



Illinois: The New Leader in Education Reform?

Elliot Regenstein July 2011

Prepared for the Center for American Progress event "Illinois—The New Leader in Education Reform?" July 13, 2011



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Introduction

In June 2011 Illinois Gov. Pat Quinn signed a law—Senate Bill 7—that overhauled state policies on teacher hiring, tenure, reductions in force, and dismissal. The new law places teacher effectiveness at the heart of all of those decisions while revamping the state’s collective bargaining process to boot (including making it harder for unions to strike). This legislation is not only substantively important; it is the result of an intense but collaborative process that may provide lessons for other states considering similar legislation. Indeed, many states are interested in fundamentally changing the nature of teacher dismissal to focus on teacher effectiveness—and at least some of those states would prefer to do so with support from the entire spectrum of education advocates, including business groups, teacher unions, administrators, and more. Illinois’s experience provides some key lessons for those states to adopt as they consider the work ahead.

After an extraordinary amount of hard work to finalize S.B. 7 and get it passed in May 2011, Illinois leaders were eager to share their story with the rest of the country.¹ Skeptics wondered if the bill was really as good as advertised,² but reformers jumped to the bill’s defense.³ It’s far too early to know whether the language of the bill will actually have its intended effect; while it includes some creative and forward thinking, even the bill’s most ardent supporters acknowledge that the new way of doing business is more complex than the old way—and in a state with more than 800 school districts, the chances that complexity will lead to challenges in implementation are high. But what’s undeniably important already is the way the bill came to fruition and the process that produced it.

To outside observers, the final vote tallies would appear to be evidence that the parties didn’t really try anything ambitious—or that legislators don’t understand what it is they’ve signed up for. That reaction is understandable but inaccurate. In fact, S.B. 7 represents the results of a process in which strong oppositional forces were carefully moderated and managed so political pressures actually produced tangible policy results. It represents proof that significant legislative change can

sometimes be accomplished through the engagement of multiple stakeholders, in which everybody compromises on some points but ultimately achieves important progress through the negotiated package of changes.

Illinois's big bet is that the collaborative process that produced S.B. 7 will serve it well in the implementation of the legislation and will bring real change to districts and schools around the state. Legislation is just one important step in a very long process. Illinois's theory is that it's hard enough to implement legislation successfully even if everyone wants it to succeed—so if not everyone wants it to succeed (particularly the administrators and teachers actually responsible for its implementation), the chances drop accordingly. Given the enormity of the challenges ahead, it's too early to know for sure that Illinois's implementation will actually be successful. But for other states looking at sweeping teacher policy reforms, Illinois's experience may well be instructive and offer some lessons that can be adapted to their state context.

This paper tells the tale of S.B. 7—of the history that laid the groundwork for it, of the maneuvering that produced its final form, and of the lessons that may be applicable to other states as they consider legislation on important education reforms. These lessons include:

- Education policy exists in a political context where the power dynamic really matters. In Illinois the landscape was fertile for reform, but after Race to the Top, reform would not have moved at the pace it did if reformers had not identified and cultivated powerful allies who could ensure their issues would be addressed.
- Be thoughtful about sequencing the agenda. Identify a logical order of reforms and issues, and work through them in an orderly process. Policymakers can put pressure on the system to keep things moving forward aggressively and steer it in the right direction.
- Have a strong, honest broker in the process who's respected by both (or all) sides and has strong substantive knowledge. That creates an environment of creative problem solving, which is what good legislative development requires.
- Make everybody identify their core principles—and then when those core principles are sufficiently aligned, force compromise on the particulars. If the core principles aren't reconciled, then that's not a negotiation; it's a power struggle.

But if the core principles are aligned enough, then everybody has to be willing to deal. And when the core principles are aligned, the negotiations will typically succeed by moving from abstract concepts to concrete terms.

- Good advocates play offense, not defense. Even when it looks like the terms of the debate have been defined, effective advocates can find ways to poke at the boundaries of those terms and pick up unexpected wins. Having talented negotiators is key to this dynamic and using a good cop/bad cop strategy can also be effective.
- Make sure the key negotiators are smart and know what they're talking about—and have the humility to recognize that they don't know everything. That will lead to legislation that is better than any single organization could have drafted working alone.
- Relationships matter. A good process needs to both build on existing relationships and foster the development of necessary relationships as the work moves along.

These lessons may seem basic but they can be surprisingly hard to implement well in the policy process. In negotiating S.B. 7, Illinois policymakers and advocates continued a recent run of success in which they've done them all well. This is the story of how.

The emergence of the teacher effectiveness agenda in Illinois

2007–2009: College readiness policy emerges under the radar

As Illinois headed into the economic crisis in 2007, there was little reason to believe it was five years away from becoming a significant source of education reform legislation. Some progress on education policy had been made in the last few years: increased K-12 spending; a new alignment between the governor’s office and the State Board of Education; and an increase in graduation requirements that brought Illinois from national laggard to middle of the pack. On the surface, Illinois had taken some small steps, but was still well behind many other states in education reform. But beneath the surface, a few important efforts were underway that would ultimately yield significant results.

First, the State Board of Education stepped up its focus on college readiness policies. Through a partnership with the Bill & Melinda Gates Foundation, the board intensively reviewed its policies on standards and assessment, data, and school turnaround. The state joined the American Diploma Project as a sign of its commitment to college-ready standards and assessment. It developed thoughtful legislation to provide a framework for its longitudinal data system, which was adopted in 2009; the Data Quality Campaign recognized several Illinois leaders that year as its “Policymakers of the Year” for their work on the bill.⁴ The turnaround work ultimately led to the creation of a “Partnership Zone” designed to support ambitious school improvement efforts. Illinois had not necessarily moved into a position of national leadership but it was at least catching up with the mainstream.

Second, a group of civic and business leaders helped found a new independent advocacy organization called Advance Illinois, with support from the Joyce Foundation and the Bill & Melinda Gates Foundation. Education advocacy in Illinois had historically been led by membership groups (teacher unions and school management officials) and had often focused on increasing state revenues for education. Advance Illinois was created largely to facilitate more and better conversation about the policy elements that support college and career readiness,

including teacher effectiveness. With a bipartisan board of political heavyweights and education leaders, Advance Illinois added an important new voice to the Illinois education conversation.

Third, a group of education stakeholders started meeting to discuss a proposal for education reform that would address the quality of the system. The “Dialogue Group” in 2007 released what it referred to as the “Burnham Plan for Education,” a nod to legendary Chicago architect Daniel Burnham and his admonition to “make no little plans.” The Burnham Plan came out just before the conclusion of the 2007 legislative session, and while it received some favorable reviews, it was not acted upon before the General Assembly adjourned. The plan also received a chilly reception at the State Board of Education, which had not been involved in its formation or consulted before its release.

These three threads all came together in the effort to craft “Burnham 2.0.” The 2007 Burnham Plan did not have a central focus on college and career readiness or teacher effectiveness, which its authors sought to correct by engaging the State Board and others, including Advance Illinois. By the time the report was finally released in late 2009, it was overshadowed by the state’s efforts to apply for a Race to the Top grant. But the Burnham 2.0 process had created a table where unions, administrators, and reformers could work together toward common solutions, and the relationships and goodwill built through that process would prove valuable in the Race to the Top application process.

2009–2010: The Race to the Top

A new era of federally driven education reform was ushered in by the 2009 creation of the Race to the Top competition. Funded through the 2009 American Recovery and Reinvestment Act, the competition required states to articulate dramatic reform plans in four major areas: standards and assessment, data systems, great teachers and leaders, and turning around the lowest-achieving schools. States were also required to describe their state’s political climate and articulate why they believed their state would be fertile territory for successful reform.

The most important single policy area of Race to the Top was improving the effectiveness of teachers and school leaders, and improved teacher evaluations would be a necessity for states to score at the highest levels. The Race to the Top focus on teacher evaluation was inspired in significant part by the 2009 New Teacher

Project, or TNTP, report “The Widget Effect,” which called attention to the fact that teacher evaluation was generally meaningless because almost all teachers received positive evaluations regardless of how their students performed academically. “The Widget Effect” spurred widespread efforts to change the way teachers are evaluated, with Race to the Top the most notable federal effort to date. Illinois was one of four states that had an advisory panel to TNTP as it prepared the report, which helped TNTP design the study and refine its recommendations. Several members of the advisory panel would play key roles in the state’s Race to the Top application—including Audrey Soglin, who later in 2009 would be named the Illinois Education Association’s executive director.⁵

Illinois was not viewed by many as a leading contender for Race to the Top funds, but in fact it put in place some strong building blocks. The application process was led by State Superintendent Chris Koch, who was well regarded by reformers for his progressive policy stances and by all stakeholders for his inclusive approach. At first, Illinois was taking a cautious approach, figuring that it would learn some valuable lessons in Round 1 that could be applied in Round 2; stakeholders were not focused on making significant legislative changes to take advantage of the Round 1 opportunity. But in late 2009 the state’s efforts accelerated and Gov. Quinn’s office jumped in with both feet to support the Round 1 application effort.

In late 2009 and early 2010, stakeholders held extensive negotiations to help finalize two bills that were seen as critical to the state’s Race to the Top hopes: a bill on teacher evaluation known as the Performance Evaluation Reform Act, or PERA, and also a bill on alternative certification. These two bills were cited in Illinois’s first Race to the Top application as two of four signature legislative achievements, along with the longitudinal data bill and a bill doubling the allowable number of charter schools in the state. These four bills represented a dramatic amount of policy change in a short period of time, although they left open quite a number of important policy issues to be dealt with down the road.

Of the four big Race to the Top bills, PERA was considered by many in the state to be the most significant. It created a requirement that teacher and principal evaluations include student growth as a significant factor, and created a state “default” model for teacher evaluations that based 50 percent of the rating on student performance. It expanded the potential pool of evaluators. It created four categories of evaluation results, with the fourth—“Needs Improvement”—triggering professional development. It created a process for collecting data to ensure successful implementation, and created a Performance Evaluation Advisory Committee to

work on further details of design and implementation. It included a staged rollout that would allow stakeholders to proceed with design and implementation in an aggressive but orderly manner. In sum, it codified in Illinois law a thoughtful plan to incorporate student growth into teacher and principal evaluations, and to develop teacher and principal evaluations that could be used to inform personnel decisions.

The negotiations over PERA were driven by the active involvement of several legislators, including Sen. James Meeks, Sen. Kimberly Lightford, Rep. Linda Chapa LaVia, and Rep. Roger Eddy—all legislators with longstanding involvement in education policy. Many stakeholders worked long hours to finalize the bills, and while all stakeholders made compromises, all of them ultimately endorsed the final legislation. The governor’s office had joined legislators in keeping the pressure on to get a deal done, and played an active role in supporting the negotiations.

Illinois’s agreed bill process

Illinois politics has historically had a higher tolerance for nastiness than many other states, including in its campaigns. Interestingly, though, the brutality of Illinois campaign season actually has some positive effects on the legislative process. Illinois legislative leaders have for many years encouraged what’s known as the “agreed bill process” to address thorny issues.

The term “agreed bill process” is just an Illinois title for a phenomenon that exists in all states. In Illinois it’s very common for a powerful legislator to declare that he or she plans to run a bill on a specified topic (workers’ compensation and gambling expansion are two recent examples), thereby forcing all key stakeholders to the table to negotiate the terms of that bill. The idea is to craft legislation that all sides can support, or at least not oppose. It’s common in an Illinois legislative session for several major bills of this type to move through the General Assembly.

While it might seem unusual for a state with bitterly divisive elections to have such a tradition of collaborative legislating, there is actually a logic to it. By crafting legislation through the agreed bill process, legislative leaders remove these complex and potentially

divisive issues from the electoral calculus; if everybody supports the bill, it’s not likely to be a campaign issue (or at least not one that can be effectively used against incumbents). Engaging a broad range of stakeholders in the development of legislation is an important and accepted part of Illinois political culture.

On the flip side, Illinois politics is also capable of producing big legislation without any direct stakeholder input. Illinois has had a long history of adopting annual budgets that were negotiated privately by legislative leaders and then presented to members hours before being voted upon. In 2010 a major pension reform was adopted that first emerged in a House committee on the morning of March 24 and by that same night was adopted by both chambers of the General Assembly and sent to the governor.⁶ Sometimes, if legislative leaders know bills will be unpopular with powerful interest groups, they move with lightning speed to avoid negotiating the terms. So while the agreed bill process is an authentic value of the Illinois General Assembly, it plays out against a backdrop in which stakeholders are always on alert to the possibility of rapid and unfavorable legislative action—a dynamic that helps encourage good faith participation in negotiations.

Although the state ultimately might have ended up with a bill like PERA even without Race to the Top, there is no question that Race to the Top played a critical role in its timing and structure. The competition's application deadline put pressure on stakeholders to get a deal done; it's no coincidence that the bill was signed on January 15, 2010, and the state's first-round application was dated January 19. Moreover, the criteria of the Race to the Top competition provided a substantive framework for stakeholders to work within.

Illinois surprised many observers by finishing fifth in the first round of the Race to the Top competition (in which only two states—Delaware and Tennessee—were awarded grants). Interestingly, despite the focus on the collaborative effort to pass PERA, the state's two weakest areas turned out to be “state success factors”—where it had the lowest score of any finalist state—and great teachers and leaders. But overall, the state posted very high scores and retrenched for the second round of competition in strong position. And the state sought to strengthen its application further by adopting reforms in principal preparation and certification.

It was a bitter disappointment for the state to then lose out in Round 2 of the competition. A TNTP analysis said that “[i]n many ways, Illinois represented the best spirit of labor-management collaboration in Race to the Top.”⁷ TNTP's report showed that the U.S. Department of Education's scoring process short-changed Illinois's application on the issue of support from stakeholders, where Illinois ended up receiving lower scores than some other states that clearly had less stakeholder support. But knowing that the scoring was flawed didn't change the fact that Illinois was now going to implement its statutory changes without the significant federal funds it had been hoping for.

Illinois unions and their reform history

When Jo Anderson became executive director of the Illinois Education Association in 2005, it was an intentionally unusual hire. Unsurprisingly, the IEA had long supported tax increases to pay for education, and pension benefits for members. But the IEA's leadership hired Jo Anderson to go beyond those issues. His previous work had been to develop collaborative school improvement systems, and some of the conversations he was interested in having—about performance pay and charter expansion—were not what would stereotypically be associated with union leaders.

President Ken Swanson and Anderson worked hard to position IEA as an authentic voice for reform, and while that wasn't always popular internally, the IEA had strong enough progressive leadership to stay the course. Swanson and Anderson led a 2009 effort to have IEA's Representative Assembly adopt the "Priority One" plan, which supported changes to the evaluation process, creating consequences for teacher failure, using growth model assessments as part of teacher accountability, and increasing the number of charter schools in the state.⁸

Having this plan as a framework gave Audrey Soglin, Anderson's friend and successor, room to negotiate during the process of developing S.B. 7. The IEA had chosen Soglin to continue its reform trajectory; prior to succeeding Anderson as the IEA's executive director, she had succeeded him as the leader of the Consortium for Educational Change,⁹ a nonprofit affiliated with IEA focused on school improvement. Before that, she had been a longtime classroom teacher. Even before teacher evaluation systems based

on student growth became a Race to the Top focus, she had been involved in facilitating negotiations at the local level to develop such a system.

IFT President Dan Montgomery is a more recent arrival to state policy circles, earning election as president in 2010. But he, too, has sought to make a mark as a progressive. As in many states with two statewide unions, relations between IEA and IFT have ebbed and flowed over the years, but Swanson, Soglin, and Montgomery have sought to build a strong partnership—one that is open to discussions of reform.

On several key reform issues, the Illinois unions started negotiations seeking a trajectory similar to that advocated by reform organizations. Often the unions differed with reformers on the particulars of how that work should be conducted. But unlike in some states, where reformers see unions (fairly or unfairly) as seeking to obstruct legislation on sensitive topics, reformers in Illinois understood the unions were engaged in the process with the goal of actually producing meaningful reform legislation.

Whatever their agenda, the unions are among the most significant political players in Illinois. In 2010 the political action committees of the IEA and IFT ranked third and fourth respectively in total funds expended (trailing only the Republican governors and the Illinois Senate Democrats), and fourth and fifth in total funds available. Both unions have historically been among the top political contributors in the state.

Illinois' Senate Bill 7

The 2010 lame-duck session: A quick strike approach

After the 2010 elections, the Illinois General Assembly returned to Springfield with a surprisingly busy agenda. In a lame-duck session before the new legislature would be seated in January, the General Assembly outlawed the death penalty, legalized civil unions, and passed Illinois's first income tax increase in decades. But one bill that didn't pass in the lame-duck session—despite a strong push—was the Performance Counts bill, which addressed many of the topics ultimately covered by S.B. 7.

In the 2010 Illinois elections, one of the largest campaign donors was a new and then-unknown group called Stand for Children. Based in Oregon with chapters in other states, Stand quietly assembled a significant political war chest; Stand for Children ended up finishing the fall 2010 election cycle as the third-ranked political action committee in the state, ahead of both teacher unions.¹⁰ Stand's national CEO, Jonah Edelman, spent significant time in Illinois and proved to be a very effective fundraiser. But even with all of those donations, nobody was quite sure what Stand's agenda in Illinois really was. One prominent political commentator asked of Stand shortly before the 2010 election, "Who are you and what do you want?"¹¹

What Stand wanted became known shortly after the election, with the release of the draft Performance Counts legislation. The bill would change the state's certification, hiring, and dismissal processes to be based on performance, would limit the scope of collective bargaining, and limit the right to strike. The group of organizations that proposed the bill—Advance Illinois, the Illinois Business Roundtable, the Civic Committee of the Commercial Club of Chicago, and Stand—made it clear that their priority was to see the legislation adopted as quickly as possible, and the strong support of House of Representatives Speaker Michael Madigan made it seem as if that just might happen.

The reformers had sought to build strong relationships with Speaker Madigan, who was supportive of their agenda. Speaker Madigan and the unions had worked

well together at times, but the pension policy changes he led in the spring of 2010 had exacerbated tensions and led to the unions not supporting some of his favored candidates in key races in the 2010 election. Edelman's campaign donation strategy had helped build ties to the speaker, and now he doubled down on that strategy by hiring several high-powered Illinois-based lobbyists with close connections to the speaker. The reformers had also hired as their lead legislative drafter Jonathan Furr, a former State Board¹² general counsel—who had been the lead author of the Illinois Race to the Top applications as an outside contractor to the State Board.

To signal his seriousness about the Performance Counts agenda, Speaker Madigan convened a bipartisan special House committee on education reform. The committee held hearings on December 16 and 17 in Aurora, the state's second-most populous city. No actual legislation had been introduced but the hearings were meant to lay the groundwork for January passage of major reforms. They also helped generate press coverage, with widespread newspaper coverage and editorials in favor of Performance Counts.

The reformers' approach was unsettling for the teacher unions and the management groups, who were willing to discuss the reforms advocated by Stand and Advance Illinois but were concerned about many of the particulars.¹³ Advance Illinois had carefully cultivated relationships in the education community and participated in collaborative policymaking, but now was taking a much more aggressive stance in partnership with Stand. The relationships that had been built through the development of Race to the Top legislation were now being badly strained. The messaging coming from the unions—who emerged as the lead opponents of the measure—focused less on the particulars of the bill than on the process, as they sought the opportunity to negotiate the complete terms of the bill. But as a public narrative, “we need more time” is far less compelling than “we must focus on student growth,” which was the message coming from the reformers.¹⁴

The key player in the lame duck session turned out to be State Senator Kimberly Lightford. Lightford, an Assistant Majority Leader and former chair of the Senate Education Committee, had played an active role in leading the negotiations on the Race to the Top bills. The Senate had formed its own Special Committee on Education Reform, which held its first hearing January 3, with Lightford as a co-chair. She wanted the the issues raised in Performance Counts to be addressed through the same negotiation process used for Race to the Top, and she wanted to quarterback those negotiations. Her unwillingness to move the bill quickly ground the process to a halt. The lame duck session ended with no Performance Counts bill.

Heading into the spring 2011 session, all of the major parties involved had reason to be nervous. The reformers could count on a House of Representatives willing to pass aggressive legislation, but the Senate was a wild card, and Gov. Quinn and the unions had maintained a close relationship. The unions appreciated Sen. Lightford's efforts to engage them in the process but, given the overall political climate, weren't sure that either the Senate or Gov. Quinn would actually shoot down a reform bill based solely on union objections. Sen. Lightford, having taken the helm of the process, was now under substantial pressure to deliver a bill. Many parties were frustrated with how things had gone down during the lame-duck session (for a variety of reasons), and much of the trust among stakeholders that had been built up during the Race to the Top process had been damaged if not destroyed. And unlike in Race to the Top, this process would offer no additional points for demonstrating collaboration.

The 2011 legislative session: The process works

The critical tactical move that set up the spring negotiations came from the unions, and it came during the lame-duck session. The IEA, IFT, and Chicago Teachers Union put together their own draft legislation on the same topics addressed by Performance Counts. They called it Accountability for All, and when they described its parameters at the January 3 Senate Special Committee on Education Reform hearing it completely changed the dynamic of the conversation.¹⁵ The unions may not have been eager to have a major legislative focus on teacher dismissal, but now that the legislature was focused on it, the unions sought to take advantage of the fact that they had already laid some groundwork for some progressive policy change in this area. They knew they could live with at least some of the concepts the reformers had put forward, and wanted to work to translate those concepts into language that was consistent with their practical experience, philosophy, and values.

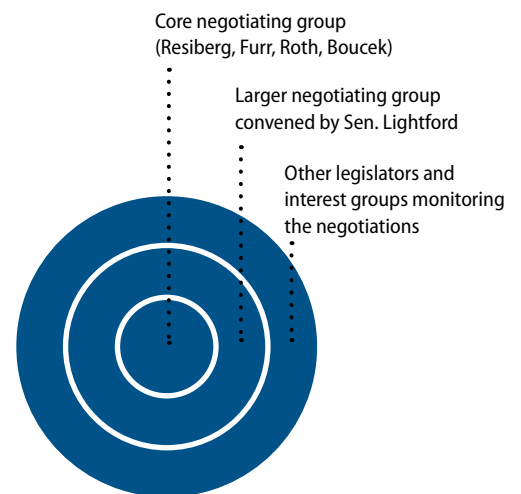
As the General Assembly sought to engage with the reformers' agenda, legislators friendly to the unions had urged them to put forth their own agenda, and the Accountability for All proposal provided legitimacy to the efforts of the unions and their allies. By going on offense instead of just trying to deflect the reformers' proposal, the unions shut down any possible criticism that they were saying what they were against without saying what they were for. When the negotiations started in earnest, they weren't abstract discussions about broad principles—they were concrete negotiations about specific legislative language proposed by one of the sides.

A structure for the negotiations quickly emerged. Sen. Lightford convened larger group meetings at which all of the key stakeholders were represented, and this group met frequently over the course of the spring. This group started out very large but was quickly reduced in size to the interest groups seen by Sen. Lightford as truly necessary to the discussions. Negotiations were led by Audrey Soglin on the union side and by Advance Illinois Executive Director Robin Steans on the reform side. Sen. Lightford always convened the meetings, and other senators participated sporadically; members of the House of Representatives attended at the beginning but stopped participating when the size of the discussion group was reduced.

The hardest negotiating work was conducted by a small team of four lawyers. In this group, the IEA—and by extension the other unions—was represented by its longtime general counsel Mitchell Roth. Furr represented the reform groups. Sara Boucek, the assistant director and legal counsel of the Illinois Association of School Administrators, represented management interests. Mediating the discussions was Darren Reisberg, the State Board’s deputy superintendent and general counsel, who had served as the agency’s point person in Race to the Top negotiations; he played the role of honest broker as the other sides sought to resolve their competing interests. In effect, this smaller negotiating team represented the center of a series of concentric circles engaged in the legislative effort. (see Figure 1)

Fortunately, the core group was well positioned to make headway. The lawyers involved all came with well-deserved reputations as pragmatic and creative problem solvers who were capable of articulating sophisticated nuances in legislative drafting. They also all knew each other well (in fact, Reisberg had previously been Furr’s deputy at the State Board). Their close relationships did not mean that they did not disagree vigorously at times—they did—but the mutual respect in the core negotiating group helped keep the focus on the work at hand, with personality conflicts and posturing not standing in the way of the serious business of legislative drafting. And by working in a small group, they created a safe space that spared them from having to think out loud in front of multiple audiences; by the time they brought draft language to the larger group, they could all be comfortable with how they would discuss where things stood.

FIGURE 1
Race to the Top Negotiations



The process was methodical. The negotiating group broke the negotiations into discrete issues, and then proceeded to systematically discuss each of the issues. The hardest questions were reserved for the end, in the hopes that by then the process would have built enough momentum to provide a stronger framework for resolving those difficult problems. On each issue, the sides would trade draft legislative language, and then seek to resolve any differences between the drafts. Once a resolution was reached on a particular issue, the negotiations moved on to the next issue—and they generally did not move on to the next issue until a real agreement was reached (although occasionally that practice was modified to keep the work on schedule). That which was decided was generally not revisited. The parties had started with an understanding that their core principles were aligned well enough that their job was to work toward language that made those principles real, and when the sides raised practical concerns, those concerns were addressed in a serious manner.

In the larger group, the dynamic was necessarily somewhat more complicated:

- At the beginning of negotiations, the negotiating group was far too large, and the meetings were not well organized. But Sen. Lightford aggressively winnowed down the group, creating a negotiating group of a manageable size. Sen. Lightford and Reisberg also got control of the agenda, and Lightford did a good job of leading productive conversations in which multiple viewpoints were expressed.
- Steans had angered some in the group with her lame-duck session stance that a bill could be passed without negotiations, but once the negotiating process began, she was able to regain some of the goodwill that had been lost, building on the years Advance Illinois had spent developing relationships in the Illinois education community.
- Some of the membership organizations (both teacher unions and management groups) were struggling to keep their members on the same page; there were instances where membership organizations were agreeing to things at the bargaining table that members or other organizational representatives were chastising elsewhere in the statehouse (or on the Internet). The reformers also struggled at times to provide consistent messaging.

- The management groups agreed with many of the directions proposed by the reformers but also shared the unions' concerns about ensuring successful implementation.
- While several of the people at the heart of the negotiations sought to play good cop, there were no shortage of bad cops on either side creating external pressure on the process. In particular, the House of Representatives and Stand for Children were seen as prepared to move aggressively on reforms that would have been unacceptable to the unions.

Ultimately, the caliber of the work being done by the negotiators—particularly Reisberg, who was widely praised for his acumen in resolving tricky problems—kept the larger group on track, and the pressure to reach agreement kept all parties at the table and working toward resolution. Over the course of the negotiations, all of the parties involved ended up having to make important concessions; Sen. Lightford was not shy about pushing back when she thought any party was overreaching, and over the course of the process, she forced each of the parties to back down from initial positions. But each party involved also stuck to its core principles and got significant favorable language into the final agreement.

An example of compromise

One example of an agreement meant to address legitimate concerns on both sides came in the area of reductions in force. Reformers wanted reductions in force to be based on performance, not seniority. Unions were willing to agree to that but raised some concerns about how that might work in practice. One issue was that if teachers were grouped simply by their most recent year's evaluation, that would be a huge disincentive for teachers to take on new challenges that might be good for their long-term development but in the short term lead to lower evaluation marks. While dismissal based purely on evaluation

results might be better than dismissal based solely on seniority, both sides came to believe that the right approach might be a framework based on evaluation results that left some room for local discretion.

The framework that ultimately emerged from negotiations calls for teachers in a district to be categorized into one or more positions for which the teacher is qualified. Within each position in which a reduction in force will be made, teachers will be grouped into one of four categories:

Tier	Membership	Prioritization within tier
Grouping 1 (first to be dismissed)	Untenured teachers who have not been evaluated (Note: Untenured teachers must be evaluated every year under Illinois law, so "Grouping 1" should generally be an empty grouping)	Discretion of district
Grouping 2	Teachers with a rating of "Needs Improvement" or "Unsatisfactory" in either of their last two evaluations	Sequence based on average of the teacher's last two performance evaluation ratings, with the lowest average rating dismissed first; seniority is the tiebreaker for teachers with the same average rating unless collective bargaining agreement says otherwise
Grouping 3	Teachers with a rating of "Proficient" ¹⁶ or better in both of the last two evaluations (or their last evaluation if only one is available), unless the teacher qualifies for Grouping 4	Seniority, unless the collective bargaining agreement says otherwise
Grouping 4 (last to be dismissed)	Teachers whose last two ratings are "Excellent," and teachers with ratings of "Excellent" in two of the last three evaluations with a third rating of "Proficient" or "Excellent"	Seniority, unless the collective bargaining agreement says otherwise

105 ILCS 5/24-12(b). S.B. 7 also requires that each school district establish a joint committee with equal representation selected by the school board and the local teachers union, with limited discretionary authority to make certain adjustments to the statutory framework by majority vote of its members. The permitted adjustments still require that performance be the driver of all reduction in force decision making, but allow a district to consider other criteria for a teacher with only one Needs Improvement in her last two performance evaluation ratings, or for the order of dismissal for the district's highest-performing teachers.

The parties understood the new methodology would be more complex than the existing system (as a pure seniority-based

system is the simplest type of system to administer)—and this brief summary leaves out several important complexities and processes built into the law. Although the introduction of complexity will create challenges for local implementation, negotiators believed this framework would address the legitimate interests of all parties involved in a manageable way. It creates an objective system in statute closely linked to the state's performance evaluation framework—as opposed to simply stating that performance will play a "major" or "predominant" role and requiring the meaning of those terms to be interpreted on a district-by-district basis. It will ensure excellent teachers are the last to go, but will also provide some flexibility for districts in managing a reduction in force.

In early April rumors floated that the House was about to introduce its own bill addressing the same topics being addressed by Sen. Lightford's negotiations—and almost immediately thereafter, the Senate negotiations wrapped up with an agreement on legislative language. When some groups wavered as to whether they would support the final package, Sen. Lightford put pressure on them to do so. On April 15 the bill passed the Senate 54-0. Press accounts quoted all of the advocates involved as praising both the substance of the bill and the process that led to its adoption. Sen. Lightford earned acclaim throughout the Capitol for the quality of the negotiations that led to the bill.

Although it was widely believed that the substance of the law was in a form that could win favor with the House's leadership (and rank and file), it was also the case that the House was perhaps the only major interest entity that had not been well represented in the Senate negotiations. Sen. Lightford had made clear in her comments when the bill passed that she did not want the House to make any changes. Some members of the House had quietly been providing comments on draft language during the Senate-led negotiating process but the House had not had an opportunity to review the bill in full, and after the Senate's action, House members would not commit to passing the bill unchanged.

Ultimately, leaders in the House decided not to reopen negotiations. They agreed with the general trajectory of the legislation and what it was trying to accomplish, and even though they might have changed some provisions of the bill, they could live with what the Senate had produced. Moreover, the Senate had moved so quickly to act on freshly drafted legislative language that some drafting issues in the legislation needed to be corrected, so it was agreed that a "trailer bill" would be passed to clean up those issues (and address some issues involving Chicago-specific provisions of the bill). On May 12 the House passed the bill, unchanged, with 112 yeas, one nay, and one legislator voting present. The trailer bill, House Bill 1197, passed later that month.

S.B. 7 and H.B. 1197 were signed into law by Gov. Quinn on June 13, 2011, at a signing ceremony in Sen. Lightford's hometown of Maywood. Reformers and statewide union and management leaders praised the bill at the ceremony, as did Chicago Mayor Rahm Emanuel. Even the one state representative who voted against the bill was in attendance.

The Chicago negotiations

The major thrust of S.B. 7 negotiations was to develop a new system of consequences based on teacher evaluations. But a complicating factor in the negotiations was some language specifically addressing Chicago. Reformers were pushing for changes that would extend Chicago's school day (one of the shortest in the nation) and limit the Chicago Teachers Union's right to strike.

Chicago Public Schools have their own article in the Illinois School Code, and many of the laws governing Chicago are different than those for the rest of the state (including the mayoral control implemented as part of a comprehensive reform agenda in the 1990s). This created a complex dynamic in S.B. 7 negotiations. Some of the issues on the table affected both "downstate" and Chicago; some affected just Chicago; some affected just downstate; and some affected both downstate and Chicago but affected each differently. This was a challenge for managing the agenda and also for resolving the specific issues.

The relationship between Chicago Public Schools and the Chicago Teachers Union was also very different than the relationship between the management groups and the statewide teacher unions. In recent years management groups and unions have consciously sought to work collaboratively on issues where they

have common ground. In Chicago the history between CPS and CTU has historically been more charged, and that was complicated further in the spring of 2011 by the fact that CPS's leadership was in transition. In February Rahm Emanuel was elected mayor of Chicago—and while he had not yet taken office, he began to weigh in on the pending legislation. The mayor Emanuel would succeed, Richard M. Daley, did not personally work the Springfield roll call on behalf of education legislation, so Emanuel's entry into the process was a meaningful development.

While the CTU did not object to the bill when it was passed by the Senate, after the bill's Senate passage, it changed course and decided to oppose some of the Chicago-specific language, at least some of which represented good faith disagreements in the meaning of certain provisions.¹⁷ From a pure political muscle standpoint, it was unlikely that CTU could halt the bill altogether, but the leaders of the process were determined to see all of the key advocates supporting the final bill. Further negotiations were held, and agreement was reached on a "trailer bill" that would clean up some of the concerns raised by CTU. The trailer bill, H.B. 1197, passed the Senate on May 27 and the House on May 31, the last day before the session adjourned. The trailer bill was signed the same day as S.B. 7.¹⁸

What happens now?

In its final form S.B. 7 actually represents a significant increase in local discretion, within carefully drawn boundaries. The state is now mobilizing to provide support to districts as they seek to exercise that new discretion. In doing so the state will build on existing structures put in place by PERA but will also need to provide regular communication to its districts. The State Board, management groups, and the unions all feel an obligation to help local educators make sense of the new law and implement it successfully, and are now looking to develop specific plans to make sure that happens. Moreover, key elements of the teacher and principal evaluation system adopted in PERA are still being designed and implemented, and those policies will need to be integrated into the implementation of S.B. 7 as well.

The State Board now must adopt the regulations necessary to support PERA and S.B. 7. The coalition that has held together through the legislative process will not necessarily hold together in the regulatory process. Legislators are unlikely to be as actively involved, although they can still help keep the pressure on (and in Illinois regulations must be approved by a special legislative committee). Beyond regulations, the State Board will have a whole host of choices to make that will affect the quality of the bill's implementation, and will face significant pressure to make its choices thoughtfully.

Over the next few years, state-level policymakers and advocates will learn a great deal about what in the bill works and what does not. Because all of the advocates involved supported the final package, it is hoped that when some aspects of the bill need improvement—as they inevitably will—that the parties will be able to return to the table and negotiate changes, rather than pointing fingers and blaming the legislation on others. In all likelihood, at least some districts will use the new law very effectively, and those examples can help guide others in creating some agreed-upon best practices.

The heart of PERA and S.B. 7 is a complete rethinking of how teacher evaluation is done and how the results are used. Those changes will require a great deal of work by principals and teachers, and it won't always go well. But Illinois policymakers and advocates are confident that in the aggregate, these changes will turn out to be good for children. While the process of producing the bills matters, ultimately the only important metric for S.B. 7 is whether it leads to improved outcomes for students.

Key lessons for other states

Like all states, Illinois's political culture and context is unique. But what Illinois does show is that just because a state hasn't been an active education reform state, doesn't mean it can't get there quickly; in five years Illinois's collaborative approach has allowed it to make impressive strides. And the collaborative approach hasn't meant producing watered-down policies; it's meant producing policies that are forward looking and largely supported by the stakeholders actually responsible for implementing them.

Of course, it's too early to tell whether the stakeholder support for the legislation will turn into successful implementation, and many of the reforms adopted are unproven. But whether the substance of the Illinois reforms turns out to be groundbreaking or disappointing, the process that created them offers some key lessons for other states. These include:

For state policymakers:

- Policymakers in the legislative and executive branch play a critical role in defining the agenda. In *Race to the Top*, the federal government did that for states—but state executive and legislative branch leaders always have the power to set their own agenda. When important laws are outdated and do not reflect the interests of stakeholders, policymakers can drive important discussions about how to update them.
- Reform takes a lot of work. The central figures in the negotiations all spent a great deal of time on the process. Legislative pressure through direct involvement helped make sure that happened, but each of the individual actors also made it a priority to ensure the bill succeeded.
- In defining the state's policy agenda, sequencing can be key. The S.B. 7 reform process was possible because it followed on a trajectory that the state was already on—it was the next logical bridge to cross. Moving too far ahead without necessary building blocks in place can weaken reform efforts, either in the legislative or

implementation process. This is true both on a macro level (from bill to bill) and on a micro level (within the elements of a given bill). Building up trust through areas of common interest sets the right stage for navigating the choppiest waters at the end. And policymakers can push back against proposals that jump too far ahead or overreach, even if they're headed in the right direction.

- Keep the process moving. Have a schedule and don't let the parties delay it. If pressure needs to be applied, apply it in a way that's fair but firm. Policymakers can also help make sure that the right decision makers are at the table, and that those involved in the negotiations either have authority to sign off on language or can quickly get that authority from the necessary constituencies.
- Provide leadership to the right depth. Policymakers play an extremely important role in keeping pressure on the process and in providing an overall sense of direction. But nobody expects state legislators to be personally responsible for navigating the finest nuances of draft legislation. While legislators should understand that language once it's negotiated, it isn't necessarily their job to negotiate it personally—they may be better off just making sure the right people are negotiating it, and giving them the space needed to do so.
- Engage an honest broker in the process with strong substantive knowledge. Sen. Lightford did that in this case by developing a strong partnership with Reisberg. Sen. Lightford was able to provide political pressure and help to resolve numerous issues, but also frequently called upon Reisberg's deeper technical acumen.
- Foster a spirit of creative problem solving. Parties should be able to bring to the table their genuine concerns with a real hope that others at the table will address them. Sometimes parties will raise bogus concerns obviously intended to stymie progress, and policymakers should clamp down on that from all sides in a negotiation. But if parties know their legitimate concerns will be taken seriously, they'll stay engaged.
- Make sure the process is very concrete. If the work is sequenced correctly, negotiations should be about reducing agreed-upon principles to writing, not broad arguments over the trajectory. If that's what's going on, then the negotiations should be based on draft legislative language, not on broad conceptual language that will ultimately need to be reduced to legislative language. If the process goes on too long without agreement on specific legislative language, there's the risk that at the end there will be disagreement about how to reduce those concepts to legislative language.

- Relationships really matter. Obviously, having intelligent people who are respectful and humble can help lead to the development of trust, but it doesn't automatically. Relationships will be cultivated before, during, and after the periods of intense negotiation, and each state will have its own web of relationships that savvy policymakers can leverage. Moreover, the entrance into the process of a new player—like Stand—can change all the relationships; Stand didn't just create relationships on its own; it affected the relationships among all of the other players as well. In managing the process, policymakers must be sensitive to the very real human dynamics of the individuals involved.

For advocacy organizations:

- Work with the executive and legislative branches to set the agenda. Everyone involved in the S.B. 7 process agreed that if Stand for Children hadn't forced the legislature to deal with the issue of teacher dismissal, performance-based layoffs, and changes to the bargaining process (as well as some of the Chicago-specific changes), the timeline for developing a bill would have been longer and the results might have been different. Successful advocacy groups have for many years worked with the executive and legislative branches to define areas of focus, and Stand's ability to do so quickly in Illinois was a significant victory.
- In the case of S.B. 7, the inside-outside dynamic that emerged was that the government insiders provided structure and mediation for two opposed outside forces; this is different from some reform scenarios in which government leaders partner with key outside advocates to drive reforms, but is still an important reminder that it takes both insiders and outsiders to design and effect strong policy change.
- Don't let the perfect be the enemy of the good. Identify core principles on which there can be no compromise, but then be prepared to make reasonable deals on everything else.
- A thoughtful counterproposal can go a long way. In the S.B. 7 negotiations, the unions put out a counterproposal to the reform proposal that seriously addressed the areas the reformers wanted to act on—and added some policy changes the unions wanted consistent with the reformers' approach. For example, the unions wanted changes to tenure that would allow the best teachers to get it sooner, and to make it portable; once tenure was to be based on performance, reformers were prepared to agree to those changes. By going on

offense instead of just digging in on defense, the unions ended up with some wins they might not have if they'd let the reformers completely dictate the terms of the debate.

- Good cop/bad cop can work under the right circumstances. The policymakers, unions, management groups, and reformers all were able to establish a good cop/bad cop dynamic, and it served them all well. In particular, the dramatic entrance of Stand for Children into the group ended up providing the reform “good cops”—especially Steans and Furr—room to operate. It may be counterproductive to try to force this dynamic where the relationships among the “good cops” aren’t strong enough to bear it, but in Illinois this dynamic ended up being effective.
- Find smart people to negotiate. This may be easier said than done, but part of why all parties came away feeling like they got a good deal is that they all had confidence in their representatives. The public posturing in the newspapers sometimes helps keep the pressure on, but that isn’t how the final arrangements get made.
- Show humility and respect others. The group negotiations worked because none of the key negotiators assumed they had all the answers, and all of the key negotiators sought to respect and incorporate other perspectives. That doesn’t mean their collective answers are necessarily right, but they are very likely better answers than any of the individual negotiators could have proposed. In particular, the attorneys negotiating S.B. 7 were sensitive to the legitimate concerns raised by practitioners, which helped make the final language more practical than it would have been otherwise.

Illinois policymakers and advocates did all of these things well in the process of developing the Race to the Top bills and S.B. 7. There will undoubtedly be more bills to negotiate in the years ahead—presumably including some motivated by the need to change provisions of previous bills that turned out to have unintended or unanticipated real-world effects. There’s no guarantee that those bills will be the product of a successful process or yield the intended results. But if the state policy process really does yield the intended results and lead to the successful implementation of thoughtful policy, then 2 million Illinois schoolchildren will be better off for it.

Endnotes

- 1 An *Education Week* editorial titled "Illinois: The New Leader in Education Reform" appeared the same week as the bill signing. See: John Luczak, "Illinois: The New Leader in Education Reform," *Education Week*, June 17, 2011, available at <http://www.edweek.org/ew/articles/2011/06/17/36luczak.h30.html>.
- 2 For example, Ron Tupa on the Democrats for Education Reform blog described the legislation as "mild-mannered – at best." See: Ron Tupa, "State Legislation: Don't Believe Everything you DON'T Read," Democrats for Education Reform, June 7, 2011, available at http://www.dfer.org/2011/06/state_legislati.php; Alexander Russo, "Teaching: Reform – Or Reform 'Lite' – in Illinois?," *Scholastic Administrators*, April 19, 2011, available at <http://scholasticadministrator.typepad.com/thisweekineducation/2011/04/education-week-in-illinois-teachers-join-lawmakers-in-drawing-up-reforms.html#t.p>.
- 3 A quick response to Tupa's DFER post came from Robin Steans of Advance Illinois and Jonah Edelman of Stand for Children: Robin Steans and Jonah Edelman, "Illinois Education Advocates Respond to DFER Analysis of SB 7 Teacher Evaluation Policies," Democrats for Education Reform, June 8, 2011, available at http://www.dfer.org/2011/06/illinois_educat.php.
- 4 Awardees included Judy Erwin, executive director, Illinois Board of Higher Education; Christopher Koch, superintendent, Illinois Board of Education; Geoffrey Obrzut, president, Illinois Community College Board; and Sen. Heather Steans, Illinois General Assembly. See: "Recognition Program: 2009 Award Recipients," available at http://www.dataqualitycampaign.org/recognition_program/2009.
- 5 The full list of Illinois's advisory committee members is on page 41 of the report, which is available online at: "The Widget Effect," available at <http://widgeteffect.org/>.
- 6 "Illinois General Assembly – Bill Status for SB1946," available at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1946&GAID=10&A=96&DocTypeID=SB&LegID=44843&SessionID=76>.
- 7 The New Teacher Project, "Resetting Race to the Top: Why the Competition's Future Depends on Improving the Scoring Process" (2010), available at <http://tntp.org/publications/issue-analysis/view/resetting-race-to-the-top/>.
- 8 The plan is available online at: "Illinois Priority One: IEA's education quality, accountability proposals," available at <http://www.ieanea.org/banner/iea-executive-director-discusses-priority-one/>.
- 9 For more information about the Consortium, see: "Consortium for Educational Change," available at <http://www.cecillinois.org/>.
- 10 According to data from the Illinois State Board of Elections, available at Illinois State Board of Elections, "Money and Elections in Illinois 2010" (2011), available at <http://www.elections.il.gov/DocDisplay.aspx?Doc=Downloads/CampaignDisclosure/PDF/Money2010.pdf>. Stand was more conservative in its spending, ranking only 17th in total funds expended (p. 25).
- 11 Rich Miller, "Who are you and what do you want?," Capitol Fax, October 18, 2010, available at <http://capitolfax.com/2010/10/18/who-are-you-and-what-do-you-want/>; Rich Miller, "Stand for Children has wealthiest PAC in Illinois," Capitol Fax, January 24, 2011, available at <http://capitolfax.com/2011/01/24/stand-for-children-has-wealthiest-pac-in-illinois/>.
- 12 In Illinois, the term "State Board of Education" refers to both the board itself and to the state education agency.
- 13 In Illinois, the term "Management Alliance" is the common description of the four statewide groups representing school management: the Illinois Association of School Boards, the Illinois Association of School Administrators, the Illinois Principals Association, and the Illinois Association of School Business Officials. Here, the term "management groups" is used to refer to both the Alliance and to other groups that represent particular types of districts (including regional associations).
- 14 "The Performance Counts agenda is based on two fundamental ideas: to improve our schools we must focus on student growth, and we should honor the talent and dedication of our best teachers by making their performance count." Bill Daley and Jim Edgar, "Opportunity Knocking for School Reform," *The State Journal-Register*, December 31, 2010, available at <http://www.sj-r.com/opinions/x2135339399/Bill-Daley-and-Jim-Edgar-Opportunity-knocking-for-school-reform>. Bill Daley, now the White House chief of staff, is a former U.S. secretary of commerce and was at the time of his appointment to the Advance Illinois board a prominent Chicago businessman; Jim Edgar is a former governor from downstate Illinois and remains one of the state's most prominent moderate Republicans.
- 15 Illinois Federation of Teachers, "Educators Will Propose 'Accountability for All' Education Reform Legislation," Press release, January 3, 2011, available at http://www.ift-aft.org/news/pressreleases/11-01-03/Educators_Will_Propose_Accountability_For_All_Education_Reform_Legislation.aspx; Kevin Hart, "Accountability Plan Unites Educators in Illinois," Priority Schools Campaign, February 6, 2011, available at <http://neapriorityschools.org/2011/02/06/accountability-plan-unites-educators-in-illinois/>.
- 16 The statute also allows the use of the term "Satisfactory" instead of "Proficient."
- 17 Chicago Teachers Union, "Chicago Teachers Union Governing Body Supports Changes to SB7," Press release, May 5, 2011, available at <http://www.ctunet.com/blog/press-release-chicago-teachers-union-governing-body-supports-changes-to-sb7>.
- 18 "Illinois General Assembly – Bill Status for HB1197," available at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1197&GAID=11&A=97&DocTypeID=HB&LegID=57145&SessionID=84>.

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Elliot Regenstein is a Chicago-based partner of EducationCounsel LLC who focuses on providing legal, policy, strategic planning, and advocacy services to governments, foundations, and not-for-profit organizations. From 2004 to 2006 he served in the Illinois governor’s office as director of education reform. The author was personally involved in several of the reform initiatives identified in this paper—including the creation of Advance Illinois and the drafting of Burnham 2.0—but was not personally involved in the legislative negotiations relating to Race to the Top or Senate Bill 7.

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