

## Amendment No. 480

Assembly Amendment to Assembly Bill No. 400

(BDR 34-446)

**Proposed by:** Assembly Committee on Education**Amends:** Summary: No Title: Yes Preamble: Add Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      | Initial and Date               | SENATE ACTION |                          |      | Initial and Date               |
|-----------------|--------------------------|------|--------------------------------|---------------|--------------------------|------|--------------------------------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> _____ | Adopted       | <input type="checkbox"/> | Lost | <input type="checkbox"/> _____ |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> _____ | Concurred In  | <input type="checkbox"/> | Not  | <input type="checkbox"/> _____ |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> _____ | Receded       | <input type="checkbox"/> | Not  | <input type="checkbox"/> _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KRO/JWP



Date: 4/21/2017

A.B. No. 400—Revises provisions relating to instructional materials.

(BDR 34-446)





ASSEMBLY BILL NO. 400—ASSEMBLYWOMAN  
NEAL (BY REQUEST)

MARCH 20, 2017

Referred to Committee on Education

SUMMARY—Revises provisions relating to instructional materials.  
(BDR 34-446)FISCAL NOTE: Effect on Local Government: No.  
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; requiring the board of trustees of a school district or governing body of a charter school to transfer the copyright or otherwise relinquish any claim to the copyright for certain instructional materials ~~for tools~~ to an employee of the school district or charter school; requiring the Department of Education to establish a database of instructional materials ~~and tools~~ created by employees of school districts and charter schools in this State; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing federal law provides that the employer owns the copyright of a work produced by an employee within the scope of his or her employment. (17 U.S.C. § 201) This bill requires the board of trustees of a school district or the governing body of a charter school to :(1) transfer to an employee of the school district or charter school the copyright for any instructional materials ~~for tools~~ created by the employee, ~~and~~ outside the scope of his or her employment; or (2) otherwise relinquish any claim to the copyright for such instructional materials.

This bill also requires the Department of Education to establish a database of instructional materials ~~and tools~~ created by employees of school districts and charter schools in this State and provide access to the database to any employee of a school district or charter school in this State upon request. This bill authorizes any person to suggest to the Department the inclusion of instructional materials ~~for tools~~ in the database. This bill provides that instructional materials ~~for tools~~ suggested for inclusion will be included in the database if: (1) use of the instructional materials ~~for tools~~ is approved by the regional training program established for the region in which the employee who created the instructional materials ~~for tools~~ is employed; and (2) the Department enters into a contract with the employee who created the instructional materials ~~for tools~~ authorizing the Department to include the instructional materials ~~for tools~~ in the database, ~~and~~ and allow any employee of a school district or charter school in this State to use the instructional materials free of charge.

1 WHEREAS, Creating instructional materials, including textbooks, outside  
2 of the scope of a teacher's or other employee's employment allows the teacher  
3 or other employee to use his or her knowledge and experience to benefit a  
4 larger number of teachers, school employees and pupils; and

5 WHEREAS, A teacher or other employee of a school deserves to own any  
6 instructional materials created by the teacher or employee outside the scope of  
7 his or her employment without hindrance and receive compensation for the  
8 use of such instructional materials; and

9 WHEREAS, Providing teachers and other school employees with access to a  
10 wide variety of instructional materials will allow those teachers and school  
11 employees to better meet the needs of their pupils; now, therefore,

12  
13 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
14 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:  
15

16 **Section 1.** Chapter 389 of NRS is hereby amended by adding thereto a new  
17 section to read as follows:

18 *1. The board of trustees of a school district or the governing body of a*  
19 *charter school shall transfer to an employee of the school district or charter*  
20 *school, as applicable, free of charge, the copyright for any instructional materials*  
21 *~~for tools~~ created by the employee ~~for~~ outside the scope of his or her employment*  
22 *or otherwise relinquish any claim to the copyright for such instructional*  
23 *materials.*

24 *2. The Department shall establish a database of instructional materials ~~for~~*  
25 *~~tools~~ created by employees of school districts and charter schools in this State.*  
26 *Any person, including, without limitation, an employee of a school district or*  
27 *charter school, may suggest to the Department the inclusion of such instructional*  
28 *materials ~~for tools~~ in the database. The suggested instructional materials ~~for~~*  
29 *~~tools~~ must be included in the database if:*

30 *(a) The inclusion of the instructional materials ~~for tools~~ in the database is*  
31 *approved by the regional training program established pursuant to NRS*  
32 *391A.120 for the region in which the employee who created the instructional*  
33 *materials ~~for tools~~ is employed; and*

34 *(b) The Department enters into a contract with the employee who created the*  
35 *instructional materials ~~for tools~~ authorizing the Department to include the*  
36 *instructional materials ~~for tools~~ in the database ~~for~~ and allow any employee of a*  
37 *school district or charter school in this State to use the instructional materials*  
38 *free of charge.*

39 *3. The database established pursuant to subsection 2 must:*

40 *(a) Identify, for each set of instructional materials included in the database,*  
41 *the school and, if applicable, the school district in which the set of instructional*  
42 *materials is used; and*

43 *(b) Allow an employee of a school district or charter school to search for all*  
44 *instructional materials that are used in schools that, pursuant to the attendance*  
45 *matriculation pattern of a particular school, are regularly attended by pupils who*  
46 *ultimately attend that school.*

47 *4. The Department shall provide access to the database established*  
48 *pursuant to subsection 2 to any employee of a school district or charter school in*  
49 *this State upon request.*

50 *~~for~~ 5. The State Board may adopt any regulations necessary to carry out*  
51 *the provisions of this section.*

52 *6. As used in this section, the term "instructional materials" does not*  
53 *include tests, quizzes, homework problems or lesson plans.*

1       **Sec. 1.5. NRS 389.840 is hereby amended to read as follows:**

2       389.840 As used in NRS 389.840 to 389.880, inclusive, unless the context  
3 requires otherwise:

4       1. “Basic textbook” or “textbook” means any medium or manual of  
5 instruction, including, without limitation, software for computers, ~~or~~ **or a medium**  
6 **or manual of instruction to which an employee of a school district owns the**  
7 **copyright pursuant to section 1 of this act,** containing a presentation of the  
8 principles of a subject and used as a basis of instruction.

9       2. “Supplemental textbook” means any medium or material, including,  
10 without limitation, software for computers, ~~or~~ **or a medium or material to which an**  
11 **employee of a school district owns the copyright pursuant to section 1 of this act,**  
12 used to reinforce or extend a basic program of instruction.

13       3. A basic or supplemental textbook becomes “unserviceable” when 4 years  
14 have elapsed since its removal from the adopted list.

15       **Sec. 2.** Insofar as they conflict with the provisions of such an agreement, the  
16 amendatory provisions of this act do not apply during the current term of any  
17 contract of employment or collective bargaining agreement entered into before  
18 January 1, 2018, but do apply to any extension or renewal of such an agreement and  
19 to any agreement entered into on or after January 1, 2018.

20       **Sec. 3.** This act becomes effective upon passage and approval for the purpose  
21 of adopting regulations and performing any other administrative tasks that are  
22 necessary to carry out the provisions of this act and on January 1, 2018, for all other  
23 purposes.