

SENATE BILL NO. 83—COMMITTEE ON EDUCATION

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON EDUCATION)

PREFILED JANUARY 28, 2021

Referred to Committee on Education

SUMMARY—Revises provisions relating to certain assessments.
(BDR 34-527)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; authorizing the Department of Education to temporarily waive or pause certain requirements related to certain examinations or assessments if the United States Department of Education has waived or paused similar requirements of federal law; providing certain exceptions to provisions that require the use of the results of an examination or assessment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law requires a state to demonstrate that the state has implemented student academic assessments in certain subjects. (20 U.S.C. § 6311(b)(2)) Under existing federal law, the Secretary of Education of the United States Department of Education may grant a request made by a state for a waiver from various statutory or regulatory requirements, including, without limitation, the requirement to implement academic assessments. (20 U.S.C. § 7861) Under existing law, the State Board of Education is required to prescribe examinations that comply with federal law to measure the achievement and proficiency of pupils. Existing law also requires the board of trustees of a school district and the governing body of a charter school to administer such examinations to pupils as prescribed by the State Board. (NRS 390.105) **Section 8** of this bill authorizes the Department of Education to waive or pause the requirements of administering examinations that comply with federal law if the United States Department of Education grants a waiver from such requirements to the Department of Education or otherwise pauses the requirements of the federal law.

Existing law requires the results of the examinations to measure the achievement and proficiency of pupils and certain other information be included in



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the annual report of accountability prepared by the board of trustees of a school district and the annual report of accountability prepared by the State Board of Education. (NRS 385A.200, 385A.270, 385A.280, 385A.410, 385A.480, 385A.490) **Section 1** of this bill eliminates the requirement to include certain information in the annual report of accountability which is based upon the results of examinations to measure the achievement and proficiency of pupils during the period of time that a waiver or pause of such testing as provided in **section 8** is effective. Existing law requires the Department of Education to use the examinations to measure the achievement and proficiency of pupils to determine the proficiency of a pupil in certain grade levels. (NRS 387.137) Under existing law, the Department is required to adopt a model to measure the achievement of pupils in certain grade levels based on the results of such examinations. (NRS 390.125) Existing law also requires the Department to take certain actions if the Department determines that an irregularity in testing administration occurred during certain school years. (NRS 390.290) **Sections 2-7, 9 and 10** of this bill make conforming changes to comply with a waiver or pause of testing as provided in **section 8**.

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

Section 1. NRS 385A.200 is hereby amended to read as follows:

385A.200 ~~{The}~~

1. Except as otherwise provided in subsection 2, the annual report of accountability prepared pursuant to NRS 385A.070 must include information on pupil achievement and school performance, including, without limitation, pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610 and shall compare the results of those examinations for the school year for which the annual report is being prepared with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school sponsored by the district, and each grade in which the examinations and assessments were administered:

~~{1-}~~ (a) The number of pupils who took the examinations and a record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

~~{2-}~~ (b) Except as otherwise provided in subsection 2 of NRS 385A.070, pupil achievement, reported separately by gender and



reported separately for the groups of pupils identified in the statewide system of accountability for public schools.

~~[3-]~~ (c) A comparison of the achievement of pupils in each group identified in the statewide system of accountability for public schools with the performance targets established for that group.

~~[4-]~~ (d) The percentage of pupils who were not tested.

~~[5-]~~ (e) Except as otherwise provided in subsection 2 of NRS 385A.070, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in the statewide system of accountability for public schools.

~~[6-]~~ (f) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

~~[7-]~~ (g) The rating of each public school in the district, including, without limitation, each charter school sponsored by the district, pursuant to the statewide system of accountability for public schools.

~~[8-]~~ (h) Information on whether each school in the district, including, without limitation, each charter school sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 390.125.

~~[9-]~~ (i) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools sponsored by the district, with the results of pupils throughout this State. The information required by this ~~[subsection]~~ **paragraph** must be provided in consultation with the Department to ensure the accuracy of the comparison.

~~[10-]~~ (j) For each school in the district, including, without limitation, each charter school sponsored by the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this ~~[subsection]~~ **paragraph** must be provided in consultation with the Department to ensure the accuracy of the comparison.

2. If the Department temporarily waives or otherwise pauses the requirement to administer examinations that comply with 20 U.S.C. § 6311(b)(2) pursuant to subsection 6 of NRS 390.105, the requirement of subsection 1 to include certain information in the annual report of accountability prepared pursuant to NRS 385A.070 does not apply for the period of time that such a waiver or pause is effective.



Sec. 2. NRS 385A.270 is hereby amended to read as follows:

385A.270 1. The annual report of accountability prepared pursuant to NRS 385A.070 must include, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information concerning pupils who are eligible for free or reduced-price breakfasts pursuant to 42 U.S.C. §§ 1771 et seq. and pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq., including, without limitation:

(a) The number and percentage of pupils who are eligible for free or reduced-price breakfasts;

(b) The percentage of pupils who receive free and reduced-price breakfasts;

(c) The number and percentage of pupils who are eligible for free or reduced-price lunches;

(d) The percentage of pupils who receive free and reduced-price lunches;

(e) A comparison of the achievement and proficiency of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches;

(f) A comparison of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches and pupils who receive free and reduced-price lunches for which data is required to be collected in the following areas:

(1) Retention rates;

(2) Graduation rates;

(3) Dropout rates;

(4) Grade point averages; and

(5) ~~Seeres~~ *Except as otherwise provided in subsection 6 of NRS 390.105, scores* on the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610.

2. The State Board may adopt any regulations necessary to carry out the provisions of this section.

Sec. 3. NRS 385A.280 is hereby amended to read as follows:

385A.280 1. The annual report of accountability prepared pursuant to NRS 385A.070 must include, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information regarding



the progression of pupils who are English learners in attaining proficiency in the English language, including, without limitation:

(a) The number and percentage of pupils who were identified as English learners at the beginning of the school year, were continually enrolled throughout the school year and were identified as proficient in English by the completion of the school year;

(b) The achievement and proficiency of pupils who are English learners in comparison to the pupils who are proficient in English;

(c) A comparison of pupils who are English learners and pupils who are proficient in the English language in the following areas:

(1) Retention rates;

(2) Graduation rates;

(3) Dropout rates;

(4) Grade point averages; and

(5) ~~See~~ *Except as otherwise provided in subsection 6 of NRS 390.105, scores* on the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610; and

(d) Results of the assessments and reassessments of pupils who are English learners, reported separately by the primary language of the pupils, pursuant to the policy developed by the board of trustees of the school district pursuant to NRS 388.407.

2. The data reported pursuant to subparagraph (5) of paragraph (c) of subsection 1 must be reported separately:

(a) According to subject matter areas measured using the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610;

(b) For pupils who are newcomers to the English language, pupils who are short-term English learners and pupils who are long-term English learners, as designated by regulation of the State Board; and

(c) For middle schools, junior high schools and high schools, according to any identified trends in the proficiency in the English language of pupils who are English learners over the immediately preceding 3 years.

3. In addition to including the information prescribed by this section in the annual report of accountability prepared pursuant to NRS 385A.070, the board of trustees of each school district and the governing body of each charter school shall, on or before October 1 of each year:

(a) Submit a report of the information prescribed by this section to the Department of Education and the Director of the Legislative Counsel Bureau for transmittal to:



(1) In odd-numbered years, the Legislative Committee on Education; and

(2) In even-numbered years, the next regular session of the Legislature; and

(b) Post the report on an Internet website maintained by the school district or charter school, as applicable.

Sec. 4. NRS 385A.410 is hereby amended to read as follows:

385A.410 ~~[The]~~ *Except as otherwise provided in subsection 6 of NRS 390.105, the* annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include information on pupil achievement and school performance, including, without limitation:

1. Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

2. Except as otherwise provided in subsection 2 of NRS 385A.400, pupil achievement, reported separately by gender and reported separately for the groups of pupils identified in the statewide system of accountability for public schools.

3. A comparison of the achievement of pupils in each group identified in the statewide system of accountability for public schools with the performance targets established for that group.

4. The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

5. Except as otherwise provided in subsection 2 of NRS 385A.400, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in the statewide system of accountability for public schools.

6. The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

7. The rating of each public school, including, without limitation, each charter school, pursuant to the statewide system of accountability for public schools.



8. Information on whether each public school, including, without limitation, each charter school, has made progress based upon the model adopted by the Department pursuant to NRS 390.125, if applicable for the grade level of pupils enrolled at the school.

9. Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 390.830.

Sec. 5. NRS 385A.480 is hereby amended to read as follows:

385A.480 The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include for each school district, including, without limitation, each charter school in the district, and for this State as a whole, information concerning pupils who are eligible for free or reduced-price breakfasts pursuant to 42 U.S.C. §§ 1771 et seq. and pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq., including, without limitation:

1. The number and percentage of pupils who are eligible for free or reduced-price breakfasts;

2. The number and percentage of pupils who receive free and reduced-price breakfasts;

3. The number and percentage of pupils who are eligible for free or reduced-price lunches;

4. The number and percentage of pupils who receive free and reduced-price lunches;

5. A comparison of the achievement and proficiency of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches;

6. A comparison of pupils, reported separately by race and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches and pupils who receive free and reduced-price lunches for which data is required to be collected in the following areas:

(a) Retention rates;

(b) Graduation rates;

(c) Dropout rates;

(d) Grade point averages; and

(e) ~~[Scores]~~ *Except as otherwise provided in subsection 6 of NRS 390.105, scores* on the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610.



Sec. 6. NRS 385A.490 is hereby amended to read as follows:

385A.490 1. The annual report of accountability prepared by the State Board pursuant to NRS 385A.400 must include for each school district, including, without limitation, each charter school in the district, and for this State as a whole, information regarding the progression of pupils who are English learners in attaining proficiency in the English language, including, without limitation:

(a) The number and percentage of pupils who were identified as English learners at the beginning of the school year, were continually enrolled throughout the school year and were identified as proficient in English by the completion of the school year;

(b) The achievement and proficiency of pupils who are English learners in comparison to the pupils who are proficient in English;

(c) A comparison of pupils who are English learners and pupils who are proficient in the English language in the following areas:

(1) Retention rates;

(2) Graduation rates;

(3) Dropout rates;

(4) Grade point averages; and

(5) ~~[Scores]~~ *Except as otherwise provided in subsection 6 of NRS 390.105, scores* on the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610; and

(d) Results of the assessments and reassessments of pupils who are English learners, reported separately by the primary language of the pupils, pursuant to the policies developed by the boards of trustees of school districts pursuant to NRS 388.407.

2. The data reported pursuant to subparagraph (5) of paragraph (c) of subsection 1 must be reported separately:

(a) According to subject matter areas measured using the examinations administered pursuant to NRS 390.105 and the college and career readiness assessment administered pursuant to NRS 390.610;

(b) For pupils who are newcomers to the English language, pupils who are short-term English learners and pupils who are long-term English learners, as designated by regulation of the State Board; and

(c) For middle schools, junior high schools and high schools, according to any identified trends in the proficiency in the English language of pupils who are English learners over the immediately preceding 3 years.

Sec. 7. NRS 387.137 is hereby amended to read as follows:

387.137 1. To determine the proficiency of a pupil pursuant to paragraph (b) of subsection 1 of NRS 387.131, the Department shall use, for a pupil who is:



(a) An English learner in any grade, the assessment of proficiency in the English language prescribed by the State Board pursuant to NRS 390.810.

(b) In kindergarten or grade 1 or 2, the assessment implemented by the Department for those grades.

(c) In grade 3, 4, 5, 6, 7 or 8, *except as otherwise provided in subsection 6 of NRS 390.105*, the examinations administered pursuant to NRS 390.105.

(d) In grade 9 or 10, the assessment implemented by the Department for those grades.

(e) In grade 11 or 12, the college and career readiness assessment administered pursuant to NRS 390.610.

2. The Department shall, by regulation, establish a method for projecting the number of pupils who are at or below the 25th percentile for proficiency in any grade level for which an assessment identified in subsection 1 does not exist or does not provide sufficient information to identify all such pupils. Such a method may allow for the number of pupils to be projected by examining:

(a) The proficiency of pupils in nearby grade levels if an assessment for a grade level has not been fully implemented; or

(b) Information on credit deficiency for any grade in high school for which insufficient information exists to identify all such pupils.

Sec. 8. NRS 390.105 is hereby amended to read as follows:

390.105 1. ~~[The]~~ *Except as otherwise provided in subsection 6, the* State Board shall, in consultation with the Council to Establish Academic Standards for Public Schools, prescribe examinations that comply with 20 U.S.C. § 6311(b)(2) and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8, in the standards of content established by the Council for the subjects of English language arts and mathematics.

(b) For grades 5 and 8, in the standards of content established by the Council for the subject of science.

(c) For grades 9, 10, 11 and 12, in the standards of content established by the Council for the subjects required to comply with 20 U.S.C. § 6311(b)(2).

➤ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall, in consultation with the Council to Establish Academic Standards for Public Schools, prescribe a writing examination for grades 5 and 8.

3. The Department shall ensure the availability of:



(a) The examinations prescribed pursuant to subsections 1 and 2 to pupils in any language in which those examinations are published; and

(b) Authorized supports to pupils who are English learners for the examinations prescribed pursuant to subsections 1 and 2.

4. The State Board shall prescribe:

(a) The minimum number of school days that must take place before the examinations prescribed by the State Board pursuant to subsection 1 may be administered to pupils; and

(b) The period during which the examinations prescribed by the State Board pursuant to subsection 1 must be administered.

5. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board at such times as prescribed by the State Board pursuant to subsection 4. The examinations must be:

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

(b) Administered in each school in accordance with the plan adopted pursuant to NRS 390.270 by the Department and with the plan adopted pursuant to NRS 390.275 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.

6. The Department may temporarily waive or otherwise pause the requirement to administer examinations that comply with 20 U.S.C. § 6311(b)(2) pursuant to this section if the United States Department of Education grants a waiver from or otherwise pauses the requirements of 20 U.S.C. § 6311(b)(2).

Sec. 9. NRS 390.125 is hereby amended to read as follows:

390.125 1. The Department shall adopt a model to measure the achievement of pupils enrolled in grades 3 to 8, inclusive, *except as otherwise provided in subsection 6 of NRS 390.105*, based upon the results of the examinations administered pursuant to NRS 390.105. The model must be designed so that the progress of pupils enrolled in a public school may be tracked from year to year to determine whether the school has made progress in the achievement of pupils.



2. The board of trustees of each school district and the governing body of each charter school shall apply the model in the format required by the Department. The information collected must be used to determine whether individual schools have made progress in the achievement of pupils.

Sec. 10. NRS 390.290 is hereby amended to read as follows:

390.290 1. If the Department determines that:

(a) At least one irregularity in testing administration occurred at a school, including, without limitation, a charter school, during 1 school year on the examinations administered pursuant to NRS 390.105;

(b) In the immediately succeeding school year *H in which an examination was administered pursuant to NRS 390.105*, at least one additional irregularity in testing administration occurred at that school on the examinations administered pursuant to NRS 390.105; and

(c) Based upon the criteria set forth in subsection 2, the irregularities described in paragraphs (a) and (b) warrant an additional administration of the examinations,

↳ the Department shall notify the school and the school district in which the school is located that the school is required to provide for an additional administration of the examinations to pupils who are enrolled in a grade that is required to take the examinations pursuant to NRS 390.105 or to the pupils the Department determines must take the additional administration pursuant to subsection 3. The additional administration must occur in the same school year in which the irregularity described in paragraph (b) occurred. Except as otherwise provided in this subsection, the school district shall pay for all costs related to the administration of examinations pursuant to this subsection. If a charter school is required to administer examinations pursuant to this subsection, the charter school shall pay for all costs related to the administration of the examinations to pupils enrolled in the charter school.

2. In determining whether to require a school to provide for an additional administration of examinations pursuant to this section, the Department shall consider:

(a) The effect of each irregularity in testing administration, including, without limitation, whether the irregularity required the scores of pupils to be invalidated; and

(b) Whether sufficient time remains in the school year to provide for an additional administration of examinations.

3. If the Department determines pursuant to subsection 2 that a school must provide for an additional administration of examinations, the Department may consider whether the most recent irregularity in testing administration affected the test scores of a



1 limited number of pupils and require the school to provide an
2 additional administration of examinations pursuant to this section
3 only to those pupils whose test scores were affected by the most
4 recent irregularity.

5 4. The Department shall provide as many notices pursuant to
6 this section during 1 school year as are applicable to the
7 irregularities occurring at a school. A school shall provide for
8 additional administrations of examinations pursuant to this section
9 within 1 school year as applicable to the irregularities occurring at
10 the school.

11 **Sec. 11.** The provisions of subsection 1 of NRS 218D.380 do
12 not apply to any provision of this act which adds or revises a
13 requirement to submit a report to the Legislature.

14 **Sec. 12.** This act becomes effective upon passage and
15 approval.

