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THIRD REPRINT

A.B. 460

ASSEMBLY BILL NO. 460—ASSEMBLYMEN ANDERSON, KOIVISTO, PARKS, PARNELL, BEERS, ATKINSON, BOBZIEN, BUCKLEY, CARPENTER, CLABORN, CONKLIN, DENIS, GANSERT, GERHARDT, GOEDHART, GOICOECHEA, GRADY, HARDY, HOGAN, HORNE, KIHUEN, KIRKPATRICK, LESLIE, MABEY, MANENDO, MARVEL, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PIERCE, SEGERBLUM, SETTELMAYER, SMITH, STEWART, WEBER AND WOMACK

MARCH 19, 2007

Referred to Concurrent Committees on
Education and Ways and Means

SUMMARY—Revises provisions regarding public schools and educational personnel. (BDR 34-1279)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; requiring each school district to develop a program to provide enhanced compensation to employees of the school district; making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Education to establish and maintain an automated system of accountability information for Nevada concerning the achievement and proficiency of pupils. Certain information that is collected as part of that system must not be used for the purpose of evaluating an individual teacher or paraprofessional. (NRS 386.650) **Section 5.5** of this bill revises existing law to provide that such information may be used for the purpose of evaluating a teacher or paraprofessional as long as it is not used as the sole criterion for evaluation.

Section 6 of this bill requires an administrator who is responsible for evaluating a teacher to personally observe that teacher in the classroom for not less than 60 minutes during each evaluation period. If a deficiency is discovered during the evaluation process, a reasonable effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an



* A B 4 6 0 R 3 *

13 administrator may admonish an employee. (NRS 391.313) **Section 7** of this bill
14 requires an admonition to include a description of the deficiencies of the teacher
15 and the actions that are necessary to correct those deficiencies.

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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** (Deleted by amendment.)
3 **Sec. 3.** (Deleted by amendment.)
4 **Sec. 4.** (Deleted by amendment.)
5 **Sec. 5.** (Deleted by amendment.)
6 **Sec. 5.5.** NRS 386.650 is hereby amended to read as follows:
7 386.650 1. The Department shall establish and maintain an
8 automated system of accountability information for Nevada. The
9 system must:
10 (a) Have the capacity to provide and report information,
11 including, without limitation, the results of the achievement of
12 pupils:
13 (1) In the manner required by 20 U.S.C. §§ 6301 et seq., and
14 the regulations adopted pursuant thereto, and NRS 385.3469 and
15 385.347; and
16 (2) In a separate reporting for each subgroup of pupils
17 identified in paragraph (b) of subsection 1 of NRS 385.361;
18 (b) Include a system of unique identification for each pupil:
19 (1) To ensure that individual pupils may be tracked over time
20 throughout this State; and
21 (2) That, to the extent practicable, may be used for purposes
22 of identifying a pupil for both the public schools and the Nevada
23 System of Higher Education, if that pupil enrolls in the System after
24 graduation from high school;
25 (c) Have the capacity to provide longitudinal comparisons of the
26 academic achievement, rate of attendance and rate of graduation of
27 pupils over time throughout this State;
28 (d) Have the capacity to perform a variety of longitudinal
29 analyses of the results of individual pupils on assessments,
30 including, without limitation, the results of pupils by classroom and
31 by school;
32 (e) Have the capacity to identify which teachers are assigned to
33 individual pupils and which paraprofessionals, if any, are assigned
34 to provide services to individual pupils;
35 (f) Have the capacity to provide other information concerning
36 schools and school districts that is not linked to individual pupils,
37 including, without limitation, the designation of schools and school
38 districts pursuant to NRS 385.3623 and 385.377, respectively, and



* A B 4 6 0 R 3 *

1 an identification of which schools, if any, are persistently
2 dangerous;

3 (g) Have the capacity to access financial accountability
4 information for each public school, including, without limitation,
5 each charter school, for each school district and for this State as a
6 whole; and

7 (h) Be designed to improve the ability of the Department, school
8 districts and the public schools in this State, including, without
9 limitation, charter schools, to account for the pupils who are
10 enrolled in the public schools, including, without limitation, charter
11 schools.

12 ➤ The information maintained pursuant to paragraphs (c), (d) and
13 (e) must be used for the purpose of improving the achievement of
14 pupils and improving classroom instruction ~~but must not~~ and may
15 be used for the purpose of evaluating an individual teacher or
16 paraprofessional ~~as long as the information is not the sole~~
17 *criteria by which the individual teacher or paraprofessional is*
18 *evaluated.*

19 2. The board of trustees of each school district shall:

20 (a) Adopt and maintain the program prescribed by the
21 Superintendent of Public Instruction pursuant to subsection 3 for the
22 collection, maintenance and transfer of data from the records of
23 individual pupils to the automated system of information, including,
24 without limitation, the development of plans for the educational
25 technology which is necessary to adopt and maintain the program;

26 (b) Provide to the Department electronic data concerning pupils
27 as required by the Superintendent of Public Instruction pursuant to
28 subsection 3; and

29 (c) Ensure that an electronic record is maintained in accordance
30 with subsection 3 of NRS 386.655.

31 3. The Superintendent of Public Instruction shall:

32 (a) Prescribe a uniform program throughout this State for the
33 collection, maintenance and transfer of data that each school district
34 must adopt, which must include standardized software;

35 (b) Prescribe the data to be collected and reported to the
36 Department by each school district and each sponsor of a charter
37 school pursuant to subsection 2;

38 (c) Prescribe the format for the data;

39 (d) Prescribe the date by which each school district shall report
40 the data;

41 (e) Prescribe the date by which each charter school shall report
42 the data to the sponsor of the charter school;

43 (f) Prescribe standardized codes for all data elements used
44 within the automated system and all exchanges of data within the
45 automated system, including, without limitation, data concerning:



* A B 4 6 0 R 3 *

- (1) Individual pupils;
- (2) Individual teachers and paraprofessionals;
- (3) Individual schools and school districts; and
- (4) Programs and financial information;

(g) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(h) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 6. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an



1 evaluation is to provide a format for constructive assistance.
2 Evaluations, while not the sole criterion, must be used in the
3 dismissal process.

4 3. A conference and a written evaluation for a probationary
5 employee must be concluded ~~no~~ **not** later than:

- 6 (a) December 1;
- 7 (b) February 1; and
- 8 (c) April 1,

9 ➔ of each school year of the probationary period, except that a
10 probationary employee assigned to a school that operates all year
11 must be evaluated at least three times during each 12 months of
12 employment on a schedule determined by the board. *An*
13 *administrator charged with the evaluation of a probationary*
14 *teacher shall personally observe the performance of the teacher in*
15 *the classroom for not less than a cumulative total of 60 minutes*
16 *during each evaluation period, with at least one observation*
17 *during that 60-minute evaluation period consisting of at least 45*
18 *consecutive minutes.*

19 4. Whenever an administrator charged with the evaluation of a
20 probationary employee believes the employee will not be
21 reemployed for the second year of the probationary period or the
22 school year following the probationary period, he shall bring the
23 matter to the employee's attention in a written document which is
24 separate from the evaluation ~~no~~ **not** later than ~~February 15~~
25 *March 1* of the current school year. The notice must include the
26 reasons for the potential decision not to reemploy or refer to the
27 evaluation in which the reasons are stated. Such a notice is not
28 required if the probationary employee has received a letter of
29 admonition during the current school year.

30 5. Each postprobationary teacher must be evaluated at least
31 once each year. *An administrator charged with the evaluation of a*
32 *postprobationary teacher shall personally observe the performance*
33 *of the teacher in the classroom for not less than a cumulative total*
34 *of 60 minutes during each evaluation period, with at least one*
35 *observation during that 60-minute evaluation period consisting of*
36 *at least 30 consecutive minutes.*

37 6. The evaluation of a probationary teacher or a
38 postprobationary teacher must ~~be~~ **include**, *without limitation*:

39 (a) *An evaluation of the classroom management skills of the*
40 *teacher;*

41 (b) *A review of the lesson plans and the work log or grade*
42 *book of pupils prepared by the teacher;*

43 (c) *An evaluation of whether the curriculum taught by the*
44 *teacher is aligned with the standards of content and performance*



1 *established pursuant to NRS 389.520, as applicable for the grade*
2 *level taught by the teacher;*

3 *(d) An evaluation of whether the teacher is appropriately*
4 *addressing the needs of the pupils in the classroom, including,*
5 *without limitation, special educational needs, cultural and ethnic*
6 *diversity, the needs of pupils enrolled in advanced courses of study*
7 *and the needs of pupils who are limited English proficient;*

8 *(e) If necessary, ~~[include]~~ recommendations for improvements*
9 *in ~~[his]~~ the performance ~~[- A reasonable effort must be made to~~*
10 *~~assist the teacher to correct any deficiencies noted in the evaluation.]~~*
11 *of the teacher;*

12 *(f) A description of the action that will be taken to assist the*
13 *teacher in correcting any deficiencies reported in the evaluation;*
14 *and*

15 *(g) A statement by the administrator who evaluated the teacher*
16 *indicating the amount of time that the administrator personally*
17 *observed the performance of the teacher in the classroom.*

18 **7.** The teacher must receive a copy of each evaluation not later
19 than 15 days after the evaluation. A copy of the evaluation and the
20 teacher's response must be permanently attached to the teacher's
21 personnel file. *Upon the request of a teacher, a reasonable effort*
22 *must be made to assist the teacher to correct those deficiencies*
23 *reported in the evaluation of the teacher for which the teacher*
24 *requests assistance.*

25 **Sec. 7.** NRS 391.313 is hereby amended to read as follows:

26 391.313 1. Whenever an administrator charged with
27 supervision of a licensed employee believes it is necessary to
28 admonish the employee for a reason that he believes may lead to
29 demotion ~~[]~~ *or* dismissal or cause the employee not to be
30 reemployed under the provisions of NRS 391.312, he shall:

31 (a) Except as otherwise provided in subsection ~~[2.]~~ **3**, bring the
32 matter to the attention of the employee involved, in writing, stating
33 the reasons for the admonition and that it may lead to his demotion,
34 dismissal or a refusal to reemploy him, and make a reasonable effort
35 to assist the employee to correct whatever appears to be the cause
36 for his potential demotion, dismissal or a potential recommendation
37 not to reemploy him; and

38 (b) Except as otherwise provided in NRS 391.314, allow
39 reasonable time for improvement, which must not exceed 3 months
40 for the first admonition.

41 *↪ The admonition must include a description of the deficiencies*
42 *of the teacher and the action that is necessary to correct those*
43 *deficiencies.*

44 **2.** An admonition issued to a licensed employee who, within
45 the time granted for improvement, has met the standards set for him



1 by the administrator who issued the admonition must be removed
2 from the records of the employee together with all notations and
3 indications of its having been issued. The admonition must be
4 removed from the records of the employee not later than 3 years
5 after it is issued.

6 ~~[2-]~~ 3. An administrator need not admonish an employee
7 pursuant to paragraph (a) of subsection 1 if his employment will be
8 terminated pursuant to NRS 391.3197. If by ~~[February 15]~~ **March 1**
9 of the first or second year of his probationary period a probationary
10 employee does not receive a written notice pursuant to subsection 4
11 of NRS 391.3125 of a potential decision not to reemploy him, he
12 must receive an admonition before any such decision is made.

13 ~~[3-]~~ 4. A licensed employee is subject to immediate dismissal
14 or a refusal to reemploy according to the procedures provided in
15 NRS 391.311 to 391.3197, inclusive, without the admonition
16 required by this section, on grounds contained in paragraphs (b), (f),
17 (g), (h) and (p) of subsection 1 of NRS 391.312.

18 **Sec. 8.** NRS 391.3197 is hereby amended to read as follows:

19 391.3197 1. A probationary employee is employed on a
20 contract basis for two 1-year periods and has no right to
21 employment after either of the two probationary contract years.

22 2. The board shall notify each probationary employee in
23 writing on or before May 1 of the first and second school years of
24 his probationary period, as appropriate, whether he is to be
25 reemployed for the second year of the probationary period or for the
26 next school year as a postprobationary employee. The employee
27 must advise the board in writing on or before May 10 of the first or
28 second year of his probationary period, as appropriate, of his
29 acceptance of reemployment. If a probationary employee is assigned
30 to a school that operates all year, the board shall notify him in
31 writing, in both the first and second years of his probationary period,
32 no later than 45 days before his last day of work for the year under
33 his contract whether he is to be reemployed for the second year of
34 the probationary period or for the next school year as a
35 postprobationary employee. He must advise the board in writing
36 within 10 days after the date of notification of his acceptance or
37 rejection of reemployment for another year. Failure to advise the
38 board of his acceptance of reemployment constitutes rejection of the
39 contract.

40 3. A probationary employee who completes his 2-year
41 probationary period and receives a notice of reemployment from the
42 school district in the second year of his probationary period is
43 entitled to be a postprobationary employee in the ensuing year of
44 employment.



* A B 4 6 0 R 3 *

1 4. ~~[A] If a~~ probationary employee ~~[who receives an~~
2 ~~unsatisfactory evaluation]~~ *receives notice pursuant to subsection 4*
3 *of NRS 391.3125 not later than March 1 of a potential decision*
4 *not to reemploy him, the employee* may request a supplemental
5 evaluation by another administrator in the school district selected by
6 him and the superintendent. If a school district has five or fewer
7 administrators, the supplemental evaluator may be an administrator
8 from another school district in ~~[the]~~ *this* State. If a probationary
9 employee has received during the first school year of his
10 probationary period three evaluations which state that the
11 employee's overall performance has been satisfactory, the
12 superintendent of schools of the school district or his designee shall
13 waive the second year of the employee's probationary period by
14 expressly providing in writing on the final evaluation of the
15 employee for the first probationary year that the second year of his
16 probationary period is waived. Such an employee is entitled to be a
17 postprobationary employee in the ensuing year of employment.

18 5. If a probationary employee is notified that he will not be
19 reemployed for the second year of his probationary period or the
20 ensuing school year, his employment ends on the last day of the
21 current school year. The notice that he will not be reemployed must
22 include a statement of the reasons for that decision.

23 6. A new employee or a postprobationary teacher who is
24 employed as an administrator shall be deemed to be a probationary
25 employee for the purposes of this section and must serve a 2-year
26 probationary period as an administrator in accordance with the
27 provisions of this section. If the administrator does not receive an
28 unsatisfactory evaluation during the first year of probation, the
29 superintendent or his designee shall waive the second year of the
30 administrator's probationary period. Such an administrator is
31 entitled to be a postprobationary employee in the ensuing year of
32 employment. If:

33 (a) A postprobationary teacher who is an administrator is not
34 reemployed as an administrator after either year of his probationary
35 period; and

36 (b) There is a position as a teacher available for the ensuing
37 school year in the school district in which the person is employed,
38 ➤ the board of trustees of the school district shall, on or before
39 May 1, offer the person a contract as a teacher for the ensuing
40 school year. The person may accept the contract in writing on or
41 before May 10. If the person fails to accept the contract as a teacher,
42 the person shall be deemed to have rejected the offer of a contract as
43 a teacher.

44 7. An administrator who has completed his probationary period
45 pursuant to subsection 6 and is thereafter promoted to the position of



* A B 4 6 0 R 3 *

1 principal must serve an additional probationary period of 1 year in
2 the position of principal. If the administrator serving the additional
3 probationary period is not reemployed as a principal after the
4 expiration of the additional probationary period, the board of
5 trustees of the school district in which the person is employed shall,
6 on or before May 1, offer the person a contract for the ensuing
7 school year for the administrative position in which the person
8 attained postprobationary status. The person may accept the contract
9 in writing on or before May 10. If the person fails to accept such a
10 contract, the person shall be deemed to have rejected the offer of
11 employment.

12 8. Before dismissal, the probationary employee is entitled to a
13 hearing before a hearing officer which affords due process as set out
14 in NRS 391.311 to 391.3196, inclusive.

15 **Sec. 9.** (Deleted by amendment.)

16 **Sec. 10.** (Deleted by amendment.)

17 **Sec. 11.** This act becomes effective on July 1, 2007.

