

ASSEMBLY BILL NO. 562—COMMITTEE ON WAYS AND MEANS

MAY 16, 2005

Referred to Committee on Ways and Means

SUMMARY—Revises provisions regarding implementation of No Child Left Behind Act. (BDR 34-1459)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

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

AN ACT relating to education; revising provisions regarding the implementation of the No Child Left Behind Act by this State; making an appropriation; and providing other matters properly relating thereto.

1 WHEREAS, In 1997, the Nevada Legislature adopted the Nevada
2 Education Reform Act which set forth a sound structure of
3 accountability for the public schools in the State of Nevada, which
4 demonstrated Nevada's dedication and commitment to implement
5 strong academic standards and improve the performance of all
6 pupils in this State; and

7 WHEREAS, Since the enactment of the Nevada Education
8 Reform Act of 1997, this State has implemented sweeping reforms
9 to its system of public education, including, without limitation, the
10 adoption of rigorous academic standards of content and performance
11 and the provision of professional development and training for
12 teachers to assist pupils with meeting the demands of the new
13 standards; and

14 WHEREAS, After the enactment and implementation of the
15 Nevada Education Reform Act, the No Child Left Behind Act was
16 signed into law on January 8, 2002 (20 U.S.C. §§ 6301 et seq.); and

17 WHEREAS, The Nevada Legislature hereby recognizes that the
18 No Child Left Behind Act offers some laudable goals for public
19 education, including, without limitation, ensuring that all children



1 have a fair, equal and significant opportunity to receive a high-
2 quality education; and

3 WHEREAS, Because the No Child Left Behind Act also
4 mandates uniform testing, identifying low-performing schools and
5 school districts, and imposing certain sanctions for low-performing
6 schools and school districts, the Act requires increased expenditures
7 by states; and

8 WHEREAS, There is debate occurring across the nation over
9 whether the amount of federal money provided to the states for
10 implementation of the No Child Left Behind Act is adequate to
11 ensure compliance with that Act; and

12 WHEREAS, The Legislature hereby encourages the
13 Superintendent of Public Instruction, the State Board of Education,
14 the Department of Education, the superintendents of the school
15 districts in this State and all other school officials in this State to
16 lobby the Congress of the United States and education officials of
17 the United States Government to:

18 1. Revise the provisions of the No Child Left Behind Act in a
19 manner that will better serve the pupils enrolled in public schools, in
20 particular those provisions that are not adequately funded or that
21 conflict with other educational programs of this State or the Federal
22 Government; and

23 2. Maximize flexibility for states in carrying out the provisions
24 of the No Child Left Behind Act; and

25 WHEREAS, The Legislature hereby encourages the
26 Superintendent of Public Instruction, the State Board of Education,
27 the Department of Education, the superintendents of the school
28 districts in this State and all other school officials in this State to
29 request waivers from provisions of the No Child Left Behind Act to:

30 1. Maximize the flexibility of this State and the local school
31 districts in carrying out that Act; and

32 2. Receive a reasonable amount of time to comply with that
33 Act; now, therefore,

34
35 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
36 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
37

38 **Section 1.** NRS 385.3468 is hereby amended to read as
39 follows:

40 385.3468 The provisions of NRS 385.3455 to 385.391,
41 inclusive ~~[-do]~~ :

42 *1. Apply only to the extent authorized by sections 3 to 8,*
43 *inclusive, of this act.*

44 *2. Do* not supersede, negate or otherwise limit the effect or
45 application of the provisions of chapters 288 and 391 of NRS or the



rights, remedies and procedures afforded to employees of a school district under the terms of collective bargaining agreements, memoranda of understanding or other such agreements between employees and their employers.

Sec. 2. Chapter 387 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 8, inclusive, of this act.

Sec. 3. *As used in sections 3 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“No Child Left Behind Act” means the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.*

Sec. 5. *“School official” means:*

- 1. The State Board;*
- 2. The Superintendent of Public Instruction;*
- 3. The Department and the employees thereof;*
- 4. The board of trustees of a school district and the employees thereof;*
- 5. The superintendent of schools of a school district; and*
- 6. The governing body of a charter school and the employees thereof.*

Sec. 6. *If money is not provided by the Federal Government for the support of a program required by the No Child Left Behind Act, or if money provided by the Federal Government for the support of a program required by the No Child Left Behind Act is subsequently reduced or eliminated, school officials may reduce or eliminate that program to the extent allowed by law.*

Sec. 7. *1. School officials shall prioritize available financial resources to resolve conflicts between the laws of this State and the No Child Left Behind Act, including, without limitation, by:*

(a) Assigning first priority to attaining the educational goals of this State;

(b) Assigning second priority to attaining the goals of the No Child Left Behind Act that do not directly and simultaneously advance the educational goals, objectives and needs of this State and the statewide system of accountability;

(c) Interpreting the provisions of the No Child Left Behind Act in the best interest of the pupils who are enrolled in public schools in this State;

(d) Maximizing the control and flexibility of this State and the school districts in this State concerning the implementation of the No Child Left Behind Act; and



(e) *Minimizing the amount of money that is expended by this State and the school districts in this State to carry out the No Child Left Behind Act that is in addition to the money that is provided by the Federal Government for carrying out that Act.*

2. *School officials shall determine whether complying with the provisions of the No Child Left Behind Act requires:*

(a) *This State or the school districts in this State to expend money of the State or the school districts in addition to the money that is provided by the Federal Government to carry out the provisions of that Act; or*

(b) *The State Board, the school districts in this State or the public schools to alter the curriculum of a grade level or a school.*

3. *If, with respect to a specific pupil, there are conflicts between the provisions of the No Child Left Behind Act and the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., the parents or legal guardian of the pupil, in cooperation with school officials, shall determine which provisions best meet the educational needs of the pupil.*

Sec. 8. *School officials may:*

1. *In addition to NRS 387.067, apply for, receive and administer money from the Federal Government for the support of programs required by the No Child Left Behind Act;*

2. *Expend money received from the Federal Government pursuant to an application made pursuant to subsection 1 for the sole support of programs required by the No Child Left Behind Act;*

3. *Request revisions to the No Child Left Behind Act that conflict with other educational programs of the Federal Government or this State or for which adequate financial support is not provided;*

4. *Request waivers from provisions of the No Child Left Behind Act to the extent that compliance with the requirements of that Act conflicts with 20 U.S.C. § 7907 that prohibits the Federal Government from mandating expenditures of state or local resources for costs not covered by that Act; and*

5. *Request waivers from provisions of the No Child Left Behind Act to maximize flexibility in implementing that Act and to provide a reasonable amount of time to comply with that Act.*

Sec. 9. 1. *There is hereby appropriated from the State General Fund to the Department of Education for the contractual services of a qualified independent consultant to review the funding available for compliance with the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq.:*

For the Fiscal Year 2005-2006	\$100,000
For the Fiscal Year 2006-2007	\$100,000



- 1 2. The consultant hired pursuant to subsection 1 shall:
- 2 (a) Review the funding provided from the Federal Government
- 3 for this State and the school districts in this State to comply with the
- 4 No Child Left Behind Act;
- 5 (b) Analyze the actions and steps taken by this State and the
- 6 school districts in this State to comply with the No Child Left
- 7 Behind Act compared with the amount of money provided to this
- 8 State and the school districts in this State by the Federal
- 9 Government to comply with that Act; and
- 10 (c) On or before December 31, 2006, submit a written report of
- 11 his findings and any recommendations for legislation to the State
- 12 Board of Education, the Department of Education and the Director
- 13 of the Legislative Counsel Bureau for transmission to the 74th
- 14 Session of the Nevada Legislature and the Legislative Committee on
- 15 Education.
- 16 3. Any balance of the sums appropriated by subsection 1
- 17 remaining at the end of the respective fiscal years must not be
- 18 committed for expenditure after June 30 of the respective fiscal
- 19 years and must be reverted to the State General Fund on or before
- 20 September 15, 2006, and September 21, 2007, respectively.
- 21 **Sec. 10.** This act becomes effective on July 1, 2005.



