

MOCK-UP

PROPOSED AMENDMENT 7104 TO
ASSEMBLY BILL NO. 221
FIRST REPRINT

MAY 13, 2015

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

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.

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

- 1 **Section 1.** Chapter 385 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 5, inclusive, of this act.
3 **Sec. 2. 1.** *The Department shall establish, publish and make*
4 *publicly available on its Internet website:*
5 *(a) An index of the categories of data ~~elements~~ that the Department*
6 *maintains or proposes to include in the automated system of*
7 *accountability information for Nevada established pursuant to NRS*
8 *386.650, including, without limitation:*
9 *(1) Data concerning individual pupils; and*
10 *(2) Aggregated data concerning pupils within a defined group.*
11 *(b) An explanation of the index of categories of data ~~elements~~*
12 *established pursuant to paragraph (a), which must include, without*
13 *limitation:*
14 *(1) A description of each category of data ~~element~~ concerning*
15 *each individual pupil;*
16 *(2) The reason for collecting or proposing to collect each category*
17 *of data ~~element~~ concerning each individual pupil; and*

1 (3) The third-party service providers, organizations and agencies
2 that have access to the data concerning individual pupils maintained by
3 the Department in the automated system of accountability information
4 for Nevada established pursuant to NRS 386.650.

5 2. At least once each biennium, the Department shall update the
6 information described in subsection 1.

7 Sec. 3. 1. The Department shall adopt any policies and
8 procedures necessary to ensure the privacy of data concerning pupils
9 which are consistent with relevant state and federal privacy laws,
10 including, without limitation, the Family Educational Rights and Privacy
11 Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant
12 thereto.

13 2. At least once each biennium, the Department shall review and
14 revise as necessary the policies and procedures described in subsection 1.

15 Sec. 4. 1. Any contract entered into by the Department, a school
16 district, a sponsor of a charter school or a public school, including,
17 without limitation, a charter school ~~or~~ or university school for
18 profoundly gifted pupils, that provides for the disclosure of data that
19 includes any personally identifiable information of a pupil must include,
20 without limitation:

21 (a) Provisions specifically to protect the privacy and security of the
22 personally identifiable information; and

23 (b) ~~A prohibition on the use of the personally identifiable~~
24 ~~information for any purpose other than those required or specifically~~
25 ~~authorized by the terms of the contract;~~

26 ~~—(c) A prohibition on selling the personally identifiable information~~
27 ~~and using the personally identifiable information to market products or~~
28 ~~services to pupils, except that information which includes only~~
29 ~~aggregated data concerning pupils may be used to demonstrate the~~
30 ~~effectiveness of the product or service; and~~

31 ~~—(d) A penalty for intentional or grossly negligent noncompliance~~
32 ~~with the terms of the contract, including, without limitation, provisions~~
33 ~~for termination of the contract and for the payment of monetary~~
34 ~~damages for any breach of the terms of the contract.~~

35 2. As used in this section, “personally identifiable information” has
36 the meaning ascribed to it in 34 C.F.R. § 99.3.

37 Sec. 5. 1. The Department, in consultation with each school
38 district and the ~~State Public Charter School Authority,~~ sponsor of a
39 charter school or the governing body of a university school for
40 profoundly gifted pupils shall adopt a detailed plan to provide for the
41 security of any data concerning pupils that is collected, maintained and
42 transferred by the Department.

43 2. The board of trustees of each school district, the governing body
44 of a charter school and the governing body of a university school for

1 *profoundly gifted pupils shall comply with and carry out the data*
2 *security plan adopted by the Department pursuant to subsection 1.*

3 3. *Each school district, sponsor of a charter school and university*
4 *school for profoundly gifted pupils shall prepare and submit to the*
5 *Department an annual report concerning any significant changes to the*
6 *manner in which the school district, charter school or university school*
7 *for profoundly gifted pupils collects, maintains or transfers data*
8 *concerning pupils for inclusion in the annual report prepared by the*
9 *Department pursuant to NRS 385.230.*

10 **Sec. 6.** NRS 385.230 is hereby amended to read as follows:

11 385.230 1. The Department shall, in conjunction with the State
12 Board, prepare an annual report of the state of public education in this
13 State. The report must include, without limitation:

14 (a) An analysis of each annual report of accountability prepared by the
15 State Board pursuant to NRS 385.3572;

16 (b) An update on the status of K-12 public education in this State;

17 (c) A description of the most recent vision and mission statements of
18 the State Board and the Department, including, without limitation, the
19 progress made by the State Board and Department in achieving those
20 visions and missions;

21 (d) A description of the goals and benchmarks for improving the
22 academic achievement of pupils which are included in the plan to improve
23 the achievement of pupils required by NRS 385.3593;

24 (e) *A description of any significant changes made to the collection,*
25 *maintenance or transfer of data concerning pupils by the Department, a*
26 *school district, a sponsor of a charter school or a university school for*
27 *profoundly gifted pupils;*

28 (f) *Any new categories of data, ~~elements,~~ including, without*
29 *limitation, data about individual pupils and aggregated data about pupils*
30 *within a defined group, proposed for inclusion in the automated system*
31 *of accountability information for Nevada established pursuant to NRS*
32 *386.650;*

33 (g) An analysis of the progress the public schools have made in the
34 previous year toward achieving the goals and benchmarks for improving
35 the academic achievement of pupils;

36 ~~(h)~~ (h) An analysis of whether the standards and examinations
37 adopted by the State Board adequately prepare pupils for success in
38 postsecondary educational institutions and in career and workforce
39 readiness;

40 ~~(g)~~ (i) An analysis of the extent to which school districts and charter
41 schools recruit and retain effective teachers and principals;

42 ~~(h)~~ (j) An analysis of the ability of the automated system of
43 accountability information for Nevada established pursuant to NRS
44 386.650 to link the achievement of pupils to the performance of the

1 individual teachers assigned to those pupils and to the principals of the
2 schools in which the pupils are enrolled;

3 ~~†(†) (k)~~ An analysis of the extent to which the lowest performing
4 public schools have improved the academic achievement of pupils enrolled
5 in those schools;

6 ~~†(†) (l)~~ A summary of the innovative educational programs
7 implemented by public schools which have demonstrated the ability to
8 improve the academic achievement of pupils, including, without limitation:

9 (1) Pupils who are economically disadvantaged, as defined by the
10 State Board;

11 (2) Pupils from major racial and ethnic groups, as defined by the
12 State Board;

13 (3) Pupils with disabilities;

14 (4) Pupils who are limited English proficient; and

15 (5) Pupils who are migratory children, as defined by the State
16 Board; and

17 ~~†(†) (m)~~ A description of any plan of corrective action requested by
18 the Superintendent of Public Instruction from the board of trustees of a
19 school district or the governing body of a charter school and the status of
20 that plan.

21 2. In odd-numbered years, the Superintendent of Public Instruction
22 shall present the report prepared pursuant to subsection 1 in person to the
23 Governor and each standing committee of the Legislature with primary
24 jurisdiction over matters relating to K-12 public education at the beginning
25 of each regular session of the Legislature.

26 3. In even-numbered years, the Superintendent of Public Instruction
27 shall, on or before January 31, submit a written copy of the report prepared
28 pursuant to subsection 1 to the Governor and to the Legislative Committee
29 on Education.

30 **Sec. 7.** Chapter 386 of NRS is hereby amended by adding thereto the
31 provisions set forth as sections 8 and 9 of this act.

32 **Sec. 8.** *The board of trustees of each school district, the governing*
33 *body of a charter school and the governing body of a university school*
34 *for profoundly gifted pupils shall establish, publish and make publicly*
35 *available:*

36 1. *An index of categories of data, ~~elements,~~ including, without*
37 *limitation, data concerning individual pupils and aggregated data*
38 *concerning pupils within a defined group transferred to the automated*
39 *system of accountability information for Nevada established pursuant to*
40 *NRS 386.650; and*

41 2. *A list of the third-party service providers, organizations and*
42 *agencies that have access to data concerning individual pupils*
43 *maintained by the Department in the automated system of accountability*
44 *information for Nevada established pursuant to NRS 386.650.*

1 **Sec. 9.** *The board of trustees of each school district, the governing*
2 *body of a charter school and the governing body of a university school*
3 *for profoundly gifted pupils shall adopt policies and procedures*
4 *governing:*

5 1. *The use by teachers and other educational personnel of software*
6 *offered to users free of charge for basic services, but that requires users*
7 *to pay for any additional or premium proprietary features, functionality*
8 *or virtual goods; and*

9 2. *The manner in which data concerning pupils may be provided to*
10 *a person when the provision of such data is not expressly authorized by*
11 *the board of trustees or governing body, as applicable.*

12 **Sec. 10.** NRS 218E.625 is hereby amended to read as follows:

13 218E.625 1. The Legislative Bureau of Educational Accountability
14 and Program Evaluation is hereby created within the Fiscal Analysis
15 Division. The Fiscal Analysts shall appoint to the Legislative Bureau of
16 Educational Accountability and Program Evaluation a Chief and such
17 other personnel as the Fiscal Analysts determine are necessary for the
18 Bureau to carry out its duties pursuant to this section.

19 2. The Bureau shall, as the Fiscal Analysts determine is necessary or
20 at the request of the Committee:

21 (a) Collect and analyze data and issue written reports concerning:

22 (1) The effectiveness of the provisions of NRS 385.3455 to
23 385.3891, inclusive, *and section 2 of this act* in improving the
24 accountability of the schools of this State;

25 (2) The statewide program to reduce the ratio of pupils per class per
26 licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

27 (3) The statewide program to educate persons with disabilities that
28 is set forth in chapter 395 of NRS;

29 (4) The results of the examinations of the National Assessment of
30 Educational Progress that are administered pursuant to NRS 389.012; and

31 (5) Any program or legislative measure, the purpose of which is to
32 reform the system of education within this State.

33 (b) Conduct studies and analyses to evaluate the performance and
34 progress of the system of public education within this State. Such studies
35 and analyses may be conducted:

36 (1) As the Fiscal Analysts determine are necessary; or

37 (2) At the request of the Legislature.

38 ➔ This paragraph does not prohibit the Bureau from contracting with a
39 person or entity to conduct studies and analyses on behalf of the Bureau.

40 (c) On or before October 1 of each even-numbered year, submit a
41 written report of its findings pursuant to paragraphs (a) and (b) to the
42 Director for transmission to the next regular session. The Bureau shall, on
43 or before October 1 of each odd-numbered year, submit a written report of
44 its findings pursuant to paragraphs (a) and (b) to the Director for

1 transmission to the Legislative Commission and to the Legislative
2 Committee on Education.

3 3. The Bureau may, pursuant to NRS 218F.620, require a school, a
4 school district, the Nevada System of Higher Education or the Department
5 of Education to submit to the Bureau books, papers, records and other
6 information that the Chief of the Bureau determines are necessary to carry
7 out the duties of the Bureau pursuant to this section. An entity whom the
8 Bureau requests to produce records or other information shall provide the
9 records or other information in any readily available format specified by
10 the Bureau.

11 4. Except as otherwise provided in this subsection and NRS
12 239.0115, any information obtained by the Bureau pursuant to this section
13 shall be deemed a work product that is confidential pursuant to NRS
14 218F.150. The Bureau may, at the discretion of the Chief and after
15 submission to the Legislature or Legislative Commission, as appropriate,
16 publish reports of its findings pursuant to paragraphs (a) and (b) of
17 subsection 2.

18 5. This section does not prohibit the Department of Education or the
19 State Board of Education from conducting analyses, submitting reports or
20 otherwise reviewing educational programs in this State.

21 **Sec. 11.** The provisions of section 4 of this act do not apply to any
22 contract entered into before July 1, 2015, until extended or renewed.

23 **Sec. 12.** This act becomes effective on July 1, 2015.

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