

(Reprinted with amendments adopted on May 22, 2003)
SECOND REPRINT A.B. 264

ASSEMBLY BILL NO. 264—ASSEMBLYMEN GIUNCHIGLIANI,
WILLIAMS, ANDERSON, ATKINSON, ARBERRY, BUCKLEY,
CHOWNING, CLABORN, COLLINS, CONKLIN, GOLDWATER,
HORNE, KOIVISTO, LESLIE, MANENDO, MCCLAIN,
MORTENSON, OCEGUERA, PARKS, PERKINS AND PIERCE

MARCH 10, 2003

Referred to Concurrent Committees on Education
and Ways and Means

SUMMARY—Makes various changes governing education.
(BDR 34-62)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Contains Appropriation not included
in Executive Budget.

CONTAINS UNFUNDED MANDATE (§ 3)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; providing for the release of certain records of pupils under certain circumstances; revising provisions governing the purchase of retirement credit by boards of trustees of school districts for certain teachers; prohibiting under certain circumstances the use or attempted use of a false or misleading educational credential; making an appropriation for school districts to provide programs of enhanced compensation; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 386.655 is hereby amended to read as follows:
- 2 386.655 1. The Department, the school districts and the
- 3 public schools, including, without limitation, charter schools, shall,



1 in operating the statewide automated system of information
2 established pursuant to NRS 386.650, comply with the provisions
3 of:

4 (a) For all pupils, the Family Educational Rights and Privacy
5 Act, 20 U.S.C. § 1232g, and any regulations adopted pursuant
6 thereto; and

7 (b) For pupils with disabilities who are enrolled in programs of
8 special education, the provisions governing access to education
9 records and confidentiality of information prescribed in the
10 Individuals with Disabilities Education Act, 20 U.S.C. § 1417(c),
11 and the regulations adopted pursuant thereto.

12 2. Except as otherwise provided in 20 U.S.C. § 1232g(b) ,
13 ~~and~~ any other applicable federal law ~~and~~ *and the laws of this state*,
14 a public school, including, without limitation, a charter school, shall
15 not release the education records of a pupil to a person or an agency
16 of a federal, state or local government without the written consent of
17 the parent or legal guardian of the pupil.

18 3. In addition to the record required pursuant to 20 U.S.C. §
19 1232g(b)(4)(A), each school district shall maintain within the
20 statewide automated system of information an electronic record of
21 all persons and agencies who have requested the education record of
22 a pupil or obtained access to the education record of a pupil, or both,
23 pursuant to 20 U.S.C. § 1232g. The electronic record must be
24 maintained and may only be disclosed in accordance with the
25 provisions of 20 U.S.C. § 1232g. A charter school shall provide to
26 the school district in which the charter school is located such
27 information as is necessary for the school district to carry out the
28 provisions of this subsection, regardless of the sponsor of the charter
29 school.

30 4. The right accorded to a parent or legal guardian of a pupil
31 pursuant to subsection 2 devolves upon the pupil on the date on
32 which he attains the age of 18 years.

33 5. As used in this section, unless the context otherwise
34 requires, "education records" has the meaning ascribed to it in 20
35 U.S.C. § 1232g(a)(4).

36 **Sec. 2.** NRS 388.5315 is hereby amended to read as follows:

37 388.5315 1. A denial of rights of a pupil with a disability
38 pursuant to NRS 388.521 to 388.5315, inclusive, must be entered in
39 the pupil's cumulative record and a confidential file maintained for
40 that pupil. Notice of the denial must be provided to the board of
41 trustees of the school district ~~and~~ *, the pupil's individualized*
42 *education program team and the parent or guardian of the pupil.*
43 *A law enforcement agency or district attorney may:*



1 (a) Upon request of a parent or guardian of a pupil, investigate
2 the denial of rights of the pupil pursuant to NRS 388.521 to
3 388.5315, inclusive; and

4 (b) Upon consent of a parent or guardian of a pupil, receive a
5 copy of the notice of denial of rights of the pupil.

6 2. If the board of trustees of a school district receives notice of
7 a denial of rights pursuant to subsection 1, it shall cause a full report
8 to be prepared which must set forth in detail the factual
9 circumstances surrounding the denial. A copy of the report must be
10 provided to the Department.

11 3. The Department:

12 (a) Shall receive reports made pursuant to subsection 2;

13 (b) May investigate apparent violations of the rights of pupils
14 with disabilities; and

15 (c) May act to resolve disputes relating to apparent violations.

16 **Sec. 3.** NRS 391.165 is hereby amended to read as follows:

17 391.165 1. Except as otherwise provided in ~~subsection 3 of~~
18 this section and except as otherwise required as a result of NRS
19 286.537, the board of trustees of a school district shall pay the cost
20 for a licensed teacher to purchase one-fifth of a year of service
21 pursuant to subsection 2 of NRS 286.300 if:

22 (a) The teacher is a member of the Public Employees'
23 Retirement System ; ~~and has at least 5 years of service;~~

24 (b) The teacher has been employed as a licensed teacher ~~in this~~
25 ~~state~~ for at least 5 ~~consecutive~~ school years ; ~~regardless of~~
26 ~~whether the employment was with one or more school districts in~~
27 ~~this state;~~

28 (c) Each evaluation of the teacher ~~conducted pursuant to NRS~~
29 ~~391.3125~~ is at least satisfactory for the years of employment
30 required by paragraph (b); and

31 (d) In addition to the years of employment required by
32 paragraph (b), the teacher has been employed as a licensed teacher
33 for 1 school year at a school within the school district which, for
34 that school year, carries the designation of demonstrating need for
35 improvement pursuant to NRS 385.367.

36 2. Except as otherwise provided in ~~subsection 3,~~ *this section,*
37 the board of trustees of a school district shall pay the cost for a
38 licensed teacher to purchase one-fifth of a year of service *pursuant*
39 *to subsection 2 of NRS 286.300 if:*

40 (a) *The teacher is a member of the Public Employees'*
41 *Retirement System;*

42 (b) *The teacher has been employed as a licensed teacher for at*
43 *least 5 school years;*

44 (c) *Each evaluation of the teacher is at least satisfactory for*
45 *the years of employment required by paragraph (b); and*



1 (d) *In addition to the years of employment required by*
2 *paragraph (b), the teacher has been employed as a licensed*
3 *teacher for 1 school year at a school within the school district*
4 *where, for that school year, at least 65 percent of the pupils who*
5 *are enrolled in the school are children who are at-risk.*

6 3. *Except as otherwise provided in subsection 4, the board of*
7 *trustees of a school district shall pay the cost for a licensed teacher*
8 *to purchase:*

9 (a) *One-fifth of a year of service* for each year that a teacher is
10 employed as a teacher at a school within the school district that is
11 described in paragraph (d) of subsection 1 ~~1~~

12 ~~3~~ ; or

13 (b) *One-fifth of a year of service for each year that a teacher is*
14 *employed as a teacher at a school within the school district that is*
15 *described in paragraph (d) of subsection 2.*

16 *If, in 1 school year, a teacher satisfies the criteria set forth in both*
17 *subsections 1 and 2, the school district in which the teacher is*
18 *employed shall, for that school year, pay the cost for the teacher to*
19 *purchase one-fifth of a year of service pursuant to subsection 2 of*
20 *NRS 286.300.*

21 4. In no event may the years of service purchased by a licensed
22 teacher as a result of subsection 2 of NRS 286.300 exceed 5 years.

23 ~~4~~ 5. The board of trustees of a school district shall not:

24 (a) Assign or reassign a licensed teacher to circumvent the
25 requirements of this section.

26 (b) Include ~~1~~ as part of a teacher's salary ~~1~~ the costs of paying
27 the teacher to purchase service pursuant to this section.

28 ~~5~~ 6. As used in this section ~~1~~, "service":

29 (a) *A child is "at-risk" if he is eligible for free and reduced-*
30 *price lunches pursuant to 42 U.S.C. §§ 1751 et seq.*

31 (b) "Service" has the meaning ascribed to it in NRS 286.078.

32 **Sec. 4.** NRS 392.029 is hereby amended to read as follows:

33 392.029 1. If a parent or legal guardian of a pupil requests
34 the education records of the pupil, a public school shall comply with
35 the provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

36 2. If a parent or legal guardian of a pupil reviews the education
37 records of the pupil and requests an amendment or other change to
38 the education records, a public school shall comply with the
39 provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

40 3. ~~Except as otherwise provided in 20 U.S.C. § 1232g(b), a~~ A
41 public school shall not release the education records of a pupil to a
42 person, agency or organization without the written consent of the
43 parent or legal guardian of the pupil ~~1~~ , *except for a release of*
44 *education records without consent:*



- 1 (a) *To a juvenile probation officer, law enforcement officer or*
2 *district attorney who is conducting an investigation of truancy*
3 *pursuant to chapter 62 or 392 of NRS;*
4 (b) *To a juvenile probation officer, law enforcement officer or*
5 *district attorney who is conducting an investigation of a threat*
6 *pursuant to NRS 392.915;*
7 (c) *To a juvenile probation officer conducting a preliminary*
8 *inquiry pursuant to NRS 62.128; or*
9 (d) *As otherwise authorized by 20 U.S.C. § 1232g(b).*
10 *Upon receipt of information pursuant to this subsection, a person*
11 *receiving the information shall certify in writing to the public*
12 *school that the information received will not be disclosed to any*
13 *other person except as otherwise provided by state law without the*
14 *prior consent of the parent or guardian of the pupil.*
15 4. If a public school administers a program which includes a
16 survey, analysis or evaluation that is designed to elicit the
17 information described in 20 U.S.C. § 1232h, it must comply with
18 the provisions of that section.
19 5. A right accorded to a parent or legal guardian of a pupil
20 pursuant to the provisions of this section devolves upon the pupil on
21 the date on which he attains the age of 18 years.
22 6. A public school shall, at least annually, provide to each pupil
23 who is at least 18 years of age and to a parent or legal guardian of
24 each pupil who is not at least 18 years of age, written notice of his
25 rights pursuant to this section.
26 7. The provisions of this section:
27 (a) Are intended to ensure that each public school complies with
28 the provisions of 20 U.S.C. §§ 1232g and 1232h;
29 (b) Must, to the extent possible, be construed in a manner that is
30 consistent with 20 U.S.C. §§ 1232g and 1232h, and the regulations
31 adopted pursuant thereto;
32 (c) Apply to a public school regardless of whether the school
33 receives money from the Federal Government; and
34 (d) Do not impair any right, obligation or prohibition established
35 pursuant to ~~chapter~~ *chapters 62 and 432B* of NRS.
36 8. The State Board may adopt such regulations as are necessary
37 to ensure that public schools comply with the provisions of this
38 section.
39 9. *A public school or an employee of a public school who, in*
40 *good faith, releases or fails to release education records pursuant*
41 *to subsection 3 is immune from civil or criminal liability for*
42 *releasing or failing to release education records pursuant to*
43 *subsection 3 unless the public school or employee of the public*
44 *school acted with gross negligence.*



1 **10.** As used in this section, unless the context otherwise
2 requires, “education records” has the meaning ascribed to it in 20
3 U.S.C. § 1232g(a)(4).

4 **Sec. 5.** Chapter 394 of NRS is hereby amended by adding
5 thereto a new section to read as follows:

6 **1. It is unlawful for a person knowingly to use or attempt to**
7 **use a false or misleading educational credential in connection**
8 **with any education, business, employment, occupation, profession,**
9 **trade or public office.**

10 **2. For the purposes of this section, an educational credential**
11 **is false or misleading if it:**

12 **(a) States or suggests that the person named in the credential**
13 **has completed the requirements of an academic or professional**
14 **program of study in a particular field of endeavor beyond the**
15 **secondary school level and the person has not, in fact, completed**
16 **the requirements of the program of study;**

17 **(b) Is offered as his own by a person other than the person**
18 **who completed the requirements of the program of study; or**

19 **(c) Is given in violation of NRS 394.630.**

20 **Sec. 6.** NRS 394.125 is hereby amended to read as follows:

21 394.125 It is the policy of this state to encourage and enable its
22 ~~{citizens}~~ **residents** to receive an education commensurate with their
23 respective talents and desires. The Legislature recognizes that
24 privately owned institutions offering elementary, secondary and
25 postsecondary education and vocational and professional instruction
26 perform a necessary service to the ~~{citizens}~~ **residents** of this state. It
27 is the purpose of this chapter to provide for the protection, education
28 and welfare of the ~~{citizens}~~ **residents** of the State of Nevada, its
29 educational, vocational and professional institutions, and its
30 students, by:

31 1. Establishing minimum standards concerning quality of
32 education, ethical and business practices, health and safety, and
33 fiscal responsibility, to protect against substandard, transient,
34 unethical, deceptive or fraudulent institutions and practices;

35 2. Prohibiting the granting **or use** of false or misleading
36 educational credentials;

37 3. Regulating the use of academic terminology in naming or
38 otherwise designating educational institutions;

39 4. Prohibiting misleading literature, advertising, solicitation or
40 representation by educational institutions or their agents;

41 5. Providing for the preservation of essential academic records;
42 and

43 6. Providing certain rights and remedies to the consuming
44 public and the Commission and the Board necessary to effectuate
45 the purposes of this chapter.



1 **Sec. 7.** NRS 394.620 is hereby amended to read as follows:
2 394.620 As used in NRS 394.620 to 394.670, inclusive ~~{ }~~ ,
3 *and section 5 of this act:*

4 1. “Degree” means any statement, diploma, certificate or other
5 writing in any language which indicates or represents, or which is
6 intended to indicate or represent, that the person named thereon is
7 learned in or has satisfactorily completed the requirements of an
8 academic or professional program of study in a particular field of
9 endeavor beyond the secondary school level as a result of formal
10 preparation or training.

11 2. “Honorary degree” means any statement, diploma,
12 certificate or other writing in any language which indicates or
13 represents, or which is intended to indicate or represent, that the
14 person named thereon is learned in any field of public service or has
15 performed outstanding public service or that the person named
16 thereon has demonstrated proficiency in a field of endeavor without
17 having completed formal courses of instruction or study or formal
18 preparation or training.

19 **Sec. 8.** NRS 394.650 is hereby amended to read as follows:
20 394.650 Any person, *including, without limitation, any* firm,
21 partnership, corporation, association or ~~{any}~~ other organization ,
22 which violates any ~~{of the provisions}~~ *provision* of NRS 394.620 to
23 394.640, inclusive, *and section 5 of this act*, is liable for a civil
24 penalty not to exceed \$2,500 for each violation, which ~~{shall}~~ *may*
25 be recovered in a civil action ~~{ }~~ brought in the name of the State of
26 Nevada by the Attorney General or by any district attorney in a
27 court of competent jurisdiction. As used in this section, “each
28 violation” includes, as a single violation, a continuous or repetitive
29 violation arising out of the same act.

30 **Sec. 9.** NRS 394.660 is hereby amended to read as follows:
31 394.660 The Attorney General or any district attorney may
32 bring an action in any court of competent jurisdiction, either as a
33 part of any action brought pursuant to NRS 394.650 or as a separate
34 action, to enjoin ~~{any}~~ *a* violation of ~~{the provisions}~~ *any provision*
35 of NRS 394.620 to 394.640, inclusive ~~{ }~~ , *and section 5 of this act.*

36 **Sec. 10.** NRS 394.670 is hereby amended to read as follows:
37 394.670 Every person who violates any ~~{of the provisions}~~
38 *provision* of NRS 394.620 to 394.640, inclusive, *and section 5 of*
39 *this act* is guilty of a gross misdemeanor. Each day’s violation is a
40 separate offense.

41 **Sec. 11.** Chapter 62 of NRS is hereby amended by adding
42 thereto a new section to read as follows:

43 1. *A juvenile probation officer may inspect the education*
44 *records of a child, including, without limitation, records of*
45 *discipline maintained by a school, to conduct a preliminary*



1 *inquiry pursuant to NRS 62.128 when a juvenile probation officer*
2 *receives a complaint that the child:*

- 3 (a) *Has committed a delinquent offense; or*
- 4 (b) *Is in need of supervision.*

5 2. *Upon receipt of information pursuant to this section, a*
6 *juvenile probation officer shall certify in writing to the school that*
7 *the information received will not be disclosed to any other person*
8 *except as otherwise provided by state law without the prior written*
9 *consent of the parent or guardian of the child.*

10 3. *As used in this section "education records" has the*
11 *meaning ascribed to it in 20 U.S.C. § 1232g(a)(4).*

12 **Sec. 12.** NRS 205.420 is hereby amended to read as follows:

13 205.420 Every person who ~~shall conduct~~ *conducts* any
14 business or ~~perform~~ *performs* any act under color of, or ~~file~~ *files*
15 for record with any public officer, any false or fraudulent permit,
16 license ~~[-, diploma]~~ or writing, or any permit, license ~~[-, diploma]~~ or
17 writing not lawfully belonging to ~~such~~ *that* person, or who ~~shall~~
18 ~~obtain~~ *obtains* any permit, license, diploma or writing by color or
19 aid of any false representation, pretense, personation, token or
20 writing, ~~shall be~~ *is* guilty of a gross misdemeanor.

21 **Sec. 13.** 1. There is hereby appropriated from the State
22 General Fund to the Department of Education the following sums
23 for grants of money to school districts that adopt a program of
24 enhanced compensation for certain teachers:

25	For the Fiscal Year 2003-2004.....	\$9,000,000
26	For the Fiscal Year 2004-2005.....	\$9,000,000

27 2. To receive a grant of money, the board of trustees of a
28 school district must submit an application to the Department of
29 Education that:

30 (a) Sets forth a program adopted by the school district in
31 accordance with subsection 3 to provide enhanced compensation for
32 certain teachers, which must include one or more of the following
33 components:

34 (1) Skills-based pay pursuant to which teachers develop
35 certain skills verified through licensure, certification or some other
36 method.

37 (2) A "career ladder" program, pursuant to which teachers
38 who perform at or above specified standards receive an increase in
39 compensation. Each step requires additional growth, professional
40 development, expertise and additional responsibilities, including,
41 without limitation, mentoring.

42 (3) Market-based pay, pursuant to which one-time bonuses
43 are paid to retain teachers who provide instruction in high-need
44 subject areas such as mathematics, science and special education
45 and to retain teachers who teach in at-risk schools.



1 (b) Includes the amount of money necessary to pay the enhanced
2 compensation pursuant to the program.

3 (c) Includes the number of teachers who are estimated to be
4 eligible for enhanced compensation pursuant to the program.

5 (d) School-based or group-based incentives that award
6 improvements in various measures of performance that are
7 established at the school level.

8 3. If a school district has entered into a collective bargaining
9 agreement pursuant to chapter 288 of NRS that governs the
10 employment of the licensed teachers employed by the school
11 district, the school district shall negotiate with the bargaining agent
12 for the licensed employees of the school district regarding the
13 components of the proposed program of enhanced compensation.

14 4. To the extent money is available from the appropriation
15 made by subsection 1, the Department of Education shall provide
16 grants of money to school districts with approved applications based
17 upon the amount of money that is necessary to carry out each
18 program of enhanced compensation. If an insufficient amount of
19 money is available to pay for each program, the money from the
20 appropriation must be distributed pro rata based upon the number of
21 teachers who are estimated to be eligible to participate in the
22 program in each school district with an approved application.

23 5. Any balance of the sums appropriated by subsection 1
24 remaining at the end of the respective fiscal years must not be
25 committed for expenditure after June 30 of the respective fiscal
26 years and reverts to the State General Fund as soon as all payments
27 of money committed have been made.

28 **Sec. 14.** The provisions of NRS 354.599 do not apply to any
29 additional expenses of a local government that are related to the
30 provisions of this act.

31 **Sec. 15.** This act becomes effective on July 1, 2003.

