A policy analysis of Nevada's middle school retention legislation

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A POLICY ANALYSIS OF NEVADA'S MIDDLE SCHOOL RETENTION LEGISLATION

by

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ABSTRACT

A Policy Analysis of Nevada’s Middle School Retention Legislation

by

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In 1997, the Nevada State Legislature passed Assembly Bill 376 permitting the State Board of Education to adopt credit requirements that students must meet prior to being promoted from eighth grade to high school. A resulting State Board of Education regulation requires that a student earn one-and-one-half credits in language and one-and-one-half credits in mathematics during seventh and eighth grades to merit promotion to high school.

While much attention has been given to the issue of retention and social promotion in large urban school districts such as Chicago and New York City, little investigation has been directed to smaller, rural school districts. This study investigates the effect that AB376 and the ensuing regulation have had upon school district policies, programs, instructional practices, and retention rates in Nevada’s rural school districts. Through interviews with public officials and site administrators of Nevada’s school districts, it seeks to identify the motivation and intended consequences of the legislation, determine
how the regulation has been implemented in Nevada schools, and analyze the intended and unintended consequences of the legislation that have emerged to determine whether intent and actual impact agree.
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PREFACE

I took my first education course in January of 1988. It was a graduate level course in elementary curriculum at the University of Northern Colorado and I, coming from a background in computer science, was the only student lacking an undergraduate degree in education. After reading John Dewey's *Education and Experience* (Dewey, 1938), the ideas of Ralph Tyler, and works of other curriculum specialists, I recall writing at length in a reflective journal that modern educational theory and practice seem intent on finding the one “right answer” where none exists.

As I’ve continued my career in education, that belief has deepened. A reading of *Turning Points in Curriculum* (Marshall, Sears, & Schubert, 2000) reinforced that thinking. The first chapters of Marshall, et al, identify dichotomies that exist in education. They speak of generalists versus specialists in education, of a grass-roots approach to curriculum change versus a mountain-top attack. They debate curriculum theory versus curriculum practice. They mention monolithic versus decentralized organization of schools and a social preservation orientation versus progressive experimentation in curriculum. I concluded 16 years ago, and still hold, that choosing among these alternatives is an insoluble problem; that education is a series of compromises and hybrids among these dichotomies. There can be no right choice, no solution to what’s best in education because schools are aiming at a moving target and must move along with it.
Herrick and Tyler, quoted in *Turning Points*, argue that, “Society is the basic orientation to the curriculum.” This value judgment guides us in “determining objectives, selecting and organizing the learning experiences, and determining the role and function of the learner and teacher in the educational process” (p. 25). Because society changes, schools, too, must constantly change.

But education is having an identity crisis. Is its aim to provide a classical education or a vocational education? Do we seek to educate for participation in a democratic society or for participation in a global economy? We teach not only mathematics, science, and history, but also driver’s education, sex education, and drug awareness. While the white Anglo-Saxon Protestant male curriculum is still dominant in our schools, multicultural and multigender perspectives are finding their place. What I have not seen in discussions of curriculum is a mechanism for implementing a curriculum that constantly adapts.

As I again reflected upon the need for coexistence and collaboration in education, I came to the unsettling discovery that I am basically an educational radical masquerading as an ideological liberal. I find my naturally-cynical self inwardly lamenting that no matter what new strategies curriculum practitioners come up with or what researchers find most successful for education all students, widespread change is unlikely. It’s un-American, contrary to the capitalist ideal. Without losers, there can’t be winners. Without the poor, there can’t be the rich.

In America we constantly seek to prove our superiority, yet claim to be egalitarian. An unspoken reality is that an education that truly leaves no child behind, that educates everyone to their potential, leaves no one to fill low-paying jobs, to do the grunt work of
America. I fear that as a society we publicly espouse a liberal ideology, but privately are guided by a radical conservative ideology.

Thus I am brought to yet another dichotomous question: the choice between retention and social promotion. In spite of my cynicism, I, too, continue to look for “the right answer” in education.

ACKNOWLEDGEMENTS

The idea of a simple farm girl from Wisconsin earning a doctorate in education has sometimes been an immense ideological hurdle. Fortunately, I have had good people behind me, supporting and pushing, sometimes believing more in me than I did in myself.

First I would like to thank Dr. Gerald Kops, my committee chair, for the invaluable guidance that he has provided, not only in helping me clarify my ideas, but also in giving me the confidence to continue and providing the energizing pressure of deadlines. Likewise, I would like to thank the other members of my committee, Dr. Teresa Jordan, Dr. Robert McCord, and Dr. Porter Troutman for their support and feedback.

Just as when I began my master’s degree in education I was the only one without a background in education, so when I entered my doctoral cohort I was one of the few who did not have a background in educational leadership. It was somewhat daunting at first to be on level ground with those who already were deans and assistant principals and principals when I was “just a teacher,” however, there was never a time when I was made to feel that my opinions were in any way less valid or my contributions in any way inferior. Thanks, guys.
I have been a middle school teacher for the past 13 years, and for the past 2 years I have had the pleasure of being in a partnership with an outstanding math and science teacher, Joyce Mullally. Though she may not realize it, her encouragement and candor have helped keep me on track and guided me through numerous decisions.

A year after my second child, Jenae, was born I began taking the university coursework that would lead to my doctorate in education. My son, Alex, was four years old at the time. Though I was there as the scorekeeper for Alex’s little league team and assistant coach for Jenae’s, there were times, I’m sure, when they didn’t understand why mommy wasn’t around to tuck them in or play catch in the front yard, but hopefully, too, they’ve learned the value of life-long learning. I can’t imagine life without you.

The biggest and most heart-felt thanks must go to my husband, Frank. Teaching and working on a degree at the same time takes an enormous amount of time. While I focused on the professional side of my life, my husband looked after the personal side. He took on the role of primary caregiver for our two children, kept house, cooked meals, and never complained when I took off on one of my “sabbaticals,” as he called them. Honey, you showed your love in every load of laundry you folded, in every school lunch you packed, and in every fresh-cut rose I found on my desk at the end of the day. I couldn’t have done it without you.
CHAPTER 1

INTRODUCTION

The Controversy Over Retention and Social Promotion

What should be done with students who are performing well behind their peers when it is time to move on to the next grade? The issue of student retention versus social promotion has been debated in education for decades, with research and practice frequently in conflict. Since the early 1900s, the pendulum has repeatedly swung from a philosophy espousing grade retention of students who don’t meet academic standards to one advocating promoting these students socially to avoid damage to their self-esteem. Research has demonstrated that neither retention nor social promotion without accompanying interventions is effective in raising achievement. Both, when used without remediating interventions, have deleterious effects. (U.S. Department of Education, 1999).

Retention has been repeatedly shown to be detrimental. Ernest R. House, an internationally recognized scholar in educational evaluation and change, states that [T]he evidence is extensive and unequivocal. It includes test scores, teacher ratings, parent ratings, interviews, surveys, personality and emotional adjustment measures, case studies – everything from elaborate statistical analysis to asking
students how they feel. Almost everything points in the same direction—retention is an extremely harmful practice. (1989, p. 210)

Retention is strongly correlated with increased dropout rates and typically produces short-lived academic gains. Grissom and Shepard (1989) have shown that “whenever high school dropouts and graduates are compared, it is always the case that a substantially larger proportion of the dropouts have repeated a grade” (p. 60). C. Thomas Holmes, noted for his meta-analysis of 63 studies on retention (Holmes & Matthews, 1984), concludes “on average, retained children are worse off than their promoted counterparts on both personal adjustment and academic outcomes” (Holmes, 1989, p. 27).

In spite of the body of empirical evidence against the use of grade retention, the practice remains one of the major strategies used by educators today to respond to academic failure. House (1989) estimates that one-quarter to one-third of all American students have been retained at some point in their education. Shepard and Smith (1989) observed that “Many educators agree with the general public that retention in grade is essential to assuring student achievement. Teachers and principals dispute negative findings from research on retention, hearkening instead to common sense and their own personal experience in retaining students” (p. 4).

Unfortunately, students advancing to the next grade without requisite skills often find themselves unable to keep up with others in their age cohort and fall farther behind academically. This practice of advancing students, generally referred to as social promotion, seems to have surfaced as public enemy number one in the struggle to increase student achievement. This enemy does make for appealing headlines. “Social
Promotion Ban Advances in Georgia” (Jacobson, 2001); “When Johnny Can’t Read – Try Tough Love: Waging War Against ‘Social Promotions’” (Wildavsky, 1999); and “Social Promotion: A Social Stigma?” (Van Dorn, 2000) are but a few of the article headlines indeed making social promotion seem unpalatable.

Government agencies have also helped fuel the fight against social promotion. In its landmark report, A Nation at Risk (1983), the National Commission on Excellence in Education recommended that “placement and grouping of students, as well as promotion and graduation policies, should be guided by academic progress of students and their instructional needs, rather than by rigid adherence to age” (p. 30). Sixteen years later, the U.S. Department of Education, following a directive from President Bill Clinton, prepared the report Taking Responsibility for Ending Social Promotion (1999). It is very popular to advocate ending social promotion; however, outside of academia, very few voices support ending retention.

Traditionally, the decision to promote or to retain a student has been in the hands of local school administrators and school boards. In the past two decades, however, increasing numbers of state legislatures have wrested control of grade promotion decisions from the hands of educators. Many states have adopted standards in key curricular areas, established standardized testing regimens as accountability measures, and, in some cases, mandated proficiency exams to be promoted to the next grade or to earn a high school diploma.

In his 1997 State of the Union address, President Bill Clinton called for a national education standards movement that would include testing fourth-graders in reading and eighth-graders in math. He claimed that, “Good tests will show us who needs help, what
changes in teaching to make and which schools need to improve. They can help us to end social promotion. For no child should move from grade school to junior high, or junior high to high school until he or she is ready.” (Heubert and Hauser, 1999, p. 13-14).

George W. Bush’s rallying cry of “No Child Left Behind” has added a stringent program of testing to the Elementary and Secondary Education Act with which states must comply and demonstrate adequate yearly progress in order to be eligible for the billions of dollars of federal funding available annually.

Retention and Promotion in Nevada

Increasing numbers of state legislatures are enacting statutes establishing minimum standards that must be achieved before students may be passed from one grade to the next. Politicians claim that they are ending “social promotion,” the unofficial policy of passing students on to the next grade with their age cohort, even though they may not have mastered the requisite basic skills. These statutes, while politically popular, are enacted contrary to the recommendations of educational research and perhaps with little forethought as to the impact on schools and students.

Nevada is among the states that have legislated changes in retention and promotion policies in the past three decades. Prior to 1979 there was little legislation addressing the issue of grade retention and promotion. A statute (NRS § 392.125 – see Appendix I) was added in 1979 giving the principal and teacher final say in any retention decision, although requiring the school to make reasonable effort to contact the parents to discuss the circumstances and reasons for the retention. The statutes, as well as State Board of
Education policies, were unclear on criteria for retention, and broad discretion was given to building principals in making retention and promotion decisions.

The 1997 legislative session saw major additions to Nevada education law. The Nevada Educational Reform Act (NERA) provided, among other things, a statewide system of proficiency testing for high school students. Passage of these tests – initially in reading, English, and math – became prerequisite to conferral of a high school diploma.

Ancillary to NERA was AB376, a bill whose ultimate result was creation of a State Board of Education regulation requiring students to earn one-and-one-half semester credits each of math and reading or English during their seventh- and eighth-grade years in order to be promoted to high school. While the statute itself has not changed since 1997, the state regulation in response to the law has undergone revision, including change from an initial requirement that students not only pass their classes, but earn grades of C or better to receive credit (Nevada State Board of Education, 1998b). Appendix I contains the full text of the most recently adopted version of the regulation.

Within the Clark County School District, which includes the Las Vegas metropolitan area, not only have formal policies and regulations been repeatedly updated since 1997 to match the Board of Education requirements (Clark County School District, 1999, 2000b, 2002), but educational practices in middle schools and junior high schools have been adjusted as well. Credit requirements have been added for promotion from sixth grade to seventh, and from seventh grade to eighth. In some Clark County schools, students are identified as being at risk of retention as early as the first quarter of sixth grade. Communications with parents regarding student progress have increased and have become more formalized. Opportunities for remediation in reading are available utilizing
packaged systems such as Read 180® and Soar to Success®. Additional credits can be earned in supplemental classes during the school day, after school, and during summer school.

The Clark County School District, however, enrolls over two-thirds of Nevada’s students in kindergarten through 12th grade. Economies of scale permit an extensive legal and communications network linking it not only internally, but also with Nevada’s legislative and governing boards. Nevada’s other 16 districts, with the exception of Washoe County - the location of the city of Reno - are small and primarily rural. The rural districts’ responses to the promotion requirement and impact on these districts has not been previously investigated.

Statement of the Problem

Educational research has demonstrated that neither grade-level retention nor social promotion is an effective stimulus to student success. Research notwithstanding, Nevada’s legislature is adopting increasingly stringent achievement testing programs and has begun establishing academic gatekeeper grades. To date, no one has investigated the motivation, intended consequences, impacts, or actual consequences of these initiatives.

Purpose of the Study

The study investigates the effect that Assembly Bill 376 and related state regulations have had upon school district policies, programs, instructional practices, and retention rates across the state of Nevada. It seeks to describe the response of Nevada’s rural school districts to the legislation and resulting regulation.
Research Questions

Through analysis of public records, as well as interviews with public officials and school administrators, this study analyzes the progression of Nevada's middle school promotion legislation from inception through implementation. The investigation begins with the enabling bill's introduction in the State Assembly in Carson City in 1997, proceeds through development and revision of the State Board of Education regulation, and follows the implementation of the regulation into Nevada's rural classrooms. It seeks first to identify the expectations of legislators and others involved in the regulation's development, then to glean clues as to whether those expectations have been realized and whether any unintended consequences have emerged.

The primary research questions addressed in this study are:

1. What was the motivation for passage of AB376?
2. What were the intended consequences of the legislation?
3. How have Nevada's rural school districts implemented the changes in legislation?
4. Have the intended consequences of AB376 been realized?
5. What unintended consequences of AB376 have emerged?

Significance of the Study

The findings of this study provide data to Nevada legislators on the impact of one mandate enacted at the end of the 1997 biennial legislative session. They may also serves as a guide to policymakers seeking to refine or amend educational legislation by identifying anecdotal evidence as to whether the impact of retention legislation has been harmful or beneficial to students. Legislators and educators are inextricably intertwined
in the business of education. House (1989) suggests that “it is now the case that some state legislatures are already mandating retention policies. So it seems inevitable that state legislators must be informed about the ills of this practice to prevent them from fomenting unwise policies.” (p. 212) It remains to be seen whether AB376 has resulted in ills or cures.

The professional literature is enhanced by analysis of the impact of Nevada’s retention legislation, particularly as it relates to rural school districts. National attention is often focused on large, urban school districts. With Texan George W. Bush in the White House and former Houston superintendent Rod Paige serving as his Secretary of Education, the Texas education system, in large part a model for No Child Left Behind, has been under close scrutiny. Melissa Roderick, a prominent researcher in the area of retention and promotion, has chronicled the progress of Chicago’s school reform efforts through the Consortium on Chicago Schools Research (e.g. Cholo (2003); Roderick (1993, 2000); Roderick, Jacob & Bryk (2000); Roderick, Engel, & Nagaoka (2003)).

New York City’s on-again, off-again retention of thousands of school children continues to make headlines (e.g. Herszenhorn (January 9, 2004; March 16, 2004; March 17, 2004; June 18, 2004)).

Rural districts typically do not receive the same media attention. Nevada’s rural districts are isolated geographically, and, although technology is effecting change, they are often isolated professionally as well. Site administrators in Nevada may find the results of this study useful in shaping educational practice within their buildings.

Results of this study may be of interest not only to Nevada legislators and site administrators, but also to representatives of other school districts and states considering
adopting legislation or policies affecting the promotion of students to successive grade levels. The consequences to education both intended and unintended, merit investigation.

Methodology

This research is a descriptive case study evaluating the development and implementation of a single piece of legislation. A qualitative approach is applied to public documents and in-depth interviews, seeking to identify common outcomes of the legislation and assess whether there is correspondence between the intents and impacts of the measure. Through interviews and analysis of legislative records, district policies, accountability data, and other public records, this study seeks first to identify the intent of the eighth-grade promotion requirement passed during the last days of the 1997 Nevada legislative session, and then to assess the impact on Nevada’s sixteen rural school districts.

Study data were collected in two phases. First, review of public records, together with interviews of persons involved in the passage of A376 were used to determine the motivation and intended consequences of the promotion legislation. This is referred to herein as the “intent phase.” Second, administrators from Nevada’s school districts outside of Clark County were interviewed to gather evidence of how the legislation has been implemented at the building level. This is referred to herein as the “impact phase.” Once gathered, the data were analyzed for indications of whether the implementation of the regulation met the intent of the legislation and whether any unintended consequences has come to light.
The intent phase involved a search of public records and interviews with key legislators and other public officials involved in the passage of AB376 and development of the enabling State Board of Education regulation. Public documents used included, but were not limited to: (1) state accountability reports; (2) minutes of legislative committee hearings; and (3) Nevada Revised Statutes. Four public officials were identified as key: (1) the primary sponsor of AB376; (2) the Senate majority leader and chairperson of the Legislative Committee on Education; (3) a member of the State Board of Education who offered testimony at legislative hearings; and (4) the chairperson of the State Board of Education subcommittee that drafted the regulation establishing a credit requirement for promotion from eighth grade to high school.

The impact phase invited site administrators at Nevada’s 16 school districts outside of Clark County to participate in in-depth interviews focused on their experiences with implementation of the promotion regulation at the building level. Representatives from 12 of the 16 districts ultimately participated – 11 via telephone interview and 1, at the administrator’s request, via written response to provided questions.

Although the Clark County School District dominates state enrollment statistics, its schools were not subjects of this study. The author is a 14-year veteran of the district and is familiar with the chronology of implementation of the legislation in the district, as well as many of the prevention and intervention programs begun in order to minimize student retentions. The focus of this study is the other 16 primarily rural school districts within the state of Nevada.
The research questions listed above were approached using qualitative data collection and analysis methods. Research began with information available through public records and proceeded with information gathered through interviews.

Research questions 1 and 2 were addressed first via investigation of legislative records and in later stages of investigation through interviews with parties involved with passage of the legislation and development of the State Board of Education regulation. The information was analyzed to determine perceived problems, motivations, and outcomes anticipated by legislators.

Research question 3 first involved search for data reflecting middle school retention rates before and after implementation of the middle school credit requirement. Interviews with site administrators were then conducted to assess program changes and other interventions that may have been implemented in individual districts. The documents and interview data related to research question 3 were analyzed for commonalities and trends among school districts as well as for divergent approaches to implementing the regulation.

Research questions 4 and 5 were addressed through synthesis of information collected in answering questions 1 through 3.

Definition of Terms

When used herein, the terms listed below bear the following meanings.

“Accountability” refers to the system of standardized tests used to rate the adequacy of a school’s instructional program. In Nevada, the accountability measure from 1997 through 2001 was the TerraNova test published by CTB/McGraw-Hill. Since 2002 the
Iowa Test of Basic Skills produced by Riverside Publishing has been used. As of 2004, a combination of state-developed seventh-grade criterion referenced tests and eighth-grade writing proficiency tests are also being used at the middle school level (Nevada Education Reform Act, 1997; Nevada Department of Education, 2002).

“Achievement” refers to the performance level of students on the state measure of accountability. This is typically reported as a stanine or percentile score.

“Gatekeeper grade” refers to a grade level where a credit requirement or minimum level of performance on a standardized test must be achieved before a student may be promoted to the next grade. NRS § 392.033 establishes eighth grade as a gatekeeper grade in Nevada.

“Impact phase” refers to the portion of the study that focuses on the impact of the Nevada middle school retention legislation on schools housing students in grades 7 and 8.

“Intent phase” refers to the portion of this study that focuses on the interviews of Nevada legislators and other public officials involved in the passage of AB376 and subsequent State Board of Education regulation.

“Intervention” refers to remediation measures taken to improve the academic skills of students who have been identified as performing below grade level. Interventions may include, for example, tutoring, commercially-available programs, or additional instruction periods. Grade retention and social promotion are not considered interventions.

“Middle school retention legislation” refers collectively to 1997 Assembly Bill 376, codified as Nevada Revised Statute § 392.033, and the adopted State Board of Education regulation identified as LCB File No. R076-99, and codified in the Nevada Administrative Code as § 389.445. The full text of the statute and regulation are included.
in Appendix I. These are also referred to herein as “middle school credit requirement” or “middle school promotion legislation.”

“Retention” refers to the practice of keeping a student in the same grade at the end of a school year, with the intent of repeating the coursework prescribed for the current grade without program modification or intervention the following year.

“Site Administrator” refers to the principal or lead teacher responsible for the operation of an individual public school.

“Social promotion” refers to the practice of advancing a student to the next grade at the end of a school year with his age cohort, even though he has not demonstrated mastery of grade level material, and without program modifications, interventions, or remediation the following year.

Limitations

The author has been a teacher at a middle school in the Clark County School district since the start of the 1991-92 school year. During that time she has observed reluctance on the part of teachers, parents, and administrators to retain students in grade, particularly students scheduled to move from eighth grade to high school. Following passage of Assembly Bill 376, an increase in tracking of student progress, provision of supplemental classes, and leveling of student classes by ability, with the intent of reducing the number of students who would legally need to be retained in grade, was noted within the author’s school. She has assumed that similar interventions have been implemented throughout the Clark County School District and seeks to determine the response of school districts.
in other Nevada counties. Researcher bias will need to be considered when collecting and analyzing data.

This study does not purport to analyze attitudes of students, parents, or teachers about retention, nor does it attempt to assess the effectiveness of interventions from the perspective of students, parents, or teachers. Rather it assumes that all parties involved share a common goal of adequately preparing students to progress through grades with their age cohort, thus avoiding retention of students in grade.

Since the Nevada school districts have a high transiency rate among school district personnel as well as among students, there was difficulty in identifying individuals at all schools who possess knowledge of conditions both prior to and following the implementation of policies under AB376. While the ideal information to be gathered involves a chronology of impacts on schools, in some case the data are limited to current practices.

As this study addresses the specific legislation of Nevada and the policies and regulations of school districts within that state, the results of the study are not generalizable to other districts or states, but catalog anecdotal evidence of the impact of education legislation.

The legislation being studied was passed concurrently with a broader accountability program, the Nevada Educational Reform Act (1997). Therefore, it is not feasible to ascertain causal relationships between the legislation and retention rates.
Organization of the Dissertation

This chapter has presented an overview of the study to be undertaken. Chapter 2 presents background information and literature review in several interrelated areas key to understanding the issues under study: current research findings related to retention and promotion; historical background on research on retention and promotion; retention legislation in selected states and districts across the United States; retention and promotion legislation in the state of Nevada; and implementation of retention legislation in Clark County. Chapter 2 also incorporates some of the information gathered through interviews with public officials as it applies to the development of the enabling legislation and ensuing regulation. Chapter 3 gives detailed discussion of the study methodology, including rationale for the research design and procedures used in gathering and analyzing data. Chapter 4 presents and analyzes the data collected, focusing primarily on interview data from the impact phase. Chapter 5 summarizes findings, conclusions, and suggestions for future research.

Summary

Schools are social institutions governed by elected officials. In 1997, Nevada, following on the heels of other state legislatures and contrary to educational research on retention, enacted Assembly Bill 376, impacting the promotion of students from eighth grade to high school. Through records analysis, interviews of educators and legislators, and analysis of retention data for affected schools, this study seeks to identify the intended consequences of Assembly Bill 376, as well as the response of rural school districts to the legislation, including the actual consequences related to policies,
programs, and retention in grade that have resulted. This information will be used to assess whether Nevada's rural school districts are moving toward achieving the intent of the legislation, and identify what, if any, unintended consequences have emerged from their response.
CHAPTER 2

BACKGROUND INFORMATION AND LITERATURE REVIEW

The purpose of this chapter is to establish the theoretical, historical, political, and geographical context within which this study takes place. It begins with key findings in the professional literature on retention and social promotion. Having established the research basis, discussion then turns to implementation of retention and promotion research, moving from a national to a local context.

In looking at retention and promotion nationally, the history of the practice in the United States is first briefly reviewed. This will be followed by a discussion of some of the contemporary efforts underway in various districts around the country. The study of national impacts will conclude with comments concerning the impact of the reauthorization of the Elementary and Secondary Education Act (ESEA), commonly referred to as No Child Left Behind Act of 2001 (2002).

From the United States in general, discussion turns to the state of Nevada. The focus will be on the state legislation relating to retention and promotion, including the history of the legislation and the politics involved in passage of Assembly Bill 376, the measure under study herein.

Narrowing the geographic region further, the focus shifts to the impact of Nevada’s retention legislation on the Clark County School District, which encompasses the Las
The Literature on Retention and Promotion

Retention and promotion are typically viewed as diametrically opposed choices of what to do with a child who does not meet some stated academic standard. The philosophy behind retention implies that a child will improve academically if he is separated from his age cohort and repeats the course material of the grade level he has “flunked.” Social promotion, on the other hand, supposes that a child who is academically deficient will be better served by being advanced to the next grade with his age cohort. Both have been subjects of criticism, although from different sectors.

**Retention**

The primary purposes of formal retention and promotion policies are (1) to ensure students acquire knowledge and skills needed for successful work in higher grades; and (2) to increase student and teacher motivation to succeed (Heubert and Hauser, 1999). In its most basic form, retention means that a child will remain in the same grade for one more year, receiving exposure to the same material again. The concept seems sound – if at first you don’t succeed, try, try again.

**Effects of Retention**

Contrary to what seems intuitive, research has been showing negative effects of retention since the 1930s (Owings & Magliaro, 1998), particularly in the areas of academic achievement, dropout rates, and social adjustment.
Typically, retained students show short-term academic gains—achievement increases for a period of about a year. Following that period, achievement drops to previous levels. Retainees do not catch up with their peers who have been promoted, nor is their academic progress adequate to keep up with their new cohort. In fact, Grisson and Shepard (1989) report that “the repeat year would have to produce achievement gains of thirty months to compensate for the negative effects of being made a year too old” (p. 61).

A high percentage of retained students later drop out. Research indicates that as many as 30% of retained students drop out by grade 9. Approximately 60% of students who are retained once drop out by grade 12. With a second retention the percentage rises as high as 90%—dropping out is a virtual certainty (Parker, 2001). According to Wheelock (1998):

For retained children—bored with their schooling and overage for grade, sometimes by two years by the time they leave the eighth grade—the threat of withholding a diploma rarely stimulates them to engage in school. Many of these students ultimately develop the belief that “school is not for me” and drop out (Wehlage and Ruter, 1986; Wheelock and Dorman, 1988)....And in the middle grades and beyond, as schools fill up with overage and under-motivated students, the school culture itself becomes vulnerable to depressed expectations and mediocre practice. Such a situation does not bode well for learning that meets “higher standards” (¶ 9).

It is important to note that the relationship between retention and dropping out is correlational, not causal; however, Grissom and Shepard (1989) have concluded that
retention significantly increases the likelihood of dropping out, even after controlling for prior academic achievement, gender, and race.

While supporters of retention view it as an opportunity, many, including most retained students, view it as punitive. Retainees often have low self-esteem, are behavior problems, and dislike school. The terms “retention” and “non-promotion” often need to be clarified to those outside of the educational community. The pejorative “flunking” needs no explanation.

Retention Rates in the U.S.

Although there is a public perception that students are being passed on in wholesale fashion, the reality is that significant numbers of U.S. students are retained in grade each year. Retention rates vary greatly from state to state and are inconsistently collected. Some states collect retention data for all grades individually, some for all grades total, and some not at all.

Table 1 below shows retention rates for selected states following the 1996-97 school year. Grades 4 and 8 are the most common gatekeeper grades, although it is evident that significantly larger numbers of students are retained in eighth grade than in fourth grade in the states shown.
Table 1

1996-97 Retention Rates for Selected States

<table>
<thead>
<tr>
<th></th>
<th>4th Grade</th>
<th>8th Grade</th>
<th>K-12 Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delaware</td>
<td>0.9</td>
<td>2.8</td>
<td>na</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>8.0</td>
<td>16.5</td>
<td>na</td>
</tr>
<tr>
<td>Maryland</td>
<td>0.7</td>
<td>2.6</td>
<td>3.2</td>
</tr>
<tr>
<td>Vermont</td>
<td>0.4</td>
<td>4.8</td>
<td>na</td>
</tr>
<tr>
<td>West Virginia</td>
<td>2.0</td>
<td>2.9</td>
<td>3.8</td>
</tr>
<tr>
<td>Indiana</td>
<td>na</td>
<td>na</td>
<td>1.4</td>
</tr>
<tr>
<td>Ohio</td>
<td>1.1</td>
<td>3.1</td>
<td>na</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>0.2</td>
<td>8.5</td>
<td>na</td>
</tr>
<tr>
<td>Alabama</td>
<td>2.1</td>
<td>4.4</td>
<td>5.1</td>
</tr>
<tr>
<td>Florida</td>
<td>1.0</td>
<td>4.0</td>
<td>5.0</td>
</tr>
<tr>
<td>Georgia</td>
<td>1.0</td>
<td>2.2</td>
<td>na</td>
</tr>
<tr>
<td>Mississippi</td>
<td>6.1</td>
<td>12.9</td>
<td>9.8</td>
</tr>
<tr>
<td>North Carolina</td>
<td>1.4</td>
<td>2.8</td>
<td>4.7</td>
</tr>
<tr>
<td>South Carolina</td>
<td>1.7</td>
<td>2.9</td>
<td>na</td>
</tr>
<tr>
<td>Tennessee</td>
<td>1.2</td>
<td>5.7</td>
<td>5.2</td>
</tr>
<tr>
<td>Arizona</td>
<td>0.5</td>
<td>2.3</td>
<td>2.8</td>
</tr>
<tr>
<td>Texas*</td>
<td>0.8</td>
<td>17.8</td>
<td>na</td>
</tr>
</tbody>
</table>

na = not available
* Texas figures are for 1995-96

Source: Compiled from Heubert and Hauser (1999, p. 138-147)

Statistics on retention affects are often difficult to gather because it is not always easy to identify exactly who has been retained. A common practice is for researchers to
classify a student as having been retained if he is older than typical for grade level. Heubert and Hauser (1999) refer to this as “age-grade retardation” (p. 120). The reliability of this method is affected by different school-entry ages from state to state, the transient nature of our society, and by variation in maximum compulsory-education ages.

Because identification of retained students is an inexact procedure, estimates of the numbers of students retained varies as well. Writing under the auspices of the National Research Council, Heubert and Hauser report statistics for a national cohort of students followed from ages 6 to 8 in 1987 to ages 15 to 17 in 1996. They found that the percentage of enrolled students below expected grade level was 21% at ages 6 to 8, rose to 28% at ages 9 to 11, was 31% when the cohort reached ages 12 to 14, and reached 36% when the students were aged 15 to 17. House (1989) estimates that one-quarter to one-third of students have been retained, a ballpark figure that is in line with Heubert and Hauser’s findings.

The demographics of retention are telling as well. Boys are much more likely to be retained than girls. Blacks and Hispanics are retained proportionally more often than whites. For black males aged 15 to 17, the retention rate is nearly 50%; for white females in the same age group the rate is less than 30% (Heubert & Hauser, 1999). Similarly, students from lower socioeconomic backgrounds tend to be retained more often than those from higher socioeconomic backgrounds (Thomas, et al. 1992).

**Social Promotion**

For decades, most districts have some sort of retention policy, whether vaguely worded and subjectively applied or based on specific criteria. Social promotion, on the other hand, is an unwritten policy, in which students are promoted to the next grade with
their peers even though they have failed to meet performance standards and academic requirements.

Advocates of social promotion argue that it is in the best interests of a student’s social and psychological well-being. Multi-age groupings have shown promise in Kentucky’s primary schools; however, middle-grade classrooms with both 10-year-olds and teens may be alarming, and rightly so, to both parents and teachers. Social promotion avoids embarrassing children and labeling them as failures. Promoting students who may not be academically on par with their peers is also one means of preventing discrimination, since poor, minority children are much more likely to be retained (Haesi, 2002).

Social promotion, however, has many of the same drawbacks as retention. Students unable to do the work become frustrated. They perceive that little is expected of them, do not develop an appropriate work ethic, and do not put forth their best efforts. Many also become behavior problems in the classroom. Teachers who might otherwise recommend retention often agree to promotion due either to pressure from parents or administrators, or knowledge of research showing retention is ineffective.

Social promotion is often blamed for the increasing numbers of students that are allegedly unprepared for the workplace or for higher education. The California State University system reports, for example, that approximately 50% of entering freshmen failed the entry level English and math placement tests. Nationwide, about one-third of college freshman had to take remedial classes in math, reading, or writing. (U.S. Department of Education, 1999).

A 1991 case of social promotion illustrates the dilemma involved in the retention versus social promotion debate. A prominent story in the Las Vegas Review-Journal...
(Papinchak, July 7, 1991) featured the complaints of the parents of an eighth-grade child who had failed English, social studies, reading, and math, yet was promoted to high school over the objections of the parents. The principal of the school was quoted as saying that he had ordered the promotion of all eighth-grade students, failing or not, to high school (Papinchak, July 9, 1991). In high school the student involved was diagnosed as having a learning disability, and less than one year later a Review-Journal headline proclaimed “Once-Failing Student Doing Well at Cheyenne High School.” (Gallant, February 17, 1992). In this case, the social promotion of the student appears to have had a positive outcome.

Some complaints are tried in the media, while others are tried in courtrooms. Although the plaintiff did not prevail in his complaint, the case of Peter W. v. San Francisco Unified School District (1976) does serve as a wake-up call for advocates of social promotion. In this California case, Peter W. sued the school district from which he had graduated because he had been granted a diploma without having acquired the ability to read above the eighth-grade level, had been assigned to classes with materials beyond his reading ability, and had been knowingly passed from grade to grade without the necessary competencies. Although this case did not succeed, one might wonder how long it will be before similar suits are successfully brought.

Alternatives to Retention and Social Promotion

Both retention and social promotion are premised on the belief that knowledge can be divided into pieces (or grades) that one must master linearly. Anyone who has listened to a four-year-old dinosaur fanatic explain the job of a paleontologist and unerringly
recognize and pronounce words such as diplodocus and apatosaurus will realize the absurdity of this notion.

The debate over retention versus social promotion should be moot, because both have been shown to be ineffective if not accompanied by appropriate interventions. Both result in high dropout rates, particularly for poor and minority students, and neither closes the learning gap for low-achieving students. The current literature consistently arrives at two conclusions. First, social promotion has a negative effect on student achievement. It ensures failure by neglecting to develop students' skills for future studies and employment. Second, grade retention has a negative effect on student achievement, classroom behavior, attitude toward school, school attendance, and dropout rates (Rudolph, 1999). In summarizing retention and promotion research, Lorence, Dworkin, Toenjes and Hill (2002) conclude, “Ultimately, neither generic grade retention nor generic social promotion practices by themselves are optimal solutions for the learning problems of children not meeting educational achievement standards. Both strategies represent systemic failures to aid children” (p. 61).

Although findings that retention doesn’t work seem counterintuitive to many policymakers (Wheelock, 1998), within the education community the focus is now turning away from punitive retention and laissez faire social promotion to proactive prevention and intervention. Districts are increasingly developing repertoires of strategies from which to draw. Among the many strategies being used are: smaller classes with expert teachers, professional development, intensive remediation, extended-day and intersession programs, a resurgence of summer schools, alternative schools, prekindergarten readiness programs, double-dosing (providing more than one literacy or
math period per day), looping (where teachers move to the next grade with students),
student contracts, parent involvement programs, truancy reduction programs, flexible
scheduling, multiage grouping, improved assessment, and school-linked integrated
services.

Darling-Hammond (1998) collapses prevention and intervention efforts into four
strategies to improve teaching: (1) enhancing professional development for teachers; (2)
redesigning school structures to support more intensive learning; (3) targeting supports
and services for students when they are needed; and (4) use of classroom assessments that
better inform teachers.

All of these alternatives come with a hefty price tag, but so do retention and social
promotion (and prisons, too, but that’s a different issue). Estimates of student retention
figures vary from 2.4 million to 4 million annually (Robertson, 1997). Using an in-
between figure of 3 million students and a conservative per-student funding of $5,000 per
year yields a cost of retaining students of $15 billion annually – $1 billion more than the
2002 Title I allocations under No Child Left Behind (2002, § 1002).

Gary Natriello, professor of sociology and education at Columbia University’s
Teacher’s College, has observed that “administrators seeking to secure funding to
establish alternatives to retention face considerable resistance, while the decision to add a
full year of additional expenditures for a retained student is made without much notice of
the budgetary implications at the school, district, or state level” (1998, p. 17).
Retention and Social Promotion Trends in the United States

The debate surrounding retention and social promotion is not new and the pendulum has continued to swing back and forth between what have previously been seen as mutually-exclusive. It has been around as long as students have been grouped by grade level, and its evolution has in many ways paralleled the history of the United States.

In the mid-1800s, the United States first saw widespread grouping of children into grades by age with promotion decisions based on mastery of content. This was a time of great advancement in technology, with inventions ranging from the telephone to the internal combustion engine. The idea of work specialization had taken hold during the industrial revolution and organization of schools by grade was a logical adjunct. Although compulsory education was not yet universal, Sheppard and Smith (1989) report that in the 1800s retention rates were sometimes as high as 70% in one year.

In the early 1900s researchers began studying the effects of retention and found them to be negative. During that time, however, Frederick Taylor also put forth his theory of scientific management, which was evident in schools through a hierarchy of grade levels, measurement of tasks and levels of performance, and an assumption that efficiency was a worthy goal (Hanson, 1996). Efficiency dictated that students of similar ability levels be kept together. Thus those who were deemed to be behind grade level were indeed kept behind.

In the 1930s, the literature continued reporting the negative effects of retention on achievement, particularly for students from less advantaged families. However, the nation was embroiled in an economic crisis. By 1918 every state had adopted

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compulsory attendance laws, although large numbers of students, particularly those coming from lower socioeconomic backgrounds, continued to leave school to work at unskilled labor (Ravitch, 1983). During the Depression, keeping students in school and out of the workforce was important to the economy (Shepard & Smith, 1989). Ravitch notes, “As more youths stayed in school longer in the 1930s, in response to the enforcement of compulsory education laws and a tight job market, progressive educators had introduced flexible standards, social promotion, [emphasis added] and nonacademic programs to keep them in school and busy.” (p. 153)

Findings of negative effects of retention continued into the 1940s and 1950s. In summarizing retention research from 1924 to 1948, Goodlad (1954) found that retention did not reduce the variation in student achievement levels and had no positive effect on academic gains.

The 1960s was the post-McCarthyism, post-Sputnik era with new concerns about science and mathematics achievement amidst fears of rising Communist power. However, this was also a time of hippies, free love, Woodstock – and the Vietnam War. The 1960s and 1970s saw the rise of social promotion under the philosophy of trying to bolster students’ self-esteem (Owings & Magliaro, 1998).

In the mid-1970s, a movement against social promotion began, largely due to “a growing lack of faith in the meaning of high school diplomas” (Hacsi, 2002, p. 149). The 1980s were the Reagan Era and his warnings about the rise of the Evil Empire. Worries persisted about an economic crisis, and blame for a reduced U.S. competitiveness fell on education. Shepard and Smith (1989) observed “The highly visible reforms of public education in the 1980s reject the soft-headed, open education, child-centred curriculum of
the late 1960s and 1970s” (p. 1). Although empirical evidence continued to show that retention had more negative effects on students than social promotion, the 1980s saw a resurgence of stringent retention policies in response to the publication of *A Nation at Risk* (National Commission on Excellence in Education, 1983), although many of these policies were later rescinded. (Owings & Magliaro, 1998; Shepard & Smith, 1989).

The 1990s saw increased involvement of state legislatures in development of promotion and retention policies, with a proliferation of mandated high-stakes testing. As of 1997, 7 states (Arkansas, Florida, Louisiana, New Mexico, North Carolina, South Carolina, and West Virginia) has passed laws requiring testing for promotion. At that time, 46 states either had or were in the process of creating standards-based assessments (Heubert & Hauser, 1999).

The 2001 reauthorization of the Elementary and Secondary Education Act, also known as the No Child Left Behind Act of 2001, has tied receipt of federal monies to adoption of state academic standards and standards-based testing programs. While No Child Left Behind does not mandate retention of students, it has prompted states to adopt its ambitious goals such as: all students being proficient in reading by the end of third grade by the 2013-2014 school year, all limited English proficient students becoming proficient in English, and all students graduating from high school.

Efforts to End Social Promotion in Selected U.S. Cities and States

With the increased involvement of legislatures in retention and promotion decisions, the issue has frequently found itself in the media. In the past twenty years, a number of
cities and states around the nation have adopted or are in the process of adopting accountability standards that include some form of standardized test and, often, mandatory retention. The tests and subsequent retentions are generally administered at "gatekeeper" grades. Although expectations vary, typically a reading standard must be met by grade 3 or 4 in order for the student to be promoted, while a level of math proficiency must be demonstrated by grade 8.

Standardized tests generally play a large part in retention decisions. Tests used include nationally-normed tests, such as the Iowa Test of Basic Skills and SAT-9, as well as state-developed tests, such as the Texas Assessment of Academic Skills (TAAS). Almost all include voluntary or mandatory summer school. Some accountability plans require that Individual Literacy Plans be developed for low-achieving students, similar to IEPs developed for special education students. Are these programs feasible and effective? The following examples highlight progress in some of the districts that have been in the national spotlight.

New York City

New York City was one of the first districts to track retention rates. In 1904, the New York City superintendent began printing tables that showed more than one-third of elementary students were over age for their grade level. This led to an analysis showing that approximately 13% of the city's school budget was being spent educating students who were repeating a grade (Hacies, 2002).

In 1980, New York City's Promotional Gates program established grades 4 and 7 as gatekeeper grades, with performance standards in reading and mathematics. Approximately one-fourth of students in those grades were held back and $63 million
was added to the city's budget to provide remediation for retained students. Three years later, there were several thousand students in their third year of seventh grade who were facing yet another year of retention. A change in chancellor resulted in a policy shift stating that seventh-grade students could only be retained once. Budget cuts, as well as failure to show academic gains, soon spelled an end to the program. Hacsi notes:

The end of New York's program was not necessarily a bad thing, as an evaluation by Ernest House and others showed that it had not managed to improve the performance of retained students. The city had hired teachers and trained them to teach repeaters in small classes of eighteen students. But within a few years it was clear to the evaluators that the retained students had not advanced academically any further than had similar low-achieving students in earlier years who had been regularly promoted. And in the long run the dropout rate for retained children was much higher than it had been for the comparison group.

(p. 152)

In the late 1990s a new school chancellor re-established the gatekeeper grades at fourth and seventh grades with similar results.

Fast forward to 2004. Michael Bloomberg is mayor of New York City. He has direct control over the school system, something that no mayor has had in over 100 years. Social promotion is going to end, and it's going to work because he says so. Quoted in a New York Times article, Bloomberg claims "This year, for third graders, we're putting an end to the discredited practice of social promotion. We're not just saying it this time. This time, we're going to do it" (Herszenhorn, January 9, 2004). Estimates are that 5,000 of the 74,000 third graders will be retained at the end of the 2003-2004 school year.
Bloomberg’s plan was approved by the New York City Panel of Educational Policy, the district’s governing body, but only after he fired three of the panel’s members who had indicated they would vote against it (Herszenhorn, March 16, 2004). The panel members who were opposed to the mayor’s plan had researched the issue of retention and questioned the criteria for promotion, what services would be provided for retained students, and the political implications. On this last issue former panel members were “concerned about the suggestion that Mr. Bloomberg was eager to carry out the plan this year to guarantee an increase in scores on statewide fourth-grade tests next year, when he faces re-election” (Herszenhorn, March 17, 2004, ¶ 26).

Philadelphia

During much of the 1990s, Philadelphia teachers battled against David Hornbeck, the district superintendent, in his efforts to reform the fourth-largest district in the nation. Hornbeck resigned in 2001, and Philadelphia is one of several districts in Pennsylvania facing takeover by the state. Philadelphia submits fourth and eighth-grade students to standardized testing, the SAT-9. In 2001, approximately 25% of all fourth grade students (about 3,900), including some honor-roll students, faced retention, with six weeks of summer school offered as the only intervention. Eighth-grade retentions were suspended that year because the district lacked funds for remediation. (Langland, 2000).

Chicago

During the 1996-1997 school year Chicago Public Schools began basing retention decisions in large part on scores on the Iowa Test of Basic Skills (ITBS), a norm-referenced achievement test, administered at the end of grades 3, 6, and 8. Students who
score below grade level on the math and reading portions of the ITBS are then evaluated for minimum report card grades and minimum attendance requirements.

Approximately 72% of students passed the test’s initial administration. After intensive summer school programs and alternative testing, 15% of third grade students, 13% of sixth grade students, and 8% of eighth-grade students were retained (Heubert and Hauser, 1999). Scores have steadily improved. In 1997, 76% of students passed. In 1999, 82% passed. However, national test scores have remained flat and retained students perform no better than those who were socially promoted (Lehrer, 2000).

Melissa Roderick has been studying the Chicago program since its inception. In a 2000 interview she reflected on some of the problems that retained students face. She noted:

This is a very complicated problem. We don’t know why these kids are stuck. Some kids may need reading recovery. Some kids may need substantial social work intervention to get their lives stabilized enough so that they can begin moving forward. This is the opportunity to get down to a doable group of kids where you can seriously look at their problems, find out what we should be doing, and then put in an array of solutions. This year the Chicago officials went to the transitions centers, where the retained students go when they can’t pass 8th grade, and gave the kids eye exams. They found that a third of the kids needed glasses. (Roderick, 2000, ¶ 9).

In her interview she was optimistic about the success of Chicago’s intervention program and indicated that it was one of the few that successfully focused on helping the lowest-achieving students. She stated, “Ending social promotion is a good way of
focusing on the bottom....If you’re trying to move your average students, ending social
promotion is not the way to do it” (¶ 13)

Roderick, Jacob and Bryk (2000) attribute the success of the program to the many
different points of intervention. Students at-risk of being retained are provided with
additional services during the school year before promotion, during the summer, and in
the retention year. In addition to the six-week Summer Bridge program, students
participate in Lighthouse, an after-school program that focuses on reading and
mathematics.

Chicago district officials continue to support non-promotion policy in spite of
increasing retentions (Gewertz, 2002). About 20,000 students in grades 3, 6, and 8 attend
Chicago’s Summer Bridge program each year, after which they are retested. About 40%
of those retested at the end of the program fail and are retained. In a report released in
March, 2003, the Consortium on Chicago Schools Research concluded that the
mandatory summer school program did produce significant achievement gains that
enabled many students to be promoted, but the gains did little to improve long-term
academic achievement (Roderick, Engel, & Nagaoka, 2003; Gewertz, 2003). Critics of
the Summer Bridge program argue that it improves test-taking skills, but does not
promote true academic mastery.

San Diego

In 1999, the U.S. Department of Education published Taking Responsibility for
Ending Social Promotion, which reiterated that neither retention nor social promotion
have been proven effective. Coming in response to a February, 1998 presidential
directive signed by Bill Clinton, the report outlined alternatives that should be implemented to end social promotion. Among its suggestions were

- increased preschool and early childhood education;
- early identification of and intervention with at-risk students;
- increased professional development;
- reduced class sizes;
- extended learning time, including after-school programs, summer school, and year-round schooling;
- transition programs for students still unprepared for promotion; and
- monitoring of school performance with intervention in low-performing schools and rewards for school improvement.

While most of the states and districts previously discussed have adopted punitive, gatekeeper approaches to accountability, the San Diego City Schools (SDCS) has developed a “Blueprint for Student Success in a Standards-Based System” which calls for sweeping but educationally sound changes (Alvarado & Hopper, 1999). The plan, in draft form in February 2000, incorporated many of the suggestions made in the U.S. Department of Education report. SDCS adopted a three-pronged approach to reform: *prevention, intervention, and retention*.

*Prevention* strategies are geared toward elementary and middle schools. At most schools they will include enhanced classes with intensive focus on mathematics and literacy in grades K-5, genre study courses at grades 6-8, and site-based professional development, including a full-time peer coach/staff developer. Focus schools will implement an 11-month extended school year, have an additional peer coach, include

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class-size reduction for fourth grade, implement early childhood programs, and promote enhanced parent education and involvement. During the 11th month, teachers will spend four hours per day with students, and then participate in professional development for the remainder of the day.

Among the intervention strategies for students identified as at-risk or low-achieving are: a Junior First Summer Academy for kindergarteners transitioning to first grade; summer school and intersession classes in core subjects; before and after school programs; professional development; a four-period literacy/math core at middle schools and junior highs; and double literacy periods in the middle grades.

The SDCS policy does include the option of retention, but only as a last resort. It has also taken the unique approach of carrying out retention at entry grades – grades 1, 6/7, and 9 – rather than at its traditional exit grades – grades 3 and 8. In this way, if a child must be retained, he is retained in the least obtrusive manner. He is not prohibited from being promoted to middle school or high school, but is placed in an “enhanced” classroom at the next level, and understands that academic improvement is requisite for promotion the following year. The final decision on retention rests with the teacher, following consultation with the principal, counselor, and parents.

The SDCS Board has acknowledged that these changes will be expensive, are dependent in part upon contract negotiations, and must be phased in over time. Undoubtedly many objections have been raised, particularly from those responsible for funding; however, SDCS has made a bold move by defining what they would like their schools to look like. As of spring 2003 the district had begun implementation of its plan by providing extensive inservice training to its teachers.
Long Beach

Long Beach, perhaps best known for its aggressive school uniform program, began implementing a plan similar to San Diego’s in 1997, with full implementation in 1999 (DeVries and Cohn, 1998). The Long Beach plan identifies intervention grades (K, 2, and 6) and retention grades (3, 5, and 8).

A unique aspect of the Long Beach program is creation of the Long Beach Preparatory Academy. The academy is a self-contained school for students who had two or more Fs on their final eighth-grade report cards. Students spend one year at the school focusing on literacy and mathematics education before being promoted to high school.

Wisconsin

Wisconsin is viewed as a progressive state when it comes to education. Kindergarten originated there. One of the most extensive voucher plans in the nation has so far withstood legal challenges. SAT scores typically rank near the top of the fifty states. In 2000 the Wisconsin legislature passed an accountability measure that includes testing and retention at grades four and eight. In doing so, lawmakers in Madison disregarded recommendations from the Wisconsin Department of Public Instruction, whose Office of Educational Accountability (OEA) subsequently published a position paper lambasting the ideology embodied in the law (Office of Educational Accountability, 2000).

The OEA’s primary complaint was that the law was geared toward identification, labeling, and student punishment instead of prevention of deficiencies. It argued that the retention comes too late in students’ educational careers to be of benefit. By the time a student is retained in fourth or eighth grade, large deficits have accumulated which are not easily corrected in the context of a normal classroom and few provisions have been
made for prevention or intervention. The OEA estimated that 40% of eighth graders would fail the first administration of the test.

Wisconsin’s OEA also cited weaknesses in the law’s equity. First, parents could opt out of the test for any reason. Second, districts were given the authority to develop their own tests, thus weakening the standardization intent.

Texas

Texas is a state with 1,042 public school districts made up of 7,053 public schools serving 3.9 million students – 55% of them belonging to minority groups. The success or failure of educational reform in Texas warrants closer scrutiny, as it was the blueprint for President George W. Bush’s No Child Left Behind legislation, and continues to be held up as a model for other states.

Education reforms had already been made in the late 1980s and early 1990s establishing a system of statewide testing and funding for “accelerated” instruction before then-Governor Bush took office in 1994. Additional reforms were added in 1995, including support for early childhood education and additional accelerated reading programs.

In 1999, the Texas legislature proposed, and Governor Bush signed into law, substantial reforms which tied school district performance, as well as student promotion, to the state-mandated assessments. Prior to 1999, statutory references to retention and promotion were relatively limited. Section 28.021 of the Texas Education Code (1995) read in its entirety:

(a) A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level.
(b) In measuring the academic achievement or proficiency of a student who is dyslexic, the student's potential for academic achievement or proficiency in the area must be considered.

There were additional provisions for notice to parents and mechanisms for acceleration, or "skipping a grade," for primary school students and credit by examination for high school students.

In 1999, legislation frequently referred to as the Texas Education Reform Act was passed which set much more stringent promotion requirements. Under § 28.0211 of the Texas Education Code (1999), gatekeeper grades were established at grades 3, 5, and 8. Third grade students would be required to perform satisfactorily on a criterion-referenced reading assessment. Fifth- and eighth-grade students would be required to pass both mathematics and reading assessments before being promoted. The legislation provided three opportunities to pass each assessment and made provision for an alternate assessment on the third attempt if deemed appropriate. Parents may appeal retention decisions to a grade placement committee, consisting of the principal, teacher, and parents, who must agree unanimously if a decision is to be overturned. Subsection (g) of § 28.0211 established that passing the assessment does not preclude retention of a student.

An aspect unique to the Texas legislation is that the retention schedule is being phased in rather than being applied to all students immediately. Thus students who entered kindergarten in the 1999-2000 school year were the first cohort held to the assessment-based retention policy as third graders in the 2002-2003 school year. Similarly, they will be the first held to the fifth grade standard in 2004-2005, and the first
held to the eighth-grade standard in 2007-2008. Statewide standards are in place in all academic areas, so this cohort will theoretically be exposed to all curriculum objectives at each grade level before facing the possibility of assessment-based retention.

Until 2003, the Texas Assessment of Academic Skills (TAAS), a criterion-referenced test based on the Essential Elements outlined in the Texas Education Code, was the state accountability measure in Texas. The TAAS predates the 1999 legislation, having been administered throughout Texas since 1990. During 1992-94 modifications were made to the grade levels assessed, the time of year that the tests were administered, and educator accountability for results.

Although the retention criteria did not take effect until the 2002-2003 school year, the TAAS itself has borne extensive analysis. In 1994, 55.6% of students passed all sections of the TAAS; however, analysis of results by ethnicity revealed a disturbing trend. Of African-American students, only 33.3% passed all sections of the exam. Hispanic students fared slightly better, with 41.1% passing all sections. White students, however, passed at a rate of 69.4%, more than twice the rate of African-Americans and over 28 percentage points higher than Hispanics (Johnston, 2000).

Data for 1999 show a remarkable improvement that includes a narrowing of the performance gap between minority and white students. In 1999, 78.3% of students passed all sections of the TAAS, a rise of approximately 50%. African-Americans nearly doubled their pass rate, with 64.0% of students passing all sections. Hispanics saw a rise of approximately 75% to a passing rate of 70.1%. White students continue to lead all ethnic groups with an increase of over 30% to 87.9% (Texas Education Agency, 1999).
Although a significant gap still exists between minority students and white students, the gap is narrowing. Fourth-grade African-American students placed first nationally and Hispanics students placed sixth on the 1996 National Assessment of Educational Progress (NAEP) (Viadero, 2000).

These gains seem remarkable, indeed; however, allegations of teaching to the test or outright cheating have been made, and other irregularities have arisen. Among concerns about the validity of the improvements are:

- A floating standard that "grades on the curve" is used.
- Students may be becoming more test savvy after repeated administrations.
- The reading tests have had a declining level of difficulty.
- Special education students may be over-classified and therefore over-exempted.
- Minority absenteeism is conspicuously high on test days in some districts.

These matters, together with pedagogical concerns, quality of educational experience issues, and cultural alienation have led many educators and journalists alike to question the wisdom of this aggressive testing plan (McNeil & Valenzuela, 2000; Mintz, 2000).

In 2002, Lorence, Dworkin, Toenjes, and Hill published results of a longitudinal study that included all Texas students who were in third grade in 1994, following them through 1999. The researchers divided the students into four groups, depending on whether they had passed or failed the TAAS and whether they had been retained in third grade or promoted to fourth. The data showed that while many retained students earned a passing score on the TAAS more quickly than those not retained, a comparable number of promoted students accomplished the same by fifth or sixth grade.
Although the study concurred with other reports that both retention and social promotion represent systemic failures to aid children, the researchers believe the study shows retention can benefit academically-challenged students. They argue the study suggests that retaining low-performing third graders is not harmful to later academic performance and, contrary to previous studies, that learning gains do not dissipate over time. In follow-on discussion, Lorrie A. Shepard argues that the data used in the study are invalid due to selective attrition, and therefore disputes the results concerning fading of academic gains.

Lorenze, et al. do not argue that retention is beneficial to students, and also point to the potential financial costs of retention. In 1994, some 52,159 third-grade students failed to meet the Texas Learning Index score of 70 on the TAAS. Had all of those students been retained, the cost of an additional year of education is estimated to have been $261 million.

Waco, Texas, presents a microcosm of what might be under TAAS. The school district’s retention and promotion policy requires students in grades 3 through 8 to pass their core classes, have 90% attendance, and pass the Texas Assessment of Academic Skills. At the end of the 1997-98 school year, some 1,350 of Waco’s 7,100 students, about 19%, were due to be retained. Of this number, 500 chose to leave the district. Many attended summer school; 44% of those students improved enough to be promoted. At the end of the 1998-99 school year, some 200 were facing a second year of retention. (Wildavsky, 1999).

In Spring 2003, the TAAS was replaced with the TAKS™ - the Texas Assessment of Knowledge and Skills. The TAKS™ is aligned with TEKS – the Texas Essential
Knowledge and Skills. TEKS is the state curriculum guide, and enumerates specific learning objectives in each subject area. In accordance with the Texas Administrative Code, copies of previous TAKS™ tests are available online. Elementary assessments are available in both English and Spanish versions (Texas Education Agency, 2004).

Nevada

While Texas has over 1,000 public school districts, Nevada has only 17. Each is coterminous with county boundaries. This constitutionally-established organization of school districts has resulted in a skewed distribution of students throughout those districts. It has resulted in districts with hundreds of thousands of students and districts with fewer than 100. The Clark County School District, of which Las Vegas is a part, enrolls more than 68% of the state’s students in kindergarten through grade 12, although it occupies just 7% of the state’s land. The 17 districts and their student populations are shown in Table 2. (Legislative Counsel Bureau, March, 2003).
<table>
<thead>
<tr>
<th>County</th>
<th>Enrollment</th>
<th>Percent of State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clark (Las Vegas)</td>
<td>245,659</td>
<td>68.85%</td>
</tr>
<tr>
<td>Washoe (Reno)</td>
<td>58,532</td>
<td>16.40%</td>
</tr>
<tr>
<td>Elko</td>
<td>9,847</td>
<td>2.76%</td>
</tr>
<tr>
<td>Carson City</td>
<td>8,763</td>
<td>2.46%</td>
</tr>
<tr>
<td>Lyon</td>
<td>7,046</td>
<td>1.97%</td>
</tr>
<tr>
<td>Douglas</td>
<td>6,989</td>
<td>1.96%</td>
</tr>
<tr>
<td>Nye</td>
<td>5,279</td>
<td>1.48%</td>
</tr>
<tr>
<td>Churchill</td>
<td>4,724</td>
<td>1.32%</td>
</tr>
<tr>
<td>Humboldt</td>
<td>3,616</td>
<td>1.01%</td>
</tr>
<tr>
<td>White Pine</td>
<td>1,464</td>
<td>0.41%</td>
</tr>
<tr>
<td>Lander</td>
<td>1,355</td>
<td>0.38%</td>
</tr>
<tr>
<td>Lincoln</td>
<td>1,014</td>
<td>0.28%</td>
</tr>
<tr>
<td>Pershing</td>
<td>898</td>
<td>0.25%</td>
</tr>
<tr>
<td>Mineral</td>
<td>774</td>
<td>0.22%</td>
</tr>
<tr>
<td>Storey</td>
<td>480</td>
<td>0.13%</td>
</tr>
<tr>
<td>Eureka</td>
<td>285</td>
<td>0.08%</td>
</tr>
<tr>
<td>Esmeralda</td>
<td>89</td>
<td>0.02%</td>
</tr>
<tr>
<td><strong>STATE TOTAL</strong></td>
<td><strong>356,814</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>

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Prior to 1979, the Nevada Revised Statutes were mute on policies concerning retention and promotion.

In 1979, provisions were added to Nevada law vesting promotion and retention decisions with principals and teachers:

NRS § 392.125 Retention of pupil in same grade: Requirements; limitation.

1. Before any pupil enrolled in a public school may be retained in the same grade rather than promoted to the next higher grade for the succeeding school year, the pupil’s teacher and principal must make a reasonable effort to arrange a meeting and to meet with his parents or guardian to discuss the reasons and circumstances.

2. The teacher and the principal in joint agreement have the final authority to retain a pupil in the same grade for the succeeding school year.

3. No pupil may be retained more than one time in the same grade.

This statute was amended in 1997 to exempt students enrolled in charter schools. NRS § 392.125 remains on the books, although, as will be discussed later in this chapter it conflicts with other statutes and State Board of Education regulations.

1997 Legislation

Nevada took steps toward strengthening its system of educational accountability in the late 1990s. In 1997, the Nevada legislature passed Senate Bill 482, frequently
referred to as the Nevada Educational Reform Act (NERA), which mandated an accountability system based on nationally-normed achievement tests to designate schools as “high achieving,” “adequate,” or “inadequate.” During the 1999 legislative session, these categories, as set forth in NRS § 385.363, were changed to “demonstrating exemplary achievement,” “demonstrating high achievement,” “demonstrating adequate achievement,” and “demonstrating need for improvement.”

Content of AB376. An ancillary law, the focus of this study, was passed as Assembly Bill 376 and codified in part as Nevada Revised Statute § 392.033. It directed the State Board of Education to set criteria for promotion of students from eighth grade to high school.

NRS § 392.033 Regulations prescribing requirements for promotion to high school; effect of failure to comply with requirements; evaluation of courses or credits completed by pupil who transfers to junior high or middle school.

1. The state board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs to complete the courses of study required for promotion to high school.
3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this state or from a school outside of this state. The statute did not specify which courses were to be completed, how many credits would be needed, or during which grades the credits would have to be earned.

AB 376 also directed the boards of trustees of Nevada's 17 school districts to adopt minimum attendance requirements for promotion to the next grade:

NRS § 392.122 Minimum attendance required for promotion to next grade; information to parents concerning duty to comply with provisions governing attendance and truancy.

1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is enrolled in a school in the district must be in attendance for the pupil to be promoted to the next higher grade. For the purposes of this subsection, the days on which a pupil is not in attendance because the pupil is:

(a) Physically or mentally unable to attend school; or

(b) Absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS § 392.130 and only if he has completed course-work requirements, must be credited towards the required days of attendance.

2. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the
pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS § 392.040 to § 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

While the State Board of Education would be responsible for establishing the course or credit requirements for promotion to high school, individual districts were charged with adopting attendance requirements meeting the legislative standard.

_Evolution of AB376._ The Nevada middle school retention legislation began as part of a multi-purpose bill which passed after several revisions and was codified as § 392.033 of the Nevada Revised Statutes. The accompanying State Board of Education regulation was proposed on May 1, 1998, adopted on November 9, 1998, and codified as § 389.445 of the Nevada Administrative Code. It was amended in 1999. A chronology of key dates is shown in Table 3.

In its original incarnation (AB376, 1997a), 1997's Assembly Bill 376 was over 31 pages long and was what Pat Hickey, Chairman of the Assembly Committee on Education, called a “kitchen-sink bill.” The bill addressed over a dozen different education-related issues, including: school uniforms, dress codes for teachers, day-care facilities within schools, elementary and middle school accreditation, development of an interdisciplinary curriculum, habitual discipline problems, truancy, site-based decision-making councils for schools, development of mandatory criterion referenced tests, high school graduation credits, middle school to high school promotion, and purchase of public bus tickets for students.
Table 3

*Chronology of Legislative and Regulatory Action Concerning Nevada’s Middle School Retention Legislation*

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 17, 1997</td>
<td>Nevada State Assembly – AB 3761 introduced by Assemblywoman Chris Giunchigliani</td>
</tr>
<tr>
<td>June 2, 17, &amp; 19, 1997</td>
<td>Assembly Committee on Education hearings</td>
</tr>
<tr>
<td>July 16, 1997</td>
<td>AB 376 signed into law by Governor Bob Miller</td>
</tr>
<tr>
<td>May 1, 1998</td>
<td>Nevada State Board of Education regulation proposed</td>
</tr>
<tr>
<td>June 24, 1998</td>
<td>Legislative Committee on Education hearings on 8th grade proficiency testing</td>
</tr>
<tr>
<td>September 9, 1998</td>
<td>Nevada State Board of Education regulation adopted</td>
</tr>
<tr>
<td>September 24, 1998</td>
<td>Legislative Committee on Education hearings continued</td>
</tr>
<tr>
<td>July 30, 1999</td>
<td>Nevada State Board of Education amendment proposed</td>
</tr>
<tr>
<td>November 4, 1999</td>
<td>Nevada State Board of Education amendment adopted; C requirement removed</td>
</tr>
<tr>
<td>1999-2000</td>
<td>8th graders must earn 1 credit each in language and math during 7th and 8th grade for promotion to high school</td>
</tr>
<tr>
<td>2000-2001 to present</td>
<td>8th graders must earn 1½ credit each in language and math during 7th and 8th grade for promotion to high school</td>
</tr>
</tbody>
</table>
In its adopted form (AB376, 1997d), passed on the final day of the 1997 legislative session, the bill had been whittled to one-fifth of its original size. The primary provisions that remained:

- authorized the State Board of Education to establish credit requirements for middle school to high school promotion
- directed district boards of trustees to establish minimum attendance requirements for promotion to the next grade
- authorized 16-year-olds to take the GED
- defined the procedure under which boards of trustees can adopt school uniforms
- defined habitual discipline problems and consequences thereof, including provision for alternative education and permanent expulsion
- identified allowable uses of district transportation funds

Although there was discussion of the middle school credit requirement, much of the controversy and debate surrounding the bill arose from the creation of school site-based decision-making councils, a major section that was ultimately deleted in its entirety. The bulk of the final bill was directed to the habitual discipline problem issue, although the middle school to high school promotion requirements and minimum attendance requirements would ultimately affect a much larger number of students. It is this promotion requirement, NRS § 392.033(1) and (2) that is the focus here.

Section 15 (1) of AB376, from which NRS § 392.033(1) is derived, envisions middle schools operating much the same as high schools, and originally proposed that students in grades 6-8 be required to earn a minimum of 15 credits for promotion to high school. In
Clark County a typical middle school day has 6 instructional periods, so a requirement of 15 credits would mean a student must pass on average 5 of 6 credits each year.

Subsection (2) of the original bill draft allowed a student who had fewer than three absences for each year of middle school or junior high to petition to reduce the credit requirement to as few as half of the original fifteen. In other words, as long as students showed up for classes, they didn’t have to pass as many.

The first revision (AB376, 1997b) eliminated the specific 15-credit requirement, but still directed the State Board to “adopt regulations which prescribe the courses of study required for promotion to high school and the elective courses of study that may fulfill the total credit requirement for promotion to high school.” Subsection (2) was deleted entirely.

The second revision (AB376, 1997c), which was ultimately adopted, eliminated the phrase “and the elective courses of study” and changed the directive shall to the enabling may, indicating that the State Board may include a credit requirement for promotion to high school. The State Board of Education now had a vague directive to prescribe a course of study, but not necessarily establish a credit requirement for middle school students.

Sponsorship of AB376. The primary sponsor of AB376 was Chris Giunchigliani, a Democrat from Assembly District 9 in central Las Vegas and special education teacher by profession. The bill had 22 additional sponsors, over half of the Assembly, including 17 from Clark County, 3 from the Washoe County/Carson City area, and 2 from rural districts representing eight additional counties (or portions thereof). Of the 23 sponsors, 21 were democrats. Of the 21 Democrats, all listed some or all of the Clark County
Classroom Teachers Association (CCCTA), Nevada State Education Association (NSEA), or NSEA Education Support Employees Association (ESEA) as among their top five contributors to 1996 election funds (Progressive Leadership Alliance, n.d.).

According to the minutes of the June 17, 1997 Assembly Committee on Education, Giunchigliani took credit for development of the idea for a credit structure.

She developed the idea for a credit structure because most students attended six classes in the middle school and an overwhelming majority were passed along, thus she believed the student should be required to earn credits for the privilege of moving on. She felt each student should have at least 15 credits (6th through 8th grades), earning five credits per year, in order to move into high school. She indicated the students today were of the opinion it did not matter what classes were passed or not passed, they would automatically move onto the next grade.

She said it was time to reward the good students, thus the credit system. (p. 4)

It is interesting to note that within Giunchigliani’s district, which includes much of the downtown Las Vegas area, including Fremont Street and the northern part of the Strip, lie only four schools: Crestwood Elementary, John S. Park Elementary, John C. Fremont Middle School, and the Las Vegas Academy High School. Fremont Middle School, the only school in her district that would be affected by the promotion provisions of AB376, was rated as a “needs improvement” school for the 1999-2000 school year.

Statutory Conflicts. Conflicting statutes remain concerning promotion of a student to high school when he has already been retained once in eighth grade and faces a second retention. NRS § 392.033(2) prohibits promotion of a student who has not completed the
credit requirement established by the State Board of Education. NRS § 392.125(3) prohibits retention of a student twice in the same grade.

This apparent conflict has been resolved by the Nevada Attorney General’s office in opinion number 99-29 issued August 25, 1999. Writing for Attorney General Frankie Sue Del Papa, Deputy Attorney General Melanie Meehan-Crossley concluded “Where two statutes on the same subject are in conflict, the more recent statute controls over the earlier statute.” (p. 4)

A second provision also conflicts with NRS § 392.033(2). NRS § 392.125(2) gives “the teacher and principal in joint agreement” final authority to retain a pupil. While no opinion has yet been rendered on this conflict, presumably the same logic would be applied by the Attorney General’s office and NRS § 392.033(2) requiring retentions, would apply.

Interventions for At-Risk Students. A provision removed from the initial draft of the legislation would have required school districts to establish summer school programs for students to make up credit deficiencies. This section was deleted from the bill. However, districts were given the option to implement summer school programs or alternative education sites to assist students in meeting the requirements. These interventions are contemplated by NRS § 392.033(2), which provides that

The board of trustees of the school district in which the pupil is enrolled

may provide programs to complete the courses of study required for promotion to high school.

Alternative education charter schools to remediate students who have not successfully completed the credit requirement at the end of eighth grade may have been contemplated
by the Nevada legislators in their 1997 session. Following the passage of Senate Bill 220, NRS § 386.500 et seq were added to the Nevada Revised Statutes allowing for the formation of charter schools. While the number of these district-affiliated public schools is limited if for general attendance, the statutes provide that an unlimited number may be created for at-risk students, defined in NRS § 386.500:

A pupil is "at risk" for the purposes of this section if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils with limited proficiency in the English language, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability. [emphasis added]

Certainly students who have not earned the requisite credits have not met minimum standards of academic proficiency and may be at risk of dropping out of high school. Charter schools are specifically exempt from following the state-prescribed course of study. NRS § 392.033(2) concerning retention does not apply.

Post-1997 Legislation

Proficiency Testing. The 1997 legislature had already approved proficiency testing as a requirement for conferring a high school diploma by adopting Senate Bill 482. According to one Board of Education member, the 1999 Nevada Legislature had been expected to consider a bill adding the requirement of a minimum competency test for
advancement from middle school to high school (Bill Hanlon, personal communication, July 27, 1998); however, this did not come to pass.

During the 1997-1998 Interim Session of the Nevada legislature, the newly-formed Legislative Committee on Education did debate the issue of an eighth-grade proficiency test at several of its meetings (Legislative Counsel Bureau, 1998a, 1998b). Although the adoption of such a test was ultimately dropped, it had been a recommendation of the Council to Establish Academic Standards, another education-related agency created under SB482.

Although not currently tied to student retention, legislation was enacted in 2001 to develop and pilot an eighth-grade criterion-referenced test. Senate Bill 3 passed by legislators during the 17th Special Session provided

Notwithstanding the provisions of NRS 389.015 to the contrary, the board of trustees of a school district and the governing body of a charter school shall, for the 2002-2003 school year, administer the norm-referenced examinations on reading, mathematics and science that are otherwise required to be administered to pupils who are enrolled in grade 8 to pupils who are enrolled in grade 7, rather than to pupils who are enrolled in grade 8. In addition, the results of the examinations administered to pupils enrolled in grade 7 must be reported as the results of the examinations are otherwise reported pursuant to NRS 385.347 and 389.017 (§ 39)

During the same 2001 Special Session, Senate Bill 13 appropriated $1,106,265 to the Department of Education to develop a new criterion-referenced test for eighth-grade students.
Clarifying Conflicts. A bill was also submitted in the 17th Interim Session to clarify conflict between the statute requiring credits to be earned and a limit on the number of times a student may be retained in a grade. The measure did not pass, perhaps in deference to the aforementioned 1999 Attorney General's opinion.

State Board of Education Regulation

The Nevada State Board of Education is an 11-member panel consisting of 10 representatives elected from districts of approximately equal populations, plus 1 ex-officio student representative. With over 68 percent of the state's population, Clark County holds the majority of elected seats, choosing the Board's members from Districts 1 through 7. Districts 8 and 9 represent the southern portion of Washoe County, home to the city of Reno. The remaining seat, District 10, represents the rural northern portion of Washoe County, as well as Nevada's remaining 15 school districts (Nevada Department of Education, 2004).

As a response to passage of AB376, the State Board of Education did form a committee, chaired by Eric Anderson, then science consultant to the Department of Education, to draft a regulation. A proposed regulation was submitted May 1, 1998 (Nevada State Board of Education, 1998a).

At a July, 1998 meeting, the State Board of Education discussed and adopted the standards that had been developed by the committee, with modification. The regulation would apply to students moving from middle school or junior high to the high school level. That standard, which was to be fully implemented with the 2000-2001 school year, provided that in order to be promoted to high school, a student must have earned one-and-one-half credits during his seventh- and eighth-grade years in both language and
mathematics. As in interim step, students who were scheduled to complete eighth grade in the 1999-2000 school year were required to earn one credit in each of the subjects during their seventh- and eighth-grade years in order to be promoted to high school. (Nevada State Board of Education, 1998b).

Although not in the proposed draft of the regulation, the State Board of Education took the controversial step of requiring that a student receive a grade of C or better in order to earn the credit. This requirement was later overturned, and an amended version of the regulation became effective on November 1, 1999. This regulation stands, and students need only pass language and math classes to earn credit (Nevada State Board of Education, 1999).

As the regulation was being adopted by the Board, the Legislative Committee on Education continued to push for an eighth-grade proficiency test as the basis for promotion to high school.

The Legislative Committee on Education was created during the 1997 legislative session. It is one of a collection of committees with oversight of state regulatory agencies. The generic legislative committee vehicle was created during the 1979 legislative session due to the “proliferation of agencies, programs and regulations [that] has occurred without sufficient accountability for the programs and regulations by the agencies or review by the Legislature” (NRS § 232.020(B)(2)).

Among the duties of each committee is determining whether the agency is operating efficiently and effectively. This specifically includes answering the question, “Are the regulatory statutes well constructed and free from ambiguity and redundancy?” (NRS § 232B.061(2)(a)).
As set forth in NRS § 218.5352, the Legislative Committee on Education contains eight members. The Senate Majority Leader and Speaker of the Assembly each appoint four members, with the condition that each of the leaders appoint at least one minority party member. Chairmanship of the committee alternates between the two houses each biennium. As Senate Majority Leader, William Raggio appointed himself to the Legislative Committee on Education for the first two-year term, and subsequently became chairman of the committee.

At its June 24, 1998 and September 24, 1998 meetings, the Legislative Committee on Education heard testimony related to the middle school to high school promotion issue (Legislative Committee on Education, 1998a, 1998b). Representatives of the Nevada Department of Education and Senator William Raggio argued that promotion should be based on an eighth-grade proficiency exam. They argued that it had been shown that social promotion doesn't work and they wanted to raise the academic bar.

Bill Hanlon, then a State Board of Education member, argued against a testing requirement for eighth grade. While he agreed in principle that social promotion didn't work, he indicated that he “does not want to have to prove that retention does not work either.” He noted that there had been an approximate 40% failure rate on the first high school proficiency exams. Hanlon argued that there would be little time for retesting, that limited funds were available for remediation, and that with a high minority failure rate “an entire socioeconomic class will be held back a year” (Legislative Committee on Education, 1998b, p. 15)

Dave Cook, another member of the State Board of Education in 1997, also agreed in principle with Senator Raggio that raising standards was desirable, but echoed many of
Hanlon’s concerns. While Cook was not opposed to testing eighth-grade students at some time in the future, he was concerned about the type of test to be used. He advocated the use of a criterion-referenced test, rather than a norm-referenced test such as the Terra Nova. He also urged funding for additional remediation, including publicly-funded summer school.

Ultimately, no testing requirement for promotion to high school was implemented. The State Board of Education recommendation was adopted, although it was later revised to reduce the grade requirement from a C to simply passing (i.e., D-). No references to the impetus behind this change in requirement were found; however, the Board of Education may have realized that a C grade would be easily challenged in court as identifying middle school students as a suspect class. Holding students in this age group to a different standard than required in high school could be ruled unconstitutional.

Retention Rates in Nevada

In order to assess the impact that the middle school retention legislation has had upon districts, attempts were made to collect quantitative data in the form of retention statistics for the period prior to 1997 up to the present. Some data have been gleaned from sources such as the 2003 Nevada Education Data Book, the Nevada Department of Education website, and websites of individual counties and schools within the state of Nevada.

Statewide statistics presented in Table 4 show the changes in statewide retention from the year before the credit requirement became effect through the most current data available. Prior to the 1998-1999 school year, districts were not required to report the number of students retained. The data are taken from the Legislative Bureau of
Educational Accountability and Program Evaluation district accountability tables (LeBeape, n.d).

Overall, however, there appears to have been little effort to date to systematically organize that information in a format accessible to the public. From December 2003 through June 2004, multiple attempts were made to obtain more recent information from the Nevada Department of Education to supplement the 1998-2001 data that were available through internet resources.

Responses from within the Division of Assessment, Program Accountability, and Curriculum were a curious mixture of apologetic and cavalier. Representatives seemed willing to help, but did not feel there were any additional data to be had within the Department of Education, and were resigned to the ponderous movements of the bureaucracy. One Evaluation Consultant went so far as to question the accuracy of all retention data that were available through the Nevada Department of Education. The representative indicated that the statistics were not audited by the state and there were no stakes attached to the retention rate. In other words, although school districts were required to report retention statistics, the information was not used in rating schools and there was neither penalty nor reward based on the number of retentions. She did expect that the accuracy of the retention data would improve with the new reporting requirements of No Child Left Behind. She was surprised that the retention rate was even a required field within state accountability reports, and suggested that more recent information could only be obtained from the individual counties.

During the 1999-2000 school year students were required to earn one credit each in language and math. This was the first year that the credit requirement was in effect, and
it initially carried a grade requirement of C or better. The regulation was modified effective November 4, 1999 to reflect that students needed only earn a passing grade. The 2000-2001 school year was the first in which students were held to the full credit requirements.

Although there has been an overall statewide increase in retentions in all three middle school grade levels since 1998, it is interesting to note that the eighth-grade retention rate in 1999-2000 actually decreased by 9% from 1.1% to 1.0%, while sixth-grade retentions increased by 67% and seventh grade retentions increased by 36%.

In the years since the regulation took effect, eighth grade – the only grade where retention is mandated by law - has emerged overall as the middle school year that students are least likely to be retained. This trend varies somewhat by district, with Lincoln County being the clearest counter-example. It should be noted also that data from Clark County, which has nearly 70% of the student population, do skew statewide statistics.

While all three middle grades have shown an increase in students retained, seventh grade has emerged as the grade where students are most likely to be retained. This was true prior to the middle school credit requirement taking effect and continues to be the case. One principal in the study who used lunch time directed-tutoring for all grade levels indicated that although the numbers of sixth graders and eighth graders required to attend the sessions has declined, the seventh-grade students were “the toughest nuts to crack.”
Table 4

Nevada Statewide Retention Rates in Middle Grades

<table>
<thead>
<tr>
<th>County</th>
<th>Grade 6</th>
<th>Grade 7</th>
<th>Grade 8</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>98-99</td>
<td>99-00</td>
<td>00-01</td>
</tr>
<tr>
<td>Carson City</td>
<td>0</td>
<td>0.2</td>
<td>0.3</td>
</tr>
<tr>
<td>Churchill</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Clark</td>
<td>1</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Douglas</td>
<td>0.5</td>
<td>0.4</td>
<td>1</td>
</tr>
<tr>
<td>Elko</td>
<td>1.8</td>
<td>1.6</td>
<td>1</td>
</tr>
<tr>
<td>Esmeralda</td>
<td>NR</td>
<td>NR</td>
<td>NR</td>
</tr>
<tr>
<td>Eureka</td>
<td>0.5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Humboldt</td>
<td>0.002</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Lander</td>
<td>4</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Lincoln</td>
<td>1</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Lyon</td>
<td>NR</td>
<td>0.2</td>
<td>1.1</td>
</tr>
<tr>
<td>Mineral</td>
<td>0.42</td>
<td>1.5</td>
<td>1</td>
</tr>
<tr>
<td>Nye</td>
<td>1</td>
<td>&lt;1</td>
<td>2</td>
</tr>
<tr>
<td>Pershing</td>
<td>NR</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Storey</td>
<td>NR</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Washoe</td>
<td>0.5</td>
<td>0.2</td>
<td>0.2</td>
</tr>
<tr>
<td>White Pine</td>
<td>0</td>
<td>0</td>
<td>NR</td>
</tr>
<tr>
<td><strong>STATEWIDE</strong></td>
<td>0.9%</td>
<td>1.5%</td>
<td>2.9%</td>
</tr>
</tbody>
</table>

NR = Not Reported

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The retention rates among students in Nevada’s 17 school districts vary significantly, similar to the variation seen within the Clark County School District (see following section). Some, such as Elko County, reflect a much higher retention rate than the state average. Others, such as White Pine County, reported retaining no students. Esmeralda County, with 0.02 percent of the state’s student population, is not required to report retention data. With fewer than 90 students in the entire district, reporting retention statistics could compromise student confidentiality.

Nevada’s Response to No Child Left Behind

In order to continue receiving federal funds, states are required to comply with the requirements of provisions of the No Child Left Behind Act passed in January of 2002. Although an extensive system of achievement testing is mandated under this reauthorization of the Elementary and Secondary Education Act of 1965, retention receives little mention. In Nevada’s response to NCLB, the only mention of retention is in relation to indicators of academic achievement used in determining annual yearly progress. Achievement test data are required, as is one “other” indicator. At the elementary and middle school levels, attendance and retention are cited as two possible measures. Nevada has chosen to use attendance rate as its “other” indicator. (Nevada Department of Education, 2002).

Retention and Promotion in the Clark County School District

Policies and Regulations

Promotion, retention, and demotion policies in the Clark County School District are embodied in policy and regulation 5123 (CCSD, 1999, 2000a, 2002), which have
undergone several incarnations since 1997 in an attempt to comply with changing state standards and reconcile discrepancies in state laws. Policy 5123 sets forth the guiding philosophy, while Regulation 5123 establishes the operational parameters. Current versions of both of the policy and the regulation are found in Appendix IV.

Prior to 1997, Regulation 5123 simply provided that before a student was retained, “a reasonable effort to arrange meetings with the parents or guardians to discuss the reasons and circumstances” would be made. The final decision rested jointly with the principal and teachers, as required by NRS § 392.125(2). Advancement was to be based on “a student’s demonstrated achievement rather than age or years in school” (CCSD, 1999).

Modifications to Regulation 5123 that impacted middle school students were made in January 1999 after the passage of AB376. Credit requirements were phased in over two years. The change required that students entering grade 7 for the 1999-2000 school year would need two pass two semesters or three trimesters of mathematics and English or reading with a grade of C or better during grades 7 and 8 in order to be promoted to high school. At the time, a number of Clark County middle schools were on year-round schedules. During the 2000-2001 school year, the requirement was increased to three semesters or four trimesters. Unapproved absences totaling more than 10 days were added as a consideration for retention.

Difficulties arose with this policy. First, the C grade requirement was stricter than that applied to high school students. It essentially mandated that all students be average or better, a statistical improbability. Second, students who failed all semesters or trimesters during seventh grade were arriving in eighth grade needing three semesters worth of credit in a two-semester year.

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Regulation 5123 was again modified in August 2000. The provision requiring that students earn a C or better was removed, following similar changes to the State Board of Education regulation the previous fall (Nevada State Board of Education, 1999). In addition, 5123 now added specific retention policies for students in grades 6 and 7, as well as 8. Students in grade 6 were required to pass one semester or two trimesters of mathematics and English or reading for promotion, as were students in grade 7. The requirement of three semesters or four trimesters total during grades 7 and 8 for promotion to high school remained.

The August 2000 update also partly addressed the conflict between AB376 (NRS § 392.033) and NRS § 392.125(3) prohibiting retention of a student more than once in the same grade level. Students could now be retained once in sixth grade and once in seventh grade, but eighth-grade students could be retained more than once. Attendance requirements were also modified. Students with more than 10 unapproved absences per semester would be denied credit for that semester.

In the May 2002 revision, which remains in effect, obsolete provisions that had phased in the credit requirements for the 1999-2000 and 2000-2001 school year were deleted, as were references to trimesters since all Clark County middle schools and junior high schools were now back on traditional nine-month schedules. A new provision was added to the sixth- and seventh-grade expectations stating that the "principal has the authority to determine the course(s) which need to be repeated."

Allowing principals to determine the courses to be repeated also resulted in a practice that might be referred to as "partial retention." Rather than requiring a student to repeat all classes at a given grade level, principals could essentially promote a student, but
require that the failed math or language class be repeated. Thus, they could allow double-dipping by substituting a second mathematics or English or reading course in place of an elective during the regular school day. A student might be taking both 6th grade mathematics and 7th grade mathematics concurrently.

Alternative means of earning credit also became available. Summer school became available to middle school students. Earlybird (before school) or latebird (after school) classes were sometimes offered for credit.

Schools implemented many non-credit interventions in response to the new retention and promotion requirements as well. Watch lists for students at-risk of retention are now created as early as the first month of school, rather than at the end of the school year. Tutoring classes are often available. Communication with parents has been enhanced with grades being transmitted via a “Grade Day” report half-way through each quarter, in addition to the quarterly report cards.

Retention Rates in Clark County

Nevada is among the states that did not historically report retention data; however, beginning with the 1998-99 school year, retention data by grade level became a required element of state-mandated district and school accountability reports (CCSD, 2000a). Retention data for kindergarten through grade 8 are show in Table 5.

A review of retention data published by the Clark County School District (2000b) for 1998-99, the year before the middle school retention requirement took effect, easily leads to a conclusion that retention is discouraged. In fact paragraph II-A of Regulation 5123 states in regard to grades 1-5, “The general practice is that students are promoted to the next grade at the end of the year.”

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### Table 5

**1998-99 Retention Rates for Clark County School District**

<table>
<thead>
<tr>
<th>Grade</th>
<th>Retention Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>K</td>
<td>1%</td>
</tr>
<tr>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td>3</td>
<td>0%</td>
</tr>
<tr>
<td>4</td>
<td>0%</td>
</tr>
<tr>
<td>5</td>
<td>0%</td>
</tr>
<tr>
<td>6</td>
<td>1%</td>
</tr>
<tr>
<td>7</td>
<td>1%</td>
</tr>
<tr>
<td>8</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: Clark County School District 1998-99 Districtwide Accountability Report

There was a slightly higher propensity to retention in grade one, but overall, a very small percentage of students were retained. CCSD enrolled 203,777 students during the 1998-99 school year, with approximately 103,000 in grades K-5 and 46,000 in grades 6-8. Retaining 1% of students in grades K-8 represents about 1490 students, or an average of about 9 per school.

Analysis of retention data from individual schools within the Clark County School District shows the number of students retained varied significantly from school to school and grade to grade within schools, perhaps reflective of the philosophies of individual principals. For example, H.P. Fitzgerald Elementary, identified as an “in need of
improvement” school under state accountability guidelines from 1998-2002, retained only 1% of students in kindergarten and grade 1, and 0% in grades 2-5. J.T. McWilliams Elementary, had 0% retention in kindergarten, grade 1, and grade 5; 1% retention in grades 2 and 3; but an anomalous 8% retention rate at grade 4. McWilliams is the only K-5 school in the district with more than a 2% retention rate at grade 4, the state’s benchmark year for elementary norm-referenced testing.

Middle schools and junior high schools likewise exhibited inconsistent retention policies. Eight of the district’s 34 grade 6-8 schools reported a 0% retention rate at all three grades, including Roy Martin Middle School, classified as “in need of improvement” for 1998-99, 2000-2001, and 2001-2002. William Orr Middle School had consistently higher than average retention rates, with 4% of students retained in grades 6 and 7 and 5% retained in grade 8. B. Mahlin Brown, Jr. Middle School had a district-high retention rate of 7% at grade 6, declining to 3% in grade 7 and 0% in grade 8. Laughlin Junior/Senior High School reports the inverse of this pattern, retaining 0% of students in grade 6, 2% in grade 7, and 6% in grade 8. A table comparing sixth-, seventh-, and eighth-grade retention rates for all Clark County middle schools in 1998-99 and 2001-2002 is found in Appendix IV.

Why are Clark County schools reluctant to retain? A major factor is space. Clark County is the sixth-largest school district in the country and growing at an incredible pace. A retention rate of 1% generates enough students to fill one middle school or two elementary schools. The district also labors under a 43% transiency rate, perhaps making building principals who recognize the impact of instability on achievement reluctant to hold students accountable for the actions of their parents.
In spite of this reluctance, the middle school retention rate has increased somewhat since the passage of AB376. From 1% in 1998-1999, the district-wide retention rate for the 2001-2002 school year has risen to 3% for grade 6, 2% for grade 7, and 3% for grade 8. Differences in philosophy and ability are still reflected in the retention rates of individual schools. Some schools, such as Brinley, Martin, Smith, and Von Tobel, retain a proportionally larger number of students in eighth grade as compared to grades six or seven. In other schools, such as Cortney and Woodbury, the reverse is true, and a larger percentage of students are retained in sixth grade than in eighth.

Summary

Educational research has consistently shown that grade-level retention is not only rarely helpful, but can in fact be harmful. Retention does not improve academic achievement, is correlated with increased risk of dropping out, and has negative socialization impacts on students. Social promotion without intervention can result in students who are ill-prepared to deal with the more difficult work of the next grade level.

The pendulum of public opinion is again swinging toward “flunking” unprepared students, under the rallying cry of ending social promotion. At great cost and with mixed results, states from New York to California are establishing gatekeeper grades, mandating summer school, and holding back tens of thousands of students in their current grade.

The state of Nevada has been no exception. In 1997 Assembly Bill 376 directed the State Board of Education to develop requirements for promotion to high school. The resulting regulation established a credit requirement for students moving from eighth
grade to high school. In order to be promoted students must earn one-and-one-half credits each in language and mathematics during their seventh- and eighth-grade years.

As projected, statewide retention rates have risen, but not to the extent anticipated. The average retention rate for sixth, seventh, and eighth grade combined stands at less than 3% annually, which is nearly triple the previous rate. Seventh-grade students are the most likely to be retained, followed by sixth-grade students, then, finally, eighth-grade students.

Within Clark County, Nevada's largest by far, policies and regulations have been modified to correspond to the state regulation. Retention rates have changed since passage of the law. There were two to three times as many retentions in 2001-2002 in grades 6, 7, and 8 as there were in the 1998-1999 school year. However, Clark County schools are also identifying at-risk students earlier and providing numerous opportunities for remediation and for students to make up credit deficiencies.

Although challenged by a burgeoning student count, Clark County, with over 68% of the state's population and a powerful bureaucracy, is often able to procure and provide additional monetary and personnel resources. This study asks, "What about the rest of the state?"
CHAPTER 3

METHODOLOGY

In 1997 the Nevada legislature passed a bill authorizing the State Board of Education to adopt a credit requirement for advancement from eighth grade to high school. Approximately seven years have elapsed since the bill’s passage and subsequent development of the State Board regulation that students be required to earn one-and-one-half credits each in math and language in grades 7 and 8 before being promoted to high school. To date, no one has examined the impact of these measures on Nevada’s schools housing seventh- and eighth-grade students.

The purpose of this study is to investigate the effect that Assembly Bill 376, codified in part as NRS § 392.033, and the State Board of Education regulation have had upon school district policies, programs, instructional practices, and retention rates in Nevada’s rural counties. This chapter describes the research design used in the study. It not only discusses the components of the design, but also explains the rationale for design choices.

Classification of the Study

A Policy Analysis of Nevada’s Middle School Retention Legislation uses qualitative methods and is a descriptive case study designed to analyze the impact of a measure
passed during the 1997 legislative session and the subsequent regulation adopted by the State Board of Education.

Creswell (2003) defines a qualitative approach as

...one in which the inquirer often makes knowledge claims based primarily on constructivist perspectives (i.e., the multiple meanings of individual experiences, meanings socially and historically constructed, with an intent of developing a theory or pattern) or advocacy/participatory perspectives (i.e, political, issue-oriented, collaborative, or change oriented) or both. It also uses strategies of inquiry such as narratives, phenomenologies, ethnographies, grounded theory studies, or case studies. The researcher collects open-ended, emerging data with the primary intent of developing themes from the data. (p. 18)

Creswell refers to this approach as a social constructivist perspective. Such a perspective is appropriate to the purpose of this study. Data were gathered via interviews with multiple individuals based on their experiences. The issue of mandating retention in grade level is highly political, with perspectives variously flavored by political affiliations, roles within the educational system, and the geographic and ethnographic characteristics of the communities in which the participants live. The data collected were the result of open-ended questions and were analyzed with the intent of identifying both commonalities and distinctive responses to questions.

Within the qualitative framework, a case study has been chosen. Yin (2003) suggests three criteria for choosing an appropriate research design:

- What type of question is being asked?
• What level of control does the investigator have over the events being studied?

• Are the events contemporary or historical in nature?

Specifically, Yin indicates that a case study has a distinct advantage when “a ‘how’ or ‘why’ question is being asked about a contemporary set of events, over which the investigator has little or no control.” (p. 9)

This study fits all of Yin’s criteria. The primary area of investigation revolves around research question 3, a “how” question: “How have Nevada’s rural school districts implemented the changes in legislation?” The researcher has no control over the events being studied, but is seeking information from participants on how a policy has been implemented. The circumstances being investigated are contemporary in nature. While there is an historical aspect involved in determining the intent of the legislature, the implementation of the legislation is an ongoing process. Thus, the study asks “how,” the events are outside of the investigator’s control, and the subject matter is contemporary. A case study approach is appropriate.

Research Questions

The purpose of this study was to investigate the effect that middle school retention legislation has had upon school district policies, programs, instructional practices, and retention rates in Nevada’s rural counties. During the study the researcher sought first to clarify the motivations and expectations of the framers of the legislation to determine the standard for comparison. Research then focused on the impact of the measure on the educational community, rather than on outcomes for individual students or groups of
students. Finally, the data collected were analyzed to determine to what extent the implementation corresponded with the intent of the legislation. This line of inquiry was divided into five research questions:

1. What was the motivation for passage of AB376?
2. What were the intended consequences of the legislation?
3. How have Nevada’s rural school districts implemented the changes in legislation?
4. Have the intended consequences of AB376 been realized?
5. What unintended consequences of AB376 have emerged?

Data Sources and Data Collection

Patton (2002) identifies three types of qualitative data: (1) in-depth, open-ended interviews; (2) observations; and (3) documents. Two of these three sources of data were used: document data and interview data. According to Patton, in interviews “open-ended questions and probes yield in-depth responses about people’s experiences, perceptions, opinions, feelings, and knowledge.” Documents on the other hand, are “written materials and other documents from organizational, clinical, or programs records; memoranda and correspondence; official publications and reports; personal diaries, letters, artistic works, photographs, and memorabilia; and written responses to open-ended surveys.” (p. 4)

Document Data

Document data in this study included a variety of information sources available in the public record that were primarily useful in developing background and identifying interview candidates. The majority of these documents were available electronically. The most valuable documents to this study were:
• Histories of all recent Nevada legislation, both enacted and failed, including initial drafts, amendments, and language as enrolled, as well as minutes of committee meetings in which the legislation was discussed;
• Minutes of meetings of various state agencies, including the State Board of Education and Legislative Committee on Education;
• Accountability reports of counties and individual schools; and
• Nevada Department of Education database of all Nevada schools.

Interview Data

The primary data source for this study was in-depth interviews of public officials and site administrators. Yin (2003) contrasts interviews with surveys by referring to them as “guided conversations” rather than “structured queries” (p. 89). One of the key advantages cited is being able to ask conversational questions that serve as a line of inquiry, rather than adhering to a strict script. The interviewer is able to pursue points of interest raised during the discussion, seek clarification, and delve into the hows and whys of respondent answers.

Use of interviews as a means of data collection has disadvantages as well. Both Yin (2003) and Creswell (2003) identify the issue of interviewer bias. Yin also warns of difficulties of “poor recall” or “inaccurate articulation” (p. 92). To an extent, interviewer bias is inevitable in interviews. The interviewer decides which ideas merit follow-up questions, what areas need clarification, and when not to pursue a line of questioning. An awareness of this bias was kept in mind throughout interviews, with every effort made to stick to relevant information and avoid steering conversations toward one view or the other.
After reviewing the documents chronicling development of the middle school retention legislation and the distribution of Nevada’s public schools, two groups were identified for study: public officials involved in the establishment of the credit requirement and site administrators charged with implementation of the regulation. Public officials were interviewed primarily to determine their motivation for proposing or supporting a credit requirement for promotion to eighth grade, the intended outcomes of AB376, and their assessment of the success of the legislation. Site administrators were interviewed to determine the actual responses to AB376, both positive and negative.

Prospective participants were sent letters inviting them to participate in the study, together with the interview schedule, copies of Nevada statutes relating to retention and promotion, the State Board of Education policy, and a copy of the Informed Consent for this study. Approximately one week after the mailing, follow-up telephone calls and/or emails were begun to each prospective subject to determine willingness to participate in the study to schedule a time and communication method for each interview.

After the initial contacts, a second mailing was sent to alternate interview candidates in districts where administrators had declined participation or had not yet been successfully contacted. This second group included three school district superintendents in districts with student populations too small to support multiple schools housing students in grades 7 and 8.

Interviews were completed during the period February 16 through March 21, 2004. During the course of the study, a written record was maintained of interactions with each prospective interviewee. This record not only included identification and contact information, but was also the discussion guide and recording instrument used during the
actual interviews. The questions included in this written record can be found in the interview schedules located in Appendix II.

Data were collected from a total of fifteen participants, including twelve school administrators and three public officials. Fourteen participants were interviewed by telephone by the principal investigator. All telephone interviews were recorded, with explicit participant permission, and later transcribed for analysis. This allowed the interviewer to focus on listening to responses and formulating questions rather than being concerned with writing notes. This procedure resulted in more smoothly-flowing guided conversations as envisioned by Yin.

One site administrator, with whom direct contact was never made, requested, via the office manager, to submit answers in written form. A form was prepared based on the recording instrument maintained for each individual. The form was sent via facsimile to the administrator, who similarly returned the completed form approximately one week later.

Population and Sample

As mentioned above, two groups were identified as subjects of this study. First were Nevada state legislators and other public officials who were directly involved in or who offered testimony at legislative hearings, or who otherwise have knowledge of the issues surrounding middle school retention legislation and the passage of AB376 in 1997. After review of the history of Assembly Bill 376, minutes of meetings of the Legislative Committee on Education, and other sources, four public officials were identified as key to understanding the intent of the middle school retention legislation:
• Assemblywoman Chris Giunchigliani, the primary sponsor of AB376;

• William Raggio, the Senate majority leader and chairperson of the Legislative Committee on Education

• Bill Hanlon, a member of the State Board of Education at the time of passage of the legislation who offered testimony at legislative committee hearings; and

• Eric Anderson, the chairperson of the State Board of Education subcommittee that drafted the regulation establishing a credit requirement for promotion from eighth grade to high school.

Interviews were conducted with Ms. Giunchigliani, Mr. Hanlon, and Mr. Anderson. Mr. Raggio was unavailable for participation in the study during the time that interviews were being conducted. Subsequent calls to his office were not returned. His views have been inferred from comments during Legislative Committee on Education minutes discussing the State Board of Education regulation.

The second population used in this study was the site administrators of rural Nevada public schools housing students in grades 7 and 8. The initial sample was composed of at least one school from each of the 16 Nevada school districts outside of Clark County. Multiple samples were drawn from districts with the largest student populations. Although Clark County includes a few remote rural school sites, the district is dominated by the Las Vegas metropolitan area and was therefore not included in this study of the impact on rural schools.
Table 6

Nevada Schools Selected for Participation in the Study.

<table>
<thead>
<tr>
<th>County</th>
<th>School</th>
<th>Grades</th>
<th>Enrollment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carson City</td>
<td>1Carson Middle School</td>
<td>6-8</td>
<td>1220</td>
</tr>
<tr>
<td>Churchill</td>
<td>3Churchill County Junior High School</td>
<td>7-8</td>
<td>749</td>
</tr>
<tr>
<td></td>
<td>4Superintendent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Douglas</td>
<td>1Kingsbury Middle</td>
<td>6-8</td>
<td>173</td>
</tr>
<tr>
<td>Douglas</td>
<td>3Pau-Wa-Lu Middle School</td>
<td>7-9</td>
<td>848</td>
</tr>
<tr>
<td>Elko</td>
<td>1Spring Creek Middle School</td>
<td>6-8</td>
<td>688</td>
</tr>
<tr>
<td>Esmeralda</td>
<td>4Dyer Elementary School (Superintendent)</td>
<td>K-8</td>
<td>44</td>
</tr>
<tr>
<td>Eureka</td>
<td>1Eureka County High School</td>
<td>7-12</td>
<td>91</td>
</tr>
<tr>
<td>Humboldt</td>
<td>1Winnemucca Junior High School</td>
<td>7-8</td>
<td>515</td>
</tr>
<tr>
<td>Lander</td>
<td>1Battle Mountain Junior High School</td>
<td>7-8</td>
<td>221</td>
</tr>
<tr>
<td>Lincoln</td>
<td>2Pahranagat Valley Middle School</td>
<td>6-8</td>
<td>68</td>
</tr>
<tr>
<td>Lyon</td>
<td>1Silver Stage Middle School</td>
<td>6-8</td>
<td>454</td>
</tr>
<tr>
<td>Mineral</td>
<td>4Hawthorne Elementary/Junior High School</td>
<td>4-8</td>
<td>257</td>
</tr>
<tr>
<td>Nye</td>
<td>1Rosemary Clarke Middle School</td>
<td>6-8</td>
<td>1045</td>
</tr>
<tr>
<td>Pershing</td>
<td>1Pershing County Middle School</td>
<td>6-8</td>
<td>218</td>
</tr>
<tr>
<td>Storey</td>
<td>4Virginia City Middle School</td>
<td>6-8</td>
<td>121</td>
</tr>
<tr>
<td></td>
<td>3Superintendent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washoe</td>
<td>3B.D. Billinghurst Middle School</td>
<td>7-8</td>
<td>1159</td>
</tr>
<tr>
<td>Washoe</td>
<td>3Incline Middle School</td>
<td>6-8</td>
<td>310</td>
</tr>
<tr>
<td>Washoe</td>
<td>1William O'Brien Middle School</td>
<td>7-8</td>
<td>1233</td>
</tr>
<tr>
<td>White Pine</td>
<td>1White Pine Middle School</td>
<td>6-8</td>
<td>299</td>
</tr>
</tbody>
</table>

1Administrator participated in personal interview.
2Administrator participated in written interview.
3Declined participation
4Unable to contact
Subject schools were chosen to maximize the number of students in the target grades of the regulation, based on data in the Nevada Public Schools Database for the 2003-2004 school year. A random sampling did not appear appropriate due to the organization of Nevada's rural schools. The credit requirement adopted by the Nevada State Board of Education applies to students enrolled in middle schools or junior highs in grades 7 and 8. While this configuration fits all but of few of Clark County's schools housing students in grades 7 and 8, the same is not true of Nevada's other school districts. In several counties the number and distribution of students do not lend themselves to maintenance of separate middle schools or junior high schools. Configurations vary from traditional middle schools to schools housing grades 4 through 8, kindergarten through 8th grade, grades 7 through 12, and others. Table 6 shows the schools from each county that were selected for participation in the study, as well as their grade-level configurations and total enrollment. A complete list of rural Nevada schools housing grades 7 and 8 is found in Appendix III.

Table 6 also indicates the level of participation of each school. A total of 19 administrators in the 16 Nevada school districts outside of Clark County were initially contacted for this study. Ten were male; 9 were female. Twelve administrators representing 12 different districts agreed to participate. Of those participating, 8 were male and 4 were female. Eleven participated in telephone interviews; 1 responded in a written format. Four administrators, all female, declined participation in the study.

One site administrator, occupying the position of lead teacher rather than principal, was disqualified by the researcher due to a concern that there may have been undue pressure from the district superintendent. The researcher had previously been unable to
contact the site administrator of the only school in the district housing grades 7 and 8. The superintendent was contacted as an alternate interviewee. Claiming he was new to the position and not adequately familiar with the information being sought, he declined participation and indicated that he would have the site administrator give me the information for the county. Concerned that this would compromise the right to informed consent, the candidate and therefore the county, were eliminated from the study.

The researcher was unable to contact the remaining administrators, including alternates, after repeated attempts via telephone and/or email.

The four counties not represented in this study as a result of administrators declining to participate or the researcher being unable to contact them are Churchill, Esmeralda, Mineral, and Storey. Esmeralda, Mineral, and Storey counties are three of the four smallest in the state of Nevada. Together the four counties represented approximately 1.69% of Nevada’s student population and approximately 5.43% of the students outside of Clark County.

Data Analysis

As a descriptive study, this inquiry does not attempt to analyze data within a particular theoretical framework. Rather, it seeks to identify common themes, patterns, and categories of information.

Interviews of public officials conducted during the intent phase have been presented in a chronological manner, according to their involvement in the development of the middle school retention legislation. Analysis begins with the sponsor of Assembly Bill 376, considers the comments of the chairperson of the committee that developed the State
Board of Education regulation, presents the views of a political rival of the bill sponsor who chaired the legislative committee debating a proposed eighth-grade proficiency exam, and reflects on the testimony and opinions of a State Board of Education member who testified at hearings on the retention issue.

Data collected through interviews of site administrators during the impact phase were analyzed to identify common impacts on the educational settings, including cataloging common beliefs, programs, procedures, and concerns in response to the legislation.

Once analyzed separately, the data collected from the intent phase were compared with the data collected from the impact phase to determine whether expectations corresponded with the realities of implementation.

Quality of Research Design

Four measures are typically used to evaluate the trustworthiness of a qualitative research design: credibility, transferability, dependability, and confirmability.

Credibility is a measure of internal validity that asks whether the data sources feed the analysis, formulation, and interpretation used in the study. Two methods of ensuring credibility were used: peer debriefing using feedback from the research committee and qualified peers, and triangulation of document and interview sources.

Transferability is a measure of external validity measuring the applicability of one set of findings to another context. Interviewing multiple subjects chosen through purposive sampling afforded the opportunity for cross case analysis. A thick description of the data has been provided. The legislation under study is specific to Nevada, however, and the study does not seek to generalize the findings to other school districts in other states.
Dependability, a measure of external reliability, seeks assurance that there is sufficient stable information to replicate the study. Overlapping material was used, the chain of events has been described, and a case study database of interview data was developed for analysis.

Confirmability, or internal reliability, tests whether a later researcher following the same procedures and conducting the same case study would arrive at the same findings and conclusions. Case studies involving in-depth, open-ended questions are inherently susceptible to researcher bias. The interviewer guides the conversation with participants, choosing which avenues to follow. A later interviewer might not make the same choices. As a Nevada middle school educator, the researcher acknowledges being impacted by the legislative measure under study since it first took effect. Yin (2003, p. 38) cites adequate documentation of procedures as a key to reliable replication of a study. In this study, documentation of selection and interview procedures, as well as triangulation of multiple data sources, enhanced the confirmability of the results.

Summary

Approximately seven years have passed since the passage of AB376 in 1997 permitting the State Board of Education to establish a credit standard for students moving from eighth grade to high school. To date no one has investigated the impacts of this legislation on Nevada’s rural school districts.

_A Policy Analysis of Nevada’s Middle School Retention Legislation_ is a descriptive case study using qualitative research methods. Interviews with public officials and site administrators, as well as related documents, were analyzed to identify the motivations of
legislators and intended consequences of the legislation, to catalog the impacts of the 
State Board of Education regulation on rural schools, and to compare the two.
CHAPTER 4

DATA ANALYSIS

Two distinct sets of interview data were gathered to reflect the structure of the research questions: intent data from public officials, and impact data from site administrators.

The first data, gathered through telephone interviews and from records of public meetings, concerned the questions of motivation for introduction and passage of Assembly Bill 376, considerations in drafting the State Board of Education regulation, and what impact the credit requirement's proponents had hoped for. The results of the public official interviews are presented in the order of their involvement in the public record concerning AB376, and provide a deeper look at the background on the legislative history provided in chapter 2.

The second set of data was obtained through oral and written interviews with principals in 12 of the 16 Nevada counties outside of Clark County. Information gathered was representative of the impact that the credit requirement had at the building level. Data included principals' personal philosophies on retention and promotion, observable impacts on classrooms and the school culture as a whole, and suggestions the interviewees had for improvements to the credit requirement.
After the two sets of data were reviewed, they were compared to determine whether the intent of the legislation met the impact of the regulation in Nevada’s rural school districts.

Motivation and Intended Consequences

Public Officials Interviewed

The goal of interviewing public officials was to answer the first two research questions: (1) What was the motivation of passage of AB376? and (2) What were the intended consequences?

Public officials involved in the passage of Assembly Bill 376 and the subsequent State Board of Education regulation were interviewed to determine the motivation and intended consequences of the legislation, as well as to assess whether they felt the intended consequences had been met. This was tied together with testimony from legislative committee meetings following the 1997 legislative session.

The perspective of four key persons is summarized herein:

- Democratic Assemblywoman Chris Giunchigliani, a Nevada educator and primary sponsor of the bill;
- Eric Anderson, science consultant to the State Board of Education and chair of the committee that drafted the middle school credit requirement regulation;
- State Senator William Raggio, a Republican and chairman of the Legislative Committee on Education who supported an eighth-grade proficiency test; and
- Bill Hanlon, a Nevada educator and an elected member of the State Board of Education at the time AB376 was passed.
Democratic Assemblywoman Chris Giunchigliani was the primary sponsor of Assembly Bill 376, introduced during the 1997 legislative session. Ms. Giunchigliani (or Chris G. as she is often called) has been an educator for 23 years and a member of the Nevada legislature for 14 years. She was employed by the Clark County School District as a special education teacher in various middle schools for over 20 years and served as Director of School District & Community Relations at the Community College of Southern Nevada in Clark County for 2 years, a position from which she recently resigned.

Chris G. was chosen for this study to provide insight from the legislative standpoint. In her interview, Ms. Giunchigliani discussed the middle school credit requirement from philosophical underpinnings through the effectiveness of its implementation.

Ms. Giunchigliani developed the concept of a middle school credit requirement while a teacher at Swainston Middle School in North Las Vegas. She and her colleagues felt that students saw no value in their middle school education. In an interview on February 17, 2004 she reflected that “students could flunk all three years and still go on to high school.” She wanted a credit requirement so students would know there was some standard they would have to meet in order to be ready for high school. She did not necessarily expect test scores to rise; she just wanted higher expectations for students and teachers.

Although she believes students should be held to standards, Ms. Giunchigliani does not generally support the idea of retention, particularly after elementary school. On the other hand, she did feel that in Clark County schools, K-12 has a long history of social
promotion, which she also felt was a disservice to students. Although she had not
investigated the statistics, it was her sense that the “overwhelming majority were passed
along.” While indicating that she did not support social promotion, she also indicated
that she had not intended AB376 and the resulting regulation to be interpreted as
requiring retention, although that is how it has been interpreted.

Nor does Ms. Giunchigliani support the idea of proficiency tests as an immovable
hurdle to graduation. Referring primarily to high school proficiency testing, she
commented that one test should not make or break a student. She believes testing, if
used, should be coupled with “what else a young man or young woman knows how to
do.” The amount of time spent preparing for standardized tests, criterion referenced tests,
and state proficiency tests is of great concern to the assemblywoman. She feels that too
many instructional days are lost to testing during kindergarten through twelfth grade,
especially with President Bush’s education plan, which she refers to as “No Child Left
Untested.”

During the 2003 legislative session, Giunchigliani tried to have proficiency testing
eliminated as a requirement for earning a diploma. Although it passed overwhelmingly
out of the Assembly committee, the Senate, led by William Raggio, could not be
persuaded to follow suit. She did succeed in reducing the cut score to previous levels
instead of a continually rising standard. When asked whether she felt the legislature was
moving toward a proficiency test for middle school students, she indicated that she did
not support it, but felt Senator Raggio might push for one. She “prays to God that they
[Raggio and other legislators] never come up with the idea of an exit exam for eighth
grade,” anticipating a failure rate of about 50%.
Assemblywoman Giunchigliani is supportive of criterion referenced tests as tools for teachers to measure whether they are teaching the curriculum effectively and whether standards are being met, a use that she sees as the primary purpose of testing. She indicated support for a portfolio approach to determining whether a student meets graduation requirements.

Ms. Giunchigliani was disappointed that the legislation was interpreted as leading to an increase in retentions and had hoped instead that it would spur schools to provide more interventions and students to strive for higher achievement.

One of her biggest frustrations is that the legislature did not allocate sufficient funds for the intensive remediation needed. The credit requirement first took effect during the 1999-2000 school year. In February of 1999, Assemblywoman Giunchigliani introduced Assembly Bill 13 in an attempt to establish a state program for financial support of intersession school (some Clark County middle schools were still on year-round schedules) and summer school, and requiring establishment of local programs. An amendment added funding for Saturday classes. Minutes from the February 17, 1999 meeting of the Assembly Subcommittee on Education where AB 13 was discussed indicate a total of $2 million was requested (Assembly Subcommittee on Education, 1999). Giunchigliani is uncertain how much funding is currently available, but believes that in Clark County most remediation money is directed to high schools to prepare students for the high school proficiency exams rather than to middle schools or elementary schools.

The English and math credit requirement established by the State Board of Education was not what she had originally hoped for. As introduced, Assembly Bill 376 called for
students to earn 15 credits during their middle school years – grades 6, 7, and 8. As enrolled, the measure led to a requirement that students earn three semesters each of math and language during their seventh and eighth grade years. Ms. Giunchigliani wanted students to see every class as having value, whether a core academic subject or elective class. As a politician, however, she also recognizes the need for compromise.

Although not all that she had envisioned, Ms. Giunchigliani does feel the requirement as implemented has been effective in raising awareness. “People were not aware that students could flunk all of the middle school years and go on to high school. Parents didn’t know. Teachers didn’t know students had so many Fs.” Now, educators are identifying students who are in danger of being retained much earlier in the school year, and are intervening in sixth, seventh, and eighth grade, before students reach high school unprepared and are at a greater risk of dropping out.

Chris G. was open to suggestions and recommendations and indicated she would welcome any suggestions for changes.

_Eric Anderson - Chairman of the_  
_State Board Committee_

Prior to consulting for the Department of Education, Eric Anderson was a high school science teacher in Las Vegas for nine years. After serving as a consultant to the State Board of Education for approximately two-and-one-half years, the Milliken award-winner returned to the classroom. He currently teaches eighth grade science at Eagle Valley Middle School in Carson City, where he has had the opportunity to observe firsthand the impact of the regulation that he helped develop.
Mr. Anderson, charged with oversight of the State Board of Education committee that
drafted the credit requirement, is himself not an elected official. In his capacity as K-12
science consultant to the Nevada Department of Education in 1997, Eric Anderson was
assigned to chair the committee that developed the middle school credit regulation that is
now embodied in the Nevada Administrative Code. Mr. Anderson viewed his role on the
committee not as one of setting policy, but as facilitating the actions of the committee and
performing a secretarial function.

Mr. Anderson is not a supporter of retention, although he does believe that children
need to be held accountable for their learning. He described retention as “one of those
things you land on when you don’t really want to put all the effort and time in to do what
is really correct.”

Nor does he particularly support the idea of a credit requirement based on Carnegie
units. He would prefer to see a major overhaul in the entire educational system to
support differentiated instruction rather than expecting kids to be “done like a piece of
meat within a prescribed amount of time.” In becoming a consultant to the State Board,
he had hoped to effect change at the state level. He later expressed regret that he had not
been able to accomplish that.

Mr. Anderson does not believe proficiency tests are any more viable as a solution,
expressing doubts that students who could not pass a class could pass a proficiency test in
that subject area. Ironically, in his June 24, 1998 testimony before the Legislative
Committee on Education, Mr. Anderson indicated that the team developing the regulation
initially wanted promotion tied to a standards-based assessment such as a criterion-
referenced test (CRT). At the time, however, not only were standards-based CRTs

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unavailable, but the academic standards themselves had yet to be firmly established. The team did not want to tie promotion to ninth grade to the TerraNova, the norm-referenced test mandated statewide at the time, so focus turned to a credit requirement (Legislative Committee on Education, 1998a).

The motivation of the State Board committee as a whole seems somewhat contrary to that of Assemblywoman Chris Guinchigiani. The committee was comprised primarily of educators—teachers, administrators, and former administrators—as well as business representatives and community leaders. Their motivation could be interpreted as producing a minimalist implementation of the legislation, meeting the letter of the law while having as little negative impact as possible to school districts. In essence the committee was adhering to the medical credo of “first, do no harm.”

Mr. Anderson indicated that the committee had concerns that the legislation was an unfunded mandate. The members pared the requirements down to language and math because they doubted the ability of districts to financially support extensive remediation programs. They were concerned about overcrowding and about money to pay teachers in special programs. Anderson stated, “You already have a system whose resources are strained and now you’re going to bottleneck a bunch of kids at the middle school level.”

Although himself a science teacher, he does not feel additional subjects should have been added to the credit requirement due to limited resources for remediation. He does recall discussing inclusion of science as a credit requirement, and “at one point all heads turned to me to see hat I would say about science. I just laughed and said ‘I’m not here as a science consultant. I’m just facilitating this thing.’”
As adopted, the State Board of Education regulation required that students earn a grade of C or better in their English and math classes in order to earn credit, a requirement not in the original draft. Mr. Anderson recalls this being the result of committee members wanting to push kids harder, but does not recall the specific discussion. The change from a C to a passing grade was made after he had left the Department of Education.

Notwithstanding the honorable intention of pushing students harder, he indicated that virtually everyone was worried that the measure would have a negative impact on schools. Aside from draining district financial resources, there was concern that students who did not earn the requisite credit, either during the regular school year or during summer school, would be those exhibiting “incredibly antisocial behavior.” Although Clark County has behavior program schools (formerly Opportunity Schools) for chronically disruptive students, smaller districts around the state lack the resources to provide alternative educational settings for those who, in Mr. Anderson’s words, “resist schooling” and have a negative impact on the attitudes of other students.

Mr. Anderson does feel that the regulation as adopted met the intent of the statute – to prevent students from moving from middle school to high school without having achieved some basic level of learning in language and math. He had sought clarification and discussed the intent personally with Chris Giunchigliani prior to committee meetings and does not feel the resulting regulation would have made it past the Legislative Committee on Education if it had not met the intent of legislators.

Anderson did raise a concern about the role of the Legislative Counsel Bureau in development of the regulation. At one point the committee discussed an either/or
proposition – either earn credit or pass a proficiency exam. He recalls that the late Jeanne Bonds, “was Raggio’s right-hand person and I remember her stepping in and saying there was no way that was going to fly.” It was his understanding that the Legislative Counsel Bureau is “not supposed to be trying to influence policy the way they did while I was at the Department of Education.”

While agreeing that the regulation has been effective in getting the majority of students to care, he does cite motivation level as the underlying problem behind those students who repeatedly fail to meet the criteria. It has been his experience that if a child is struggling, either one or both parents are doing little to monitor their child’s progress. Although not trying to chastise parents, he finds that in some cases the neglect borders on a criminal attitude; in others, there are economic concerns with parents working two or three jobs trying to make ends meet.

William Raggio - Chairman of the Legislative Committee on Education

William Raggio has been a member of the Nevada legislature since 1973. The Republican senator from Washoe County is generally considered the most powerful and influential Nevada legislator. He has served as either the Senate Majority or Minority Floor Leader (depending on which party controlled the Senate) since 1977, with the exception of the 1981-82 legislative biennium. He has been chairman of the Interim Finance Committee and was first chairman of the Legislative Committee on Education (LCE) at its creation in 1997, the year he was also chosen as the Northern Nevada Legislator of the Year. In his capacity as chairman of the LCE, he strongly argued in
favor of adoption an eighth-grade proficiency exam to determine promotion to high school.

Senator Raggio is a trial attorney by trade and former Washoe County District Attorney. During a career spanning more than fifty years he has received awards and recognitions from numerous cultural and trade organizations. Due to a death in the family during the time interviews were being conducted, Senator Raggio was unavailable to participate in an interview. Subsequent calls to his office failed to produce a response. As a result, Senator Raggio’s views have been inferred from the record of 1998 Legislative Committee on Education meetings (1998a, 1998b).

Senator Raggio is a supporter of proficiency testing. In the minutes of the September 28, 1998 meeting of the Legislative Committee on Education, Raggio questioned whether it was fair to have students going from middle school to high school if they were not ready. He repeatedly expressed concern about dropouts. The minutes reflect, “He opined that the public, who supports the whole system of education, and the Legislature, which is constitutionally responsible, are entitled to know that students who have been through eight years of school have at least reached a minimum level indicating they are ready for high school” (Legislative Committee on Education, 1998b). He further indicated he was “tired of alibis from educators,” and felt that promotion to high school should be based on an eighth-grade exam.

In the September 1998 minutes, Senator Raggio appeared dismissive of arguments that there was inadequate funding for remediation. He indicated that there was remediation funding throughout the budget and in Senate Bill 482 (Nevada Education Reform Act, 1997). When Bill Hanlon countered that most of the funding targeted
schools classified as inadequate (now referred to as in need of improvement), Senator Raggio’s reply suggested that parents should be held financially responsible for remediating their children, whether through summer school or other credit retrieval avenues.

Deferring to estimates of the number of students that would be held back if an eighth-grade proficiency exam was instituted, Senator Raggio did ultimately support the middle school credit requirement as a means of raising academic standards. He may, however, have had a great deal of influence on the decision to set a passing grade of C.

The June 24, 1998 meeting of the Legislative Committee on Education occurred between the submission of the proposed draft of the State Board of Education regulation on May 1, 1998 and the July 17, 1998 meeting where the C requirement was added to the regulation. Minutes of the June 24 meeting note, “Discussion was held regarding the ‘D-’ provision in BDR No. 24. Senator [Jack] Regan said he was concerned with D- as a passing grade. Senator Raggio agreed that was not a strong message” (Legislative Committee on Education, 1998a, p. 45).

Bill Hanlon - State Board of Education Member

In 1998 Bill Hanlon was a member of the State Board of Education in Nevada. In this capacity he offered testimony before the Legislative Committee on Education as it debated the merits of the regulation proposed by Mr. Anderson’s committee. He is currently employed by the Clark County School District as the Director of the Regional Professional Development Program.

In his interviews Mr. Hanlon reflected extensively on his philosophy on grade retention, on his assessment of the outcomes of the credit requirement, and on
suggestions for changes not just to middle school education, but to teaching as a profession.

Mr. Hanlon was and is a supporter of Assembly Bill 376. He believes that students should earn the right to move from one grade to the next based on their achievement of stated objectives. He is also a supporter of retaining students in grade and believes that retention should be used more frequently than it currently is. He does not, however, believe that any retention or promotion policy should be applied in wholesale fashion; individual circumstances need to be considered.

In discussing retention of children in the primary grades, he expressed frustration at the refusal of the Clark County School District to retain his own developmentally-delayed daughter in kindergarten or first grade. Of older students he opined that if kids are simply making inappropriate decisions (such as truancy, failure to complete assignments, behaving inappropriately), they have to be held to the standards put in place.

Seemingly contrary to his views on retention and student accountability, Mr. Hanlon’s key role in development of the middle school credit requirement was arguing against adoption of an eighth-grade proficiency exam before the Legislative Committee on Education. In the September 24, 1998 meeting, Mr. Hanlon argued that using a single instrument, such as a proficiency exam, to determine who progresses is inappropriate. He indicated that the students with the greatest needs and lowest incomes typically had the highest failure rates. He asserted that “should the committee proceed with its recommendations that promotion to ninth grade be based on passing an eighth-grade exam, an entire socioeconomic class will be held back a year.” In his interview, Mr.
Hanlon echoed Chris Giunchigliani's concern that too many instructional days are already spent preparing for district and state mandated tests.

One of the primary reasons that Mr. Hanlon supported AB376 was that so many students in Clark County were reaching high school without basic math skills and were unable to pass the high school proficiency exam. Unfortunately, he does not feel this situation has changed. He notes that 51% of seventh grade students cannot pass a simple districtwide computation test, and that the high school proficiency test is much more complex. He feels that most students are not progressing in mathematics because middle school classes lack rigor and basic teaching strategies. He states the problem as, "sixth grade math is taught in sixth grade, then again in seventh grade, and once more in eighth grade."

Clark County School District Superintendent Carlos Garcia has been advocating enrollment of 70% of all eighth-grade students in algebra classes. Mr. Hanlon argues that due to lack of students' basic skills, objectives taught in these classes must be simplified. Regular algebra taught to eighth-grade students is not accepted for credit in any Clark County high school – students must repeat the course in ninth grade. Honors algebra is accepted for credit; however, even these students are often unsuccessful in their high school geometry and succeeding classes.

While Mr. Hanlon hoped to see an improvement in achievement, he expected to see a large number of retentions during the first couple of years of AB376's implementation. This would of course impact the number of classrooms and the number of teachers needed at middle schools. He also joked – as did a number of other interviewees – about
predictions that middle schools would have to build parking lots for 16-year-old eighth graders.

Like Chris Giunchigliani and Eric Anderson, Bill Hanlon has been hoping to make changes to the educational system, but has been frustrated in his efforts to increase accountability through measures such as AB376 and through establishing minimum minutes of instruction in core courses.

Mr. Hanlon does not feel that the intent of AB376 has been met. Achievement has not improved. Schools are manipulating the system to get students moved on by allowing credit for watered down classes, allowing students to take two levels of mathematics (e.g. sixth-grade math and seventh-grade math) concurrently, and inflating grades by giving credit for effort instead of achievement. He felt in 1997 and still feels today that middle school teachers are just trying to get students through and hope that the high schools will fix any deficiencies.

In spite of this apparent criticism, he speaks highly of the character of teachers. He identifies them as a workforce that is clearly educated and hard-working. They come early, stay late, and spend their own money on their students. He doesn’t, however, feel they are being adequately used, appreciated, or allowed to develop professionally. In his wry humor, he indicates that we lose about 50% of beginning teachers in the first five years of teaching because we use the “pier system of indoctrination” – we take them to the end of a pier and drop them off. Among his suggestions for improvement, particularly in mathematics, are:

- Do the “simple things.” Review recently-taught material at the start of each period. Conduct long-term reviews regularly, not just before a test. Use more
audio-visual and kinesthetic activities. Teach students how to study math. Use written reflection on objectives taught. Close each lesson by restating what was learned.

- Allow teachers time to talk and plan with colleagues. No more than one hour of a staff development day should be spent on principal-directed topics. The balance should be spent on teacher-selected activities such as unit planning, strategy sharing, and informal communication within departments. Staff development isn’t something done to teachers, it’s something done by teachers.

- Make grades more portable among classes and among schools by basing 75-85% of a student’s grade on performance rather than on homework, participation, extra credit, and other peripheral activities.

Regardless of whether one is in favor of retention, social promotion, proficiency testing, or credit requirements, Mr. Hanlon’s views on accountability are foreboding. He states that public schools don’t do a good job in terms of accountability, and when you don’t take care of your own business, someone comes in and takes care of it for you.

Implementation of the Legislation in Nevada’s School Districts

Research question 3 asks what impact the middle school retention legislation has had on Nevada’s rural school districts. This can best be answered by those on the front lines – the site administrators of Nevada’s schools.
Characterization of Site Administrators

Nineteen administrators in the 16 Nevada school districts outside of Clark County were initially contacted for this study. Of the 19 administrators, 10 were male; 9 were female. Administrators representing 12 different districts agreed to participate. Of those participating, 8 were male and 4 were female. A total of 11 participated in telephone interviews; 1 responded in a written format. Of the original 19 administrators, only 4, all female, declined participation in the study. One administrator was eliminated by the researcher before being interviewed due to a concern that there may have been undue pressure from the district superintendent. The remaining administrators, as well as alternates, failed to respond to repeated attempts at contact via email and telephone.

The four counties not represented in this study are Churchill, Esmeralda, Mineral, and Storey. Esmeralda, Mineral, and Storey counties are three of the four smallest in the state of Nevada. Together the four counties represented approximately 1.69% of Nevada’s student population and approximately 5.43% of the students outside of Clark County.

Although some of the principals had been in their positions only a year or two, all had extensive experience as educators. Subject area backgrounds were diverse. Some were former elementary teachers. Others had been teachers of math, science, physical education, or band.

Characterization of Schools in the Study

Site administrators were asked to characterize their student populations. No specific parameters were given.

The schools in the study ranged in size from 93 students in grades 7 to 12 to over 1200 students in grades 6-8. A few had stable population bases, but most indicated high
transiency, or student turnover rates, varying from 30-50%. Several indicated drops in population due to a decline in the mining industry. One principal indicated the district population had dropped from about 2,400 students in the 1980s to about 1,400 currently, but an influx of 300-500 students was anticipated next year if a foreign company completed the purchase of a local copper mine.

Culturally, the student populations were composed of 60-85% Caucasian, with 7-25% Hispanic students, 1-5% Native American, and a few Asian-Americans. Few African-American students were enrolled in any of the districts. One school enrolls a large number of Native Americans from across the state line in California, but only for the ninth-grade year.

Most claimed a low-to-mid socioeconomic status, with three administrators specifically indicating their districts (though not necessarily their own schools) were receiving Title I funds. It should be noted that Title I status was not part of the interview schedule; however, the information was volunteered by three of the administrators.

Table 6 in Chapter 3 contains a list of schools participating. Appendix II includes a map of Nevada’s 17 counties, as well as a table showing all schools housing grades 7 and 8 in Nevada’s 16 rural counties.

District Regulations on Retention and Promotion

All of the districts in the study reported being aware of and currently following the state regulations on promotion to high school. Three administrators discussed requirements beyond passing three semesters of math and three semesters of English. Of these three, one administrator acknowledged that the retention requirement had not been implemented in his school prior to the 2001-2002 school year, but also indicated that the
standard to which students were now held was stricter than required by law. Students are required to pass three of their five core subject areas (math, English, reading, science, and social studies) to pass seventh or eighth grade.

In one district the standard of earning a grade of C or better which had been eliminated from the Nevada Administrative Code in 1999 had been maintained until the 2003-2004 school year.

Unlike Clark County, which has included a one-semester credit requirement in language arts and math for promotion from sixth grade to seventh grade, the districts interviewed had no formal credit requirement for sixth-grade middle school students. Sixth-grade credit requirements are not included in the regulation.

All principals indicated eighth graders were retained according to the letter of the law, although one interviewee had tried unsuccessfully to use the conflict between retention statutes to move an over-age student who had already attended two years of seventh grade and two years of eighth grade up to high school. In attempting to advance the student, the principal invoked NRS § 392.125(3), the statute indicating that students may only be retained once in any grade. This case ultimately resulted in the issuance of the 1999 Attorney General opinion that the middle school credit requirement governed.

The practices on retention of seventh grade students were mixed. Some principals did not retain students at all until mandated in eighth grade. Others tended to retain more students in seventh grade than in eighth.
Administrators' Philosophies on Retention, Promotion, and Proficiency Testing

No principal interviewed felt that any blanket retention policy was effective. Overwhelmingly, they indicated that retention decisions needed to be made on a case-by-case basis and should be a last resort. Several principals indicated that if retention was going to be used, it should be done at a much earlier point in the child’s education. One principal indicated that retention at the seventh and eighth grade level simply didn’t work—it was too late in the student’s education for retention to have a positive impact. On the whole, principals felt it was their jobs to assess students’ skill levels and do whatever was necessary to bring them to grade level. One principal indicated, reluctantly, that it was the job of the middle schools to “fix them or fail them.”

The principals interviewed did not use the term “social promotion” in discussion of the movement of children between grades; however, several did mention specific cases where students who had previously been retained were subsequently promoted to the next grade. One principal discussed the case of a student who had been retained in (K-6) elementary school and had become a discipline problem. Halfway through his sixth-grade year, the student was promoted to seventh grade and moved to the middle school campus. The principal reports that the student’s behavioral problems diminished and his academic performance was acceptable.

Use of proficiency tests to determine advancement between grades was discussed. The majority of principals were supportive of the use of proficiency testing; however, as with retention, did not want to see a blanket policy based on achievement on a single test. Principals were more supportive of proficiency tests as diagnostic tools not only for
placement of students, but also for evaluation of teacher effectiveness in implementing state and district standards. A large minority supported a combination of credit requirement and proficiency testing to determine advancement; that is, students would either have to pass classes for credit or demonstrate mastery on a proficiency test.

*Interventions for Credit-Deficient and At-Risk Students*

Over 25 different programs and interventions were identified to address the needs of students who were credit deficient or at risk of becoming credit deficient. These can be divided into four areas: credit retrieval, tutoring, change in instructional programs, and behavior interventions.

*Credit Retrieval*

Students who leave seventh grade without having earned any credits in math and English would be mathematically unable to pass eighth grade without the opportunity to earn credit outside of the normal instructional schedule. To address this difficulty, districts have made various credit-retrieval options available to students.

Summer school is the most frequently cited means of credit retrieval and is available in at least six of the Nevada counties studied, although in rural counties summer school is not always feasible due to the geographical distribution of the students and economic considerations. Most schools offering summer school allow students to choose whether they will attend math, English, or both classes. One school requires that students pass both math and English during summer school, even if they were failing only one or the other. Students receive credit for both or credit for neither.

Two districts allow students to take correspondence courses over the summer. Two districts accept credit earned from online sources— one from the district-proprietary
WOLF program and one from NOVA. One district accepts credit earned through a private school operated by an individual in which students are expected to demonstrate 80% mastery of material.

More commonly, credit-retrieval opportunities come during the regular school day. Several schools have used a “double-dosing method,” where students must forfeit an elective class in order to take a second section of math or English. In some cases the student is removed from a science or social studies class. Two principals shied away from assigning students to two sections of a class where they are deficient. One indicated that, “You are giving them more broccoli when they really want something different to eat.”

Outside of the regular school day, one district offers an after-school class for math credit and a Saturday class for English credit. Most, however, indicated they do not have the financial resources to offer such classes.

**Tutoring**

The overwhelming majority of principals interviewed would prefer to retain students only as a last resort and have instituted a wide range of programs to improve the skill levels of students who may be at risk of being retained in grade. Tutoring opportunities abound. Four principals mentioned the availability of after-school tutoring. Two incorporate before-school homework rooms.

One principal has implemented a “directed tutorial” program during lunchtime with mandatory attendance for students failing any of their classes. Although this sounds suspiciously like a lunch detention, it is in fact an instructional period that sometimes focus on writing, sometimes on reading, sometimes on math. A teacher is assigned to
each grade level and students must attend the sessions until grades in all of their subjects rise to passing. The principal indicated that seventh grade tended to have the largest number of students in the directed tutorial program. The administrator indicated that “It works. They [the students] miss half their lunch period and they don’t necessarily like that.”

Perhaps the most innovative approach is the district that has put tutors on buses. Some of students from outlying areas must spend forty-five to ninety minutes every morning and every afternoon being transported to and from school. Rather than just leaving this as a time for students to socialize, a tutor, paid for by the Partnership of Community Resources, travels with the students one day a week.

Instructional Programs

Principals would much prefer fixing to failing, and have implemented numerous program modifications to prevent retention. Three administrators indicated they had adopted schoolwide silent reading or Accelerated Reader® periods ranging from 15 minutes per day to a full 55 minute period each day. One principal has implemented a first-period program where students falling below the 25th percentile on standardized tests are provided with additional instruction in math, English, or reading, while those performing above the 50th percentile attend enrichment classes in science or social studies.

One administrator had combined a special education teacher and a regular education teacher into a two-period research-based remediation course called Language. “We took our lowest kids, lowest percentiles, struggling with basic reading, and put them into this program instead of putting them in English and social studies. We call it an English
requirement to protect ourselves, and it is one, but it is a remedial course.” On occasion scheduling students into this block course does cause problems, since the school only has 10 teachers, all teaching multiple grades and multiple classes.

Yet another administrator has developed what are referred to as SOS classes. They are just what they sound like – for the “mayday, throw me a lifesaver” student. In these classes teachers follow the curriculum, but try not to give as much homework or assign as many long-range projects as regular classes – just teach the “meat” of the curriculum so students can get their credit. Often students are assigned to SOS classes when they have failed the first semester of English or math.

Some administrators have found success with year-long remedial courses, but one administrator employs “instructional bursts” of Prime Reading and Prime Writing sessions. During these six-week sessions, students focus intently on language usage skills. The philosophy behind this is, “We pull those kids and actually do some really intense stuff, and then we leave them alone for a while so they get the impact of it. We figure if they give us more effort for a shorter period of time, we’re getting a better effort out of them.”

Behavior Interventions

While some administrators indicated that the close-knit nature of their communities keeps disruptive behaviors to a minimum, several others indicated that addressing behavior problems has been crucial to changing the school climate and maintaining an emphasis on learning.

At one school, the faculty supported the creation of a FOCUS program. Students participating in the FOCUS program are identified not because of low academic
achievement, but because of chronic discipline problems within the classroom. FOCUS classes are very small and address not only academic material, but also behavior modifications. To implement this program, teachers in non-FOCUS classrooms agreed to larger class sizes. This was seen as acceptable, the principal indicated, because the two or three students who routinely cause disruptions in each classroom would be removed, allowing more time to focus on academic goals.

One principal was enthusiastic about his efforts to change the school climate on his campus housing more than a thousand students. Staff development and application of Nevada’s habitual discipline law have been key.

Consultants were brought in to train teachers to address most behavior problems within the classroom environment. Those that are referred to the dean’s office are then due either to chronic classroom disruptions or more serious offenses such as fighting, assault, theft, or vandalism. Students who are referred to the dean are treated with a streamlined discipline plan. On the first offense, a student is placed into in-house suspension for a period of three days. Any subsequent violations result in suspensions. Nevada’s habitual discipline law, also passed as part of 1997’s AB376, provides that a student who has been suspended from school five times may be barred from attending the school for a period of 18 weeks.

The administrator interviewed indicated that approximately 20 students per year from a population of over 1,000 students have been removed from his school under this provision. In defending this approach, he notes that referrals to the dean’s office have decreased by approximately 50%, the number of student days spent in in-house
suspension has declined by about 60%, and the average daily attendance for both teachers and students has increased by roughly 4 percentage points.

In a similar vein, one principal has implemented a school-within-a-school concept for retained eighth-grade students. Although details of the program were not given, the intent of the program is to act as a bridge to high school.

Poor attendance can also interfere with student success. One principal indicated that she simply does not allow students to be truant. If a child does not arrive at school and the school has not been advised of the reason for the student’s absence, someone from the school — usually the principal or a support staff member — goes to the student’s home to pick up the child. Most often these are children of parents who are at work early in the morning and are responsible for getting themselves ready for school — sometimes unsuccessfully.

In one community, the eighth-grade graduation ceremony is a highly-anticipated rite of passage. As a deterrent to failing courses, students who are not passing at least four of their classes at the end of the first semester, third quarter, and second semester of eighth grade are barred from participation in the ceremony, even if they will be promoted to high school.

*Costs Incurred and Sources of Funding*

Lack of resources to remediate students was cited frequently as a barrier to education. In previous years some funding was available for summer school through the state of Nevada. Currently summer school, correspondences courses, and online courses must be paid for by parents, with a one-semester course typically costing $75 to $100. The balance of the cost is borne by district budget resources.
With the exception of a few schools that receive Title I funds, schools most often used budget resources or grant monies to pay for before and after school tutoring. Community partnerships and juvenile justice programs were cited as specific sources of grant monies.

Where special classes were instituted, the cost was often not financial, but related to instructional conditions. In cases where smaller remedial math or language classes were created or where FOCUS programs were implemented, regular class sizes increased to compensate. In one case this raised the average class size from approximately 26 students to 28 students, with some classes as large as 33.

Social and Behavioral Impacts

The most-cited problem associated with the middle school credit requirement was the presence of over-age students on campus. Except in very small districts, principals interviewed invariably mentioned that they had one or two eighth-grade students on campus who were 16 or 17 years old. These students were most often male, were leaders, and typically exhibited behavior problems. Often they had attended seventh grade twice and eighth grade twice and would be enrolled in eighth grade for a third time.

In schools with small staffs instructional options are limited. A student may have been receiving instruction from the same teacher in a given subject for five years with little success. Teachers had difficulties in managing the classroom behaviors of these students; parents were concerned that their 11- or 12-year-old daughters were on the same campus with nearly-grown men. One principal stated, “Seventeen is still too old for socialization in middle school.”
Not all over-age students were identified as behavior problems, however. Some merely had very low academic skills. Several had immigrated from Mexico within the past few years and were significantly behind academically, particularly in reading and writing skills. Where feasible, principals had found alternative settings, generally affiliated with the high school, where students could take evening or online courses to make up deficiencies; however, not all districts have such resources available.

Opinions were mixed on how the credit requirement had affected student attitudes. Overall, principals felt that the majority of students were aware of the credit requirement and it had encouraged them to put forth their best efforts in school. Others, however, cited comments from both teachers and students that indicated courses other than math and English had been marginalized. That is, the state credit requirement was being interpreted to mean that only those two core subjects needed to be passed.

One principal felt that the impact of the regulation had worn off. He noted that for the first year or two the level of student concern was high. Now, however, he finds that some of the students don’t mind being held back. They are comfortable at the middle school level where they are, figuratively and literally, the big men on campus.

Effectiveness and Suggestions for Change

Given principals’ views on retention and concerns about over-age students on campus, it is not surprising that most of those interviewed would like to see some mechanism for appeal in individual cases. Under the current system, not only are principals and teachers eliminated from the decision-making process, parents are also powerless. One principal suggested that the superintendent be given the final authority to
move a child to high school and establish some sort of individualized education plan on a case-by-case basis.

Of those principals who do support retention on an individualized basis, there is consensus that it needs to be done much earlier in the child's education. A principal in one district indicated that third grade and sixth grade were supposed to be benchmark years for retention in his district; however, elementary principals seemed philosophically opposed to retention and there was no mandate that they retain low-performing students. Principals are asking that accountability be at every level of the educational continuum, not just beginning with eighth grade.

A few principals indicated they would like to see additional subjects added to the requirements, particularly in light of the additional of science to the high school proficiency test.

If the middle school credit requirement is going to remain as it is, principals would like to receive additional resources. One principal suggested state funding for reading specialists in every middle school. Others ask that summer school and other remediation opportunities outside the regular school day or school year be adequately funded.

Principals are split on whether the law has been effective. Without fail, principals support the idea of student accountability for learning. They like the idea that students in the transition from elementary to high school are being forced to evaluate whether they are progressing adequately. However, most also feel the accountability must come years earlier.
Comparing Intent and Impact

Research questions 4 and 5 ask whether the intended consequences of AB376 have been realized and whether any unintended consequences have emerged. With input from public officials and site administrators, an analysis and comparison can now be made of the motivations and intents of the key players in development of the middle school retention legislation and the impact that the legislation has had upon the policies and practices of Nevada’s rural middle schools. The results of the research questions 1, 2, and 3 are first reviewed.

Motivation

Research question 1 sought to determine the motivation of public officials for passage of Assembly Bill 376 and the ensuing regulation.

According to Chris Giunchigliani, primary sponsor of Assembly Bill 376, the initial motivation behind the legislation was an overwhelming sense that large numbers of students floated aimlessly through their middle school education. She wanted high expectations for both teachers and students in a system where every class has a value, whether English, math, science, social studies, the arts, or physical education.

Bill Hanlon, whose educational focus has been math and science, was concerned that students were not being adequately prepared for high school mathematics or for the high school proficiency examination required for graduation. Hanlon, Chris Giunchigliani, and Eric Anderson all cited complaints from high school teachers about inadequately prepared students as motivation behind needing some sort of accountability measure at the middle school level.
Eric Anderson indicated that the motivation of the State Board of Education committee was to draft a regulation that met the letter of the law while having as little negative impact on school’s resources as possible.

The motivations behind supporting the proposed State Board of Education regulation were more varied. Senator William Raggio, in discussing the proposed regulation, argued in favor of tying promotion to high school to a proficiency examination. He cited an entitlement by both the Legislature and the public to know that students who had completed eight years of education had reached some minimal level of competency.

Although Chris Giunchigliani had initially hoped for a 15-credit requirement for promotion from middle school to high school, Bill Hanlon, Eric Anderson, and Giunchigliani herself, educators with over 50 years of experience combined, ultimately supported a diminished requirement of English and math. All mentioned concern over how much remediation the financial resources of the educational system would be able to tolerate.

**Intended Consequences**

Research question 2 identified the intended consequences of the legislation and regulation. In this case, the word *intended* is interpreted as having positive connotations. There were, however, also *foreseeable* consequences that are less desirable.

Comments suggest that the framers of the measures had hoped they would result in profound changes in both the schools in our state and the students who inhabit them. Giunchigliani expected that schools would provide more interventions for at-risk students. Raggio implied that teachers would be more diligent and stop providing alibis for substandard student performance. Giunchigliani indicated that she expected students
would strive for higher achievement, and Hanlon expected the effort to manifest itself in higher achievement scores.

Some consequences were foreseeable and perhaps even expected, even though they were not necessarily desirable. Both Assemblywoman Giunchigliani and former State Board member Bill Hanlon anticipated large numbers of retentions for several years following implementation of the regulation, which they believed would steadily decrease over time. Anderson and Hanlon both predicted there would be problems with over-age students, Anderson being more concerned with the antisocial behavior that might be exhibited, Hanlon quipping about the need for student parking lots at middle schools. Overcrowding and the financial burden of remediation were also cited by Eric Anderson as potential outcomes of the credit requirement.

**Implementation**

Turning from intent to impact, research question 3 garnered information from site administrators to describe how the regulation has been implemented in schools.

Each of the 12 districts interviewed has adopted, if not embraced, the credit requirements set forth by the State Board of Education. In every one, students must pass at least three semesters of language and three semesters of mathematics in the seventh and eighth grades to be advanced to high school. Three school districts maintain stricter standards.

As shown in Table 7, to assist students in earning credits, schools have offered means of credit retrieval, provided tutoring opportunities, and established other programs to address behavioral and academic deficiencies. Credit retrieval opportunities are available not only through summer school, but also during the regular school day, on Saturdays,
online, and through correspondence courses. Tutoring, intended to improve skills but not as a credit retrieval opportunity, is offered before and after school, during lunches, and even on long bus rides home at the end of the day. Administrators have allocated staff to FOCUS programs to remove chronic discipline problems from classrooms and have enlisted the aid of experts in classroom management. They have identified low-performing students in math, reading, and writing and targeted them for remedial instruction.

Financial impacts have accompanied these interventions. Additional funds have been needed, for example, for summer school and other credit-retrieval programs, for the costs of staff development, and to provide tutoring to at-risk students.

In some cases class size has been impacted as well. In districts that have implemented special programs such as FOCUS, collaborative teaching, and remedial classes, smaller class sizes for some results in larger classes for others.

In some cases the school climate has been negatively impacted by the presence of over-age eighth-grade students who do not always socialize well with students who are significantly younger.
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Realization of Intended Consequences

Research question 4 looks at both the information gathered from public officials and the results of interviews with site administrators to determine whether the intended consequences were indeed realized.

Three beneficial outcomes were anticipated: (1) the level of student concern and value for all classes would rise, (2) schools would implement interventions to assist at-risk students, and (3) student achievement would increase.

Site administrators are mixed on the issue of student concern. One principal stated that the majority of students were taking the measure seriously, but there was a handful that simply did not care. Another administrator indicated that there was initially a high level of concern and healthy anxiety among students, but that it had worn off over time.

In several cases, administrators indicated that the credit requirement had actually diminished the value of some classes. Sometimes students were reported as claiming that they didn’t have to pass a given class, such as science or social studies, because it wasn’t required for promotion. One interviewee indicated that he did not find this to be the case because “middle school students just aren’t that sophisticated.”

While the legislation as enacted did not bring value to every class as hoped by Chris Giunchigliani, she feels that it has raised awareness among many segments of the educational community. Parents are more aware when their children are in danger of failing. Teachers are identifying at-risk students earlier. School districts are being forced to remediate students before they go to high school where they might otherwise simply become a dropout number. Interestingly, Ms. Giunchigliani does not mention that students’ level of concern has increased. She wanted students to see value in all classes
and prepare them for the realities of credit requirements in high school. The result has been that parents, teachers, and school districts are taking action – but are students?

The level of concern among site administrators for getting students to pass their language arts and math classes has increased as evidenced by the early tracking of failures and the number of interventions that schools have implemented. Table 7 catalogs a list of interventions that have been implemented at various schools.

Bill Hanlon was less optimistic. In his view, very little has changed. Students are not achieving at higher levels. A majority of the students cannot pass a basic computation test. He views opportunities for credit retrieval merely as ways of manipulating the system. Course content and grading standards have been watered down to the point where the same material is being taught in grades six, seven, and eight.

The question of whether achievement has been raised cannot be adequately answered by the data collected in this study, although there are suggestions that it did not. More than 20% of Nevada students in ninth and tenth grades were credit deficient at the end of the 2000-2001 school year. (LeBeape, n.d.). Further analysis is needed to determine whether achievement has in fact been affected.

**Emergence of Unintended Consequences**

The final research question addresses unintended consequences – what happened that we didn’t expect?

As projected, the statewide retention rate has risen, but not to the extent anticipated. Although the retention rate has nearly tripled, the average retention rate for sixth, seventh, and eighth grade combined stands at less than 3% annually. Seventh-grade
students are the most likely to be retained, followed by sixth-grade students, then, finally, eighth-grade students.

Unintended, but not unanticipated, has been the issue of over-age students, often "socially dysfunctional" in the words of one interviewee, attending schools with students who are eleven or twelve years old. These students are typically male, and are often leaders, but are not positive role models for those they lead. With no appeal process or alternative setting, these students may be destined to remain in the eighth grade until reaching the age of seventeen, ending compulsory attendance.

Another unintended consequence of the credit requirement is the marginalization of courses other than language arts and math. Although not pervasive through all counties, several principals noted hearing comments from students indicating that they felt they did not need to pass science, social studies, or other courses because they were not required for promotion to high school. Teachers of those subjects had voiced similar concerns.

In some cases this quest for higher standards has actually resulted in a lowering of standards. Because the grade given by the teacher was used as the standard rather than actual demonstration of achievement, students were sometimes put into less-demanding classes to improve their chances of passing the course. On the other hand, some districts have refused to lower their standards to meet the state criteria, and in fact have more stringent credit requirements for graduation.

Summary

When AB 376 was first introduced, legislators were concerned that students did not value middle school classes. Too many were being passed along even though they had
failed the majority of their classes. Public officials hoped that it would raise the level of student concern for their classes and also spur educators to implement changes to help at-risk students, thus also raising student achievement.

The legislation did raise the level of concern – but primarily that of educators. At-risk students are now identified early and interventions, where feasible, made. New behavior programs are being implemented. Alternative classes are being offered. Tutoring is being made available. If all of those interventions fail, credit-retrieval opportunities are available via summer school, through correspondence or online courses, and during the school year.

There have been drawbacks as well. In some cases courses besides math and language have been marginalized. Some class sizes have increased to offset smaller remedial classes. A handful of over-age students are socialization concerns on campuses.

For the most part, public officials and educators both have the same goal – improving student achievement. We might now ask, “What is the next step?”
CHAPTER 5

FINDINGS, RECOMMENDATIONS AND RECOMMENDATIONS FOR FURTHER STUDY

In this chapter the results of the data from Chapter 4 are revisited and analyzed within the context of the literature on retention and promotion. Recommendations are then made for modifications and alternative responses to the credit requirement, as well as suggestions for further study.

Findings

The motivation behind the middle school credit requirement was a perception on the part of one legislator and her educational colleagues that middle school students were being promoted in wholesale fashion. It was the bill sponsor's opinion that students could fail all of their classes during sixth, seventh, and eighth grade and still be promoted to high school. She wanted a mechanism for holding students accountable for learning so that they would see value in each of their classes.

The intended consequences were equally honorable. The framers of the legislation anticipated that the level of student concern for doing well in school would rise, schools
would identify at-risk students and provide them with appropriate interventions, and achievement would rise as a result.

Assembly Bill 376 and its related State Board regulation can be viewed as a compromise between those who wanted to set an achievement standard comparable to the high school standard and those who were concerned with the probable negative impacts on middle schools. Some wanted a 15-credit requirement. Some wanted a proficiency test. The compromise was a requirement that students earn one-and-one-half credits each of language and math during their seventh- and eighth-grade years. Failure to earn the credit had one recourse: flunking eighth grade.

There are several philosophical and logistical problems with this plan. First, there are no statistical data supporting the underlying motivation. Based on her personal experience, the sponsor of the bill had only a vague impression that large numbers of students were being passed on unprepared for the realities of high school. Likely this was a correct assessment, given the low retention rates in Clark County; however, no attempt was made to investigate the extent of the problem.

Second, there were no alternatives built into the credit requirement for that handful of students for whom academic success remains elusive. Across the board – from the bill sponsor to building administrators – study participants indicated there should be room for appeal or discretion on individual students. Lacking this, administrators frequently find themselves with over-age, under-motivated, and disruptive students with no viable educational alternatives. As one administrator put it, “I think accountability is good. Each of us should have to achieve at a certain level before moving on to the next level. But what if they don’t? Where’s our support? Where’s Plan B?”
Typically, districts such as those discussed in Chapter 2 that have established gatekeeper grades and anticipate that large numbers of students will fall below the standard, have also established intervention and prevention programs. Research has shown that neither retention nor promotion is effective without appropriate interventions. (U.S. Department of Education, 1999). The credit requirement was passed with no specific guidance on how to handle students who continually fell short of the standard. No coordinated funding for summer school or remedial programs was allocated. No additional staffing was provided. No mechanism for appeal was included.

With the legislature and State Board of Education having failed to establish interventions, site administrators, recognizing the need for interventions for at-risk students, implemented all manner of innovative changes. They offered tutoring and remediation. They tried to improve the school climate so students would want to succeed. They offered alternatives and second chances. And third chance. And possibly fourth. When prevention measures failed, they offered opportunities for credit retrieval during the summer, online and through correspondence courses.

Perhaps failure to specify alternatives isn’t as bad as it sounds. A complaint that the researcher frequently heard from colleagues is that legislators are involving themselves in areas that they don’t fully understand and are not considering the needs of individual schools. Bill Hanlon noted, however, “Public schools don’t do a good job in terms of accountability. They continually push kids through when most people with any common sense would say ‘Let’s look at this.’ … When you don’t take care of your own business, someone comes in and takes care of it for you and we’ve put ourselves in this position.” Who better to decide what interventions are truly needed than site administrators?
While many administrators might welcome the opportunity to tailor interventions for their student population, many are frustrated by what they view as inadequate funding coupled with an arbitrary academic standard applied too late in students’ educational careers to effect significant change.

One final concern with the motivation and intent of the credit requirement is a belief that you can’t legislate attitudes. In the end, the middle school retention legislation deals with teenagers, or as one interviewee describes them, “hormone-enraged rugrats.” This description is not far off the mark. With advances in brain research, we now know more about the minds of adolescents. A *Time* article sidebar, “Inside the Adolescent Brain,” points out that “The CEO of the brain [the prefrontal cortex], also called the *area of sober second thought*, is the last part of the brain to mature – which may be why teens get into so much trouble. Located just behind the forehead, the prefrontal cortex grows during the preteen years and then shrinks as neural connections are pruned during adolescence” (Park, p. 60). The article continues, “Hormones, however, remain an important part of the teen-brain story. Right about the time the brain switches from proliferating to pruning the body comes under the hormonal assault of puberty” (p. 61).

Students don’t always make sound educational choices. For some, the threat of retention has lost its impact. One administrator indicated,

The new thing now is that they don’t mind being held back. Five to 10 years ago they would do anything, go through any type of program to be promoted to high school. Now, they don’t mind being held back. They’re comfortable at junior high and they don’t really see any reason to move on.
For all of the positive efforts being made at helping students meet the requirements of the regulation, there are also concerns about the intent and effectiveness of the interventions. There is a question of whether achievement has really improved or whether educators have simply found ways to meet the letter of the law without meeting the intent. The increase in retentions is statistically significant, having grown nearly threefold, but still seems low in absolute terms when compared with other districts that have implemented gatekeeper grades.

Is the letter grade assigned by the teacher an accurate measure of achievement? Bill Hanlon argues that part of the problem is that grades are not “portable”; they do not necessarily indicate the level of student achievement. A grade of B in one class may translate to an A or a D in another. He complains, “Teachers are required to give about 50% of the grade on homework, participation, projects, and extra credit....Principals and teachers won’t allow 75% or 85% of the grade to be based on performance.” It is difficult to refute this. The researcher has observed teachers giving credit for attendance at school events, for cleaning the floor, and even for bring in boxes of Kleenex® for classroom use.

A final concern is that faulty logic is being used in the interpretation of the middle school credit requirement. The state standard as written, and as embodied in the policies of Nevada’s school districts, indicates that a student may not be promoted to high school without earning credit in language arts and math. With a few exceptions, administrators have accepted the converse: a student will be promoted to high school if he merely earns the requisite language arts and math credits. This has in many cases resulted in the marginalization of classes such as science, social studies, and art. Only three districts in
the study had stricter requirements for promotion than the minimum established by the State Board of Education.

Recommendations

Elimination of the Middle School Credit Requirement

There is a need for educational accountability – no educator or public official interviewed indicated otherwise; but, it cannot come abruptly after nine years of being passed from grade to grade. However, the middle school credit requirement is not a tenable solution to the accountability problem and should be repealed for the following reasons:

- It is no longer necessary. Passage of AB376 was prior to implementation of the 2001 reauthorization of the Elementary and Secondary Education Act. In Nevada the No Child Left Behind Act, together with the Nevada Education Reform Act, has resulted in establishment of an accountability system measuring annual yearly progress. One of the positive effects of AB376 has been the identification of at-risk students and program modifications to address their needs. Many of the same interventions being made in response to the middle school credit requirement are also being used in response to NCLB and NERA.

- Nobody cares. Nobody at the state level anyway. Retention rate is not being used as an accountability measure. Schools report it because they must, but the Department of Education does not audit it.

- It is easily misinterpreted. In some instances the language of the regulation has been interpreted as meaning that students only need to pass language and
mathematics. This has resulted in the marginalization of other subjects, and, ironically, lowered standards.

- It is unfunded. No allocation was made for remediation, for additional teachers, or for other prevention and intervention measures. Larger class sizes have resulted in some cases. Several districts reported that summer school programs were discontinued due to insufficient funding.

- It has no appeal process. Students have no alternate means of demonstrating readiness for high school. Principals are limited in placement of chronic repeaters.

- It has flawed language. Is the Equal Protection Clause of the Fourteenth Amendment violated? Neither the regulation nor the legislation on their face apply uniformly to equals. The equals in this case are students enrolled in eighth grade. The language of the regulation indicates that it applies to seventh- and eighth-grade students enrolled in junior high or middle school. This would seemingly imply that seventh- and eighth-grade students enrolled in K-8 elementary schools are exempted. Similarly, the language of the statute (NRS 392.033) indicates that a student shall not be promoted to high school (not ninth grade) without earning specified credits. Many junior highs house grades 7, 8, and 9, and are feeder schools to high schools that house grades 10, 11, and 12. Could a failing eighth-grade student enrolled in a junior high be promoted to ninth grade, but be required to repeat eighth-grade classes until the credit requirement is met?
• It isn’t working. One of the goals in establishing the standard was that students were unprepared for high school and were unable to pass proficiency tests required for graduation. Statewide, the retention rate for eighth-grade students in 2000-2001 was 2.4%. Although a comparison has not been made with proficiency test scores, it is probably safe to assume that more than 2.4% of eighth graders are significantly below grade level in math and language and therefore do not meeting minimum proficiency standards.

• Retention doesn’t work.

Modifications and Enhancements

Repealing legislation is a difficult task, so it is probable that the middle school credit requirement will be with us for some time to come. Assuming the statute and regulation remain, the following sections discuss some suggested modifications to the credit requirement for legislators to consider.

Clarify the Language

The previous section referred to ambiguities that might be considered loopholes. If students enrolled in middle schools and junior highs are expected to meet a given requirement, then students enrolled in seventh and eighth grade in elementary schools should be expected to meet the same requirement. A clarification should also be made between “high school” and “ninth grade.”

An explicit reference should be added that indicates passing language and mathematics does not automatically imply a student will be promoted. There should be some indication that students are expected to strive for excellence in all classes, as was the original goal of the bill sponsor.
Add an Appeal Procedure

Most of the districts which have legislatively established gatekeeper grades have used standardized tests to determine proficiency. Currently there is only one determinant of promotion – teacher-assigned grades. A system could be put in place to allow students facing retention to challenge their grade placement. While not advocating testing as the primary determinant for promotion, performance on the state-mandated criterion-referenced tests could be used as a secondary determinant of promotion. Review of work in a student portfolio is another possible alternative measure. The opportunity to demonstrate mastery of material may give students incentive to continue progressing in their education.

If the credit requirement for promotion to high school is to continue, there needs to be a mechanism for making individual decisions about chronic repeaters as well. Many of the principals interviewed cited instances of students who were 16 or 17 years old and had been in middle school (grades 6-8) for five years with little prospect of being promoted to high school.

After participation in this study, one principal indicated she would pursue using the provision of NRS 392.125(2), which states, “The teacher and the principal in joint agreement have the final authority to retain a pupil in the same grade for the succeeding year,” in order to advance a student who had been in her middle school since his arrival from Mexico. As per district policy for non-English speakers, the young man had initially been placed in a grade lower than his age would dictate. He had then been retained once in seventh grade and again in eighth, and it appeared that he would face retention in eighth grade for a second time. Given the Attorney General opinion as
applied to the double-retention prohibition of the law, it is doubtful that this challenge will succeed.

Students in such circumstances are not receiving a free, appropriate education. The setting is clearly not working for them. Principals must be given the authority and resources to provide an alternative placement, whether in a special program at a high school, in a vocational program, in evening courses, in online education, or at alternative schools. Sixteen- and 17-year-old students do not belong in middle schools, nor should they be allowed to quietly disappear from district rolls.

*Increase Funding*

Additional funding is required from the state of Nevada for remediation, intervention, and prevention programs. A number of districts indicated that they had been unable to fund summer school to the extent needed. Several expressed a desire to be able to hire reading strategists and teachers for behavior programs without allocating a regular teaching position and raising class sizes.

Why must a school be failing before it receives additional funding? The State of Nevada does provide funding for schools classified as in need of improvement. However, the funds must be used to purchase commercially-available instructional programs from a state-approved list. Just as the traditional educational setting does not result in all students being successful, it is not reasonable to assume that one program will prove to be successful for all students. The funding must also be available to *all* schools, not just those with a needs improvement designation or who have a high enough percentage of free-and-reduced-lunch students.
As introduced, AB376 mandated that districts provide summer school, although no funding accompanied that mandate. The provision was eliminated before passage. In 1999, Chris Giunchigliani introduced Assembly Bill 13 to establish a state program for financial support of summer school and intersession schools for at-risk and credit-deficient students. The bill was not passed into law. Both Senate Bill 187, proposed by the Committee on Finance on behalf of the Clark County School District, and Assembly Bill 145, proposed by the Committee on Ways and Means on behalf of the School Boards Association, called for allocation of $2,000,000 for each of the fiscal years 1999-2000 and 2000-2001. The measures did not pass. Several other measures, including AB221 in 2001 that would have provided $14 million of funding for remediation and tutoring programs, have also failed.

A thorough analysis should be done of the costs of retention, what funding is available for remediating retainees, and the effectiveness of that funding.

Alternatives for Administrators

Changes to legislation do not happen quickly, and sometimes they do not happen at all. Assuming the middle school credit requirement remains, the following are some suggestions that administrators might consider in dealing with over-age students facing yet another retention year.

Provide Alternative Placements

What is the likelihood that a student who has been dragged kicking and screaming through middle school will remain in high school until reaching 20 years of age? This is what we are asking of a student who has reached the age of 16 before completing eighth grade. At some point we, as educators, must acknowledge that traditional schooling is
not going to work for this student and find alternatives. Over-age students could be placed in GED or work-study programs, or dealt with through Nevada’s discipline mechanisms.

GED. An alternative route to graduation through a test of General Educational Development (GED) appears to be a viable alternative if a student is motivated, but there are legal issues to be considered. Current state law (NRS 385.448) permits students who are 16 years of age, have not graduated from high school, and who are not enrolled in high school to petition the board of trustees of their district to take the GED. Certainly a 16-year-old in middle school has not graduated and is not enrolled in a high school. There is, however, a catch. Compulsory attendance in Nevada does not end until age 17. Students who are not attending school at age 16 are considered truant. Generally, students may not enroll in a program of GED study if they are enrolled in another district school or if deemed a truant.

Work-Study Program. A second alternative places students in work-study programs. Programs could be developed where credit-deficient students attend language arts and math classes during the first part of the day and are attending some form of “career study” considered as part of their curriculum for the balance of the day. Ideally the work would lead to employment following completion of the eighth grade credit requirements. NRS 392.110 permits a child who is between 14 and 17 years of age and who has complete eighth grade to be excused from full-time attendance for employment or apprenticeship, if given written permission of the board of trustees of a district.
Alternatives for Students with Discipline Problems

Star Trek devotees are familiar with the idea that sometimes the needs of the many outweigh the needs of the few or the one. Ask any middle school teacher or administrator whether they have any students on campus who are chronic discipline problems, and you will undoubtedly be regaled with a litany of problems over which they feel helpless. Students who are chronic discipline problems undoubtedly have an impact on school climate and require an inordinate amount of faculty and administrator time to address behavior issues.

Although certainly not all retainees are discipline problems, it is likely that many are. Nevada has two statutes in place to deal with chronic discipline problems: the habitual discipline law and AB 521. Perhaps from the sense that schools feel they have somehow failed when they remove an incorrigible child, these laws are seldom used. It's time to start using them and not be ashamed to do so.

Habitual Discipline Law. As part of AB376, the habitual discipline law, embodied in NRS §§ 392.4655 et seq, states:

A pupil shall be deemed a habitual disciplinary problem if the school in which the pupil is enrolled has written evidence which documents that in one school year:

1. The pupil has threatened or extorted, or attempted to threaten or extort another pupil, or a teacher or other personnel employed by the school;

2. The pupil has been suspended for initiating at least two fights on school property; or

3. The pupil has a record of five suspensions from the school for any reason.
One principal, who is also one of the few unequivocal supporters of retention interviewed, has used Nevada’s habitual discipline law, which was also part of AB376, to improve his school climate and has seen a rise in student achievement. His philosophy is, “The other 30 kids in that classroom, aside from the 2 that are raising Cain, are entitled to an education.” Staff development at this school has focused on discipline, so that teachers were better equipped to deal with the “small” disruptions, such as students’ lack of preparation, talking at inappropriate times, and chewing gum. More serious offenses, such as profanity, fighting, and extortion, are referred directly to the dean’s office for disciplinary action.

The dean’s office, charged with handling discipline matters, has streamlined its response to referrals by teachers. For the first offense, the student is assigned to in-house suspension. Any subsequent referrals to the dean result in suspension from school, and the habitual discipline process is begun. As noted above, a record of five suspensions for any reason results in being deemed a habitual discipline problem. Under NRS § 392.4655(3)(c), such a designation results in the student being expelled or suspended from school for a period of not less than one semester. According to NRS § 392.4675, a student who has been suspended as a habitual discipline problem is ineligible to enroll in any public school in Nevada, although school districts may provide alternative settings.

The administrator who has implemented this procedure indicated that he has had to remove approximately 20 students (from a population of about 1200). He indicates that although there have been a “few raised eyebrows” at the district office, they acknowledge that he is getting results. His school has gone from being the “ugly step-child school” to
one with increased student and teacher attendance, low faculty turnover, and a more positive school climate.

*AB 521.* While the habitual discipline law gave administrators authority to remove disruptive students from the school, Assembly Bill 521 from the 1999 legislative session, provided a means for teachers to remove disruptive students from classrooms. Added to the Nevada Revised Statutes as NRS § 392.4645, the law allows a teacher to request the temporary removal of a student when “in the judgment of the teacher, the pupil has engaged in behavior that seriously interferes with the ability of the teacher to teach the other pupils in the classroom and with the ability of the other pupils to learn.”

After due process, a review committee decides the best placement for the student, which may be: (1) the classroom from which he was removed; (2) another appropriate classroom; (3) an alternative program of education, if available; (4) suspension or expulsion; or (5) take any other appropriate disciplinary action against the pupil that the community deems necessary.

It has been the researcher’s experience that when this provision is invoked, which is rarely, the student’s alternative placement is typically another teacher’s classroom where discipline problems continue. However, AB 521 might provide an alternative for promoting multiply-retained eighth grade students who are also discipline problems in the middle school environment. Conceivably an AB521 review committee could decide that an appropriate placement for a sixteen-year-old student would be in a high school classroom. Since this legislation was enacted subsequent to AB376’s provisions in 1997, this statute should govern.
It should be noted that AB521 also allocated $500,000 in each of the 1999-2000 and 2000-2001 school years for a pilot program establishing eight alternative education schools around the state at various grade levels. One elementary and one secondary school in rural areas. While these were established to deal specifically with discipline problems, they could be established as sites for eighth-grade students facing retention.

*Retention Need Not Be Forever*

Students grow at different rates, both physically and intellectually. If a child wears a boys’ size 14 pants at the beginning of sixth grade and is the same height and weight at the start of seventh grade, we again buy him boys’ size 14 pants. If over the summer he experiences a growth spurt and suddenly adds five inches to his height and develops a 34-inch waist, we take him shopping in the men’s department. We don’t insist that he wear size 16 for a year, and then size 18 for a year before being permitted to wear clothes that comfortably fit.

Throughout the debate over retention and promotion there seems to be only consideration of whether a child should be held back or socially promoted with his peer group. Why is there so little consideration of moving children forward after being retained? Would retention be more palatable if it was not forever? Educators know that children learn at different rates, yet we continue to insist on graded schools and Carnegie units.

One principal in the study reported that a predecessor routinely promoted students midyear that had previously been retained in elementary school. Although he was skeptical about this practice, he did acknowledge that the change had apparently been effective for at least one of his current students. The young man involved was promoted
at the end of first semester from sixth grade to seventh grade. As an over-age sixth-grade student he had been a behavior problem. Placed once again with his age cohort, the behavior problems diminished and he became academically successful. The student is now in eighth grade and the administrator expects the student to be promoted to high school at the end of the year.

Rarely are intellectual growth spurts given the same consideration as physical growth spurts. Once a student has been retained, there is little incentive to perform at a higher level. Nevada statutes indicate that a student may not be retained in a given grade more than once. Eighth grade is the exception, based on provisions of NRS. § 392.033 and the Attorney General’s opinion clarifying the conflict. If facing a second retention, it is clear that the possibility of retention did not spur the student to higher performance the first time. There is little to indicate that the threat of retention will result in higher achievement the second time. At this point the student is behind his peer group and has little opportunity to pull even. The question is no longer a matter of being behind. The question is how far. You can’t win. You can’t break even. You must play.

Perhaps students would react better to the opportunity to at least break even. The principal above indicated limited success with a student who had been promoted from sixth to seventh grade half-way through the year. While it is difficult to promote an eighth-grade student to high school mid-year, promotion of a seventh-grade student to eighth or sixth-grade student to seventh mid-year, assuming an acceptable level of performance, might be just the incentive an otherwise recalcitrant student needs.
Create Hiatus Schools

Advocates of retention argue that students are routinely advanced from grade to grade without the skills necessary to succeed in that grade level, often arriving at middle school reading several years below grade level and unable to do basic math computations. Elementary principals likely do not want 13-year-old fifth graders on their campuses any more than middle school principals want 16-year-old eighth graders on theirs. If previously-retained students are going to be given the chance to catch up, where will they receive services?

In his book, The 7 Habits of Highly Effective People, Stephen Covey (1989) relates the story of a lumberjack who is trying to cut down a tree using a dull saw. An observer asks the woodsman why he doesn’t stop to sharpen his saw, since a finely-honed blade would make the cutting job go more quickly. The lumberjack replies that he doesn’t have time to stop and sharpen the saw – he must continue working to get his assigned task done.

How motivated would most of us be if we were told we had to stay at the same job for the next 13 years? We can’t quit. We won’t be promoted. You must come every day unless you’re sick or else you’ll be fined or possibly sent to jail. Although we don’t tell our children this on entering kindergarten, students who are not successful in school may begin to view it this way.

One proposal to address the achievement and socialization problems discussed above is giving students who have struggled throughout elementary school a year away from the traditional school setting to sharpen their saws. This could be done through the creation
of hiatus schools whose sole goal is to raise the reading and mathematics scores of students who are performing significantly below grade level.

Although further investigation would be needed to identify optimum conditions, hiatus schools would feature shorter hours, intensive instruction, and a teacher-to-student ratio not exceeding 1:6. Weekly parental involvement would be mandatory. At the end of the year, or even mid-year, a thorough evaluation could be done to determine the appropriate grade placement when the student returns to the traditional setting.

As mentioned in Chapter 2, NRS § 386.500 allows establishment of any number of charter schools for students deemed economically or academically disadvantaged (other than students with disabilities). Charter school legislation would be useful in establishing hiatus schools, which would be attended in place of promotion from elementary to middle school. Such schools were perhaps contemplated by failed Assembly Bill 294, introduced in the 1999 legislative session, which would have provided that "A charter school is not required to offer courses of study prescribed by the state board except for those courses of study which are required for promotion to the next grade or graduation from high school."

That same year, Assembly Bill 348 was introduced and passed into legislation requiring charter schools to "Provide at least the courses of instruction that are required of pupils by statute or regulation for promotion to the next grade." AB348 also mandated that charter schools must provide an equivalent number of minutes of instruction as regular public schools. Further research would be required to determine whether Nevada’s charter school legislation is adequate to support hiatus schools.
Passed in the same session as AB348 was Senate Bill 445. Though it had similar provisions on teaching courses required for promotion, it mandated that reading, English (including reading, composition, and writing), science, and social studies be taught in all public schools. These bills are codified in NRS § 386.550(1)(i) and § 389.018(1). The course requirement is easily met at hiatus schools by integrating science and social studies into the reading and English instruction. It should be noted that under Nevada statutes a student may not be required to attend a charter school.

In essence, enrollment in a hiatus school is an alternative-placement retention. Following the discussion from above that students should have the opportunity to catch up once retained, criterion reference tests or, ideally, more thorough measures could be used to determine whether a retained fifth-grade student more appropriately belongs in sixth grade or seventh grade once advanced to middle school. Hiatus schools would be most feasible in districts that can take advantage of economies of scale where separate facilities could be established; however, smaller districts might be able to establish a “school-within-in-school” concept or outsource such a program.

Recommendations for Further Study

An analysis of Nevada’s middle school retention legislation, as well as delving into the literature on retention and promotion, has left several areas that merit further investigation.

Retention Rates and Achievement

An eighth-grade retention rate of 2.4% suggests that over 97% of students are performing adequately. However, Bill Hanlon noted that 51% of seventh-grade students
in Clark County could not pass a simple mathematics computation test, that 60% of the students couldn’t make 60% on the high school proficiency exam.

The nature of the retention statistics available raises questions about the validity of the retention rates being reported and the role that a principal’s philosophy plays in retention decisions – in spite of mandatory state guidelines.

As discussed in Chapter 2, in Clark County there are inconsistencies in retention rates from school to school and from grade to grade. It would be reasonable to assume that a school designated as in need of improvement would have a higher retention rate than one rated as adequate. This is not necessarily the case. Similarly, some Clark County schools retain the largest percentage of students in sixth grade, while others retain more in seventh or eighth.

Since there are only a few middle schools within each of Nevada’s rural counties, it is difficult to compare achievement levels and retention rates within districts; however, to a limited extent it is possible to compare retention in grade across counties. Lander County, for example appears to have decided that seventh grade is the best year to retain. In 2000-2001, it retained 1% of sixth-grade students, 10% of seventh-grade students, and 2% of eighth-grade students. The figures for Storey County were the inverse: 3% of sixth-grade students; 0% of seventh-grade students; and 7% of eighth-grade students. It should be noted that the size of the districts may affect the statistical significance of the comparison. How are these discrepancies explained?
Use of Teacher-Assigned Grades as a Measure of Achievement

The Nevada middle school credit requirement is the only legislated gatekeeper measure uncovered that bases middle school promotion decisions solely on teacher grades. Most use a proficiency test alone or in conjunction with teacher observations or other documentary evidence. The question then arises, is there a correlation between teacher-assigned grades and student performance on proficiency tests or other measures of achievement?

A study comparing student classroom grades to scores on the Florida Comprehensive Assessment Test (FCAT) showed that the grades and test scores were “highly correlated.” That correlation did not translate into proficiency, however. The study found that 86% of students who received a grade of C failed to achieve the minimum level of proficiency, as did 61% of B students, and 17% of A students (Mathews, 2004).

The same study suggests that parents must share some of the blame for the discrepancy between grades and proficiency test scores. The Florida study asked parents to grade their teachers. While two-thirds of parents gave their children’s teachers A grades, the researchers found that “parents were 50% more likely to assign a grade of B or below to a tough teacher than a relatively easy one.” This is in contrast to the finding that students of teachers who enforced higher academic standards showed higher test score gains. Is the problem perhaps that parents want teachers to be tough, just not on their child? If you expect teachers to hold students to a higher standard, should they be criticized when they do?
Costs and Funding

A frequently-cited issue raised by interviewees in this study has been lack of adequate funding for instruction and remediation of middle school students. This study has not investigated the dollar amounts needed for implementation of remedial or credit retrieval programs.

Commercially-available programs, such as *Success for All®*, are designed to reduce the number of students referred to special education or held back to repeat a grade (Balkcom & Himmelfarb, 1993). The cost of implementing *Success for All®* in urban settings such as Baltimore, Maryland; Philadelphia, Pennsylvania; and Charleston, West Virginia is estimated at $800 per student above the standard per-pupil spending. The cost of implementing this or a comparable program may be higher for rural counties that do not have the opportunity to buy in as large a quantity.

Providing summer school opportunities may cost more per pupil than in urban areas. The distribution of students who need summer school may result in very small student-to-teacher ratios. This is good for student-teacher interaction, but may equate to the cost of a private or semi-private tutor.

In order to determine whether the funding is truly adequate, one must be able to determine the actual costs, as well as the amount of funding available.

Senator William Raggio has previously argued that there was adequate funding available for remediation throughout the budget (Legislative Committee on Education, 1998b). The “Remedial Education Programs” section of the 2003 *Nevada Data Book* reports that additional funding is available for qualifying schools through Title I, Comprehensive School Reform, and for state remediation funds allocated in the Nevada
Education Reform Act for low-performing schools and at-risk students. For the 2002-2003 school year, these sources generated nearly $48 million dollars, over 80% of it from Title 1 monies, and were distributed to at most 203 schools statewide (Legislative Counsel Bureau, 2003). The number of schools is most likely lower, as some schools received funds from more than one of the sources. With more than 500 schools in the state, ultimately, over 60% of schools receive no remediation funding.

Many rural school districts are also seeing less money from the state due to declining enrollment. While statewide enrollment increased by approximately 5% per year between the 1997-1998 and 2000-2001 school year, this statistic is skewed by the frenetic growth in Clark County. Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Pershing, Storey, and White Pine Counties have all seen significant drops in student enrollment during the period indicated (Legislative Counsel Bureau, 2003, p. 87).

This loss of funding can result in loss of teachers and closing of facilities. One principal indicated his district had had to close the middle school and move the sixth grade to the elementary school and the seventh and eighth grade to the high school. Neither facility was particularly well-equipped to handle the additional students. At a time when rural districts are being asked to do more, they are often working with less.

Under the Nevada Plan for school financing, counties appear to receive equitable funding for each student in the district (NRS § 387.123(2)(c)); however, the adequacy of that funding was a point of concern raised by several administrators. The basic support ratio, or state per pupil guarantee, is based on a complex formula of pupil-to-teacher ratios, district operating expenses, and other categories separated according to elementary and secondary. Since eighth grade has been set as the gatekeeper grade, analysis of the
actual per-pupil funding amounts at each tier of the educational system could address the
issues of adequacy and equity in middle school funding. If stricter standards are to be
held within middle schools and additional funding is not made available to the schools, it
is conceivable that middle schools could have strong argument for being allocated
additional resources.

**Dropouts**

Nevada’s compulsory attendance laws apply to children aged 7 to 17. High school
completion rates and other statistics focus on students who drop out in grades 9 through
12. Setting eighth grade as a gatekeeper grade may be cost-effective for state officials,
since middle school are funded at a lower per-pupil rate than high schools. However,
students who reach age 15 or 16 by the end of eighth grade will reach age 17 by their
freshman or sophomore year of high school and age 20 by their senior year. Are these
students being welcomed to complete their education in publicly-funded schools, or being
encouraged to drop out and pursue student-funded alternatives such as a Graduate
Equivalence Degree at their own expense?

In a related vein, what is the cost of retaining a child, whether in middle school or
elsewhere? A simplistic answer looks merely at the per-pupil funding for one school
year. However, many other factors are involved. How much additional funding is
needed to remediate retained students? If the annual cost of educating a middle-school
student is indeed less than that for a high school student, is retention in eighth grade
actually a cost-cutting measure for the state as a whole?
Typically, dropout statistics are only maintained in high school. Will eighth-grade retention improve high school dropout rates? Are we robbing Peter to pay Paul? Aside from the cost of education, what is the cost to society of middle school dropouts?

Gender Issues

During the course of this investigation, a much larger proportion of male administrators than female administrators agreed to participate in interviews and were more easily accessible. Several of the male site administrators, in fact, made themselves available on weekends and in the evenings. Why the discrepancy in willingness to participate?

The gender of students most affected by AB376 is also of interest. The majority of site administrators indicated that they had several students who, even after repeated retentions, seemed unlikely to be promoted to high school. Most often the pronoun “he” was used to refer to a sixteen-year-old eighth grader. Are males being impacted to a greater extent than females? Which gender is most often the subject of retention? Which gender is most often the recipient of supplemental services and interventions?

Characteristics of Retained Students

Due to confidentiality concerns, it is often difficult to identify specific students who have been retained. Inferences are drawn about which students have been retained by looking at age-grade retardation, but more study is needed on exactly who is retained and why. Then studies can look at how often a student has changed schools, whether the student has behavioral issues, if there are attendance issues, and other factors.

Special education students are a population of interest. According to NAC § 389.445(5), students with disabilities are subject to the promotion requirements
prescribed in an individualized education program. Are special education teachers aware that accommodations concerning promotion may be added?

Since Hispanic students are the largest minority in Nevada’s rural areas, it would be useful to know how English language learners are impacted as well. While the two groups are certainly not identical, several principals have indicated difficulties bringing recent immigrants up to passing levels, particularly in English. The fact that some of the rural communities have significant numbers of migrant workers adds to the difficulty.

Transiency also bears investigation. Educators also seem to have an underlying belief that students who move frequently are inclined to perform poorly in school. It would be of interest to see whether these transient students are more or less likely to be retained than those who have had more stable addresses and whether they truly do perform at lower levels.

Program Effectiveness

Principals throughout the state are trying a wide variety of interventions. Little has been done to evaluate their effectiveness. Further research could show which programs have been producing the greatest improvements in achievement. Which help improve student attitudes? Is there a correlation between interventions and retentions? How do students from remedial classes fare on high school proficiency tests and in terms of graduation rates?
Conclusions

The recommendations discussed above address issues with the middle school credit requirement as implemented, and assumes our public education system remains structured as it currently is. Perhaps it is time to rethink the entire system.

If we were to conceptualize the application of monies and programs to education, we might view it as a patient coming to a physician seeking help for a variety of maladies. When in spring the patient arrives sneezing and itching, the physician prescribes allergy medications. When he arrives with a broken leg, the physician sets the bone, applies a cast, and advises the patient to return in six weeks. When our patient arrives with puncture wounds in the forearm, the physician dutifully dresses the wounds and administers a tetanus shot.

When the doctor's bill remains unpaid, however, probing questions are finally asked. The physician learns that the patient only sneezes when around his dog, that he broke his leg when he tripped over the dog, that the dog bit him while being fed, and that he couldn't pay his bill because he lost his job after absences for frequent court appearances resulting from his dog's constant barking and aggressive tendencies.

The doctor suggests that it might be time to get rid of the dog. Distressed, the patient replies, "But doctor, I've had that dog all my life. We grew up together. I've added a doggie door to my garage and built a dog run in the back yard. I have six months' worth of dog food stored in my basement. I love my dog. I can't get rid of him!"

Our schools are like that patient and his dog. They are familiar. We have known them all of our lives. The infrastructure is in place to support traditional teaching methods. Many of our discussions about schools begin with, "When I was a kid ... "

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But our students have changed. They are culturally and linguistically diverse. They are transient. They are technologically savvy. They are exposed to all manner of adult situations before they are developmentally ready. Whether because of an increase in television viewing and video game playing or a decrease in practice sitting quietly during regular attendance at religious services, the mental image that many adults have of students sitting attentively in rows of desks, dutifully raising their hands to discuss their always-completed homework no longer applies.

Brain research has taught us more about how students learn. We know there are auditory, visual, and kinesthetic learning styles. Following the theory of Howard Gardner, we identify multiple intelligences – linguistic (verbal), musical, spatial, logical-mathematical, bodily, knowledge of self, and understanding of others (Gardner, 1993). Entire professional conferences are dedicated to differentiating instruction. We know that true learning – assimilation of new information into existing schema – occurs while students sleep. And we know that many students do not get adequate sleep (Nunley, 2003).

Why are we in education largely content to continue to treat symptoms rather than addressing the core of the problem? To “fix” failing students, middle schools are offering summer school and Saturday classes; implementing before school, after school, and during lunch tutorial sessions; putting tutors on buses; adopting schoolwide reading programs; and providing online and correspondence courses. They are addressing discipline concerns that interfere with instruction by streamlining referral processes, allocating teachers to operate special programs for disruptive students, and going to students’ homes to pick them up. Perhaps it’s time to get rid of the dog.
If we get rid of our dog, the traditional graded school that expects students to march through knowledge in lock-step fashion, what do we replace him with? Education is awash in good ideas, but efforts to match teaching methods and programs with the needs of students are often implemented by individual classroom teachers rather than systematically. Some students learn well in traditional classrooms; others do not. Some learn best in peer groups; others prefer to work in isolation. Some excel at visualizing passages from text; others absorb information best through audio-visual media. Some are self-motivating and work well independently; others need constant teacher guidance and feedback.

Why do we wait until students are failing to try to match their learning needs with teaching styles? Let’s pool all of our funding from various sources. Take federal monies granted for magnet school programs and Title I schools. Take the $100 million spent annually on class-size reduction in grades 1, 2, and 3. Take the remediation funds available from the state of Nevada for schools identified as in need of improvement. Take grant monies offered by communities and organizations. Take these, together with regular budget monies, and create a system that advances students based on their achievement, considers their learning styles, allows extra time for students who need it, and permits students who can move quickly through material to do so. Allow a student to be with a fourth-grade group for reading and a sixth-grade group for math if that is his demonstrated level.

In *The Layered Curriculum*, Kathie Nunley (2002) spoke of the educational experiences of her children. Her oldest two were special needs students and had had IEPs throughout their school years. They received instruction tailored to their individual
needs. When her third child entered school, he had no identified disability and was, of course, placed in a regular classroom. Ms. Nunley's husband, who is not an educator, wondered why this child, who was every bit as special to him as his other two, did not have an IEP. Good question.

Near the end of the movie Animal House, the members of the Delta House fraternity, seeing their hedonistic way of life doomed, decide to wreak havoc on the town's Founder's Day Parade. One of the Deltas jumps in front of the marching band, pushes the drum major aside, seizes the baton, and proceeds to lead the band down a dead-end alley. The fraternity brother veers aside at the last minute, while the momentum of the musicians, who are trying dutifully to follow that shining symbol of leadership, find themselves crammed against an immovable wall, the remaining musical notes a waning cacophony.

Many of the educators in Nevada feel they have been led to an immovable wall by legislators. They are not opposed to being held accountable and, as a whole, welcome measures that require students to take their studies more seriously. However, they are opposed to having an accountability measure supplant their professional judgment when those measures are clearly inappropriate for individual students. Getting the band back in the parade once it has been sidetracked is nearly impossible, as is getting a student back on track who has been retained multiple times.
Summary

*A Policy Analysis of Nevada's Middle School Retention Legislation* has investigated the impact that one relatively small piece of legislation has had upon the policies and practices of Nevada’s rural middle schools.

Chapter 1 gave an introduction to the basic debate over retention and promotion and evolution of the problem and research questions.

An extensive review of issues related to retention and promotion were presented in Chapter 2. This included a review of research on retention and promotion, an examination of trends in retention and promotion in the United States, and a look at several U.S. cities and states that have recently implemented gatekeeper grades with mandatory retention. From retention and promotion across the nation, discussion turned to the state of Nevada, to the legislation concerning retention and promotion, to statistics on retention rates, and to retention and promotion policies in the Clark County School District, - Nevada’s largest.

Chapter 3 presented the theoretical framework for the study, identifying it as a descriptive case study using qualitative methods.

Interview data from the intent and impact phases of the study were analyzed in Chapter 4. The analysis was set in the context of the five research questions which addressed the areas of motivation, intended consequences, implementation, realization of intended consequences, and emergence of unintended consequences.

Finally, Chapter 5 synthesized the professional literature, document data, analysis of interview data, and researcher insight to arrive at findings of the study, suggestions for changes and interventions, and recommendations for further research.
NRS 392.033 Regulations prescribing requirements for promotion to high school; effect of failure to comply with requirements; evaluation of courses or credits completed by pupil who transfers to junior high or middle school.

1. The state board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs to complete the courses of study required for promotion to high school.

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this state or from a school outside of this state.

NRS 392.122 Minimum attendance required for promotion to next grade; information to parents concerning duty to comply with provisions governing attendance and truancy.

1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is enrolled in a school in the district must be in attendance for the pupil to be promoted to the next higher grade. For the purposes of this subsection, the days on which a pupil is not in attendance because the pupil is:
   (a) Physically or mentally unable to attend school; or
   (b) Absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130 and only if he has completed course-work requirements, must be credited towards the required days of attendance.

2. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.”

NRS 392.125 Retention of pupil in same grade: Requirements; limitation; exception for charter schools.

1. Except as otherwise provided in subsection 4, before any pupil enrolled in a public school may be retained in the same grade rather than promoted to the next higher grade for the succeeding school year, the pupil's teacher and principal must make a reasonable effort to arrange a meeting and to meet with his parents or guardian to discuss the reasons and circumstances.

2. The teacher and the principal in joint agreement have the final authority to retain a pupil in the same grade for the succeeding school year.

3. No pupil may be retained more than one time in the same grade.

4. This section does not apply to the academic retention of pupils who are enrolled in a charter school.
ADOPTED REGULATION OF THE  
STATE BOARD OF EDUCATION  
LCB File No. R076-99  

Effective November 4, 1999

EXPLANATION—Matter in italics is new; matter in brackets [omitted material] is material to be omitted.

AUTHORITY: §§1-6, NRS 385.080.

Sec. 3. NAC 389.445 is hereby amended to read as follows:

389.445 1. Except as otherwise provided in subsection 5, a pupil who enrolls in a junior high or middle school for the 1999-2000 school year must earn at least the following units of credit during the seventh and eighth grades for promotion to high school:

(a) One unit of credit in language with a passing grade; [of C or better, which must include instruction as described in NAC 389.345 and 389.350;] and

(b) One unit of credit in mathematics with a passing grade. [of C or better, which must include instruction as described in NAC 389.400.]

2. Except as otherwise provided in subsection 5, a pupil who enrolls in a junior high or middle school after the 1999-2000 school year must earn at least the following units of credit during the seventh and eighth grades for promotion to high school:

(a) One and one-half units of credit in language with a passing grade; [of C or better, which must include instruction as described in NAC 389.345 and 389.350;] and

(b) One and one-half units of credit in mathematics with a passing grade. [of C or better, which must include instruction as described in NAC 389.400.]

3. A pupil may apply units of credit toward promotion to high school if he earned the units of credit:

(a) At a public or private junior high or middle school located in this state.

(b) At a public or private junior high or middle school located outside of this state if the school district approves a transfer of the units in accordance with the procedure adopted by the board of trustees of the school district pursuant to subsection 3 of NRS 392.033.

(c) At the Nevada youth training center or the Nevada girls training center.

(d) During summer school in courses offered by a public or private junior high or middle school. Such units must be earned in courses which are equivalent to the courses offered in the programs of the junior high or middle school in which the pupil is enrolled.

4. If a pupil earns units of credit for sectarian religious courses, he may not apply those units toward promotion to high school.

5. A pupil with a disability who is enrolled in a program of special education may be promoted to high school if he meets the requirements for promotion to high school that are prescribed in his individualized educational program.

6. If a pupil transfers to a junior high or middle school from a junior high or middle school in this state or from a school outside of this state, the courses of study and units of credit completed by the pupil before he transferred must be evaluated by the school district that the pupil transfers to in accordance with the procedure adopted by the board of trustees of the school district pursuant to subsection 3 of NRS 392.033.
APPENDIX II

STUDY INSTRUMENTS
February 2, 2004

Dear (Public Official Name):

I am an educator in the Clark County School District currently working on a Doctor of Education degree at the University of Nevada, Las Vegas under the direction of Dr. Gerald Kops. My dissertation deals with the middle school retention legislation enacted in 1997 as AB 376 and the impact that it has had on programs, policies, and instruction on Nevada’s middle schools.

As part of my data collection, I am contacting legislators and other public officials who were involved in the passage of AB376. That legislation resulted in establishment of credit requirements in grades 6, 7, and 8. As the primary sponsor of that legislation, I hope you will be able to provide insight into the motivation and intended consequences of that legislation. Enclosed for your review is a list of guiding questions planned for use in an interview, a copy of the Informed Consent for this study, and a copy of the Nevada statutes and Board of Education regulations referenced in this study.

During the week of February 9 I will be contacting you to determine your interest in participating in the study, and to conduct or schedule a time for an interview. If you have any questions or concerns prior to that time, or would prefer not to be included in the study, please feel free to contact me by telephone at (702) 649-0017 or via email to JAbeyta2@aol.com.

Your assistance in this investigation is greatly appreciated.

Yours very truly,

Julie Abeyta

enclosures
INTERVIEW SCHEDULE
PUBLIC OFFICIALS

The following questions show areas to be discussed during public official interviews for this study. They are not intended as a strict script, and some questions may be eliminated or other avenues followed during the interviews based on participant responses.

I. Demographics
   A. What is your current/prior role in state government?
   B. How long have you served in this capacity?
   C. What is your background in education?

II. Personal Education Philosophy
   A. What is your personal philosophy concerning retention and promotion?
   B. What is your personal philosophy concerning the use of proficiency tests to determine advancement to the next grade?

III. AB 376 (1997)
   A. What was your motivation for introducing, supporting, or opposing the middle school credit requirement during the 1997 legislative session?
   B. How did you expect the credit requirement to impact academic achievement and educational programs at various grade levels?
   C. What instructional and financial impacts did you expect there would be on schools and school districts?
   D. Why were charter schools specifically exempted from the provisions of the promotion requirements?

IV. Evaluation
   A. How well do you feel the standards established by the State Board of Education met the intent of the legislation?
   B. How effective do you feel the credit requirement legislation has been?

V. Prospects for the Future
   What plans are there for additional legislation concerning grade-level retention or proficiency testing at the middle school level?
February 2, 2004

Dear (Site Administrator Name):

I am an educator in the Clark County School District, currently working on a Doctor of Education degree at the University of Nevada, Las Vegas under the direction of Dr. Gerald Kops. My dissertation deals with the middle school retention legislation enacted in 1997 and the impact that it has had on programs, policies, and instruction on Nevada’s middle schools.

As part of my data collection, I am contacting administrators of Nevada schools outside of Clark County that house students in grades 6, 7, and 8. I hope to gather information on the impact, if any, that the middle school retention legislation has had on schools such as yours. Enclosed for your review you will find a list of guiding questions intended for use in an interview, a copy of the Informed Consent for this study, and a copy of the Nevada statutes and Board of Education regulations referenced in this study.

During the week of February 9 I will be contacting you to determine your interest in participating in the study, and to conduct or schedule a time for an interview. If you have any questions or concerns prior to that time, or would prefer not to be included in the study, please feel free to contact me by telephone at (702) 649-0017 or via email to JAbeyta2@aol.com.

Your assistance in this investigation is greatly appreciated.

Yours very truly,

Julie Abeyta

closures
INTERVIEW SCHEDULE
SITE ADMINISTRATORS

The following questions show areas to be discussed during site administrator interviews for this study. They are not intended as a strict script, and some questions may be eliminated or other avenues followed during the interviews based on participant responses.

I. Demographics
   A. What is your current position with your school district?
   B. How long have you held this or other positions within your school district?
   C. How would you characterize your school’s student population?

II. Personal Education Philosophy
   A. What is your personal philosophy concerning retention and promotion?
   B. What is your personal philosophy concerning the use of proficiency tests to determine advancement to the next grade?

III. District Policies and Regulations
   What policies and regulations does your district have concerning promotion and retention, particularly promotion from eighth grade to high school?

IV. Site-Based Implementation
   A. How are district policies and regulations concerning retention and promotion implemented at the site level, particularly in the areas of modifications to educational program and tracking of at-risk students?
   B. What have been the positive and negative impacts of the retention and promotion legislation, particularly in the areas of student achievement, numbers of students retained, and dropout reduction?
   C. Can you identify any costs directly attributable to the middle school retention legislation?

V. Evaluation
   Overall, do you feel the middle school credit requirement for promotion to high school is effective, or would you prefer to see changes in the laws and regulations?
APPENDIX III

NEVADA SCHOOL DISTRICT

INFORMATION
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<thead>
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<th>School</th>
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<th>Grade Span</th>
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<th>LANDER COUNTY</th>
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<tr>
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<th>PERSHING COUNTY</th>
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<tr>
<td><strong>Pershing County Middle School</strong></td>
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## Storey County

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<td>Coral Academy of Science Charter</td>
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Clark County School District  
Middle School Retention Rates

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Note: NA indicates school opened after the 1998-99 school year.
CLARK COUNTY SCHOOL DISTRICT POLICY 5123

PROMOTION AND RETENTION

I. It is the policy of the Clark County School District that students work toward achievement of the District's educational goals in a continuous program of learning through an established grade-sequential curriculum.

A. Advancement through the curriculum, retention in accordance with NRS 392.033, or double promotion shall be based upon a student's demonstrated achievement rather than age or years in school.

B. Before any student is retained in the same grade rather than promoted, a reasonable effort to arrange meetings with the parents or guardians to discuss the reasons and circumstances will be made. The principal in joint agreement with the teacher(s) have the final authority to retain a student.

Legal Reference: NRS Chapter 392 Compulsory Education,
Review Responsibility: Instructional Division
Adopted: [5123:7/9/81]
Revised: (1/14/92; 1/14/99)
Pol Gov Rev: 6/28/01
CLARK COUNTY SCHOOL DISTRICT REGULATION 5123

PROMOTION, RETENTION, AND DEMOTION OF STUDENTS

I. Kindergarten

Students normally spend one year in kindergarten and are promoted to first grade at the end of the year. In some instances, individual students may profit by special education placement or by a second year in kindergarten. In these instances, principals and teachers may make this recommendation to parents or guardians. Because of Nevada School Law concerning first grade entrance age, parents’ or guardians’ consent is needed before this recommendation can be executed.

II. Grades 1 through 5

A. The general practice is that students are promoted to the next grade at the end of the school year. However, progress should be continuous and student advancement through the curriculum should be according to the student’s demonstrated ability rather than the student’s age or years in school. Principals are responsible for standard promotion of students.

B. Double promotions may be made in exceptional circumstances in light of such factors as the child’s age, achievement scores, measured ability, effort and attitude, physical and emotional maturity, and parents’ or guardians’ attitude and support. Principals are responsible for the final decision regarding double promotions within their school, but parental or guardian consent must be obtained and teachers must be consulted prior to the decision, and where the double promotion would affect two sites, the movement must be done in consultation with the receiving school’s principal. Double promotion should not be considered where the impetus for movement is to circumvent attendance at an assigned school.

C. A student may be demoted to the next lower grade in exceptional circumstances in light of such factors as the child’s age, achievement scores, measured ability, effort and attitude, and physical and emotional maturity. Demotion must be approved by the principal, the sending teacher, and the parents or guardians, and when such movement affects two school sites, by the receiving school’s principal.

D. Before any student may be retained in the same grade rather than promoted, the student’s teacher and principal must make a reasonable effort to arrange a meeting with the parents or guardians to discuss the reasons and circumstances. Unapproved absences of twenty (20) days or more will be one of the considerations for retention. The teacher and principal, in joint agreement, have the final authority to retain a student. In the absence of final agreement between teacher and principal, the student...
will not be retained. No student may be retained more than one time in the same grade.

E. Each student's learning needs are to be assessed and provision made for these needs. Adjustment of the curriculum to meet individual student needs will be a continuous process and not a mid-year or year-end consideration. Students are to be motivated to progress as rapidly as their ability permits. Teachers are to be alert to every student's social and academic needs and provide appropriate learning situations to meet them. Parents or guardians are to be informed regularly regarding the level of work being done by their children. Teachers and principals are to make this clear by use of the report card and parent conferences.

III. Grades 6 through 8

A. A pupil in grade 6 must complete one semester with a passing grade in mathematics and English or reading for promotion to seventh grade. The principal has the authority to determine the course(s) which need to be repeated. No student may be retained more than once in the sixth grade.

B. A pupil in grade 7 must complete one semester with a passing grade in mathematics and English or reading for promotion to eighth grade. The principal has the authority to determine the course(s) that need to be repeated. No student may be retained more than once in the seventh grade.

C. A pupil who enters grade 8 must complete three semesters with a passing grade in mathematics and English or reading during the seventh and eighth grade years for promotion to high school. An eighth grade student who does not meet promotion requirements will not be promoted to high school and will be retained in the eighth grade for the following school year. An eighth grade student may be retained for more than one year.

D. A pupil may apply course work toward promotion to high school if mathematics and English or reading are completed with a passing grade:

1. At a public or private junior high or middle school located in this state;

2. At a public or private junior high or middle level school located outside this state, if the school district approved a transfer of the units in accordance with the procedure adopted by the Clark County School District;

3. At a youth correctional facility; or
4. During summer school, or the equivalent thereof, offered by a public or private junior high or middle school. A passing grade must be earned in courses which are equivalent to the courses offered in the programs of the junior high or middle school in which the pupil is enrolled. E. A pupil with a disability who is enrolled in a program of special education may be promoted to high school, if the student meets the requirements for promotion to high school that are prescribed in the IEP.

F. If a pupil transfers to a junior high or middle school in this state or from a school outside this state, the course work completed by the pupil must be evaluated by the school that the pupil transfers to, in accordance with Section D.

G. Students who exceed ten (10) unapproved absences in any course during the semester shall receive a failing grade, shall not earn semester credit for that course and may be retained in the current grade.

For the purposes of this subsection, all prearranged absences in excess of ten (10) during a school year shall be considered unapproved.

H. As soon as it becomes evident that a student is in danger of failing one or more subjects, teachers are to inform the designated administrator and parent. If necessary, a conference should be arranged so that parents or guardians will be adequately notified of the situation in time to take whatever corrective action they deem necessary.

I. A student may be demoted to the next lower grade in exceptional circumstances in light of such factors as the child’s age, achievement scores, measured ability, effort and attitude, and physical and emotional maturity. Demotion must be approved by the principal, the teacher(s), and the parents or guardians, and when such movement affects two school sites, by the receiving school’s principal.

J. Each student’s learning needs are to be assessed and provision made for these needs. Adjustment of the curriculum to meet individual student needs will be a continuous process and not a mid-year or year-end consideration. Students are to be motivated to progress as rapidly as their ability permits. Teachers are to be alert to every student’s social and academic needs and provide appropriate learning situations to meet them. Parents or guardians are to be informed regularly regarding the level of work being done by their children, which shall include their progress towards promotion to the next grade. Teachers and principals are to inform parents utilizing unsatisfactory notices/grade day reports, parent conferences, and report cards.
K. Ongoing site-based interventions shall be provided to students identified as being at-risk for retention.

L. Students identified as being at-risk for retention shall be provided opportunities to participate in remediation programs at the school site and district approved programs such as summer school, after school programs, distance education, and tutoring.

M. The Curriculum Commission may recommend courses at the eighth grade level for credit. The Curriculum Commission must obtain approval from the Deputy Superintendent, Instruction Unit, or designee prior to giving course credit to eighth graders.

N. In exceptional circumstances where students enrolled in grades 6 through 8 are attending classes at an area high school, credit may be granted.

IV. Grades 9 through 12

A. Progress toward graduation in grades 9 through 12 is based on credits earned rather than on promotion or retention. Beginning with pupils who enroll in ninth grade on or after August 1, 1999, a pupil’s status as a member of a given class will be determined by the number of credits the pupil has earned. Specifically:

In order to qualify as a: A student must have earned a minimum of:

<table>
<thead>
<tr>
<th>Grade Level</th>
<th>Credits Required</th>
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<tr>
<td>Sophomore</td>
<td>5 credits</td>
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<tr>
<td>Junior</td>
<td>11 credits</td>
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<td>Senior</td>
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B. Students who exceed ten (10) unapproved absences in any course during the semester shall receive a failing semester grade and shall not earn semester credit for that course. For the purposes of this subsection, all prearranged absences in excess of ten (10) during a school year shall be considered unapproved.

C. As soon as it becomes evident that a student is in danger of failing one or more subjects, teachers are to inform the designated administrator and parent. If necessary, a conference should be arranged so that parents or guardians will be adequately notified of the situation in time to take whatever corrective action they deem necessary.

D. Each student’s learning needs are to be assessed and provision made for these needs. Adjustment of individual course curriculum will be a continuous process. Students are to be motivated to progress as rapidly as
their ability permits. Teachers are to be aware of students’ developmental and academic needs and provide appropriate learning situations to meet them. Parents or guardians are to be informed regularly regarding the level of work being done by their children, which shall include their progress towards promotion to the next grade. Teachers and principals are to make this clear by use of the mid-quarter unsatisfactory report, parent contact, and report cards.

E. Site-based interventions shall be provided to students identified as being at-risk of failing one or more courses and becoming credit deficient.

F. Students identified as being credit deficient shall be provided opportunities to participate in remediation programs at the school site and district approved programs such as summer school, after school programs, distance education, and tutoring.

Review Responsibility: Instruction Unit
Adopted: [5123;7/12/63]
Revised: (8/1/73; 8/13/81; 10/8/87; 5/26/92; 1/10/95; 10/22/96; 1/14/99; 8/10/00)
Pol Gov Rev: 6/28/01
Revised: 5/23/02
REFERENCES


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http://www.leg.state.nv.us/69th/Interim/Statcom/Education/Minutes/06-24-98mn.html

http://www.leg.state.nv.us/69th/Interim/Statcom/Education/Minutes/09-24-98mn.html

NV: Author. Retrieved December 20, 2003 from
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promotion in Texas, 1994-99: Academic achievement among elementary school


2004April27


Nevada Revised Statutes (1997).


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VITA

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Special Honors and Awards:
Phi Beta Kappa, 1983

Dissertation Title: A Policy Analysis of Nevada’s Middle School Retention Legislation

Dissertation Examination Committee:
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Committee Member, Teresa Jordan, Ph. D.
Committee Member, Robert McCord, Ed. D.
Graduate Faculty Representative, Porter Troutman, Ed. D.