They have been used interchangeably, without consideration, and we want to make sure they are used across the entire system.

Assemblywoman Anderson:

I am going to start from chronic absenteeism. The 10 percent is basically 18 days, but does that include school business? For example, if there is a student athlete, would that also be included in that 10 percent chronic absenteeism? Or even religious holidays? I am still trying to figure out how that 10 percent is being defined in section 20, subsection 2 of the bill.

Jhone Ebert:

If a student is participating in an athletic event or school-sponsored event, it is not counted towards chronic absenteeism. They are participating in a school-sanctioned piece. For the chronic absenteeism, if you go to school for 180 days, the 10 percent would be equivalent to 18 days. But if you enroll halfway through the school year, it is not 18 days. In that case, we would be looking at 9 days. It is based on how long the student is enrolled in the school versus 18 days.

Assemblywoman Anderson:

Thank you for that clarification, because you mentioned it during your presentation and there is a reference to the chronic absenteeism in section 20, subsection 7 and then again in section 28, subsection 2, paragraphs (a) and (c). But then it also says in section 28, subsection 3, "The Department shall adopt by regulation . . ." so it feels like it has been mentioned, but then, Oh, wait, we still need to adopt that regulation. I believe you mentioned federal regulations, so if you can go into that a little bit more.

Jhone Ebert:

The federal definition is what the state is aligning to. I would like to have Peter Zutz, who oversees that area, give you the specific details.

Peter A. Zutz, Administrator, Office of Assessment, Data, and Accountability Management, Student Achievement Division, Department of Education:

Could you please repeat the question?

Assemblywoman Anderson:

What is the current definition we are using for chronic absenteeism? It sounds like NDE is currently in the process of adopting a definition for chronic absenteeism so it is consistent across all counties. Are we utilizing the federal definition at this time?

Peter Zutz:

As the superintendent mentioned, we have processed state regulations through to completion. My understanding is that they have received a number with the Legislative Counsel Bureau, so we should see them soon. To the first part of your question, approximately two and a half years ago NDE, through extensive stakeholder engagement with our districts, adopted the federal definition you have before you—that out of 180 days, 10 percent of the enrolled school days, as the superintendent mentioned. Again, exceptions are made for school-sanctioned events such as athletic events and things like that.

Assemblywoman Anderson:

My last question comes from section 4, subsection 4. I want to make sure I am reading this correctly: It is only given if the hospital or another facility requests reimbursement, it is not automatically given, and it is only if the student has been enrolled for seven days. What is the current process if someone has in fact been enrolled for . . . again, I think this is a regulation which might have been used in the past, but might be a little bit outdated.

**DuAne L. Young, Interim Deputy Superintendent, Student Achievement Division,
Department of Education:**

The current process is that they request to NDE and they are refunded by the Department. Part of this is the inconsistency. I know our larger hospital systems prefer to bill to one single entity because they can bill from all of their hospitals to one entity, but that leaves the district out of the process—understanding when the child was actually receiving services, verifying the education method standards, and aligning those dates of when the child was turning to chronic absenteeism. Currently, they notify NDE. The Department of Education then has to true up with individual districts. Then the districts have to chase that information from the hospitals, or we have to confirm. This would cut out NDE as the middleman and allow the school districts to communicate directly with the hospitals so we have those inconsistencies worked out.

Assemblywoman Torres:

My first question is in regard to section 14, subsection 1. We are adding a requirement and eliminating the expectation that we could approve satisfactorily written evidence. I imagine that was from a lack of clarification from the previous legislative cycle. But we are requiring that written evidence comes from a qualified physician, mental health professional, or behavioral health professional. I have some concerns with that. Has there been any conversation about what that means for students in rural areas who have a hard time accessing medical care? What that means for our undocumented students and families who do not access medical care in town? What it means for our families in southern Nevada who sometimes drive all the way to Mexico to see a doctor, so they do not see doctors regularly? Speaking from personal experience, I know there are many children who would fall into this category who are not going to see a doctor. I feel they are going to be unfairly targeted in this and I want to know: Has there been a conversation about what that is going to mean for those students and families, or what other exemptions would be available?

DuAne Young:

As the superintendent said, this is an initial conversation. Even now I am seeing that because of those rural areas, we may want to add language which looks at advanced practice registered nurses as well as physician assistants because we know they often treat in rural areas where we do not have physicians. But I think this language is specifically looking at when there is a long-term condition, which would bump them up to that 10 percent. In most of those cases students have seen some sort of professional, but we are certainly open to looking at the scope of the medical professions which we can add to this language.

Assemblywoman Torres:

I would like to work on what that might look like for the future because I do have some concerns, specifically about our undocumented students who do not have access to care in the state of Nevada and do not qualify for Medicaid. Additionally, I have some concerns regarding section 20, subsection 2. It requires the parent or legal guardian of a pupil to make a request for an absence three days immediately preceding an emergency; that just does not seem realistic. I do not know three days ahead of time that someone might pass away. I do not know three days ahead of time that I am going to have a family emergency or that I might have temporary homelessness. That language needs to be addressed. I think it should be immediate—that a parent can put in notice to the school, and that exception can be available. There is some work that can be done here.

Chair Bilbray-Axelrod:

There are many traditions in which if someone dies, they must have a funeral the following day. We need to be a little more inclusive in this section. Thank you for bringing that up.

Assemblywoman Taylor:

This is more of a follow-up to Assemblywoman Anderson's question. Regarding the exceptions made for absences—for that 10 percent. It was mentioned that there are exceptions for those school-recognized absences—athletic events and so on. I am wondering about absences for religious purposes—for Yom Kippur, Ramadan, et cetera. How does that fit into that 10 percent?

Jhone Ebert:

Currently, those are included in the 10 percent.

Assemblywoman Taylor:

So if a student is absent for religious reasons, that could count against that number?

Jhone Ebert:

In the federal definition and the definition we have adopted, there is no distinguishing between any type of absence from the classroom. Whether you are out ill, whether you went on vacation with your family, or the example you just gave, all those things are counted as absences.

Assemblywoman Taylor:

But there are exceptions because there are athletic events, performances, and so on. So those are exceptions then?

Jhone Ebert:

Yes, those are school-sanctioned events. School-sanctioned events are not included in the 10 percent.

Assemblywoman Taylor:

So the exception is school-sanctioned events. I would think we would not want to penalize the student for a religious absence in any way. That is a concern we want to consider.

Chair Bilbray-Axelrod:

That is a federal regulation, correct?

Jhone Ebert:

The chronic absenteeism that we are following and recommending is the federal definition.

Assemblywoman Thomas:

I want to understand the free or reduced-price lunches. I am not understanding the tracking process, because some parents may feel that the data is being collected and used against them. Does that play into this bill?

Jhone Ebert:

This bill is looking specifically at those students who are eligible for free or reduced-price lunch and those students who receive free or reduced-price lunch—those who actually partake in the opportunity they are eligible for. To your question, it does not address parents who may be concerned about the information they are providing. We are just looking at students who are eligible for free or reduced-price lunch. We still want to collect that information, and at the same time relieve the burden of counting those who are receiving the free or reduced-price lunch.

Chair Bilbray-Axelrod:

We will open up testimony in support.

Mary Pierczynski, representing Nevada Association of School Superintendents:

The Nevada Association of School Superintendents is an organization composed of all 17 school district superintendents. We are here in support of the bill and appreciate the changes NDE has brought forward in this bill.

Paige Barnes, representing Nevada Association of School Boards:

We are here in support of A.B. 54. We appreciate that this bill brings clarity and consistency to a number of areas of statute.

Chair Bilbray-Axelrod:

We will move on to opposition.

Darlene Anderson, Private Citizen, Henderson, Nevada:

I am calling from Henderson. I was very involved in public education in Sacramento and as I can see, I am here and I am mostly ignored. Just ignored. When you put more kids in the classroom and you do not have, as a state, a SELPA [Special Education Local Plan Area]—none of the districts have them—we really cannot explain what happens for those children when they move to The Harbor or Child Haven, from the number of children who are

dropping out. It is unacceptable that we cannot catch them earlier. Unless the Department of Education is going to come to the table with some real data, I am going to have a real problem this year watching you people as you just listen to the stories with no data, and it is unacceptable.

Chair Bilbray-Axelrod:

I will close testimony in opposition and move on to neutral. [There was none.]

There definitely is an appetite for members to work with you, Superintendent Ebert, to tighten up some things and make some clarifications that would benefit this bill.

Jhone Ebert:

I did want to revisit chronic absenteeism to clarify when you think about a child, no matter what the reason is, who is missing 18 days in a full school year—that is missing one full day every other week, so the child is out of school two days a month.

I do not know how learning can transpire if students are not in our schools. When you take off for individual reasons and think, Well, what about this one day? Yes, that is why chronic absenteeism is identified as 10 percent. I encourage everyone not to look at just one specific day because we all have reasons why we are not at work or attending certain events, but look at it as in the totality of our expectations—we want to see our children in our schools each and every day.

We look forward to working with you and our constituents all across the state.

[\[Exhibit H\]](#) and [\[Exhibit I\]](#) were submitted but not discussed and are included as exhibits for the hearing.]

Chair Bilbray-Axelrod:

I will close the hearing on A.B. 54. We will move on to our next agenda item, which is public comment. [Reviewed public comment protocol.] Is there anyone who wishes to provide public comment? [There was no one.]

Our next meeting will be Thursday, February 16, 2023, at 1:30 p.m. This concludes our meeting for the day, and our meeting is adjourned [at 2:50 p.m.].

RESPECTFULLY SUBMITTED:

Funmi Sheddy
Committee 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 proposed amendment to Assembly Bill 42, presented by Jhone M. Ebert, Superintendent of Public Instruction, Department of Education.

[Exhibit D](#) is a letter dated February 14, 2023, submitted by Marie Neisess, representing the Clark County Education Association, in opposition to Assembly Bill 42.

[Exhibit E](#) is a proposed conceptual amendment to Assembly Bill 42 titled "NSEA Seeks Amendments to AB42," presented by Lisa Guzmán, representing the Nevada State Education Association.

[Exhibit F](#) is a letter dated February 15, 2023, submitted by Anna Marie Binder, Private Citizen, in support of the Nevada State Education Association conceptual amendment to Assembly Bill 42.

[Exhibit G](#) is a proposed amendment to Assembly Bill 54 presented by Jhone M. Ebert, Superintendent of Public Instruction, Department of Education.

[Exhibit H](#) is a letter dated February 14, 2023, submitted by Steven Cohen, Private Citizen, Las Vegas, Nevada, in opposition to Assembly Bill 54.

[Exhibit I](#) is a proposed conceptual amendment to Assembly Bill 54 submitted by Steven Cohen, Private Citizen, Las Vegas, Nevada.