

SENATE BILL NO. 302—SENATOR HAMMOND

MARCH 16, 2015

Referred to Committee on Education

SUMMARY—Establishes a program by which a child enrolled in a licensed private school may receive a grant of money in an amount equal to a certain percentage of the per-pupil amount apportioned to the resident school district of the child. (BDR 34-567)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; establishing a program by which a child enrolled in a licensed private school may receive a grant of money in an amount equal to a certain percentage of the per-pupil amount apportioned to the resident school district of the child; providing for the amount of each grant to be deducted from the total apportionment to the school district; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires each child between the ages of 7 and 18 years to attend a
2 public school of the State, attend a private school or be homeschooled. (NRS
3 392.040, 392.070) Existing law also provides for each school district to receive
4 certain funding from local sources and to receive from the State an apportionment
5 per pupil of basic support for the schools in the school district. (NRS 387.1235,
6 387.124) This bill establishes a program by which a child enrolled in a private
7 school may receive a grant of money in an amount equal to 90 percent of the sum
8 of the amounts of local and basic support per pupil. Money from the grant may be
9 used only for specified purposes.

10 **Section 7** of this bill authorizes the parent of any child required to attend school
11 to enter into an agreement with the Department of Education, according to which
12 the child will be enrolled in a private school and receive the grant. Each agreement
13 is valid for 1 school year and may be renewed for any subsequent school year. Not
14 entering into or renewing an agreement for any given school year does not preclude
15 the parent from entering into or renewing an agreement for any subsequent year.

16 If such an agreement is entered into, an education savings account must be
17 opened by the parent on behalf of the child. Under **section 8** of this bill, for any



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18 school year for which the agreement is entered into or renewed, the Department
19 must deposit the amount of the grant into the education savings account. Under
20 **section 16** of this bill, the amount of the grant must be deducted from the total
21 apportionment to the resident school district of the child on whose behalf the grant
22 is made. The Department may deduct from the amount of the grant not more than 3
23 percent for the administrative costs of implementing the provisions of this bill.

24 **Section 9** of this bill lists the authorized uses of grant money deposited in an
25 education savings account. **Section 9** also prohibits certain refunds, rebates or
26 sharing of payments made from money in an education savings account.

27 Under **section 10** of this bill, the Department may qualify private financial
28 management firms to manage the education savings accounts. The Department
29 must establish reasonable fees for the management of the education savings
30 accounts. Those fees may be paid from the money deposited in an education
31 savings account.

32 **Section 11** of this bill provides requirements for a private school to participate
33 in the grant program established by this bill by accepting for enrollment children on
34 whose behalf the grants are made. The Department may refuse to allow a private
35 school to participate in the program if the Department finds that the school fails to
36 comply with applicable provisions of law or has failed to provide educational
37 services to a child who is participating in the program.

38 Under **section 12** of this bill, each child on whose behalf a grant is made must
39 take certain standardized examinations in mathematics and English language arts.
40 Subject to applicable federal privacy laws, a private school must provide those test
41 results to the Department, who must aggregate the results and publish data on the
42 results and on the academic progress of children on behalf of whom grants are
43 made. Under **section 13** of this bill, the Department must make available a list of all
44 private schools who are participating in the grant program and must require resident
45 school districts to provide certain academic records to private schools.

46 **Section 14** of this bill provides that the provisions of this bill may not be
47 deemed to infringe on the independence or autonomy of any private school or to
48 make the actions of a private school the actions of the government of this State.

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

1 **Section 1.** Chapter 385 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 15, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 15, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 2 to 6, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3.** *“Education savings account” means an account*
9 *established for a child pursuant to section 7 of this act.*

10 **Sec. 4.** *“Parent” has the meaning ascribed to it in*
11 *NRS 392.700.*

12 **Sec. 5.** *“Participating school” means a private school*
13 *licensed pursuant to chapter 394 of NRS, the governing body of*
14 *which has provided to the Department the notification described in*
15 *subsection 1 of section 11 of this act.*



1 **Sec. 6.** *“Resident school district” means the school district in*
2 *which a child would be enrolled based on his or her residence.*

3 **Sec. 7. 1.** *A parent of any child required by NRS 392.040 to*
4 *attend a public school may establish an education savings account*
5 *for the child by entering into a written agreement with the*
6 *Department, in a manner and on a form provided by the*
7 *Department. The agreement must provide that:*

8 *(a) The child will enroll in a participating school for the*
9 *school year for which the agreement applies;*

10 *(b) The child will receive a grant, in the form of money*
11 *deposited pursuant to section 8 of this act in the education savings*
12 *account established for the child pursuant to subsection 2; and*

13 *(c) The money in the education savings account established*
14 *for the child must be expended only as authorized by section 9 of*
15 *this act.*

16 **2.** *If an agreement is entered into pursuant to subsection 1,*
17 *an education savings account must be established by the parent on*
18 *behalf of the child. The account must be maintained with a*
19 *financial management firm qualified by the Department pursuant*
20 *to section 10 of this act or with a bank or other financial*
21 *institution.*

22 **3.** *The failure to enter into an agreement pursuant to*
23 *subsection 1 for any school year for which a child is required by*
24 *NRS 392.040 to attend a public school does not preclude the*
25 *parent of the child from entering into an agreement for a*
26 *subsequent school year.*

27 **4.** *An agreement entered into pursuant to subsection 1 is*
28 *valid for 1 school year. An agreement may be renewed for any*
29 *school year for which the child is required by NRS 392.040 to*
30 *attend a public school. The failure to renew an agreement for any*
31 *school year does not preclude the parent of the child from*
32 *renewing the agreement for any subsequent school year.*

33 **5.** *A parent may enter into an agreement pursuant to*
34 *subsection 1 for each child of the parent.*

35 **6.** *Not more than one education savings account may be*
36 *established for a child.*

37 **7.** *The Department shall enter into or renew an agreement*
38 *pursuant to subsection 1 or 4 with any parent of a child required*
39 *by NRS 392.040 to attend a public school who applies to the*
40 *Department in the manner provided by the Department. The*
41 *Department shall make the application available on the Internet*
42 *website of the Department.*

43 **8.** *Upon entering into or renewing an agreement pursuant to*
44 *subsection 1 or 4, the Department shall provide to the parent who*
45 *enters into or renews the agreement a written explanation of the*



1 *authorized uses, pursuant to section 9 of this act, of the money in*
2 *an education savings account and the responsibilities of the parent*
3 *and the Department pursuant to the agreement and sections 2 to*
4 *15, inclusive, of this act.*

5 **Sec. 8. 1.** *If a parent enters into or renews an agreement*
6 *pursuant to section 7 of this act, a grant of money on behalf of the*
7 *child must be deposited in the education savings account of the*
8 *child.*

9 **2.** *Except as otherwise provided in subsection 3, the grant*
10 *required by subsection 1 must, for the school year for which the*
11 *grant is made, be in an amount equal to 90 percent of the sum of*
12 *the basic support per pupil in the county in which the child resides*
13 *plus the amount of local funds available per pupil pursuant to*
14 *NRS 387.1235.*

15 **3.** *The Department may deduct not more than 3 percent of*
16 *each grant for the administrative costs of implementing the*
17 *provisions of sections 2 to 15, inclusive, of this act.*

18 **4.** *The Department shall deposit the money for each grant in*
19 *quarterly installments pursuant to a schedule determined by the*
20 *Department.*

21 **5.** *A child on whose behalf a grant is made pursuant to this*
22 *section must be counted in the enrollment of his or her resident*
23 *school district only for the purpose of calculating the amount*
24 *described in subsection 2.*

25 **Sec. 9. 1.** *Money deposited in an education savings account*
26 *must be used only to pay for:*

27 *(a) Tuition and fees at the participating school in which the*
28 *child on whose behalf the money is deposited is enrolled;*

29 *(b) Textbooks required for the child at the participating*
30 *school;*

31 *(c) Tutoring or other teaching services provided by a person or*
32 *facility accredited to provide tutoring or other teaching services by*
33 *a state, regional or national accrediting organization;*

34 *(d) Tuition and fees for an online education program, if the*
35 *program is not offered by a public school or the Department;*

36 *(e) Fees for any national norm-referenced achievement*
37 *examination, advanced placement or similar examination or*
38 *standardized examination required for admission to a college or*
39 *university;*

40 *(f) Payments to the Nevada Higher Education Prepaid Tuition*
41 *Trust Fund created by NRS 353B.140 pursuant to a prepaid*
42 *tuition contract entered into on behalf of the child or the Nevada*
43 *College Savings Trust Fund created by NRS 353B.340 pursuant to a*
44 *savings trust agreement entered into on behalf of the child;*



1 (g) If the child is a pupil with a disability, as that term is
2 defined in NRS 388.440, fees for any special instruction or special
3 services provided to the child;

4 (h) Tuition and fees at an eligible institution, as that term is
5 defined in NRS 396.916;

6 (i) Textbooks required for the child at an eligible institution, as
7 that term is defined in NRS 396.916; or

8 (j) Fees for the management of the education savings account,
9 as described in section 10 of this act.

10 2. A participating school, person, institution or facility that
11 receives a payment authorized by subsection 1 shall not:

12 (a) Refund any portion of the payment to the parent who made
13 the payment, unless the refund is for an item that is being
14 returned or an item or service that has not been provided; or

15 (b) Rebate or otherwise share any portion of the payment with
16 the parent who made the payment.

17 3. A parent who receives a refund pursuant to subsection 2
18 shall deposit the refund in the education savings account from
19 which the money refunded was paid.

20 4. Nothing in this section shall be deemed to prohibit a parent
21 or child from making a payment for any tuition, fee, service or
22 product described in subsection 1 from a source other than the
23 education savings account of the child.

24 **Sec. 10.** 1. The Department shall qualify one or more
25 private financial management firms to manage education savings
26 accounts and shall establish reasonable fees, based on market
27 rates, for the management of education savings accounts.

28 2. An education savings account must be audited randomly
29 each year by a certified or licensed public accountant. The
30 Department may provide for additional audits of an education
31 savings account as it determines necessary.

32 3. If the Department determines that there has been
33 substantial misuse of the money in an education savings account,
34 the Department may:

35 (a) Freeze or dissolve the account, subject to any regulations
36 adopted by the Department providing for notice of such action and
37 opportunity to respond to the notice; and

38 (b) Give notice of its determination to the Attorney General or
39 the district attorney of the county in which the parent resides.

40 **Sec. 11.** 1. The governing body of a private school licensed
41 pursuant to chapter 394 may notify the Department, in a manner
42 provided for by the Department, that the governing body desires to
43 participate in the grant program provided for in sections 2 to 15,
44 inclusive, of this act by accepting payments for tuition and fees



1 *made from education savings accounts and otherwise complying*
2 *with the provisions of sections 2 to 15, inclusive, of this act.*

3 2. *If it is reasonably expected that a participating school will*
4 *receive, from payments made from education savings accounts,*
5 *more than \$50,000 during any school year, the participating*
6 *school shall annually, on or before the date prescribed by the*
7 *Department by regulation:*

8 (a) *Post a surety bond in an amount equal to the amount*
9 *reasonably expected to be paid to the participating school from*
10 *education savings accounts during the school year; or*

11 (b) *Provide evidence satisfactory to the Department that the*
12 *participating school otherwise has unencumbered assets sufficient*
13 *to pay to the Department an amount equal to the amount*
14 *described in paragraph (a).*

15 3. *Each participating school that accepts payments made*
16 *from education savings accounts shall provide a receipt for each*
17 *such payment to the parent who makes the payment.*

18 4. *The Department may refuse to allow a private school*
19 *licensed pursuant to chapter 394 to participate or continue to*
20 *participate in the grant program provided for in sections 2 to 15,*
21 *inclusive, of this act if the Department determines that the private*
22 *school:*

23 (a) *Has routinely failed to comply with the provisions of*
24 *sections 2 to 15, inclusive, of this act; or*

25 (b) *Has failed to provide any educational services required by*
26 *law to a child enrolled at the private school if the school is*
27 *accepting payments made from the education savings account of*
28 *the child.*

29 5. *If the Department takes an action described in subsection 4*
30 *against a private school, the Department shall provide immediate*
31 *notice of the action to each parent of a child enrolled in the*
32 *private school who has entered into or renewed an agreement*
33 *pursuant to section 7 of this act and on behalf of whose child a*
34 *grant of money has been deposited pursuant to section 8 of this*
35 *act.*

36 **Sec. 12. 1.** *Each participating school that accepts payments*
37 *for tuition and fees made from education savings accounts shall:*

38 (a) *Ensure that each child on whose behalf a grant of money*
39 *has been deposited pursuant to section 8 of this act and who is*
40 *enrolled in the participating school takes:*

41 (1) *Any examinations in mathematics and English*
42 *language arts required for pupils of the same grade pursuant to*
43 *chapter 389 of NRS; or*

44 (2) *Norm-referenced achievement examinations in*
45 *mathematics and English language arts each school year;*



1 (b) Provide for value-added assessments of the results of the
2 examinations described in paragraph (a); and

3 (c) Subject to the Family Educational Rights and Privacy Act
4 of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant
5 thereto, provide the results of the examinations described in
6 paragraph (a) to the Department or an organization designated by
7 the Department pursuant to subsection 5.

8 2. The Department shall:

9 (a) Aggregate the examination results provided pursuant to
10 subsection 1 according to the grade level, gender, race and family
11 income level of each child whose examination results are
12 provided; and

13 (b) Subject to the Family Educational Rights and Privacy Act
14 of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant
15 thereto, make available on the Internet website of the Department:

16 (1) The aggregated results and any associated learning
17 gains; and

18 (2) After 3 school years for which examination data has
19 been collected, the graduation rates, as applicable, of children
20 whose examination results are provided.

21 3. The Department shall administer an annual survey of
22 parents who enter into or renew an agreement pursuant to section
23 7 of this act. The survey must ask each parent to indicate the
24 number of years the parent has entered into or renewed such an
25 agreement and to express:

26 (a) The relative satisfaction of the parent with the grant
27 program established pursuant to sections 2 to 15, inclusive, of this
28 act; and

29 (b) The opinions of the parent regarding any topics, items or
30 issues that the Department determines may aid the Department in
31 evaluating and improving the effectiveness of the grant program
32 established pursuant to sections 2 to 15, inclusive, of this act.

33 4. The Department may arrange for a third-party
34 organization to perform the duties of the Department prescribed
35 by this section.

36 **Sec. 13.** The Department shall:

37 1. Annually make available a list of participating schools;
38 and

39 2. Subject to the Family Educational Rights and Privacy Act
40 of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant
41 thereto, require the resident school district of each child on whose
42 behalf a grant of money is made pursuant to section 8 of this act to
43 provide to the participating school in which the child enrolls any
44 educational records of the child.



1 **Sec. 14.** *Except as otherwise provided in sections 2 to 15,*
2 *inclusive, of this act, nothing in the provisions of sections 2 to 15,*
3 *inclusive, of this act, shall be deemed to limit the independence or*
4 *autonomy of a participating school or to make the actions of a*
5 *participating school the actions of the State Government.*

6 **Sec. 15.** *The Department shall adopt any regulations*
7 *necessary or convenient to carry out the provisions of sections 2 to*
8 *15, inclusive, of this act.*

9 **Sec. 16.** NRS 387.124 is hereby amended to read as follows:

10 387.124 Except as otherwise provided in this section and
11 NRS 387.528:

12 1. On or before August 1, November 1, February 1 and May 1
13 of each year, the Superintendent of Public Instruction shall
14 apportion the State Distributive School Account in the State General
15 Fund among the several county school districts, charter schools and
16 university schools for profoundly gifted pupils in amounts
17 approximating one-fourth of their respective yearly apportionments
18 less any amount set aside as a reserve. Except as otherwise provided
19 in NRS 387.1244, the apportionment to a school district, computed
20 on a yearly basis, equals the difference between the basic support
21 and the local funds available pursuant to NRS 387.1235, minus all
22 the funds attributable to pupils who reside in the county but attend a
23 charter school, all the funds attributable to pupils who reside in the
24 county and are enrolled full-time or part-time in a program of
25 distance education provided by another school district or a charter
26 school, ~~and~~ all the funds attributable to pupils who are enrolled in
27 a university school for profoundly gifted pupils located in the
28 county ~~and~~ *and all the funds deposited in education savings*
29 *accounts established on behalf of children who reside in the*
30 *county pursuant to sections 2 to 15, inclusive, of this act.* No
31 apportionment may be made to a school district if the amount of the
32 local funds exceeds the amount of basic support.

33 2. Except as otherwise provided in subsection 3 and NRS
34 387.1244, the apportionment to a charter school, computed on a
35 yearly basis, is equal to the sum of the basic support per pupil in the
36 county in which the pupil resides plus the amount of local funds
37 available per pupil pursuant to NRS 387.1235 and all other funds
38 available for public schools in the county in which the pupil resides
39 minus the sponsorship fee prescribed by NRS 386.570 and minus all
40 the funds attributable to pupils who are enrolled in the charter
41 school but are concurrently enrolled part-time in a program of
42 distance education provided by a school district or another charter
43 school. If the apportionment per pupil to a charter school is more
44 than the amount to be apportioned to the school district in which a
45 pupil who is enrolled in the charter school resides, the school district



1 in which the pupil resides shall pay the difference directly to the
2 charter school.

3 3. Except as otherwise provided in NRS 387.1244, the
4 apportionment to a charter school that is sponsored by the State
5 Public Charter School Authority or by a college or university within
6 the Nevada System of Higher Education, computed on a yearly
7 basis, is equal to the sum of the basic support per pupil in the county
8 in which the pupil resides plus the amount of local funds available
9 per pupil pursuant to NRS 387.1235 and all other funds available for
10 public schools in the county in which the pupil resides, minus the
11 sponsorship fee prescribed by NRS 386.570 and minus all funds
12 attributable to pupils who are enrolled in the charter school but are
13 concurrently enrolled part-time in a program of distance education
14 provided by a school district or another charter school.

15 4. Except as otherwise provided in NRS 387.1244, in addition
16 to the apportionments made pursuant to this section, an
17 apportionment must be made to a school district or charter school
18 that provides a program of distance education for each pupil who is
19 enrolled part-time in the program. The amount of the apportionment
20 must be equal to the percentage of the total time services are
21 provided to the pupil through the program of distance education per
22 school day in proportion to the total time services are provided
23 during a school day to pupils who are counted pursuant to
24 subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233
25 for the school district in which the pupil resides.

26 5. The governing body of a charter school may submit a
27 written request to the Superintendent of Public Instruction to
28 receive, in the first year of operation of the charter school, an
29 apportionment 30 days before the apportionment is required to be
30 made pursuant to subsection 1. Upon receipt of such a request, the
31 Superintendent of Public Instruction may make the apportionment
32 30 days before the apportionment is required to be made. A charter
33 school may receive all four apportionments in advance in its first
34 year of operation.

35 6. Except as otherwise provided in NRS 387.1244, the
36 apportionment to a university school for profoundly gifted pupils,
37 computed on a yearly basis, is equal to the sum of the basic support
38 per pupil in the county in which the university school is located plus
39 the amount of local funds available per pupil pursuant to NRS
40 387.1235 and all other funds available for public schools in the
41 county in which the university school is located. If the
42 apportionment per pupil to a university school for profoundly gifted
43 pupils is more than the amount to be apportioned to the school
44 district in which the university school is located, the school district
45 shall pay the difference directly to the university school. The



1 governing body of a university school for profoundly gifted pupils
2 may submit a written request to the Superintendent of Public
3 Instruction to receive, in the first year of operation of the university
4 school, an apportionment 30 days before the apportionment is
5 required to be made pursuant to subsection 1. Upon receipt of such a
6 request, the Superintendent of Public Instruction may make the
7 apportionment 30 days before the apportionment is required to be
8 made. A university school for profoundly gifted pupils may receive
9 all four apportionments in advance in its first year of operation.

10 7. The Superintendent of Public Instruction shall apportion, on
11 or before August 1 of each year, the money designated as the
12 "Nutrition State Match" pursuant to NRS 387.105 to those school
13 districts that participate in the National School Lunch Program, 42
14 U.S.C. §§ 1751 et seq. The apportionment to a school district must
15 be directly related to the district's reimbursements for the Program
16 as compared with the total amount of reimbursements for all school
17 districts in this State that participate in the Program.

18 8. If the State Controller finds that such an action is needed to
19 maintain the balance in the State General Fund at a level sufficient
20 to pay the other appropriations from it, the State Controller may pay
21 out the apportionments monthly, each approximately one-twelfth of
22 the yearly apportionment less any amount set aside as a reserve. If
23 such action is needed, the State Controller shall submit a report to
24 the Department of Administration and the Fiscal Analysis Division
25 of the Legislative Counsel Bureau documenting reasons for the
26 action.

27 **Sec. 17.** This act becomes effective on July 1, 2015.



