

SENATE BILL NO. 306—SENATOR HAMMOND

MARCH 22, 2021

Referred to Committee on Finance

**SUMMARY**—Revises provisions relating to education savings accounts and education funding. (BDR 34-223)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: Contains Appropriation not included in Executive Budget.

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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; reenacting and revising provisions relating to the education savings account program; declaring the intention of the Legislature regarding the program; creating the Office of Educational Choice within the Department of Education; providing for the appointment of a Director of the Office; creating an account in the State General Fund to carry out the education savings account program; setting the maximum number of first-time applicants who may apply for the program each school year; imposing certain duties on the Director of the Office relating to the administration of the program; providing that certain pupils participating in the program are not included in determining the average daily enrollment and computing basic support for a school district; making appropriations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Senate Bill No. 302 (S.B. 302) of the 78th Session of the Nevada Legislature  
2 established the education savings account program, pursuant to which grants of  
3 money are made to certain parents on behalf of their children to defray the cost of  
4 instruction outside the public school system. (Chapter 332, Statutes of Nevada  
5 2015, at page 1824) Following a legal challenge of S.B. 302, the Nevada Supreme  
6 Court held in *Schwartz v. Lopez*, 132 Nev. 732 (2016), that the legislation was valid  
7 under Section 2 of Article 11 of the Nevada Constitution, which requires a uniform  
8 system of common schools, and under Section 10 of Article 11 of the Nevada  
9 Constitution, which prohibits the use of public money for a sectarian purpose.  
10 However, the Nevada Supreme Court found that the Legislature did not make an



11 appropriation for the support of the education savings account program and held  
12 that the use of any money appropriated for K-12 public education for the education  
13 savings account program would violate Sections 2 and 6 of Article 11 of the  
14 Nevada Constitution. The Court enjoined the enforcement of section 16 of S.B.  
15 302, which amended NRS 387.124 to require that all money deposited in education  
16 savings accounts be subtracted from each school district's quarterly apportionments  
17 from the State Distributive School Account. During the 80th Session of the Nevada  
18 Legislature, the Legislature repealed the entirety of the provisions governing the  
19 education savings account program. (Chapter 537, Statutes of Nevada 2019, at page  
20 3294)

21 **Sections 5-29** of this bill reenact the provisions that were repealed during the  
22 80th Session of the Nevada Legislature, with some revisions. In response to  
23 the *Schwartz* decision, **section 34** of this bill appropriates money to fund the  
24 administration of the education savings account program for the 2021-2023  
25 biennium. **Section 17** of this bill creates the Office of Educational Choice within  
26 the Department of Education with a Director who is responsible for the  
27 administration of the program. In addition, **sections 17, 32 and 33** of this bill make  
28 the Office responsible for administration of the Nevada Educational Choice  
29 Scholarship Program, which provides certain tax incentives to organizations that  
30 provide grants for certain pupils to attend schools which require some type of  
31 payment. (NRS 388D.270) All responsibilities relating to the Nevada Educational  
32 Choice Scholarship Program and the education savings account program which  
33 were previously carried out by the State Treasurer and the Department of Education  
34 are required by this bill to be carried out by the Director. **Section 36** of this bill  
35 makes certain regulations adopted by the State Treasurer or Department of  
36 Education continue in effect until the Director amends or replaces them, and allows  
37 the Director to enforce the regulations. In addition, any existing contracts relating  
38 to the Nevada Educational Choice Scholarship Program and the education savings  
39 account program which were made by the State Treasurer or Department become  
40 binding upon the Director.

41 The appropriation for the education savings account program in **section 34** of  
42 this bill is made to the Office of Educational Choice to be deposited to the Account  
43 for Educational Choice, which is created in the State General Fund by **section 18** of  
44 this bill. **Section 18** requires the Account to be administered by the Director of the  
45 Office of Educational Choice and authorizes the Director to accept gifts and grants  
46 for deposit in the Account. **Section 18** also: (1) restricts the use of the money in the  
47 Account to making grants under the education savings account program, to pay for  
48 the administrative costs of the Office of Educational Choice and for other purposes  
49 authorized by the Legislature; and (2) authorizes any money in the Account for  
50 expenditure as a continuing appropriation for such purposes. **Sections 21 and 23** of  
51 this bill require the reversion of any balance remaining in an education savings  
52 account that has been terminated or not renewed to the Account for Educational  
53 Choice.

54 **Sections 19 and 35** of this bill limit the number of grants that may be made in a  
55 school year to first-time applicants in a school district under the education savings  
56 account program. In addition, when more applications are received than money is  
57 available, **section 23** requires grants to be awarded in the order in which  
58 applications are approved. **Section 20** of this bill requires the Director of the Office  
59 of Educational Choice to comply with the State Budget Act in administering the  
60 program and, as part of the budgeting process, to estimate the amount of money  
61 required for the program for each biennium. **Section 21** allows the Director to enter  
62 into an agreement to establish an education savings account without a guarantee  
63 that money will be deposited in the account. No agreement may obligate the State  
64 to make a grant in excess of the amount appropriated or authorized for the  
65 education savings account program.



66 **Section 21** allows for the establishment of education savings accounts for  
67 children who are at least 5 years of age and less than 7 years of age and children of  
68 active duty members of the military, regardless of whether those children had been  
69 enrolled in a public school in Nevada for not less than two consecutive quarters of  
70 the school year preceding the establishment of an education savings account for  
71 such a child.

72 **Sections 9, 12, 13 and 26** of this bill allow the Director to approve as a  
73 participating entity in the education savings account program a person or entity that  
74 is located outside Nevada or that meets criteria established by the Director for  
75 participation in the program.

76 Existing law requires each school district to report to the Department of  
77 Education on a quarterly basis the average daily enrollment of pupils in the school  
78 district. The enrollment of pupils in each school district is used to calculate the  
79 yearly appointment that will be provided for each district. Existing law also  
80 includes a "hold harmless" provision, pursuant to which a school district with a  
81 significant decline in enrollment is protected against a corresponding reduction in  
82 apportionments from the State Education Fund. (NRS 387.1223) **Section 2** of this  
83 bill provides that children in the school district who are receiving grants from the  
84 education savings account program are not to be included in the count of pupils in a  
85 school district for determining enrollment or for the purpose of computing the  
86 yearly apportionment under most circumstances.

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

1 **Section 1.** NRS 387.045 is hereby amended to read as follows:  
2 387.045 *Except as otherwise provided in sections 5 to 29,*  
3 *inclusive, of this act:*

4 1. No portion of the public school funds or of the money  
5 specially appropriated for the purpose of public schools shall be  
6 devoted to any other object or purpose.

7 2. No portion of the public school funds shall in any way be  
8 segregated, divided or set apart for the use or benefit of any  
9 sectarian or secular society or association.

10 **Sec. 2.** NRS 387.1223 is hereby amended to read as follows:  
11 387.1223 1. On or before October 1, January 1, April 1 and  
12 July 1, each school district shall report to the Department, in the  
13 form prescribed by the Department, the average daily enrollment of  
14 pupils pursuant to this section for the immediately preceding quarter  
15 of the school year. If October 1, January 1, April 1 or July 1 falls on  
16 a Saturday, Sunday or legal holiday, the report may be submitted  
17 before 5 p.m. on the next business day.

18 2. Except as otherwise provided in ~~[subsection 3.]~~ *this section,*  
19 the yearly apportionment from the State Education Fund for each  
20 school district must be computed by:

21 (a) Multiplying the adjusted base per pupil funding established  
22 for that school district for that school year by the sum of:



1 (1) The count of pupils enrolled in kindergarten and grades 1  
2 to 12, inclusive, in a public school in the school district based on the  
3 average daily enrollment of those pupils during the quarter.

4 (2) The count of pupils not included under subparagraph (1)  
5 who are enrolled full-time in a program of distance education  
6 provided by that school district, based on the average daily  
7 enrollment of those pupils during the quarter.

8 (3) The count of pupils who reside in the county and are  
9 enrolled:

10 (I) In a public school of the school district and are  
11 concurrently enrolled part-time in a program of distance education  
12 provided by another school district or a charter school ~~§~~ *or*  
13 *receiving a portion of his or her instruction from a participating*  
14 *entity, as defined in section 12 of this act*, based on the average  
15 daily enrollment of those pupils during the quarter.

16 (II) In a charter school and are concurrently enrolled part-  
17 time in a program of distance education provided by the school  
18 district ~~§~~ *or receiving a portion of his or her instruction from a*  
19 *participating entity, as defined in section 12 of this act*, based on  
20 the average daily enrollment of those pupils during the quarter.

21 (4) The count of pupils not included under subparagraph (1),  
22 (2) or (3), who are receiving special education pursuant to the  
23 provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to  
24 388.5267, inclusive, based on the average daily enrollment of those  
25 pupils during the quarter and excluding the count of pupils who  
26 have not attained the age of 5 years and who are receiving special  
27 education pursuant to NRS 388.435.

28 (5) Six-tenths the count of pupils who have not attained the  
29 age of 5 years and who are receiving special education pursuant to  
30 NRS 388.435, based on the average daily enrollment of those pupils  
31 during the quarter.

32 (6) The count of children detained in facilities for the  
33 detention of children, alternative programs and juvenile forestry  
34 camps receiving instruction pursuant to the provisions of NRS  
35 388.550, 388.560 and 388.570, based on the average daily  
36 enrollment of those pupils during the quarter.

37 (7) The count of pupils who are enrolled in classes for at  
38 least one semester pursuant to subsection 1 of NRS 388A.471,  
39 subsection 1 of NRS 388A.474 or subsection 1 of NRS 392.074,  
40 based on the average daily enrollment of pupils during the quarter  
41 and expressed as a percentage of the total time services are provided  
42 to those pupils per school day in proportion to the total time services  
43 are provided during a school day to pupils who are counted pursuant  
44 to subparagraph (1).



1 (8) The count of pupils enrolled in a challenge school based  
2 on the average daily enrollment of those pupils calculated in the  
3 manner set forth in an agreement entered into pursuant to  
4 NRS 388D.330.

5 (b) Adding to the amount computed in paragraph (a) the  
6 amounts appropriated pursuant to paragraphs (b) and (e) of  
7 subsection 2 of NRS 387.1214.

8 3. Except as otherwise provided in subsection 4, if the  
9 enrollment of pupils in a school district or a charter school that is  
10 located within the school district based on the average daily  
11 enrollment of pupils during the quarter of the school year is less  
12 than or equal to 95 percent of the enrollment of pupils in the same  
13 school district or charter school based on the average daily  
14 enrollment of pupils during the same quarter of the immediately  
15 preceding school year, the enrollment of pupils during the same  
16 quarter of the immediately preceding school year must be used for  
17 purposes of making the monthly apportionments from the State  
18 Education Fund to that school district or charter school pursuant to  
19 NRS 387.124. *For the purposes of this subsection, any decrease in*  
20 *the average daily enrollment of pupils in a school district or a*  
21 *charter school that is attributable to any child receiving a grant*  
22 *pursuant to sections 5 to 29, inclusive, of this act must not be used*  
23 *in determining whether this subsection applies to the school*  
24 *district or charter school.*

25 4. If the Department determines that a school district or charter  
26 school deliberately causes a decline in the enrollment of pupils in  
27 the school district or charter school to receive a higher  
28 apportionment pursuant to subsection 3, including, without  
29 limitation, by eliminating grades or moving into smaller facilities,  
30 the enrollment number from the current school year must be used  
31 for purposes of apportioning money from the State Education Fund  
32 to that school district or charter school pursuant to NRS 387.124.

33 5. The Department shall prescribe a process for reconciling the  
34 quarterly reports submitted pursuant to subsection 1 to account for  
35 pupils who leave the school district or a public school during the  
36 school year.

37 6. Pupils who are excused from attendance at examinations or  
38 have completed their work in accordance with the rules of the board  
39 of trustees must be credited with attendance during that period.

40 7. Pupils who are incarcerated in a facility or institution  
41 operated by the Department of Corrections must not be counted for  
42 the purpose of computing the yearly apportionment pursuant to this  
43 section. The average daily attendance for such pupils must be  
44 reported to the Department of Education.



1 8. Pupils who are enrolled in courses which are approved by  
2 the Department as meeting the requirements for an adult to earn a  
3 high school diploma must not be counted for the purpose of  
4 computing the yearly apportionment pursuant to this section.

5 *9. Except as otherwise provided in subparagraph (3) of*  
6 *paragraph (a) of subsection 2, any child receiving a grant*  
7 *pursuant to sections 5 to 29, inclusive, of this act must not be*  
8 *counted in determining the average daily enrollment of pupils or*  
9 *for the purpose of computing the yearly apportionment pursuant*  
10 *to this section.*

11 **Sec. 3.** NRS 388A.471 is hereby amended to read as follows:

12 388A.471 1. Except as otherwise provided in subsection 2,  
13 upon the request of a parent or legal guardian of a child who is  
14 enrolled in a public school of a school district or a private school, or  
15 a parent or legal guardian of a homeschooled child, the governing  
16 body of the charter school shall authorize the child to participate in a  
17 class that is not otherwise available to the child at his or her school  
18 or homeschool *or from his or her participating entity, as defined in*  
19 *section 12 of this act,* or participate in an extracurricular activity at  
20 the charter school if:

21 (a) Space for the child in the class or extracurricular activity is  
22 available;

23 (b) The parent or legal guardian demonstrates to the satisfaction  
24 of the governing body that the child is qualified to participate in the  
25 class or extracurricular activity; and

26 (c) The child is a homeschooled child and a notice of intent of a  
27 homeschooled child to participate in programs and activities is filed  
28 for the child with the school district in which the child resides for  
29 the current school year pursuant to NRS 388D.070.

30 2. If the governing body of a charter school authorizes a child  
31 to participate in a class or extracurricular activity pursuant to  
32 subsection 1, the governing body is not required to provide  
33 transportation for the child to attend the class or activity. A charter  
34 school shall not authorize such a child to participate in a class or  
35 activity through a program of distance education provided by the  
36 charter school pursuant to NRS 388.820 to 388.874, inclusive.

37 3. The governing body of a charter school may revoke its  
38 approval for a child to participate in a class or extracurricular  
39 activity at a charter school pursuant to subsection 1 if the governing  
40 body determines that the child has failed to comply with applicable  
41 statutes, or applicable rules and regulations. If the governing body  
42 so revokes its approval, neither the governing body nor the charter  
43 school is liable for any damages relating to the denial of services to  
44 the child.



1 4. The governing body of a charter school may, before  
2 authorizing a homeschooled child to participate in a class or  
3 extracurricular activity pursuant to subsection 1, require proof of the  
4 identity of the child, including, without limitation, the birth  
5 certificate of the child or other documentation sufficient to establish  
6 the identity of the child.

7 **Sec. 4.** Chapter 388D of NRS is hereby amended by adding  
8 thereto the provisions set forth as sections 5 to 29, inclusive, of this  
9 act.

10 **Sec. 5.** *As used in NRS 388D.250 to 388D.280, inclusive, and*  
11 *sections 5 to 29, inclusive, of this act, unless the context otherwise*  
12 *requires, the words and terms defined in NRS 388D.260 and*  
13 *sections 6 to 14, inclusive, of this act have the meanings ascribed*  
14 *to them in those sections.*

15 **Sec. 6.** *“Account for Educational Choice” or “Account”*  
16 *means the Account for Educational Choice created by section 18*  
17 *of this act.*

18 **Sec. 7.** *“Director” means the Director of the Office of*  
19 *Educational Choice.*

20 **Sec. 8.** *“Education savings account” means an account*  
21 *established for a child pursuant to section 21 of this act.*

22 **Sec. 9.** *“Eligible institution” means:*

23 1. *A university, state college or community college within the*  
24 *Nevada System of Higher Education; or*

25 2. *Any other college or university that:*

26 (a) *Is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3);*  
27 *and*

28 (b) *Is accredited by a regional accrediting agency recognized*  
29 *by the United States Department of Education.*

30 **Sec. 10.** *“Office of Educational Choice” or “Office” means*  
31 *the Office of Educational Choice created by section 17 of this act.*

32 **Sec. 11.** *“Parent” means the parent, custodial parent, legal*  
33 *guardian or other person in this State who has control or charge*  
34 *of a child and the legal right to direct the education of the child.*

35 **Sec. 12.** *“Participating entity” means a person who has been*  
36 *approved by the Director pursuant to section 26 of this act to serve*  
37 *as a participating entity pursuant to sections 5 to 29, inclusive, of*  
38 *this act.*

39 **Sec. 13.** *“Program of distance education” has the meaning*  
40 *ascribed to it in NRS 388.829.*

41 **Sec. 14.** *“Resident school district” means the school district*  
42 *in which a child would be enrolled based on his or her residence.*

43 **Sec. 15.** *In enacting sections 5 to 29, inclusive, of this act, it*  
44 *is the intent of the Legislature to provide additional resources for*  
45 *the support of education and to assist parents, including, without*



1 *limitation, the parents of children who are pupils with disabilities*  
2 *and parents in low-income households, in meeting the unique*  
3 *educational needs of the children in their care.*

4 **Sec. 16.** *The Director shall adopt any regulations necessary*  
5 *or convenient to carry out the provisions of sections 5 to 29,*  
6 *inclusive, of this act.*

7 **Sec. 17.** *1. The Office of Educational Choice is hereby*  
8 *created within the Department.*

9 *2. The Director of the Office of Educational Choice:*

10 *(a) Is appointed by, is responsible to and serves at the pleasure*  
11 *of the Superintendent of Public Instruction.*

12 *(b) Is in the unclassified service of the State.*

13 *(c) Shall devote his or her entire time to the duties of the*  
14 *Office and shall not engage in any other gainful employment or*  
15 *occupation.*

16 *3. The Director may, with the approval of the Superintendent*  
17 *of Public Instruction and within the limits of legislative*  
18 *appropriation, appoint and fix the compensation of such assistants*  
19 *as are necessary to enable the Director to carry out the duties*  
20 *assigned to him or her pursuant to this section. Any such assistant*  
21 *is in the classified service of the State.*

22 *4. The Director is responsible for the administration of:*

23 *(a) The provisions of sections 5 to 29, inclusive, of this act, and*  
24 *all other provisions of law relating to the functions of the Office;*  
25 *and*

26 *(b) The Nevada Educational Choice Scholarship Program*  
27 *established pursuant to NRS 388D.250 to 388D.280, inclusive.*

28 **Sec. 18.** *1. The Account for Educational Choice is hereby*  
29 *created in the State General Fund. The Director shall administer*  
30 *the Account.*

31 *2. The interest and income earned on:*

32 *(a) The money in the Account, after deducting any applicable*  
33 *charges; and*

34 *(b) Unexpended appropriations made to the Account from the*  
35 *State General Fund,*

36 *↪ must be credited to the Account.*

37 *3. The money in the Account may be used by the Director*  
38 *only to make grants pursuant to sections 5 to 29, inclusive, of this*  
39 *act, to pay for the administrative costs of the Office of Educational*  
40 *Choice and for any other purpose authorized by the Legislature,*  
41 *and is hereby authorized for expenditure as a continuing*  
42 *appropriation for such purposes.*

43 *4. The Director may accept gifts and grants from any source*  
44 *for deposit in the Account and may expend such gifts and grants*  
45 *from the Account pursuant to subsection 3.*





1     5. Any money remaining in the Account at the end of a fiscal  
2 year, including, without limitation, any unexpended  
3 appropriations made to the Account from the State General Fund  
4 does not revert to the State General Fund, and the balance in the  
5 Account from gifts and grants must be carried forward to the next  
6 fiscal year.

7     6. Support for the Account must be provided by legislative  
8 appropriation from the State General Fund together with all  
9 money derived from other sources authorized by law to be  
10 deposited in the Account.

11     **Sec. 19. 1.** For any school year, the Director shall not enter  
12 into an agreement with or make a grant of money to a first-time  
13 applicant in a school district after the total number of first-time  
14 applicants in the school district to whom grants are made for that  
15 school year pursuant to sections 5 to 29, inclusive, of this act  
16 equals or exceeds 5 percent of the average daily enrollment of  
17 pupils in that school district for the quarter that was reported on  
18 or before October 1 of the immediately preceding school year by  
19 the school district to the Department of Education pursuant to  
20 NRS 387.1223.

21     2. If more applications for grants are received in a school  
22 year from qualified first-time applicants in a school district than  
23 the maximum number authorized for approval in that school  
24 district for that school year pursuant to subsection 1, grants must  
25 be awarded in the order of the number assigned to the agreement  
26 entered into pursuant to section 21 of this act.

27     3. As used in this section, "first-time applicant" means an  
28 applicant who has not received a grant of money pursuant to  
29 sections 5 to 29, inclusive, of this act during any part of the  
30 immediately preceding school year.

31     **Sec. 20. 1.** The administrative and operating budget to  
32 carry out the provisions of sections 5 to 29, inclusive, of this act  
33 and any changes made to the budget must be submitted by the  
34 Director for approval in the manner prescribed by the State  
35 Budget Act.

36     2. On or before September 1 of each even-numbered year, the  
37 Director shall prepare and submit to the Chief of the Budget  
38 Division of the Office of Finance an estimate of the expenditure  
39 requirements to carry out the provisions sections 5 to 29, inclusive,  
40 of this act for each of the next 2 fiscal years. The estimate must be  
41 classified according to the projected number of recipients of  
42 grants in each fiscal year who are pupils with a disability, as  
43 defined in NRS 388.417, children with a household income that is  
44 less than 185 percent of the federally designated level signifying  
45 poverty, and all other recipients.



1       **Sec. 21. 1.** *Except as otherwise provided in this section, the*  
2 *parent of any child may apply to the Director to establish an*  
3 *education savings account if one of the following requirements is*  
4 *satisfied:*

5       *(a) The child is required by NRS 392.040 to attend a public*  
6 *school and has been enrolled in a public school in this State*  
7 *during the period immediately preceding the establishment of an*  
8 *education savings account pursuant to this section for not less*  
9 *than two consecutive quarters of the school year, or, if the child*  
10 *has been enrolled in a public school in this State that uses a*  
11 *system of enrollment other than quarters, for a number of school*  
12 *days equivalent to two consecutive quarters of public school, as*  
13 *determined by the Director.*

14       *(b) The child is eligible to be enrolled in a public school in this*  
15 *State and a parent of the child is a member of the Armed Forces of*  
16 *the United States who is on active duty.*

17       *(c) The child is eligible to be enrolled in a public school in this*  
18 *State and will be at least 5 years of age and less than 7 years of*  
19 *age on or before September 30 of the school year for which the*  
20 *application is submitted.*

21       **2.** *A parent may not apply to establish an education savings*  
22 *account for a child who will be homeschooled or who will remain*  
23 *enrolled full-time in a public school, regardless of whether such a*  
24 *child receives instruction from a participating entity. A parent may*  
25 *establish an education savings account for a child who receives a*  
26 *portion of his or her instruction from a public school and a*  
27 *portion of his or her instruction from a participating entity.*

28       **3.** *To establish an education savings account for a child*  
29 *pursuant to this section, the parent of the child must enter into a*  
30 *written agreement with the Director, in the manner and on a form*  
31 *prescribed by the Director. An agreement may only be allowed if*  
32 *the child of the parent will receive instruction from a participating*  
33 *entity for the school year for which the agreement applies.*

34       **4.** *Except as otherwise provided in this section, the Director*  
35 *shall enter into or renew an agreement with the parent of a child*  
36 *for the establishment of an education savings account if the child*  
37 *satisfies the requirements of this section and the parent applies to*  
38 *the Director in the manner provided by the Director. The Director*  
39 *shall make the application available on the Internet website of the*  
40 *Office of Educational Choice.*

41       **5.** *A number must be assigned to each agreement that is*  
42 *entered into pursuant to this section which corresponds to the*  
43 *order in which the application is approved. The number assigned*  
44 *to an agreement remains the same with any renewal to the*  
45 *agreement, except that if an agreement is not renewed for a school*



1 *year for any reason other than lack of adequate money in the*  
2 *Account for Educational Choice, a new number must be assigned*  
3 *if it is later renewed as though it were a new agreement.*

4 *6. An agreement entered into pursuant to this section must*  
5 *include a copy of the provisions of sections 5 to 29, inclusive, of*  
6 *this act and the requirements set forth therein must be included as*  
7 *requirements in the agreement.*

8 *7. An agreement entered into pursuant to this section is valid*  
9 *for 1 school year but may be terminated early. If the agreement is*  
10 *terminated early, the child may not receive instruction from a*  
11 *public school in this State until the end of the period for which the*  
12 *last deposit was made into the education savings account of*  
13 *the child pursuant to section 23 of this act, except to the extent the*  
14 *child was allowed to receive instruction from a public school*  
15 *under the agreement.*

16 *8. An agreement terminates automatically if the child no*  
17 *longer resides in this State. In such a case, any money remaining*  
18 *in the education savings account of the child reverts to the*  
19 *Account for Educational Choice.*

20 *9. The Director shall provide to a parent who enters into or*  
21 *renews an agreement pursuant to this section a written*  
22 *explanation of the authorized uses, pursuant to section 24 of this*  
23 *act, of the money in an education savings account and the*  
24 *responsibilities of the parent and the Director pursuant to the*  
25 *agreement and sections 5 to 29, inclusive, of this act.*

26 *10. An agreement entered into with the Director pursuant to*  
27 *this section and the establishment of an education savings account*  
28 *pursuant to section 23 of this act do not guarantee a grant of*  
29 *money will be deposited into the account except to the extent of*  
30 *legislative appropriation and authorization. No agreement may*  
31 *obligate the State to make a grant of money in excess of the*  
32 *amount appropriated or authorized by law for that purpose.*

33 *11. Any agreement that violates any of the provisions of*  
34 *sections 5 to 29, inclusive, of this act, or a regulation adopted*  
35 *pursuant thereto, is void.*

36 **Sec. 22. 1.** *A parent may enter into a separate agreement*  
37 *pursuant to section 21 of this act for each child of the parent. Not*  
38 *more than one education savings account may be established for a*  
39 *child.*

40 *2. The failure of a parent to enter into an agreement to*  
41 *establish an education savings account for his or her child*  
42 *pursuant to section 21 of this act for any school year for which the*  
43 *child is required by NRS 392.040 to attend a public school in this*  
44 *State or is eligible to be enrolled in a public school in this State*



1 *does not preclude the parent of the child from entering into an*  
2 *agreement for a subsequent school year.*

3 *3. An agreement entered into pursuant to section 21 of this*  
4 *act may be renewed for any school year for which the child is*  
5 *required by NRS 392.040 to attend a public school in this State or*  
6 *is eligible to be enrolled in a public school in this State. Failure to*  
7 *renew an agreement for any school year does not preclude the*  
8 *parent of the child from renewing the agreement for any*  
9 *subsequent school year.*

10 **Sec. 23.** *1. If an agreement is entered into pursuant to*  
11 *section 21 of this act, an education savings account must be*  
12 *established by the parent on behalf of the child. The account must*  
13 *be maintained with a financial management firm qualified by the*  
14 *Director pursuant to section 25 of this act.*

15 *2. Within the limits of legislative appropriation and*  
16 *authorization, if a parent enters into or renews such an*  
17 *agreement, a grant of money on behalf of the child must be*  
18 *deposited by the Director into the education savings account of the*  
19 *child.*

20 *3. Except as otherwise provided in subsections 4 and 5, the*  
21 *grant required by subsection 2 must, for the school year for which*  
22 *the grant is made, be in an amount equal to:*

23 *(a) For a child who is a pupil with a disability, as defined in*  
24 *NRS 388.417, or a child with a household income that is less than*  
25 *185 percent of the federally designated level signifying poverty,*  
26 *100 percent of the statewide base per pupil funding amount; and*

27 *(b) For all other children, 90 percent of the statewide base per*  
28 *pupil funding amount.*

29 *4. If a child receives a portion of his or her instruction from a*  
30 *participating entity and a portion of his or her instruction from a*  
31 *public school, for the school year for which the grant is made, the*  
32 *grant required by subsection 2 must be a pro rata amount based*  
33 *on the percentage of the total instruction provided to the child by*  
34 *the participating entity in proportion to the total instruction*  
35 *provided to the child by the public school and the participating*  
36 *entity.*

37 *5. If there are more applications for grants for a school year*  
38 *than there is money available, grants must be awarded in the order*  
39 *of the number assigned to the agreement entered into pursuant to*  
40 *section 21 of this act. An agreement which is not renewed because*  
41 *there is not enough money to award the grant retains the number*  
42 *assigned to the agreement and priority of future grants.*

43 *6. The Director may deduct not more than 3 percent of each*  
44 *grant for the administrative costs of implementing the provisions*  
45 *of sections 5 to 29, inclusive, of this act.*



1       7. *The Director shall deposit the money for each grant in*  
2 *quarterly installments pursuant to a schedule determined by the*  
3 *Director.*

4       8. *Any money remaining in an education savings account:*

5       (a) *At the end of a school year may be carried forward to the*  
6 *next school year if the agreement entered into pursuant to section*  
7 *21 of this act is renewed.*

8       (b) *After an agreement entered into pursuant to section 21 of*  
9 *this act is not renewed or is terminated because the child for whom*  
10 *the account was established graduates from high school or for any*  
11 *other reason, reverts to the Account for Educational Choice at the*  
12 *end of the last day of the agreement.*

13       **Sec. 24. 1. Money deposited in an education savings**  
14 **account must be used only to pay for:**

15       (a) *Tuition and fees at a school that is a participating entity in*  
16 *which the child is enrolled;*

17       (b) *Textbooks required for a child who enrolls in a school that*  
18 *is a participating entity;*

19       (c) *Tutoring or other teaching services provided by a tutor or*  
20 *tutoring facility that is a participating entity;*

21       (d) *Tuition and fees for a program of distance education that*  
22 *is a participating entity;*

23       (e) *Fees for any national norm-referenced achievement*  
24 *examination, advanced placement or similar examination or*  
25 *standardized examination required for admission to a college or*  
26 *university;*

27       (f) *If the child is a pupil with a disability, as that term is*  
28 *defined in NRS 388.417, fees for any special instruction or special*  
29 *services provided to the child;*

30       (g) *Tuition and fees at an eligible institution that is a*  
31 *participating entity;*

32       (h) *Textbooks required for the child at an eligible institution*  
33 *that is a participating entity or to receive instruction from any*  
34 *other participating entity;*

35       (i) *Fees for the management of the education savings account,*  
36 *as described in section 25 of this act;*

37       (j) *Transportation required for the child to travel to and from a*  
38 *participating entity or any combination of participating entities up*  
39 *to but not to exceed \$750 per school year; or*

40       (k) *Purchasing a curriculum or any supplemental materials*  
41 *required to administer the curriculum.*

42       2. *A participating entity that receives a payment authorized by*  
43 *subsection 1 shall not:*



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

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

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

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

13 **Sec. 25.** 1. The Director shall qualify one or more private  
14 financial management firms to manage education savings  
15 accounts and shall establish reasonable fees, based on market  
16 rates, for the management of education savings accounts.

17 2. An education savings account must be audited randomly  
18 each year by a certified public accountant. The Director may  
19 provide for additional audits of an education savings account as  
20 he or she determines necessary.

21 3. If the Director determines that there has been substantial  
22 misuse of the money in an education savings account, the Director  
23 may:

24 (a) Freeze or dissolve the account, subject to any regulations  
25 adopted by the Director providing for notice of such action and  
26 opportunity to respond to the notice; and

27 (b) Give notice of his or her determination and action to the  
28 Attorney General or the district attorney of the county in which  
29 the parent resides.

30 **Sec. 26.** 1. The following persons may become a  
31 participating entity by submitting an application demonstrating  
32 that the person is:

33 (a) A private school licensed pursuant to chapter 394 of NRS  
34 or exempt from such licensing pursuant to NRS 394.211;

35 (b) An eligible institution;

36 (c) A program of distance education that is not operated by a  
37 public school or the Department of Education;

38 (d) A tutor or tutoring facility that meets the criteria  
39 established by the Director to serve as a participating entity;

40 (e) The parent of a child; or

41 (f) Any other person who provides educational services and  
42 meets the criteria established by the Director to serve as a  
43 participating entity.

44 2. The Director shall approve an application submitted  
45 pursuant to subsection 1 or request additional information to



1 *demonstrate that the person meets the criteria to serve as a*  
2 *participating entity. If the applicant is unable to provide such*  
3 *additional information, the Director may deny the application.*

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

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

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

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

19 5. *The Director may refuse to allow an entity described in*  
20 *subsection 1 to continue to participate in the grant program*  
21 *pursuant to sections 5 to 29, inclusive, of this act if the Director*  
22 *determines that the entity:*

23 (a) *Has routinely failed to comply with the provisions of*  
24 *sections 5 to 29, inclusive, of this act; or*

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

29 6. *If the Director takes an action described in subsection 5*  
30 *against an entity described in subsection 1, the Director shall*  
31 *provide immediate notice of the action to each parent of a child*  
32 *receiving instruction from the entity who has entered into or*  
33 *renewed an agreement pursuant to section 21 of this act and on*  
34 *behalf of whose child a grant of money has been deposited*  
35 *pursuant to section 23 of this act.*

36 **Sec. 27. 1.** *Each participating entity 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 23 of this act and who is*  
40 *receiving instruction from the participating entity takes:*

41 (1) *Any examinations in mathematics and English*  
42 *language arts required for pupils of the same grade pursuant to*  
43 *chapter 390 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 assessment 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 of Education or an organization  
7 designated by the Department pursuant to subsection 4.

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

26 (a) The relative satisfaction of the parent with the grant  
27 program established pursuant to sections 5 to 29, inclusive, of this  
28 act; and

29 (b) The opinions of the parent regarding any topics, items or  
30 issues that the Director determines may aid the Director in  
31 evaluating and improving the effectiveness of the grant program  
32 established pursuant to sections 5 to 29, 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. 28.** 1. The Director shall annually make available a  
37 list of participating entities, other than any parent of a child.

38 2. Subject to the Family Educational Rights and Privacy Act  
39 of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant  
40 thereto, the Department shall annually require the resident school  
41 district of each child on whose behalf a grant of money is made  
42 pursuant to section 23 of this act to provide to the participating  
43 entity any educational records of the child.

44 **Sec. 29.** Except as otherwise provided in sections 5 to 29,  
45 inclusive, of this act, nothing in the provisions of sections 5 to 29,





1 *inclusive, of this act shall be deemed to limit the independence or*  
2 *autonomy of a participating entity or to make the actions of a*  
3 *participating entity the actions of the State Government.*

4 **Sec. 30.** NRS 388D.250 is hereby amended to read as follows:  
5 388D.250 NRS 363A.139, 363B.119 and 388D.250 to  
6 388D.280, inclusive, *and sections 5 to 29, inclusive, of this act* may  
7 be cited as the Nevada Educational Choice Scholarship Program.

8 **Sec. 31.** NRS 388D.260 is hereby amended to read as follows:  
9 388D.260 ~~[As used in NRS 388D.250 to 388D.280, inclusive,~~  
10 ~~unless the context otherwise requires, “scholarship]~~ **“Scholarship**  
11 **organization”** means an organization in this State that meets the  
12 requirements set forth in NRS 388D.270.

13 **Sec. 32.** NRS 388D.270 is hereby amended to read as follows:  
14 388D.270 1. A scholarship organization must:

15 (a) Be exempt from taxation pursuant to section 501(c)(3) of the  
16 Internal Revenue Code, 26 U.S.C. § 501(c)(3).

17 (b) Not own or operate any school in this State, including,  
18 without limitation, a private school, which receives any grant money  
19 pursuant to the Nevada Educational Choice Scholarship Program.

20 (c) Accept donations from taxpayers and other persons and may  
21 also solicit and accept gifts and grants.

22 (d) Not expend more than 5 percent of the total amount of  
23 money accepted pursuant to paragraph (c) to pay its administrative  
24 expenses.

25 (e) Provide grants on behalf of pupils who are members of a  
26 household that has a household income which is not more than 300  
27 percent of the federally designated level signifying poverty to allow  
28 those pupils to attend schools in this State chosen by the parents or  
29 legal guardians of those pupils, including, without limitation, private  
30 schools. The total amount of a grant provided by the scholarship  
31 organization on behalf of a pupil pursuant to this paragraph must not  
32 exceed \$7,755 for Fiscal Year 2015-2016.

33 (f) Not limit to a single school the schools for which it provides  
34 grants.

35 (g) Except as otherwise provided in paragraph (e), not limit to  
36 specific pupils the grants provided pursuant to that paragraph.

37 2. The maximum amount of a grant provided by the  
38 scholarship organization pursuant to paragraph (e) of subsection 1  
39 must be adjusted on July 1 of each year for the fiscal year beginning  
40 that day and ending June 30 in a rounded dollar amount  
41 corresponding to the percentage of increase in the Consumer Price  
42 Index (All Items) published by the United States Department of  
43 Labor for the preceding calendar year. On May 1 of each year, the  
44 ~~[Department of Education]~~ **Director** shall determine the amount of  
45 increase required by this subsection, establish the adjusted amounts



1 to take effect on July 1 of that year and notify each scholarship  
2 organization of the adjusted amounts. The ~~Department of~~  
3 ~~Education~~ **Director** shall also post the adjusted amounts on ~~its~~ **the**  
4 Internet website ~~of the Office of Educational Choice~~.

5 3. A grant provided on behalf of a pupil pursuant to subsection  
6 1 must be paid directly to the school chosen by the parent or legal  
7 guardian of the pupil.

8 4. A scholarship organization shall provide each taxpayer and  
9 other person who makes a donation, gift or grant of money to the  
10 scholarship organization pursuant to paragraph (c) of subsection 1  
11 with an affidavit, signed under penalty of perjury, which includes,  
12 without limitation:

13 (a) A statement that the scholarship organization satisfies the  
14 requirements set forth in subsection 1; and

15 (b) The total amount of the donation, gift or grant made to the  
16 scholarship organization.

17 5. Each school in which a pupil is enrolled for whom a grant is  
18 provided by a scholarship organization shall maintain a record of the  
19 academic progress of the pupil. The record must be maintained in  
20 such a manner that the information may be aggregated and reported  
21 for all such pupils if reporting is required by the regulations of the  
22 ~~Department of Education~~ **Director**.

23 6. A scholarship organization shall not use a donation for  
24 which a taxpayer received a tax credit pursuant to NRS 363A.139 or  
25 363B.119 to provide a grant pursuant to this section on behalf of a  
26 pupil unless the scholarship organization used a donation for which  
27 the taxpayer received a tax credit pursuant to NRS 363A.139 or  
28 363B.119 to provide a grant pursuant to this section on behalf of the  
29 pupil for the immediately preceding school year or reasonably  
30 expects to be able to provide a grant pursuant to this section on  
31 behalf of the pupil in at least the same amount for each school year  
32 until the pupil graduates from high school. A scholarship  
33 organization that violates this subsection shall repay to the  
34 Department of Taxation the amount of the tax credit received by the  
35 taxpayer pursuant to NRS 363A.139 or 363B.119, as applicable.

36 7. The ~~Department of Education~~ **Director**:

37 (a) Shall adopt regulations prescribing the contents of and  
38 procedures for applications for grants provided pursuant to  
39 subsection 1.

40 (b) May adopt such other regulations as the ~~Department~~  
41 **Director** determines necessary to carry out the provisions of this  
42 section.

43 8. As used in this section, "private school" has the meaning  
44 ascribed to it in NRS 394.103.



1       **Sec. 33.** NRS 388D.280 is hereby amended to read as follows:  
 2       388D.280 A scholarship organization which receives a  
 3 donation, gift or grant of money described in NRS 388D.270 shall  
 4 report to the ~~{Department of Education,}~~ *Director*, on or before  
 5 January 31 of each year, on a form prescribed by the ~~{Department,}~~  
 6 *Director*:

7       1. The name, address and contact information of the  
 8 scholarship organization;

9       2. The total number of such donations, gifts and grants  
 10 received by the scholarship organization during the immediately  
 11 preceding calendar year;

12       3. The total dollar amount of such donations, gifts and grants  
 13 received during the immediately preceding calendar year;

14       4. The total number of pupils for whom the scholarship  
 15 organization made grants during the immediately preceding calendar  
 16 year pursuant to NRS 388D.270;

17       5. The total dollar amount of such grants made during the  
 18 immediately preceding calendar year; and

19       6. For each school for which such a grant was made during the  
 20 immediately preceding calendar year:

- 21       (a) The name and address of the school;
- 22       (b) The number of pupils enrolled in the school for whom such a  
 23 grant was made; and
- 24       (c) The total dollar amount of such grants provided for pupils  
 25 enrolled in the school.

26       **Sec. 34.** 1. There is hereby appropriated from the State  
 27 General Fund to the Office of Educational Choice created by section  
 28 17 of this act for expenses to administer the education savings  
 29 account program pursuant to sections 5 to 29, inclusive, of this act  
 30 and the Nevada Educational Choice Scholarship Program the  
 31 following sums:

32	For the Fiscal Year 2021-2022 .....	\$723,646
33	For the Fiscal Year 2022-2023 .....	\$891,444

34       2. There is hereby appropriated from the State General Fund to  
 35 the Office of Educational Choice created by section 17 of this act to  
 36 be used only for grants made pursuant to sections 5 to 29, inclusive,  
 37 of this act the following sums:

38	For the Fiscal Year 2021-2022 .....	\$24,276,354
39	For the Fiscal Year 2022-2023 .....	\$34,108,556

40       3. The sums appropriated by subsection 1 are available for  
 41 either fiscal year. Any remaining balance of the sums appropriated  
 42 by this section must not be committed for expenditure after June 30,  
 43 2023, by the entity to which the appropriation is made or any entity  
 44 to which money from the appropriation is granted or otherwise  
 45 transferred in any manner, and any portion of the appropriated



1 money remaining must not be spent for any purpose after  
2 September 15, 2023, by either the entity to which the money was  
3 appropriated or the entity to which the money was subsequently  
4 granted or transferred, and must be reverted to the State General  
5 Fund on or before September 15, 2023.

6 **Sec. 35.** 1. For the purposes of section 19 of this act, and  
7 notwithstanding the provisions of that section, the limitation on the  
8 total number of first-time applicants in any school district for whom  
9 a grant may be made pursuant to sections 5 to 29, inclusive, of this  
10 act for the 2021-2022 school year must be calculated on the basis of  
11 the average daily enrollment of pupils for the quarter in the 2020-  
12 2021 school year that was reported on or before July 1, 2021, by the  
13 school district to the Department of Education pursuant to NRS  
14 387.1223 as that section existed on June 30, 2021.

15 2. As used in this section, "first-time applicant" has the  
16 meaning ascribed to it in section 19 of this act.

17 **Sec. 36.** 1. Any regulations adopted by the State Treasurer to  
18 carry out the provisions of NRS 353B.700 to 353B.930, inclusive,  
19 before July 1, 2019, remain in force until amended by the Director  
20 of the Office of Educational Choice created by section 17 of this act.  
21 The regulations may be enforced by the Director as though the  
22 Director had adopted the regulations.

23 2. Any contract or other agreement entered into by the State  
24 Treasurer relating to the provisions of NRS 353B.700 to 353B.930,  
25 inclusive, before July 1, 2019, is binding upon the Office of  
26 Educational Choice.

27 3. As soon as practicable after July 1, 2021, the State Treasurer  
28 shall:

29 (a) Assign a number to each agreement that was entered into  
30 for the establishment of an education savings account that  
31 corresponds to the order in which the application was approved.

32 (b) Transfer to the Director the agreements, all information  
33 and data relating to the agreements and any other documents or  
34 information requested by the Director.

35 **Sec. 37.** This act becomes effective on July 1, 2021.

