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SENATE BILL NO. 463—COMMITTEE ON EDUCATION

MARCH 23, 2015

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Referred to Committee on Education

SUMMARY—Revises provisions relating to education.  
(BDR 34-411)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 8)  
(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.

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AN ACT relating to education; requiring certain providers of electronic applications used for educational purposes to provide written disclosures concerning personally identifiable information that is collected; requiring such a provider to allow certain persons to review and correct personally identifiable information about a pupil maintained by the provider; limiting the circumstances under which such a provider may collect, use, allow access to or transfer personally identifiable information concerning a pupil; requiring such a provider to establish and carry out a detailed plan for the security of data concerning pupils; requiring teachers and other licensed personnel employed by a school district or charter school to complete certain professional development; requiring certain disciplinary action against a teacher or administrator for breaches in security or confidentiality of certain examinations; providing a civil penalty for certain violations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 **Section 5** of this bill requires a school service provider to provide to the board
- 2 of trustees of a school district or the governing body of a school, as applicable, and
- 3 a teacher who uses a school service, a written disclosure of: (1) the types of
- 4 personally identifiable information collected by the school service provider; (2) the



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5 manner in which such information is used; (3) the plan for security of data  
6 concerning pupils which has been established by the school service provider; and  
7 (4) any material change to such a plan. **Section 3** of this bill defines the term  
8 "school service" to mean an Internet website, online service or mobile application  
9 that: (1) is used primarily for educational purposes; (2) was designed and marketed  
10 for use in public schools; and (3) is used at the direction of teachers and other  
11 educational personnel. **Section 5** requires a school service provider to: (1) allow  
12 certain pupils or the parent or guardian of a pupil to review personally identifiable  
13 information about the pupil maintained by the school service provider; and (2)  
14 establish a process for making any corrections to such information.

15 **Section 6** of this bill limits the circumstances under which a school service  
16 provider may collect, use, allow access to or transfer personally identifiable  
17 information concerning a pupil. **Section 6** requires a school service provider to  
18 delete personally identifiable information concerning a pupil at the request of: (1)  
19 the board of trustees of the school district or the governing body of the school, as  
20 applicable; (2) a teacher of the pupil; (3) a pupil who is at least 16 years of age; or  
21 (4) the parent or legal guardian of the pupil. **Section 6** requires any agreement  
22 entered into by a school service provider that provides for the disclosure of  
23 personally identifiable information to limit the circumstances under which the  
24 person or governmental entity to whom the information is disclosed may collect,  
25 use or transfer such information to circumstances authorized by law. **Section 6** also  
26 subjects any school service provider that violates these requirements to a civil  
27 penalty.

28 **Section 7** of this bill requires a school service provider to establish and carry  
29 out a detailed plan for the security of any data concerning pupils that is collected,  
30 maintained or transferred by the school service provider. **Section 8** of this bill  
31 requires each school district and the governing body of a charter school or  
32 university school for profoundly gifted pupils, as applicable, to annually provide  
33 professional development regarding the use of school service providers and the  
34 security of data concerning pupils. **Section 8** also requires teachers and other  
35 licensed personnel employed by a school district or charter school to annually  
36 complete professional development regarding school service providers and the  
37 security of data concerning pupils.

38 Existing law authorizes a teacher to be suspended, dismissed or not reemployed  
39 and an administrator to be demoted, suspended, dismissed or not reemployed for  
40 breaches in security or confidentiality of the questions and answers of certain  
41 examinations. (NRS 391.3127) **Section 9** of this bill instead requires a teacher to be  
42 suspended, dismissed or not reemployed and an administrator to be demoted,  
43 suspended, dismissed or not reemployed for such breaches.

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

1 **Section 1.** Chapter 388 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this  
3 act.

4 **Sec. 2.** *"Personally identifiable information" has the*  
5 *meaning ascribed to it in 34 C.F.R. § 99.3.*

6 **Sec. 3.** *"School service" means an Internet website, online*  
7 *service or mobile application that is used primarily for educational*  
8 *purposes and is designed and marketed for use in public schools*



1 *and is used at the direction of teachers and other educational*  
2 *personnel. The term does not include an Internet website, online*  
3 *service or mobile application that is designed or marketed for use*  
4 *by a general audience, even if the school service is also marketed*  
5 *to public schools.*

6 **Sec. 4.** *“School service provider” means a person that*  
7 *operates a school service.*

8 **Sec. 5. 1.** *Before the persons or governmental entities*  
9 *described in subsection 3 begin using a school service, a school*  
10 *service provider must provide a written disclosure to such persons*  
11 *or governmental entities in language that is easy to understand,*  
12 *which includes, without limitation:*

13 *(a) The types of personally identifiable information collected*  
14 *by the school service provider and the manner in which such*  
15 *information is used, including, without limitation, the persons or*  
16 *governmental entities that have access to the information and the*  
17 *manner in which such information is transferred; and*

18 *(b) The plan for the security of data concerning pupils which*  
19 *has been established by the school service provider pursuant to*  
20 *section 7 of this act.*

21 **2.** *Before a school service provider makes a material change*  
22 *to the plan for the security of data concerning pupils established*  
23 *pursuant to section 7 of this act, the school service provider must*  
24 *provide notice to the persons or governmental entities set forth in*  
25 *subsection 3.*

26 **3.** *The disclosure or notice provided pursuant to subsection 1*  
27 *or 2, as applicable, must be provided to:*

28 *(a) The board of trustees of a school district, the governing*  
29 *body of a charter school or the governing body of a university*  
30 *school for profoundly gifted pupils, as applicable, that uses the*  
31 *school service of the school service provider; and*

32 *(b) Any teacher who uses the school service.*

33 **4.** *A school service provider shall:*

34 *(a) Allow a pupil who is at least 16 years of age or the parent*  
35 *or legal guardian of a pupil to review personally identifiable*  
36 *information concerning the pupil that is maintained by the school*  
37 *service provider; and*

38 *(b) Establish a process for the correction of such information,*  
39 *as needed, by:*

40 *(1) A pupil who is at least 16 years of age or the parent or*  
41 *legal guardian of a pupil; or*

42 *(2) At the request of a pupil who is at least 16 years of age*  
43 *or the parent or legal guardian of a pupil, the teacher of the pupil*  
44 *or the board of trustees of the school district in which the school*  
45 *that the pupil attends is located, the governing body of the charter*



1 *school that the pupil attends or the governing body of the*  
2 *university school for profoundly gifted pupils that the pupil*  
3 *attends, as applicable.*

4 **Sec. 6.** *1. A school service provider may collect, use, allow*  
5 *access to or transfer personally identifiable information*  
6 *concerning a pupil only:*

7 *(a) For the purposes authorized by the teacher of the pupil or*  
8 *the board of trustees of the school district in which the school that*  
9 *the pupil attends is located, the governing body of the charter*  
10 *school that the pupil attends or the governing body of the*  
11 *university school for profoundly gifted pupils that the pupil*  
12 *attends, as applicable, so long as it is authorized by federal and*  
13 *state law;*

14 *(b) If required by federal or state law; or*

15 *(c) With the consent of the pupil, if the pupil is at least 16*  
16 *years of age, or the parent or legal guardian of the pupil.*

17 *2. A school service provider shall delete any personally*  
18 *identifiable information concerning a pupil that is collected or*  
19 *maintained by the school service provider upon the request of:*

20 *(a) The board of trustees of the school district in which the*  
21 *school that the pupil attends is located, the governing body of the*  
22 *charter school that the pupil attends or the governing body of the*  
23 *university school for profoundly gifted pupils that the pupil*  
24 *attends, as applicable;*

25 *(b) A teacher of the pupil;*

26 *(c) A pupil who is at least 16 years of age; or*

27 *(d) The parent or legal guardian of a pupil.*

28 *3. Any agreement entered into by a school service provider*  
29 *that provides for the disclosure of personally identifiable*  
30 *information must require that the person or governmental entity to*  
31 *whom the information will be disclosed abide by the requirements*  
32 *imposed pursuant to this section.*

33 *4. A school service provider shall not:*

34 *(a) Use personally identifiable information for any commercial*  
35 *purpose, including, without limitation, selling the information or*  
36 *using the information to market products or services to pupils;*

37 *(b) Use personally identifiable information to create a profile*  
38 *of the pupil without the consent of:*

39 *(1) The pupil, if he or she is at least 16 years of age;*

40 *(2) The parent or legal guardian of the pupil;*

41 *(3) The teacher of the pupil; or*

42 *(4) The board of trustees of the school district in which the*  
43 *school that the pupil attends is located, the governing body of*  
44 *the charter school that the pupil attends or the governing body of*



1 *the university school for profoundly gifted pupils that the pupil*  
2 *attends, as applicable;*

3 *(c) Use personally identifiable information in a manner that is*  
4 *inconsistent with any privacy policy established by the school*  
5 *service provider for the school service in effect at the time the*  
6 *information is collected; or*

7 *(d) Knowingly retain, without the consent of a pupil who is at*  
8 *least 16 years of age or the parent or legal guardian of a pupil,*  
9 *personally identifiable information concerning the pupil beyond*  
10 *the period authorized by the teacher of the pupil or the board of*  
11 *trustees of the school district in which the school that the pupil*  
12 *attends is located, the governing body of the charter school that*  
13 *the pupil attends or the governing body of the university school for*  
14 *profoundly gifted pupils that the pupil attends, as applicable.*

15 *5. This section does not prohibit the use of the personally*  
16 *identifiable information of a pupil that is collected or maintained*  
17 *by a school service provider for the purposes of:*

18 *(a) Adapting the presentation of educational material*  
19 *according to the needs of the pupil in a classroom of a public*  
20 *school in which the teacher uses a school service; or*

21 *(b) Maintaining or improving the school service.*

22 *6. A school service provider that violates the provisions of*  
23 *subsection 1 or 4 is subject to a civil penalty in an amount not to*  
24 *exceed \$5,000 per violation. The Attorney General may recover the*  
25 *penalty in a civil action brought in the name of the State of*  
26 *Nevada in any court of competent jurisdiction.*

27 **Sec. 7. 1.** *A school service provider shall establish and*  
28 *carry out a detailed plan for the security of any data concerning*  
29 *pupils that is collected, maintained or transferred by the school*  
30 *service provider. The plan must include, without limitation:*

31 *(a) Procedures for protecting the security, privacy,*  
32 *confidentiality and integrity of personally identifiable information;*  
33 *and*

34 *(b) Appropriate administrative, technological and physical*  
35 *safeguards to ensure the security of data.*

36 *2. A school service provider shall ensure that any successor*  
37 *entity will abide by all privacy and security commitments related to*  
38 *personally identifiable information collected and maintained by*  
39 *the school service provider before allowing a successor entity to*  
40 *access such personally identifiable information.*

41 **Sec. 8. 1.** *Each school district and the governing body of a*  
42 *charter school or a university school for profoundly gifted pupils,*  
43 *as applicable, shall annually provide professional development*  
44 *regarding the use of school service providers and the security of*  
45 *data concerning pupils.*



1 ***2. Teachers and other licensed personnel employed by a***  
2 ***school district or charter school shall complete the professional***  
3 ***development provided pursuant to subsection 1.***

4 **Sec. 9.** NRS 391.31297 is hereby amended to read as follows:

5 391.31297 1. A teacher may be suspended, dismissed or not  
6 reemployed and an administrator may be demoted, suspended,  
7 dismissed or not reemployed for the following reasons:

- 8 (a) Inefficiency;
- 9 (b) Immorality;
- 10 (c) Unprofessional conduct;
- 11 (d) Insubordination;
- 12 (e) Neglect of duty;
- 13 (f) Physical or mental incapacity;
- 14 (g) A justifiable decrease in the number of positions due to  
15 decreased enrollment or district reorganization;
- 16 (h) Conviction of a felony or of a crime involving moral  
17 turpitude;
- 18 (i) Inadequate performance;
- 19 (j) Evident unfitness for service;
- 20 (k) Failure to comply with such reasonable requirements as a  
21 board may prescribe;
- 22 (l) Failure to show normal improvement and evidence of  
23 professional training and growth;
- 24 (m) Advocating overthrow of the Government of the United  
25 States or of the State of Nevada by force, violence or other unlawful  
26 means, or the advocating or teaching of communism with the intent  
27 to indoctrinate pupils to subscribe to communistic philosophy;
- 28 (n) Any cause which constitutes grounds for the revocation of a  
29 teacher's license;
- 30 (o) Willful neglect or failure to observe and carry out the  
31 requirements of this title;
- 32 (p) Dishonesty;
- 33 (q) ~~Breaches in the security or confidentiality of the questions~~  
34 ~~and answers of the examinations that are administered pursuant to~~  
35 ~~NRS 389.550 or 389.805 and the college and career readiness~~  
36 ~~assessment administered pursuant to NRS 389.807.~~
- 37 ~~(r)~~ Intentional failure to observe and carry out the requirements  
38 of a plan to ensure the security of examinations and assessments  
39 adopted pursuant to NRS 389.616 or 389.620;
- 40 ~~(s)~~ (r) An intentional violation of NRS 388.5265 or 388.527;
- 41 ~~(t)~~ (s) Gross misconduct; or
- 42 ~~(u)~~ (t) An intentional failure to report a violation of NRS  
43 388.135 if the teacher or administrator witnessed the violation.

44 ***2. If a teacher or administrator breaches the security or***  
45 ***confidentiality of the questions and answers of the examinations***



1 *that are administered pursuant to NRS 389.550 or 389.805 or the*  
2 *college and career readiness assessment administered pursuant to*  
3 *NRS 389.807, the board of trustees of a school district, governing*  
4 *body of a charter school or governing body of a university school*  
5 *for profoundly gifted pupils, as applicable, shall:*

6 *(a) Suspend, dismiss or fail to reemploy the teacher; or*

7 *(b) Demote, suspend, dismiss or fail to reemploy the*  
8 *administrator.*

9 **3.** In determining whether the professional performance of a  
10 licensed employee is inadequate, consideration must be given to the  
11 regular and special evaluation reports prepared in accordance with  
12 the policy of the employing school district and to any written  
13 standards of performance which may have been adopted by the  
14 board.

15 ~~3.1~~ **4.** As used in this section, “gross misconduct” includes any  
16 act or omission that is in wanton, willful, reckless or deliberate  
17 disregard of the interests of a school or school district or a pupil  
18 thereof.

19 **Sec. 10.** NRS 391.313 is hereby amended to read as follows:

20 391.313 1. Whenever an administrator charged with  
21 supervision of a licensed employee believes it is necessary to  
22 admonish the employee for a reason that the administrator believes  
23 may lead to demotion or dismissal or may cause the employee not to  
24 be reemployed under the provisions of NRS 391.31297, the  
25 administrator shall:

26 (a) Except as otherwise provided in subsection 3, bring the  
27 matter to the attention of the employee involved, in writing, stating  
28 the reasons for the admonition and that it may lead to the  
29 employee’s demotion, dismissal or a refusal to reemploy him or her,  
30 and make a reasonable effort to assist the employee to correct  
31 whatever appears to be the cause for the employee’s potential  
32 demotion, dismissal or a potential recommendation not to reemploy  
33 him or her; and

34 (b) Except as otherwise provided in NRS 391.314, allow  
35 reasonable time for improvement, which must not exceed 3 months  
36 for the first admonition.

37 ➤ The admonition must include a description of the deficiencies of  
38 the teacher and the action that is necessary to correct those  
39 deficiencies.

40 **2.** An admonition issued to a licensed employee who, within  
41 the time granted for improvement, has met the standards set for the  
42 employee by the administrator who issued the admonition must be  
43 removed from the records of the employee together with all  
44 notations and indications of its having been issued. The admonition





1 must be removed from the records of the employee not later than 3  
2 years after it is issued.

3 3. An administrator need not admonish an employee pursuant  
4 to paragraph (a) of subsection 1 if his or her employment will be  
5 terminated pursuant to NRS 391.3197.

6 4. A licensed employee is subject to immediate dismissal or a  
7 refusal to reemploy according to the procedures provided in NRS  
8 391.311 to 391.3197, inclusive, without the admonition required by  
9 this section, on grounds contained in paragraphs (b), (f), (g), (h), (p)  
10 and ~~f(t)~~ (s) of subsection 1 of NRS 391.31297.

11 **Sec. 11.** NRS 391.3161 is hereby amended to read as follows:

12 391.3161 1. Each request for the appointment of a person to  
13 serve as a hearing officer must be submitted to the Superintendent of  
14 Public Instruction.

15 2. Within 10 days after receipt of such a request, the  
16 Superintendent of Public Instruction shall request that the Hearings  
17 Division of the Department of Administration appoint a hearing  
18 officer.

19 3. The State Board shall prescribe the procedures for exercising  
20 challenges to a hearing officer, including, without limitation, the  
21 number of challenges that may be exercised and the time limits in  
22 which the challenges must be exercised.

23 4. A hearing officer shall conduct hearings in cases of  
24 demotion, dismissal or a refusal to reemploy based on the grounds  
25 contained in ~~subsection~~ **subsections 1 and 2** of NRS 391.31297.

26 5. This section does not preclude the employee and the  
27 superintendent from mutually selecting an attorney who is a resident  
28 of this State, an arbitrator provided by the American Arbitration  
29 Association or a representative of an agency or organization that  
30 provides alternative dispute resolution services to serve as a hearing  
31 officer to conduct a particular hearing.

32 **Sec. 12.** The provisions of section 6 of this act:

33 1. Apply to any agreement entered into, extended or renewed  
34 on or after July 1, 2015, and any provision of the agreement that is  
35 in conflict with that section is void.

36 2. Apply on July 1, 2018, to any agreement entered into before  
37 July 1, 2015.

38 **Sec. 13.** The provisions of NRS 354.599 do not apply to any  
39 additional expenses of a local government that are related to the  
40 provisions of this act.

41 **Sec. 14.** This act becomes effective on July 1, 2015.

