

SENATE BILL NO. 303—SENATORS NOLAN, AMODEI, COPENING;
CARE, CEGAVSKE, HARDY, PARKS, RAGGIO, WIENER AND
WOODHOUSE

MARCH 16, 2009

Referred to Committee on Health and Education

SUMMARY—Enacts the Interstate Compact on Educational
Opportunity for Military Children. (BDR 34-186)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; enacting the Interstate Compact on
Educational Opportunity for Military Children; revising
provisions relating to the enrollment and education of
certain children of military families in public schools; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 The Interstate Compact on Educational Opportunity for Military Children is an
2 interstate compact which addresses issues relating to the education of certain
3 children of military families in states that are members of the Interstate Compact,
4 including guidelines for the enrollment, placement, graduation and extracurricular
5 activities of those children. The Interstate Compact also requires states that have
6 enacted the Compact to establish a State Council to carry out the provisions of the
7 Interstate Compact and to appoint certain other persons to ensure the proper
8 administration of the Interstate Compact in the state. **Section 2** of this bill enacts
9 the Interstate Compact. **Sections 3-8** of this bill contain the provisions necessary to
10 carry out the Interstate Compact, including the creation of the State Council for the
11 Coordination of the Interstate Compact on Educational Opportunity for Military
12 Children, the appointment of a liaison to assist military families transferring into
13 this State and the appointment of a Commissioner to oversee the administration of
14 the Interstate Compact. **Sections 10 and 11-17** of this bill amend existing
15 provisions relating to the placement, testing, graduation, enrollment and
16 immunization of pupils to ensure that such provisions are consistent with the
17 provisions of the Interstate Compact. (NRS 388.470, 389.015, 389.035, 389.805,
18 392.033, 392.040, 392.122, 392.435)



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

Section 1. Title 34 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *The Interstate Compact on Educational Opportunity for Military Children, set forth in this section, is hereby enacted into law and entered into with all other jurisdictions substantially as follows:*

ARTICLE I

PURPOSE

It is the purpose of this Compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from the previous school district or variations in entrance and age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this Compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this Compact.

G. Promoting coordination between this Compact and other compacts affecting children of military families.

H. Promoting flexibility and cooperation between the educational system, parents and students to achieve educational success for the student.



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ARTICLE II

DEFINITIONS

As used in this chapter, unless the context otherwise requires, the words and terms defined in this Article have the meanings ascribed to them in this Article:

A. *“Active duty” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211.*

B. *“Child of a military family” means a school-aged child enrolled in kindergarten or grades 1 through 12, inclusive, in the household of a person on active duty.*

C. *“Compact commissioner” means the voting representative of each compacting state appointed pursuant to Article VIII of this Compact.*

D. *“Deployment” means the period 1 month before the departure of a person on active duty from his home station on military orders though 6 months after return to his home station.*

E. *“Educational records” means the official records, files and data directly relating to a student which are maintained by a school or local education agency, including, without limitation, records encompassing all the material kept in the student’s cumulative folder, such as general identifying data, records of attendance and of academic work completed, records of achievement, results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.*

F. *“Extracurricular activities” means a voluntary activity sponsored by a school or local education agency or an organization sanctioned by a local education agency, including, without limitation, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays and club activities.*

G. *“Interstate Commission” means the Interstate Commission on Educational Opportunity for Military Children created by Article IX of this Compact.*

H. *“Local education agency” means an administrative agency legally constituted by the state to provide control of and direction for public educational institutions for kindergarten and grades 1 through 12, inclusive.*

I. *“Member state” means a state that has enacted this Compact.*

J. *“Military installation” means a base, camp, post, station, yard, center or homeport facility for any ship or other activity*



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1 *under the jurisdiction of the United States Department of Defense,*
2 *including any leased facility, which is located within any of the*
3 *several states, the District of Columbia, the Commonwealth of*
4 *Puerto Rico, the United States Virgin Islands, Guam, American*
5 *Samoa, the Northern Marianas Islands or any other territory of*
6 *the United States. The term does not include a facility used*
7 *primarily for civil works or river, harbor or flood control projects.*

8 K. "Nonmember state" means a state that has not enacted
9 this Compact.

10 L. "Receiving state" means the state to which a child of a
11 military family is sent, brought or caused to be sent or brought.

12 M. "Rule" means a written statement by the Interstate
13 Commission promulgated pursuant to Article XII of this Compact
14 that is of general applicability and implements, interprets or
15 prescribes a policy or provision of this Compact or an
16 organizational, procedural or practice requirement of the
17 Interstate Commission and has the force and effect of statutory
18 law in a member state, including the amendment, repeal or
19 suspension of an existing rule.

20 N. "Sending state" means the state from which a child of a
21 military family is sent, brought or caused to be sent or brought.

22 O. "State" means a state of the United States, the District of
23 Columbia, the Commonwealth of Puerto Rico, the United States
24 Virgin Islands, Guam, American Samoa, the Northern Marianas
25 Islands and any other territory of the United States.

26 P. "Student" means the child of a military family for whom
27 the local education agency receives public funding and who is
28 formally enrolled in kindergarten or grades 1 through 12,
29 inclusive.

30 Q. "Transition" means the formal and physical process of
31 transferring from school to school or the period of time in which a
32 student moves from one school in the sending state to another
33 school in the receiving state.

34 R. "Uniformed service" means the Army, Navy, Air Force,
35 Marine Corps, Coast Guard or Commissioned Corps of the Public
36 Health Service and the National Oceanic and Atmospheric
37 Administration.

38 S. "Veteran" means a person who served in the uniformed
39 service and who was discharged or released therefrom under
40 conditions other than dishonorable.



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ARTICLE III

APPLICABILITY

A. Except as otherwise provided in sections B and C, this Compact shall apply to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of 1 year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of 1 year after death.

B. The provisions of this Compact shall only apply to local education agencies.

C. The provisions of this Compact shall not apply to the children of:

1. Inactive members of the National Guard or military reserves;

2. Retired members of the uniformed services, except as otherwise provided in section A;

3. Veterans of the uniformed services, except as otherwise provided in section A; and

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" educational records - If official educational records cannot be released to the parent or legal guardian for the purpose of transfer, the custodian of the educational records in the sending state shall prepare and furnish to the parent or legal guardian a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial educational records pending validation by the official records.



1 *B. Official educational records – At the time that a school*
2 *initially enrolls and determines the placement of a student, the*
3 *school in the receiving state shall request the official educational*
4 *records of the student from the school in the sending state. Upon*
5 *receipt of this request, the school in the sending state will process*
6 *and furnish the official educational records to the school in the*
7 *receiving state within 10 days or within such time as is reasonably*
8 *determined under the rules promulgated by the Interstate*
9 *Commission.*

10 *C. Immunizations – Member states shall give 30 days after*
11 *the date of enrollment, or within such time as is reasonably*
12 *determined under the rules promulgated by the Interstate*
13 *Commission, for students to obtain any immunizations required by*
14 *the receiving state. For a series of immunizations, initial*
15 *vaccinations must be obtained within 30 days, or within such time*
16 *as is reasonably determined under the rules promulgated by the*
17 *Interstate Commission.*

18 *D. Kindergarten and grade 1 entrance age – Students shall be*
19 *allowed to continue their enrollment at grade level in the receiving*
20 *state commensurate with their grade level, including kindergarten,*
21 *from a local education agency in the sending state at the time of*
22 *transition, regardless of age. A student that has satisfactorily*
23 *completed the prerequisite grade level in the local education*
24 *agency in the sending state shall be eligible for enrollment in the*
25 *next highest grade level in the receiving state, regardless of age. A*
26 *student transferring after the start of the school year in the*
27 *receiving state shall enter the school in the receiving state on his*
28 *validated level from the local education agency in the sending*
29 *state.*

30 31 **ARTICLE V**

32 33 **PLACEMENT AND ATTENDANCE**

34
35 *A. Course placement – When a student transfers before or*
36 *during the school year, the school in the receiving state shall*
37 *initially honor placement of the student in educational courses*
38 *based on the student's enrollment in the school in the sending*
39 *state or educational assessments conducted at the school in the*
40 *sending state, if the courses are offered in the receiving state and*
41 *space is available. Course placement includes, without limitation,*
42 *honors, international baccalaureate, advanced placement,*
43 *vocational, technical and career pathways courses. Continuing the*
44 *student's academic program from the previous school and*
45 *promoting placement in academically and career challenging*



1 *courses should be paramount when considering placement.*
2 *Nothing in this section precludes the school in the receiving state*
3 *from performing subsequent evaluations to ensure the appropriate*
4 *placement and continued enrollment of the student in the*
5 *appropriate courses.*

6 *B. Educational program placement – The school in the*
7 *receiving state shall initially honor placement of the student in*
8 *educational programs based on current educational assessments*
9 *conducted at the school in the sending state or participation and*
10 *placement in like programs in the sending state. Such programs*
11 *include, without limitation, gifted and talented programs and*
12 *English as a second language. Nothing in this section precludes*
13 *the school in the receiving state from performing subsequent*
14 *evaluations to ensure appropriate placement of the student.*

15 *C. Special education services – In compliance with the*
16 *Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et*
17 *seq., the receiving state shall initially provide comparable services*
18 *to a student with a disability based on his current individualized*
19 *education program. In compliance with the requirements of*
20 *section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and*
21 *with Title II of the Americans with Disabilities Act of 1990, 42*
22 *U.S.C. §§ 12131-12165, the receiving state shall make reasonable*
23 *accommodations and modifications to address the needs of*
24 *incoming students with disabilities, subject to an existing 504 or*
25 *Title II Plan, to provide the student with equal access to education.*
26 *Nothing in this section precludes the school in the receiving state*
27 *from performing subsequent evaluations to ensure appropriate*
28 *placement of the student.*

29 *D. Placement flexibility – The administrative officials of the*
30 *local education agency shall have flexibility in waiving course or*
31 *program prerequisites, or other preconditions for placement in*
32 *courses or programs offered under the jurisdiction of the local*
33 *education agency.*

34 *E. Absence relating to deployment activities – A student*
35 *whose parent or legal guardian is an active duty member of the*
36 *uniformed services and has been called to duty for, is on leave*
37 *from or immediately returned from deployment to a combat zone*
38 *or combat support posting, shall be granted additional excused*
39 *absences at the discretion of the superintendent of the local*
40 *education agency to visit with his parent or legal guardian relating*
41 *to such leave or deployment.*



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ARTICLE VI

ELIGIBILITY

A. Eligibility for enrollment

1. A special power of attorney, for purposes of the guardianship of a child of a military family, which is executed pursuant to the applicable law of the jurisdiction in which the special power of attorney is executed is sufficient for the purposes of enrolling a student in school and for all other actions requiring participation and consent of a parent or legal guardian of the student.

2. A local education agency shall not charge local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he was enrolled while residing with the custodial parent.

B. Eligibility for participation in extracurricular activities – State and local education agencies shall facilitate the opportunity for transitioning children of military families to be included in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII

GRADUATION

To facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – The administrative officials of the local education agency shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial of a waiver. If a waiver is not granted to a student who qualifies to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required course work so that the student may graduate on time.



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B. Exit exams – States shall accept:

1. Exit or end-of-course exams required for graduation from the sending state;

2. National norm-referenced achievement tests; or

3. Alternative testing,

↪ in lieu of tests required for graduation in the receiving state. If the alternatives set forth in this section cannot be accommodated by the receiving state for a student transferring during the student's senior year, then the provisions of section C shall apply.

C. Transfers during senior year – If a military student transferring immediately before beginning or during his senior year is ineligible to graduate from the local education agency of the receiving state after all alternatives have been considered pursuant to this Article, the local education agencies of the sending state and the receiving state shall ensure the receipt of a diploma from the local education agency of the sending state if the student meets the graduation requirements of the local education agency of the sending state. If the sending state or the receiving state is not a member of this Compact, the member state shall use its best efforts to facilitate the on-time graduation of the student in accordance with this Article.

ARTICLE VIII

STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this Compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least the state superintendent of public education, a superintendent of a school district with a high concentration of children of military families, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the member state deems appropriate. A member state that does not have a school district deemed to contain a high concentration of children of military families may appoint a superintendent from another school district to represent the local education agencies of the member state on the State Council.



1 *B. The State Council of each member state shall appoint or*
2 *designate a military family education liaison to assist military*
3 *families and the state in facilitating the implementation of this*
4 *Compact.*

5 *C. A compact commissioner responsible for the*
6 *administration and management of the state's participation in the*
7 *Compact shall be appointed by the Governor or as otherwise*
8 *determined by each member state.*

9 *D. The compact commissioner and the military family*
10 *education liaison designated herein shall be ex officio members of*
11 *the State Council, unless either is already a full voting member of*
12 *the State Council.*

13 **ARTICLE IX**

14 **INTERSTATE COMMISSION ON EDUCATIONAL** 15 **OPPORTUNITY FOR MILITARY CHILDREN**

16 *The member states hereby create the "Interstate Commission on*
17 *Educational Opportunity for Military Children." The Interstate*
18 *Commission may form public policy and is a discretionary state*
19 *function. The Interstate Commission shall:*

20 *A. Be a body corporate and joint agency of the member states*
21 *and shall have all the responsibilities, powers and duties set forth*
22 *herein, and such additional powers as may be conferred upon it by*
23 *a subsequent concurrent action of the respective legislatures of the*
24 *member states in accordance with the terms of this Compact.*

25 *B. Consist of one Interstate Commission voting representative*
26 *from each member state who shall be that state's compact*
27 *commissioner.*

28 1. *Each member state represented at a meeting of the*
29 *Interstate Commission is entitled to one vote.*

30 2. *A majority of the total member states shall constitute a*
31 *quorum for the transaction of business, unless a larger quorum is*
32 *required by the bylaws of the Interstate Commission.*

33 3. *A representative shall not delegate a vote to another*
34 *member state. In the event the compact commissioner is unable to*
35 *attend a meeting of the Interstate Commission, the Governor or*
36 *State Council may delegate voting authority to another person*
37 *from their state for a specified meeting.*

38 4. *The bylaws may provide for meetings of the Interstate*
39 *Commission to be conducted by telecommunication or electronic*
40 *communication.*

41 *C. Consist of ex officio, nonvoting representatives who are*
42 *members of interested organizations. Such ex officio members, as*
43



1 *defined in the bylaws, may include, without limitation, members of*
2 *the representative organizations of military family advocates, local*
3 *education agency officials, parent and teacher groups, the United*
4 *States Department of Defense, the Education Commission of the*
5 *States, the Interstate Agreement on Qualification of Educational*
6 *Personnel and other interstate compacts affecting the education of*
7 *children of military members.*

8 *D. Meet at least once each calendar year. The Chairperson*
9 *may call additional meetings and, upon the request of a simple*
10 *majority of the member states, shall call additional meetings.*

11 *E. Establish an Executive Committee, whose members shall*
12 *include the officers of the Interstate Commission and such other*
13 *members of the Interstate Commission as determined by the*
14 *bylaws. Members of the Executive Committee shall serve a term of*
15 *1 year. Members of the Executive Committee shall be entitled to*
16 *one vote each. The Executive Committee shall have the power to*
17 *act on behalf of the Interstate Commission, with the exception of*
18 *rulemaking, during periods when the Interstate Commission is not*
19 *in session. The Executive Committee shall oversee the day-to-day*
20 *activities of the administration of the Compact, including*
21 *enforcement and compliance with the provisions of the Compact,*
22 *its bylaws and rules, and other such duties as deemed necessary.*
23 *The United States Department of Defense shall serve as an ex*
24 *officio, nonvoting member of the executive committee.*

25 *F. Establish bylaws and rules that provide for conditions and*
26 *procedures under which the Interstate Commission shall make its*
27 *information and official records available to the public for*
28 *inspection or copying. The Interstate Commission may exempt*
29 *from disclosure information or official records to the extent they*
30 *would adversely affect personal privacy rights or proprietary*
31 *interests.*

32 *G. Give public notice of all meetings, and all meetings shall*
33 *be open to the public, except as set forth in the rules or as*
34 *otherwise provided in the Compact. The Interstate Commission*
35 *and its committees may close a meeting, or portion thereof, when*
36 *it determines by two-thirds vote that an open meeting would be*
37 *likely to:*

38 *1. Relate solely to the Interstate Commission's internal*
39 *personnel practices and procedures;*

40 *2. Disclose matters specifically exempted from disclosure*
41 *by federal and state statute;*

42 *3. Disclose trade secrets or commercial or financial*
43 *information which is privileged or confidential;*

44 *4. Involve accusing a person of a crime, or formally*
45 *censuring a person;*



5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Collect standardized data concerning the educational transition of the children of military families under this Compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. The methods of data collection, exchange and reporting must, insofar as is reasonably possible, conform to current technology and coordinate information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Create a process that permits military officials, education officials and parents to inform the Interstate Commission of alleged violations of the Compact or its rules or when issues subject to the jurisdiction of the Compact or its rules are not addressed by the member state or a local education agency within a member state. Nothing in this section creates a private right of action against the Interstate Commission or any member state.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the power to:

A. Provide for dispute resolution among the member states.
B. Promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this Compact. The rules must have the force and effect of statutory law



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1 *and be binding in the member states to the extent and in the*
2 *manner provided in this Compact.*

3 *C. Issue, upon request of a member state, advisory opinions*
4 *concerning the meaning or interpretation of the Compact, its*
5 *bylaws, rules and actions.*

6 *D. Enforce compliance with the provisions of the Compact,*
7 *the rules promulgated by the Interstate Commission and the*
8 *bylaws, using all necessary and proper means, including, without*
9 *limitation, the use of the judicial process.*

10 *E. Establish and maintain offices which shall be located*
11 *within one or more of the member states.*

12 *F. Purchase and maintain insurance and bonds.*

13 *G. Borrow, accept, hire or contract for services of personnel.*

14 *H. Establish and appoint committees, including, without*
15 *limitation, an Executive Committee as required by section E of*
16 *Article IX of this Compact, which shall have the power to act on*
17 *behalf of the Interstate Commission in carrying out its powers and*
18 *duties hereunder.*

19 *I. Elect or appoint officers, attorneys, employees, agents or*
20 *consultants, and to fix their compensation, define their duties and*
21 *determine their qualifications, and to establish the Interstate*
22 *Commission's personnel policies and programs relating to*
23 *conflicts of interest, rates of compensation and qualifications of*
24 *personnel.*

25 *J. Accept any and all donations and grants of money,*
26 *equipment, supplies, materials and services, and to receive, use*
27 *and dispose of them.*

28 *K. Lease, purchase or accept contributions or donations of,*
29 *or otherwise own, hold, improve or use any property, including*
30 *real, personal or mixed property.*

31 *L. Sell, convey, mortgage, pledge, lease, exchange, abandon*
32 *or otherwise dispose of any property, including real, personal or*
33 *mixed property.*

34 *M. Establish a budget and make expenditures.*

35 *N. Adopt a seal and bylaws governing the management and*
36 *operation of the Interstate Commission.*

37 *O. Report annually to the legislatures, governors, judiciary*
38 *and state councils of the member states concerning the activities of*
39 *the Interstate Commission during the preceding year. Such reports*
40 *must also include any recommendations that may have been*
41 *adopted by the Interstate Commission.*

42 *P. Coordinate education, training and public awareness*
43 *regarding the Compact, its implementation and operation for*
44 *officials and parents and legal guardians.*



1 *Q. Establish uniform standards for the reporting, collecting*
2 *and exchanging of data.*

3 *R. Maintain corporate books and records in accordance with*
4 *the bylaws.*

5 *S. Perform such functions as may be necessary or*
6 *appropriate to achieve the purposes of this Compact.*

7 *T. Provide for the uniform collection and sharing of*
8 *information between and among member states, schools and*
9 *military families under this Compact.*

10
11 **ARTICLE XI**

12
13 **ORGANIZATION AND OPERATION OF THE**
14 **INTERSTATE COMMISSION**

15
16 *A. The Interstate Commission shall, by a majority of the*
17 *members present and voting, within 12 months after the first*
18 *Interstate Commission meeting, adopt bylaws to govern its conduct*
19 *as may be necessary or appropriate to carry out the purposes of*
20 *the Compact, including, without limitation:*

21 *1. Establishing the fiscal year of the Interstate*
22 *Commission;*

23 *2. Establishing an Executive Committee and such other*
24 *committees as may be necessary;*

25 *3. Providing for the establishment of committees and for*
26 *governing any general or specific delegation of authority or*
27 *function of the Interstate Commission;*

28 *4. Providing reasonable procedures for calling and*
29 *conducting meetings of the Interstate Commission and ensuring*
30 *reasonable notice of each such meeting;*

31 *5. Establishing the titles and responsibilities of the officers*
32 *and staff of the Interstate Commission;*

33 *6. Providing a mechanism for concluding the operations*
34 *of the Interstate Commission and the return of surplus funds that*
35 *exist upon the termination of the Compact after the payment and*
36 *reserving of all of its debts and obligations; and*

37 *7. Providing "start up" rules for initial administration of*
38 *the Compact.*

39 *B. The Interstate Commission shall, by a majority of the*
40 *members, elect annually from among its members a Chairperson,*
41 *a Vice Chairperson and a Treasurer, each of whom has the*
42 *authority and duties as specified in the bylaws. The Chairperson*
43 *or, in the Chairperson's absence or disability, the Vice*
44 *Chairperson, shall preside at all meetings of the Interstate*
45 *Commission. The officers so elected shall serve without*



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1 *compensation or remuneration from the Interstate Commission.*
2 *However, subject to the availability of budgeted funds, the officers*
3 *shall be reimbursed for ordinary and necessary costs and expenses*
4 *incurred by them in the performance of their responsibilities as*
5 *officers of the Interstate Commission.*

6 *C. Executive Committee, Officers and Personnel*

7 *1. The Executive Committee shall have such authority and*
8 *duties as set forth in the bylaws, including, without limitation:*

9 *a. Managing the affairs of the Interstate Commission in*
10 *a manner consistent with the bylaws and purposes of the Interstate*
11 *Commission;*

12 *b. Overseeing an organizational structure within, and*
13 *appropriate procedures for, the Interstate Commission to provide*
14 *for the creation of rules, operating procedures, and administrative*
15 *and technical support functions; and*

16 *c. Planning, implementing and coordinating*
17 *communications and activities with other state, federal and local*
18 *government organizations to advance the goals of the Interstate*
19 *Commission.*

20 *2. The Executive Committee may, subject to the approval*
21 *of the Interstate Commission, appoint or retain an Executive*
22 *Director upon such terms and conditions and for such*
23 *compensation as the Interstate Commission may deem*
24 *appropriate. The Executive Director shall serve as Secretary to the*
25 *Interstate Commission, but shall not be a member of the Interstate*
26 *Commission. The Executive Director shall hire and supervise such*
27 *other persons as may be authorized by the Interstate Commission.*

28 *D. The Interstate Commission's Executive Director and*
29 *employees are immune from suit and liability, either personally or*
30 *in their official capacity, for a claim for damage to or loss of*
31 *property or personal injury or other civil liability caused or arising*
32 *out of or relating to an actual or alleged act, error or omission that*
33 *occurred, or that the Executive Director or employee had a*
34 *reasonable basis for believing occurred, within the scope of*
35 *Interstate Commission employment, duties or responsibilities. The*
36 *Executive Director or an employee shall not be protected from suit*
37 *or liability for damage, loss, injury or liability caused by the*
38 *intentional or willful and wanton misconduct on the part of the*
39 *person.*

40 *1. The liability of the Interstate Commission's Executive*
41 *Director, an employee or a representative acting within the scope*
42 *of such person's employment or duties for acts, errors or*
43 *omissions occurring within such person's state may not exceed the*
44 *limits of liability set forth under the Constitution and laws of that*
45 *state for state officials, employees and agents. The Interstate*



1 *Commission is considered to be an instrumentality of the member*
2 *states for the purposes of any such action. Nothing in this*
3 *subsection protects such person from suit or liability for damage,*
4 *loss, injury or liability caused by the intentional or willful and*
5 *wanton misconduct on the part of the person.*

6 2. *The Interstate Commission shall defend the Executive*
7 *Director and its employees and, subject to the approval of the*
8 *Attorney General or other appropriate legal counsel of the*
9 *member state represented by an Interstate Commission*
10 *representative, shall defend such Interstate Commission*
11 *representative in any civil action seeking to impose liability arising*
12 *out of an actual or alleged act, error or omission that occurred*
13 *within the scope of Interstate Commission employment, duties or*
14 *responsibilities, or that the defendant had a reasonable basis for*
15 *believing occurred within the scope of Interstate Commission*
16 *employment, duties or responsibilities, provided that the actual or*
17 *alleged act, error or omission did not result from intentional or*
18 *willful and wanton misconduct of the person.*

19 3. *To the extent not covered by the state involved, member*
20 *state or the Interstate Commission, a representative or employee of*
21 *the Interstate Commission shall be held harmless in the amount of*
22 *a settlement or judgment, including attorney's fees and costs,*
23 *obtained against such person arising out of an actual or alleged*
24 *act, error or omission that occurred within the scope of Interstate*
25 *Commission employment, duties or responsibilities, or that such*
26 *person had a reasonable basis for believing occurred within the*
27 *scope of Interstate Commission employment, duties or*
28 *responsibilities, provided that the actual or alleged act, error or*
29 *omission did not result from intentional or willful and wanton*
30 *misconduct on the part of the person.*

31 32 ARTICLE XII

33 34 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

35
36 A. *Rulemaking Authority – Except as otherwise provided in*
37 *this section, the Interstate Commission shall promulgate*
38 *reasonable rules to effectively and efficiently achieve the purposes*
39 *of this Compact. If the Interstate Commission exercises its*
40 *rulemaking authority in a manner that is beyond the scope of the*
41 *purposes of this Compact, or the powers granted hereunder, such*
42 *an action by the Interstate Commission shall be deemed invalid*
43 *and have no force or effect.*

44 B. *Rulemaking Procedure – Rules must be made pursuant to*
45 *a rulemaking process that substantially conforms to the Model*



1 *State Administrative Procedure Act, of 1981 Act, Uniform Laws*
2 *Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate*
3 *to the operations of the Interstate Commission.*

4 *C. Not later than 30 days after a rule is promulgated, any*
5 *person may file a petition for judicial review of the rule. The filing*
6 *of such a petition shall not stay or otherwise prevent the rule from*
7 *becoming effective unless the court finds that the petitioner has a*
8 *substantial likelihood of success. The court shall give deference to*
9 *the actions of the Interstate Commission consistent with applicable*
10 *law and shall not find the rule to be unlawful if the rule represents*
11 *a reasonable exercise of the Interstate Commission's authority.*

12 *D. If a majority of the legislatures of the compacting states*
13 *rejects a rule by enactment of a statute or resolution in the same*
14 *manner used to adopt the Compact, then such rule shall have no*
15 *further force and effect in any compacting state.*

16 17 **ARTICLE XIII**

18 19 **OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION**

20 21 **A. Oversight**

22 *1. The executive, legislative and judicial branches of state*
23 *government in each member state shall enforce this Compact and*
24 *shall take all actions necessary and appropriate to effectuate the*
25 *Compact's purposes and intent. The provisions of this Compact*
26 *and the rules promulgated hereunder must have standing as*
27 *statutory law.*

28 *2. All courts shall take judicial notice of the Compact and*
29 *the rules in any judicial or administrative proceeding in a member*
30 *state pertaining to the subject matter of this Compact which may*
31 *affect the powers, responsibilities or actions of the Interstate*
32 *Commission.*

33 *3. The Interstate Commission shall be entitled to receive*
34 *all service of process in any such proceeding and shall have*
35 *standing to intervene in the proceeding for all purposes. Failure to*
36 *provide service of process to the Interstate Commission shall*
37 *render a judgment or order void as to the Interstate Commission,*
38 *this Compact or promulgated rules.*

39 **B. Default, Technical Assistance, Suspension and** 40 **Termination**

41 *1. If the Interstate Commission determines that a member*
42 *state has defaulted in the performance of its obligations or*
43 *responsibilities under this Compact, the bylaws or the rules, the*
44 *Interstate Commission shall:*



1 a. Provide written notice to the defaulting state and
2 other member states of the nature of the default, the means of
3 curing the default and any action taken by the Interstate
4 Commission. The Interstate Commission shall specify the
5 conditions by which the defaulting state may cure its default.

6 b. Provide remedial training and specific technical
7 assistance regarding the default.

8 2. If the defaulting state fails to cure the default, the
9 defaulting state shall be terminated from the Compact upon an
10 affirmative vote of a majority of the member states and all rights,
11 privileges and benefits conferred by this Compact shall be
12 terminated from the effective date of termination. A cure of the
13 default does not relieve the offending state of obligations or
14 liabilities incurred during the period of the default.

15 3. Suspension or termination of membership in the
16 Compact may be imposed only after all other means of securing
17 compliance have been exhausted. Notice of intent to suspend or
18 terminate must be given by the Interstate Commission to the
19 Governor, the majority and minority leaders of the defaulting
20 state's legislature and each of the member states.

21 4. The state which has been suspended or terminated is
22 responsible for all assessments, obligations and liabilities incurred
23 through the effective date of suspension or termination; including
24 obligations the performance of which extends beyond the effective
25 date of suspension or termination.

26 5. The Interstate Commission shall not bear any costs
27 relating to any state that has been found to be in default or which
28 has been suspended or terminated from the Compact, unless
29 otherwise mutually agreed upon in writing between the Interstate
30 Commission and the defaulting state.

31 6. The defaulting state may appeal the action of the
32 Interstate Commission by petitioning the United States District
33 Court for the District of Columbia or the federal district where the
34 Interstate Commission has its principal offices. The prevailing
35 party shall be awarded all costs of such litigation, including
36 reasonable attorney's fees.

37 C. Dispute Resolution

38 1. The Interstate Commission shall attempt, upon the
39 request of a member state, to resolve disputes which are subject to
40 the Compact and which may arise among member states and
41 between member and nonmember states.

42 2. The Interstate Commission shall promulgate a rule
43 providing for both mediation and binding dispute resolution for
44 disputes as appropriate.



D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies set forth herein must not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind before securing the funds adequate to meet the same and shall not pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Interstate Commission must be audited yearly by a certified or licensed public accountant,



1 *and the report of the audit must be included in and become part of*
2 *the annual report of the Interstate Commission.*

3
4 **ARTICLE XV**

5
6 **MEMBER STATES, EFFECTIVE DATE AND AMENDMENT**

7
8 *A. Any state is eligible to become a member state.*

9 *B. Upon legislative enactment of the Compact into law by not*
10 *less than 10 states, the Compact becomes effective and binding as*
11 *to those states that have enacted the Compact. The Compact shall*
12 *become effective and binding as to any other member state upon*
13 *enactment of the Compact into law by that state. The governors of*
14 *nonmember states or their designees shall be invited to participate*
15 *in the activities of the Interstate Commission on a nonvoting basis*
16 *before adoption of the Compact by all states.*

17 *C. The Interstate Commission may propose amendments to*
18 *the Compact for enactment by the member states. No amendment*
19 *shall become effective and binding upon the Interstate*
20 *Commission and the member states unless and until it is enacted*
21 *into law by each member state.*

22
23 **ARTICLE XVI**

24
25 **WITHDRAWAL AND DISSOLUTION**

26
27 *A. Withdrawal*

28 *1. Once effective, the Compact shall continue in force and*
29 *remain binding upon each member state.*

30 *2. A member state may withdraw from the Compact by*
31 *repealing the statute which enacted the Compact. Withdrawal*
32 *from the Compact must not be effective less than 1 year after*
33 *the effective date of repeal of the statute and until written notice of*
34 *the withdrawal has been given by the withdrawing state to the*
35 *Governor of each member state.*

36 *3. The withdrawing state shall immediately notify the*
37 *Chairperson of the Interstate Commission in writing upon*
38 *the introduction of legislation repealing this Compact in the*
39 *withdrawing state. The Interstate Commission shall notify the*
40 *other member states of the withdrawing state's intent to withdraw*
41 *within 60 days after its receipt thereof.*

42 *4. The withdrawing state is responsible for all*
43 *assessments, obligations and liabilities incurred through the*
44 *effective date of withdrawal, including obligations the*



1 *performance of which extend beyond the effective date of*
2 *withdrawal.*

3 *5. A state that has withdrawn from the Compact may be*
4 *reinstated upon reenactment of the Compact by that state or a*
5 *later date, as determined by the Interstate Commission.*

6 *B. Dissolution of Compact*

7 *1. The effectiveness of this Compact dissolves upon the*
8 *date of the withdrawal or default of the member state which*
9 *reduces the membership in the Compact to one member state.*

10 *2. Upon dissolution of this Compact, the Compact*
11 *becomes null and void and shall be of no further force or effect.*
12 *The business and affairs of the Interstate Commission must be*
13 *concluded and surplus funds must be distributed in accordance*
14 *with the bylaws.*

15
16 *ARTICLE XVII*

17
18 *SEVERABILITY AND CONSTRUCTION*

19
20 *A. The provisions of this Compact are severable, and if any*
21 *phrase, clause, sentence or provision is deemed unenforceable, the*
22 *remaining provisions of the Compact remain enforceable.*

23 *B. The provisions of this Compact must be liberally construed*
24 *to effectuate its purposes.*

25 *C. Nothing in this Compact may be construed to prohibit the*
26 *applicability of other interstate compacts to which the states are*
27 *members.*

28
29 *ARTICLE XVIII*

30
31 *BINDING EFFECT OF COMPACT AND OTHER LAWS*

32
33 *A. Other Laws*

34 *1. Nothing herein prevents the enforcement of any other*
35 *statute of a member state that is not inconsistent with this*
36 *Compact.*

37 *2. The statutes of a member state which conflict with this*
38 *Compact are superseded to the extent of the conflict.*

39 *B. Binding Effect of the Compact*

40 *1. All lawful actions of the Interstate Commission,*
41 *including all rules and bylaws promulgated by the Interstate*
42 *Commission, are binding upon the member states.*

43 *2. All agreements between the Interstate Commission and*
44 *the member states are binding in accordance with the terms of*
45 *such agreements.*



1 3. *In the event a provision of this Compact exceeds the*
2 *constitutional limits imposed on the legislature of any member*
3 *state, such provision is not effective to the extent of the conflict*
4 *with the Constitution in that member state.*

5 **Sec. 3.** 1. *In furtherance of the provisions contained in the*
6 *Interstate Compact on Educational Opportunity for Military*
7 *Children, there is hereby created a State Council for the*
8 *Coordination of the Interstate Compact on Educational*
9 *Opportunity for Military Children, consisting of the following*
10 *members:*

11 (a) *One representative of the Nevada National Guard,*
12 *appointed by the Governor.*

13 (b) *One representative of each military installation in this*
14 *State, appointed by the commanding officer of that military*
15 *installation.*

16 (c) *The Superintendent of Public Instruction.*

17 (d) *The superintendent of each school district in which a*
18 *military installation is located.*

19 (e) *One Legislator or other person appointed by the Legislative*
20 *Commission to represent the interests of the Legislature.*

21 (f) *One person appointed by the Governor to represent the*
22 *interests of the Governor.*

23 2. *A member of the State Council serves a term of 2 years and*
24 *until his successor is appointed. A member may be reappointed.*

25 3. *A member of the State Council may be removed from office*
26 *by the appointing authority at any time.*

27 4. *A vacancy on the State Council must be filled in the same*
28 *manner as the original appointment.*

29 **Sec. 4.** 1. *The State Council for the Coordination of the*
30 *Interstate Compact on Educational Opportunity for Military*
31 *Children created pursuant to section 3 of this act shall appoint a*
32 *liaison to assist military families and the State in facilitating the*
33 *implementation of the Interstate Compact on Educational*
34 *Opportunity for Military Children. The liaison shall carry out the*
35 *duties set forth in the Interstate Compact as may be required by*
36 *the State Council.*

37 2. *The liaison appointed pursuant to this section may be a*
38 *member of the State Council appointed pursuant to section 3 of*
39 *this act or any other person deemed appropriate by the State*
40 *Council.*

41 3. *If the liaison appointed pursuant to this section is not a*
42 *member of the State Council appointed pursuant to section 3 of*
43 *this act, he shall serve as an ex officio nonvoting member of the*
44 *State Council.*



1 **Sec. 5. 1.** *The Governor shall appoint a Commissioner to*
2 *administer and manage the participation of the State in the*
3 *Interstate Compact on Educational Opportunity for Military*
4 *Children.*

5 **2.** *The Commissioner shall serve at the pleasure of the*
6 *Governor. The Commissioner shall:*

7 **(a)** *Carry out the duties set forth in the Interstate Compact as*
8 *may be required by the State Council for the Coordination of the*
9 *Interstate Compact on Educational Opportunity for Military*
10 *Children; and*

11 **(b)** *Cooperate with all departments, agencies and officers of*
12 *and in the government of this State and its subdivisions in*
13 *facilitating the proper administration of the Compact, any*
14 *supplementary agreement thereto or agreements entered into by*
15 *this State under the Interstate Compact.*

16 **3.** *The Commissioner appointed pursuant to this section may*
17 *be a member of the State Council or any other person deemed*
18 *appropriate by the Governor.*

19 **4.** *If the Commissioner appointed pursuant to this section is*
20 *not a member of the State Council appointed pursuant to section 3*
21 *of this act, the Commissioner shall serve as an ex officio*
22 *nonvoting member of the State Council.*

23 **5.** *If the Commissioner appointed pursuant to this section is*
24 *not able to attend a meeting of the Interstate Commission, the*
25 *Governor may appoint another person to attend the meeting on*
26 *behalf of the State.*

27 **Sec. 6.** (Deleted by amendment.)

28 **Sec. 7. 1.** *Money to carry out the provisions of this chapter*
29 *must be provided by direct legislative appropriation from the State*
30 *General Fund and must be accounted for separately in the*
31 *Interstate Compact on Educational Opportunity for Military*
32 *Children Account which is hereby created.*

33 **2.** *The money in the Account may be used by the State*
34 *Council for the Coordination of the Interstate Compact on*
35 *Educational Opportunity for Military Children created pursuant*
36 *to section 3 of this act to:*

37 **(a)** *Pay any assessments, obligations or fees to the Interstate*
38 *Commission.*

39 **(b)** *To meet necessary administrative expenses of the State*
40 *Council.*

41 **Sec. 8. 1.** *All officers of the State are hereby authorized*
42 *and directed to do all things falling within their respective*
43 *provinces and jurisdiction necessary or incidental to the carrying*
44 *out of the Interstate Compact on Educational Opportunity for*
45 *Military Children and to accomplish the purposes thereof.*



2. *All officers, bureaus, departments and persons of and in the State Government or administration of this State are hereby authorized and directed at convenient times and upon request of the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children to furnish the State Council with information and data possessed by them and to aid the State Council by any means lying within their legal rights.*

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 388.470 is hereby amended to read as follows:

388.470 1. Before any child is placed in a special program for pupils with disabilities or gifted and talented pupils:

(a) A consultation must be held with his parents or guardian.

(b) An examination must be conducted for the purpose of finding the extent to which the child deviates from normal growth and development patterns. The examination must be conducted in accordance with standards prescribed by the State Board.

2. A psychiatrist may be consulted in any specific case when the board of trustees of a school district deems it necessary.

3. The board of trustees of a school district or the governing body of a charter school shall not place a child or authorize the placement of a child in a program for pupils with disabilities solely because the child is a disciplinary problem in school.

4. *Pursuant to the provisions of section 2 of this act, a child with a disability who transfers to a school in this State from a school inside or outside this State because of the military transfer of the parent or legal guardian of the child must initially be provided services that are comparable to the services the child received at his previous school under his current individualized education program until the placement of the child is determined pursuant to this section.*

Sec. 10.5. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The superintendent of a school district or his designee shall, in accordance with section 2 of this act, make reasonable efforts to accommodate a pupil who transfers to a public school in the school district from a school inside or outside this State because of the military transfer of the parent or legal guardian of the pupil.*

2. *If the superintendent of a school district or his designee is not able to grant a standard high school diploma to a pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil, the superintendent or his designee shall work cooperatively with the local education agency in the state in which the pupil was previously enrolled to determine if the*



pupil is eligible to receive a diploma from that local education agency and, if the pupil is eligible, to facilitate receiving a high school diploma from that local education agency.

Sec. 11. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11.

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

- (1) The plan adopted by the Department; and
- (2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of



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1 the examinations, the superintendent of schools of each school
2 district shall certify that the results of the examinations have been
3 transmitted to each school within the school district. Except as
4 otherwise provided in this subsection, not more than 15 working
5 days after each school receives the results of the examinations, the
6 principal of each school and the governing body of each charter
7 school shall certify that the results for each pupil have been
8 provided to the parent or legal guardian of the pupil:

9 (a) During a conference between the teacher of the pupil or
10 administrator of the school and the parent or legal guardian of the
11 pupil; or

12 (b) By mailing the results of the examinations to the last known
13 address of the parent or legal guardian of the pupil.

14 ➔ If a pupil fails the high school proficiency examination, the
15 school shall notify the pupil and the parents or legal guardian of the
16 pupil of each subject area that the pupil failed as soon as practicable
17 but not later than 15 working days after the school receives the
18 results of the examination.

19 4. If a pupil fails to demonstrate at least adequate achievement
20 on the examination administered before the completion of grade 4, 7
21 or 10, he may be promoted to the next higher grade, but the results
22 of his examination must be evaluated to determine what remedial
23 study is appropriate. If such a pupil is enrolled at a school that has
24 failed to make adequate yearly progress or in which less than 60
25 percent of the pupils enrolled in grade 4, 7 or 10 in the school who
26 took the examinations administered pursuant to this section received
27 an average score on those examinations that is at least equal to the
28 26th percentile of the national reference group of pupils to which the
29 examinations were compared, the pupil must, in accordance with
30 the requirements set forth in this subsection, complete remedial
31 study that is determined to be appropriate for the pupil.

32 5. ~~HH~~ *Except as otherwise provided in subsection 6, if* a pupil
33 fails to pass the high school proficiency examination, he must not be
34 graduated unless he:

35 (a) Is able, through remedial study, to pass the proficiency
36 examination; or

37 (b) Passes the subject areas of mathematics and reading tested
38 on the proficiency examination, has at least a 2.75 grade point
39 average on a 4.0 grading scale and satisfies the alternative criteria
40 prescribed by the State Board pursuant to NRS 389.805,

41 ➔ but he may be given a certificate of attendance, in place of a
42 diploma, if he has reached the age of 18 years.

43 6. *A pupil who transfers during grade 12 to a school in this*
44 *State from a school outside this State because of the military*
45 *transfer of the parent or legal guardian of the pupil may receive a*



1 *waiver from the requirements of subsection 5 if, in accordance*
2 *with the provisions of section 2 of this act, the school district in*
3 *which the pupil is enrolled:*

4 *(a) Accepts the results of the exit or end-of-course*
5 *examinations required for graduation in the local education*
6 *agency in which the pupil was previously enrolled;*

7 *(b) Accepts the results of a national norm-referenced*
8 *achievement examination taken by the pupil; or*

9 *(c) Establishes an alternative test for the pupil which*
10 *demonstrates proficiency in the subject areas tested on the high*
11 *school proficiency examination, and the pupil successfully passes*
12 *that test.*

13 **7.** The State Board shall prescribe standard examinations of
14 achievement and proficiency to be administered pursuant to
15 subsection 1. The high school proficiency examination must include
16 the subjects of reading, mathematics and science and, except for the
17 writing portion prescribed pursuant to NRS 389.550, must be
18 developed, printed and scored by a nationally recognized testing
19 company in accordance with the process established by the testing
20 company. The examinations on reading, mathematics and science
21 prescribed for grades 4, 7 and 10 must be selected from
22 examinations created by private entities and administered to a
23 national reference group, and must allow for a comparison of the
24 achievement and proficiency of pupils in grades 4, 7 and 10 in this
25 State to that of a national reference group of pupils in grades 4, 7
26 and 10. The questions contained in the examinations and the
27 approved answers used for grading them are confidential, and
28 disclosure is unlawful except:

29 (a) To the extent necessary for administering and evaluating the
30 examinations.

31 (b) That a disclosure may be made to a:

32 (1) State officer who is a member of the Executive or
33 Legislative Branch to the extent that it is necessary for the
34 performance of his duties;

35 (2) Superintendent of schools of a school district to the
36 extent that it is necessary for the performance of his duties;

37 (3) Director of curriculum of a school district to the extent
38 that it is necessary for the performance of his duties; and

39 (4) Director of testing of a school district to the extent that it
40 is necessary for the performance of his duties.

41 (c) That specific questions and answers may be disclosed if the
42 Superintendent of Public Instruction determines that the content of
43 the questions and answers is not being used in a current examination
44 and making the content available to the public poses no threat to the
45 security of the current examination process.



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(d) As required pursuant to NRS 239.0115.

Sec. 12. NRS 389.035 is hereby amended to read as follows:

389.035 1. Except as otherwise provided in ~~subsection 2,~~
subsections 2 and 3, no pupil in any public high school, the Caliente
Youth Center, the Nevada Youth Training Center or any other state
facility for the detention of children that is operated pursuant to title
5 of NRS may receive a certificate or diploma of graduation without
having passed a course in American government and American
history as required by NRS 389.020 and 389.030.

2. A pupil who is enrolled in a university school for profoundly
gifted pupils who meets the requirements of NRS 392A.100 is
exempt from the provisions of ~~this section,~~ *subsection 1.*

*3. A pupil who transfers during grade 12 to a school in this
State from a school outside this State because of the military
transfer of the parent or legal guardian of the pupil may receive a
waiver from the requirements of subsection 1 if, in accordance
with the provisions of section 2 of this act, the pupil:*

*(a) Successfully completed a comparable course in the school
in which he was previously enrolled; or*

*(b) Successfully completes an alternative means prescribed by
the school district for acquiring the required course work.*

Sec. 13. NRS 389.805 is hereby amended to read as follows:

389.805 1. ~~[A]~~ *Except as otherwise provided in subsection
3, a* pupil must receive a standard high school diploma if he:

(a) Passes all subject areas of the high school proficiency
examination administered pursuant to NRS 389.015 and otherwise
satisfies the requirements for graduation from high school; or

(b) Has failed to pass the high school proficiency examination
administered pursuant to NRS 389.015 in its entirety not less than
three times before beginning grade 12 and the pupil:

(1) Passes the subject areas of mathematics and reading on
the proficiency examination;

(2) Has an overall grade point average of not less than 2.75
on a 4.0 grading scale;

(3) Satisfies the alternative criteria prescribed by the State
Board pursuant to subsection ~~[3:] 4;~~ and

(4) Otherwise satisfies the requirements for graduation from
high school.

2. A pupil with a disability who does not satisfy the
requirements for receipt of a standard high school diploma may
receive a diploma designated as an adjusted diploma if he satisfies
the requirements set forth in his individualized education program.
As used in this subsection, "individualized education program" has
the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).



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3. *A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of paragraphs (a) and (b) of subsection 1 if, in accordance with the provisions of section 2 of this act, the school district in which the pupil is enrolled:*

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

4. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:

(a) An essay;

(b) A senior project; or

(c) A portfolio of work,

➤ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 392.040 is hereby amended to read as follows:

392.040 1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and 18 years shall send the child to a public school during all the time the public school is in session in the school district in which the child resides unless the child has graduated from high school.

2. A child who is 5 years of age on or before September 30 of a school year may be admitted to kindergarten at the beginning of that school year, and his enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year, the child must not be admitted to kindergarten.

3. Except as otherwise provided in subsection 4, a child who is 6 years of age on or before September 30 of a school year must:

(a) If he has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or

(b) If he has completed kindergarten, be admitted to the first grade at the beginning of that school year,



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1 ↳ and his enrollment must be counted for purposes of
2 apportionment. If a child is not 6 years of age on or before
3 September 30 of a school year, the child must not be admitted to the
4 first grade until the beginning of the school year following his sixth
5 birthday.

6 4. The parents, custodial parent, guardian or other person
7 within the State of Nevada having control or charge of a child who
8 is 6 years of age on or before September 30 of a school year may
9 elect for the child not to attend kindergarten or the first grade during
10 that year. The parents, custodial parent, guardian or other person
11 who makes such an election shall file with the board of trustees of
12 the appropriate school district a waiver in a form prescribed by the
13 board.

14 5. Whenever a child who is 6 years of age is enrolled in a
15 public school, each parent, custodial parent, guardian or other
16 person in the State of Nevada having control or charge of the child
17 shall send him to the public school during all the time the school is
18 in session. If the board of trustees of a school district has adopted a
19 policy prescribing a minimum number of days of attendance for
20 pupils enrolled in kindergarten or first grade pursuant to
21 NRS 392.122, the school district shall provide to each parent and
22 legal guardian of a pupil who elects to enroll his child in
23 kindergarten or first grade a written document containing a copy of
24 that policy and a copy of the policy of the school district concerning
25 the withdrawal of pupils from kindergarten or first grade. Before the
26 child's first day of attendance at a school, the parent or legal
27 guardian shall sign a statement on a form provided by the school
28 district acknowledging that he has read and understands the policy
29 concerning attendance and the policy concerning withdrawal of
30 pupils from kindergarten or first grade. The parent or legal guardian
31 shall comply with the applicable requirements for attendance. This
32 requirement for attendance does not apply to any child under the age
33 of 7 years who has not yet been enrolled or has been formally
34 withdrawn from enrollment in public school.

35 6. A child who is 7 years of age on or before September 30 of a
36 school year must:

37 (a) If he has completed kindergarten and the first grade, be
38 admitted to the second grade.

39 (b) If he has completed kindergarten, be admitted to the first
40 grade.

41 (c) If the parents, custodial parent, guardian or other person in
42 the State of Nevada having control or charge of the child waived the
43 child's attendance from kindergarten pursuant to subsection 4,
44 undergo an assessment by the district pursuant to subsection 7 to
45 determine whether the child is prepared developmentally to be



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1 admitted to the first grade. If the district determines that the child is
2 prepared developmentally, he must be admitted to the first grade. If
3 the district determines that the child is not so prepared, he must be
4 admitted to kindergarten.

5 ➤ The enrollment of any child pursuant to this subsection must be
6 counted for apportionment purposes.

7 7. Each school district shall prepare and administer before the
8 beginning of each school year a developmental screening test to a
9 child:

10 (a) Who is 7 years of age on or before September 30 of the next
11 school year; and

12 (b) Whose parents waived his attendance from kindergarten
13 pursuant to subsection 4,

14 ➤ to determine whether the child is prepared developmentally to be
15 admitted to the first grade. The results of the test must be made
16 available to the parents, custodial parent, guardian or other person
17 within the State of Nevada having control or charge of the child.

18 8. ~~[A]~~ *Except as otherwise provided in subsection 9, a* child
19 who becomes a resident of this State after completing kindergarten
20 or beginning first grade in another state in accordance with the laws
21 of that state may be admitted to the grade he was attending or would
22 be attending had he remained a resident of the other state regardless
23 of his age, unless the board of trustees of the school district
24 determines that the requirements of this section are being
25 deliberately circumvented.

26 9. *Pursuant to the provisions of section 2 of this act, a child*
27 *who transfers to a school in this State from a school outside this*
28 *State because of the military transfer of the parent or legal*
29 *guardian of the child must be admitted to:*

30 (a) *The grade, other than kindergarten, he was attending or*
31 *would be attending had he remained a resident of the other state,*
32 *regardless of his age.*

33 (b) *Kindergarten, if the child was enrolled in kindergarten in*
34 *another state in accordance with the laws of that state, regardless*
35 *of his age.*

36 10. As used in this section, "kindergarten" includes:

37 (a) A kindergarten established by the board of trustees of a
38 school district pursuant to NRS 388.060;

39 (b) A kindergarten established by the governing body of a
40 charter school; and

41 (c) An authorized program of instruction for kindergarten
42 offered in a child's home pursuant to NRS 388.060.

43 **Sec. 16.** NRS 392.122 is hereby amended to read as follows:

44 392.122 1. The board of trustees of each school district shall
45 prescribe a minimum number of days that a pupil who is subject to



1 compulsory attendance and enrolled in a school in the district must
2 be in attendance for the pupil to obtain credit or to be promoted to
3 the next higher grade. The board of trustees of a school district may
4 adopt a policy prescribing a minimum number of days that a pupil
5 who is enrolled in kindergarten or first grade in the school district
6 must be in attendance for the pupil to obtain credit or to be
7 promoted to the next higher grade.

8 2. For the purposes of this section, the days on which a pupil is
9 not in attendance because the pupil is absent for up to 10 days
10 within 1 school year with the approval of the teacher or principal of
11 the school pursuant to NRS 392.130, must be credited towards the
12 required days of attendance if the pupil has completed course-work
13 requirements. *The teacher or principal of the school may approve*
14 *the absence of a pupil for deployment activities of the parent or*
15 *legal guardian of the pupil, as defined in section 2 of this act.* If
16 the board of trustees of a school district has adopted a policy
17 pursuant to subsection 5, the 10-day limitation on absences does not
18 apply to absences that are excused pursuant to that policy.

19 3. Except as otherwise provided in subsection 5, before a pupil
20 is denied credit or promotion to the next higher grade for failure to
21 comply with the attendance requirements prescribed pursuant to
22 subsection 1, the principal of the school in which the pupil is
23 enrolled or his designee shall provide written notice of the intended
24 denial to the parent or legal guardian of the pupil. The notice must
25 include a statement indicating that the pupil and his parent or legal
26 guardian may request a review of the absences of the pupil and a
27 statement of the procedure for requesting such a review. Upon the
28 request for a review by the pupil and his parent or legal guardian,
29 the principal or his designee shall review the reason for each
30 absence of the pupil upon which the intended denial of credit or
31 promotion is based. After the review, the principal or his designee
32 shall credit towards the required days of attendance each day of
33 absence for which:

34 (a) There is evidence or a written affirmation by the parent or
35 legal guardian of the pupil that the pupil was physically or mentally
36 unable to attend school on the day of the absence; and

37 (b) The pupil has completed course-work requirements.

38 4. A pupil and his parent or legal guardian may appeal a
39 decision of a principal or his designee pursuant to subsection 3 to
40 the board of trustees of the school district in which the pupil is
41 enrolled.

42 5. The board of trustees of a school district may adopt a policy
43 to exempt pupils who are physically or mentally unable to attend
44 school from the limitations on absences set forth in subsection 1. If a
45 board of trustees adopts a policy pursuant to this subsection:



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(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.

(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course-work requirements.

(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.

6. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 17. NRS 392.435 is hereby amended to read as follows:

392.435 1. Unless excused because of religious belief or medical condition ~~H~~ *and except as otherwise provided in subsection 5*, a child may not be enrolled in a public school within this State unless his parents or guardian submit to the board of trustees of the school district in which the child resides or the governing body of the charter school in which the child has been accepted for enrollment a certificate stating that the child has been immunized and has received proper boosters for that immunization or is complying with the schedules established by regulation pursuant to NRS 439.550 for the following diseases:

(a) Diphtheria;

(b) Tetanus;

(c) Pertussis if the child is under 6 years of age;

(d) Poliomyelitis;

(e) Rubella;

(f) Rubeola; and

(g) Such other diseases as the local board of health or the State Board of Health may determine.

2. The certificate must show that the required vaccines and boosters were given and must bear the signature of a licensed physician or his designee or a registered nurse or his designee, attesting that the certificate accurately reflects the child's record of immunization.

3. If the requirements of subsection 1 can be met with one visit to a physician or clinic, procedures for conditional enrollment do not apply.

4. A child may enter school conditionally if the parent or guardian submits a certificate from a physician or local health officer that the child is receiving the required immunizations. If a



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1 certificate from the physician or local health officer showing that the
2 child has been fully immunized is not submitted to the appropriate
3 school officers within 90 school days, or its equivalent in a school
4 district operating under an alternative schedule authorized pursuant
5 to NRS 388.090, after the child was conditionally admitted, the
6 child must be excluded from school and may not be readmitted until
7 the requirements for immunization have been met. A child who is
8 excluded from school pursuant to this section is a neglected child for
9 the purposes of NRS 432.0999 to 432.130, inclusive, and chapter
10 432B of NRS.

11 5. *A child who transfers to a school in this State from a*
12 *school outside this State because of the military transfer of the*
13 *parent or legal guardian of the child must be enrolled in school in*
14 *this State regardless of whether the child has been immunized.*
15 *Unless a different time frame is prescribed pursuant to section 2 of*
16 *this act, the parent or legal guardian shall submit a certificate*
17 *from a physician or local health officer showing that the child:*

18 (a) *If the requirements of subsection 1 can be met with one*
19 *visit to a physician or clinic, has been fully immunized within 30*
20 *school days, or its equivalent in a school district operating under*
21 *an alternative schedule authorized pursuant to NRS 388.090, after*
22 *the child was enrolled; or*

23 (b) *If the requirements of subsection 1 cannot be met with one*
24 *visit to a physician or clinic, is receiving the required*
25 *immunizations within 30 school days, or its equivalent in a school*
26 *district operating under an alternative schedule authorized*
27 *pursuant to NRS 388.090, after the child was enrolled. A*
28 *certificate from the physician or local health officer showing that*
29 *the child has been fully immunized must be submitted to the*
30 *appropriate school officers within 120 school days, or its*
31 *equivalent in a school district operating under an alternative*
32 *schedule authorized pursuant to NRS 388.090, after the child was*
33 *enrolled.*

34 ➔ *If the parent or legal guardian fails to submit the*
35 *documentation required pursuant to this subsection, the child*
36 *must be excluded from school and may not be readmitted until the*
37 *requirements for immunization have been met. A child who is*
38 *excluded from school pursuant to this section is a neglected child*
39 *for the purposes of NRS 432.0999 to 432.130, inclusive, and*
40 *chapter 432B of NRS.*

41 6. Before December 31 of each year, each school district and
42 the governing body of each charter school shall report to the Health
43 Division of the Department of Health and Human Services, on a
44 form furnished by the Division, the exact number of pupils who
45 have completed the immunizations required by this section.



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- 1 ~~6.~~ 7. The certificate of immunization must be included in the
- 2 pupil's academic or cumulative record and transferred as part of that
- 3 record upon request.
- 4 **Sec. 18.** This act becomes effective on July 1, 2009.

