

SENATE BILL NO. 349—SENATORS HAMMOND,
HANSEN AND PICKARD

MARCH 18, 2019

Referred to Committee on Education

SUMMARY—Revises provisions relating to education savings accounts and education funding. (BDR 34-285)

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; repealing, 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; NRS 353B.700-353B.930) Following a legal challenge of S.B.
6 302, the Nevada Supreme Court held in *Schwartz v. Lopez*, 132 Nev. Adv. Op. 73,
7 382 P.3d 886 (2016), that the legislation was valid under Section 2 of Article 11 of
8 the Nevada Constitution, which requires a uniform system of common schools, and



9 under Section 10 of Article 11 of the Nevada Constitution, which prohibits the use
10 of public money for a sectarian purpose. However, the Nevada Supreme Court
11 found that the Legislature did not make an appropriation for the support of the
12 education savings account program and held that the use of any money
13 appropriated for K-12 public education for the education savings account program
14 would violate Sections 2 and 6 of Article 11 of the Nevada Constitution. The Court
15 enjoined the enforcement of section 16 of S.B. 302, which amended NRS 387.124
16 to require that all money deposited in education savings accounts be subtracted
17 from each school district's quarterly apportionments from the State Distributive
18 School Account.

19 In response to the *Schwartz* decision, **section 38** of this bill appropriates money
20 to fund the operation of the education savings account program for the 2019-2021
21 biennium. **Section 4** of this bill amends existing law to remove the provisions
22 which were enjoined by the Nevada Supreme Court in *Schwartz*. **Section 42** of this
23 bill repeals the existing provisions relating to the program and **sections 9-33** of this
24 bill reenact the provisions with some revisions. Existing law gives the State
25 Treasurer the responsibility to oversee the program. (NRS 353B.820, 353B.850)
26 **Section 21** of this bill instead creates the Office of Educational Choice within the
27 Department of Education with a Director who is responsible for the administration
28 of the program. In addition, **sections 21, 35 and 36** of this bill make the Office
29 responsible for the administration of the Nevada Educational Choice Scholarship
30 Program which provides certain tax incentives to organizations that provide grants
31 for certain pupils to attend schools which require some type of payment. (NRS
32 388D.270) All responsibilities relating to the Nevada Educational Choice
33 Scholarship Program and the education savings account program which were
34 previously carried out by the State Treasurer are required by this bill to be carried
35 out by the Director. **Section 41** of this bill makes certain regulations adopted by the
36 State Treasurer continue in effect until the Director amends or replaces them, and
37 allows the Director to enforce the regulations. In addition, any existing contracts
38 relating to the Nevada Educational Choice Scholarship Program and the education
39 savings account program which were made by the State Treasurer become binding
40 upon the Director.

41 The appropriation for the education savings account program in **section 38** of
42 this bill is made to the Office of Educational Choice and will be deposited to the
43 Account for Educational Choice, which is created in the State General Fund by
44 **section 22** of this bill. **Section 22** requires the Account to be administered by the
45 Director of the Office of Educational Choice and authorizes the Director to accept
46 gifts and grants for deposit in the Account. **Section 22** also: (1) restricts the use of
47 the money in the Account to making grants under the education savings account
48 program, to pay for the administrative costs of the Office of Educational Choice
49 and for other purposes authorized by the Legislature; and (2) authorizes any money
50 in the Account for expenditure as a continuing appropriation for such purposes.
51 **Sections 25 and 27** of this bill require the reversion of any balance remaining in an
52 education savings account that has been terminated or not renewed to the Account
53 for Educational Choice.

54 **Sections 23 and 40** 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 27** of this bill requires grants to be awarded in the order in which
58 applications are approved. **Section 24** 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 25** of this bill allows the
62 Director to enter into an agreement to establish an education savings account
63 without a guarantee that money will be deposited into the account. No agreement



64 may obligate the State to make a grant in excess of the amount appropriated or
65 authorized for the education savings account program.

66 Under existing law, for a child's parents to be eligible to enter into an
67 agreement to establish an education savings account for the child, the child must be
68 required by law to attend public school and must have been enrolled in a public
69 school in Nevada for not less than 100 school days without interruption during the
70 period immediately preceding the establishment of the education savings account.
71 (NRS 353B.850) During the 29th Special Session of the Nevada Legislature, the
72 Legislature passed a concurrent resolution that declared and expressed that it was
73 the Legislature's purpose and intent in enacting the education savings account
74 program in S.B. 302 to allow the establishment of education savings accounts for
75 children who are at least 5 years of age and less than 7 years of age and children of
76 active duty members of the military, regardless of whether those children had been
77 enrolled in a public school in Nevada for at least 100 school days without
78 interruption preceding the establishment of an education savings account for such a
79 child. (File Number 6, Statutes of Nevada 2015, 29th Special Session, p. 72)
80 **Section 25** of this bill codifies the Legislature's stated purpose and intent
81 concerning the participation of those children in the education savings account
82 program. **Section 25** also changes the requirement from 100 school days without
83 interruption to two consecutive quarters of public school or its equivalent.

84 Existing law limits the use of money deposited in an education savings account
85 to payment of certain instruction, materials and services provided by persons,
86 programs or entities that participate in the education savings account program, who
87 are known as participating entities. (NRS 353B.870) A person, program or entity
88 who wishes to become a participating entity is required to submit an application to
89 the Director of the Office of Educational Choice for approval. The Director may
90 refuse to allow a participating entity to continue participating in the program in
91 certain circumstances. (NRS 353B.900) **Sections 13, 16, 17 and 30** of this bill
92 allow the Director to approve as a participating entity in the program a person or
93 entity that is located outside Nevada or that meets criteria established by the
94 Director for participation in the program.

95 Existing law requires each school district to report to the Department of
96 Education on a quarterly basis the average daily enrollment of pupils in the school
97 district. The enrollment of pupils in each school district is used to calculate the
98 basic support guarantee that will be provided per pupil for each district. Existing
99 law also includes a "hold harmless" provision, pursuant to which a school district
100 with a significant decline in enrollment is protected against a corresponding
101 reduction in apportionments from the State Distributive School Account. (NRS
102 387.1223) **Section 3** of this bill provides that children in the school district who are
103 receiving grants from the education savings account program are not to be included
104 in the count of pupils in a school district in determining enrollment or for the
105 purpose of computing basic support under most circumstances.

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

1 **Section 1.** NRS 385.007 is hereby amended to read as follows:
2 385.007 As used in this title, unless the context otherwise
3 requires:

4 1. "Achievement charter school" means a public school
5 operated by a charter management organization, as defined in NRS
6 388B.020, an educational management organization, as defined in



1 NRS 388B.030, or other person pursuant to a contract with the
2 Achievement School District pursuant to NRS 388B.210 and subject
3 to the provisions of chapter 388B of NRS.

4 2. "Department" means the Department of Education.

5 3. "English learner" has the meaning ascribed to it in 20 U.S.C.
6 § 7801(20).

7 4. "Homeschooled child" means a child who receives
8 instruction at home and who is exempt from compulsory attendance
9 pursuant to NRS 392.070, but does not include an opt-in child.

10 5. "Local school precinct" has the meaning ascribed to it in
11 NRS 388G.535.

12 6. "Opt-in child" means a child for whom an education savings
13 account has been established pursuant to ~~[NRS 353B.850.]~~ *section*
14 *25 of this act*, who is not enrolled full-time in a public or private
15 school and who receives all or a portion of his or her instruction
16 from a participating entity, as defined in ~~[NRS 353B.750.]~~ *section*
17 *16 of this act*.

18 7. "Public schools" means all kindergartens and elementary
19 schools, junior high schools and middle schools, high schools,
20 charter schools and any other schools, classes and educational
21 programs which receive their support through public taxation and,
22 except for charter schools, whose textbooks and courses of study are
23 under the control of the State Board.

24 8. "School bus" has the meaning ascribed to it in
25 NRS 484A.230.

26 9. "State Board" means the State Board of Education.

27 10. "University school for profoundly gifted pupils" has the
28 meaning ascribed to it in NRS 388C.040.

29 **Sec. 2.** NRS 387.045 is hereby amended to read as follows:

30 387.045 Except as otherwise provided in ~~[NRS 353B.700 to~~
31 ~~353B.930, inclusive:]~~ *sections 19 to 33, inclusive, of this act:*

32 1. No portion of the public school funds or of the money
33 specially appropriated for the purpose of public schools shall be
34 devoted to any other object or purpose.

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

38 **Sec. 3.** NRS 387.1223 is hereby amended to read as follows:

39 387.1223 1. On or before October 1, January 1, April 1 and
40 July 1, each school district shall report to the Department, in the
41 form prescribed by the Department, the average daily enrollment of
42 pupils pursuant to this section for the immediately preceding quarter
43 of the school year.

44 2. Except as otherwise provided in ~~[subsection 3.]~~ *this section,*
45 *the* basic support of each school district must be computed by:



1 (a) Multiplying the basic support guarantee per pupil established
2 for that school district for that school year by the sum of:

3 (1) The count of pupils enrolled in kindergarten and grades 1
4 to 12, inclusive, based on the average daily enrollment of those
5 pupils during the quarter, including, without limitation, the count of
6 pupils who reside in the county and are enrolled in any charter
7 school and the count of pupils who are enrolled in a university
8 school for profoundly gifted pupils located in the county.

9 (2) The count of pupils not included under subparagraph (1)
10 who are enrolled full-time in a program of distance education
11 provided by that school district, a charter school located within that
12 school district or a university school for profoundly gifted pupils,
13 based on the average daily enrollment of those pupils during the
14 quarter.

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

17 (I) In a public school of the school district and are
18 concurrently enrolled part-time in a program of distance education
19 provided by another school district or a charter school or receiving a
20 portion of his or her instruction from a participating entity, as
21 defined in ~~NRS 353B.750,~~ *section 16 of this act*, based on the
22 average daily enrollment of those pupils during the quarter.

23 (II) In a charter school and are concurrently enrolled part-
24 time in a program of distance education provided by a school district
25 or another charter school or receiving a portion of his or her
26 instruction from a participating entity, as defined in
27 ~~NRS 353B.750,~~ *section 16 of this act*, based on the average daily
28 enrollment of those pupils during the quarter.

29 (4) The count of pupils not included under subparagraph (1),
30 (2) or (3), who are receiving special education pursuant to the
31 provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to
32 388.5267, inclusive, based on the average daily enrollment of those
33 pupils during the quarter and excluding the count of pupils who
34 have not attained the age of 5 years and who are receiving special
35 education pursuant to NRS 388.435.

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

40 (6) The count of children detained in facilities for the
41 detention of children, alternative programs and juvenile forestry
42 camps receiving instruction pursuant to the provisions of NRS
43 388.550, 388.560 and 388.570, based on the average daily
44 enrollment of those pupils during the quarter.



1 (7) The count of pupils who are enrolled in classes for at
2 least one semester pursuant to subsection 1 of NRS 388A.471,
3 subsection 1 of NRS 388A.474, subsection 1 of NRS 392.074, or
4 subsection 1 of NRS 388B.280 or any regulations adopted pursuant
5 to NRS 388B.060 that authorize a child who is enrolled at a public
6 school of a school district or a private school or a homeschooled
7 child to participate in a class at an achievement charter school,
8 based on the average daily enrollment of pupils during the quarter
9 and expressed as a percentage of the total time services are provided
10 to those pupils per school day in proportion to the total time services
11 are provided during a school day to pupils who are counted pursuant
12 to subparagraph (1).

13 (b) Adding the amounts computed in paragraph (a).

14 3. Except as otherwise provided in ~~subsection 4.~~ *this section,*
15 if the enrollment of pupils in a school district or a charter school that
16 is located within the school district based on the average daily
17 enrollment of pupils during the quarter of the school year is less
18 than or equal to 95 percent of the enrollment of pupils in the same
19 school district or charter school based on the average daily
20 enrollment of pupils during the same quarter of the immediately
21 preceding school year, the enrollment of pupils during the same
22 quarter of the immediately preceding school year must be used for
23 purposes of making the quarterly apportionments from the State
24 Distributive School Account to that school district or charter school
25 pursuant to NRS 387.124. *For the purposes of this subsection, any*
26 *decrease in the average daily enrollment of pupils in a school*
27 *district or a charter school that is attributable to any child*
28 *receiving a grant pursuant to sections 19 to 33, inclusive, of this*
29 *act must not be used in determining whether this subsection*
30 *applies to the school district or charter school.*

31 4. If the Department determines that a school district or charter
32 school deliberately causes a decline in the enrollment of pupils in
33 the school district or charter school to receive a higher
34 apportionment pursuant to subsection 3, including, without
35 limitation, by eliminating grades or moving into smaller facilities,
36 the enrollment number from the current school year must be used
37 for purposes of apportioning money from the State Distributive
38 School Account to that school district or charter school pursuant to
39 NRS 387.124.

40 5. The Department shall prescribe a process for reconciling the
41 quarterly reports submitted pursuant to subsection 1 to account for
42 pupils who leave the school district or a public school during the
43 school year.



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

4 7. Pupils who are incarcerated in a facility or institution
5 operated by the Department of Corrections must not be counted for
6 the purpose of computing basic support pursuant to this section. The
7 average daily attendance for such pupils must be reported to the
8 Department of Education.

9 8. Pupils who are enrolled in courses which are approved by
10 the Department as meeting the requirements for an adult to earn a
11 high school diploma must not be counted for the purpose of
12 computing basic support pursuant to this section.

13 *9. Except as otherwise provided in subparagraph (3) of*
14 *paragraph (a) of subsection 2, any child receiving a grant*
15 *pursuant to sections 19 to 33, inclusive, of this act must not be*
16 *counted in determining the average daily enrollment of pupils or*
17 *for the purpose of computing basic support pursuant to this*
18 *section.*

19 **Sec. 4.** NRS 387.124 is hereby amended to read as follows:

20 387.124 Except as otherwise provided in this section and NRS
21 387.1241, 387.1242 and 387.528:

22 1. On or before August 1, November 1, February 1 and
23 May 1 of each year, the Superintendent of Public Instruction shall
24 apportion the State Distributive School Account in the State General
25 Fund among the several county school districts, charter schools and
26 university schools for profoundly gifted pupils in amounts
27 approximating one-fourth of their respective yearly apportionments
28 less any amount set aside as a reserve. Except as otherwise provided
29 in NRS 387.1244, the apportionment to a school district, computed
30 on a yearly basis, equals the difference between the basic support
31 and the local funds available pursuant to NRS 387.163, minus all
32 the funds attributable to pupils who reside in the county but attend a
33 charter school, all the funds attributable to pupils who reside in the
34 county and are enrolled full-time or part-time in a program of
35 distance education provided by another school district or a charter
36 school [and] *and* all the funds attributable to pupils who are enrolled in
37 a university school for profoundly gifted pupils located in the
38 county . ~~[and all the funds deposited in education savings accounts~~
39 ~~established on behalf of children who reside in the county pursuant~~
40 ~~to NRS 353B.700 to 353B.930, inclusive.] No apportionment may
41 be made to a school district if the amount of the local funds exceeds
42 the amount of basic support.~~

43 2. Except as otherwise provided in NRS 387.1244, in addition
44 to the apportionments made pursuant to this section, if a pupil is



1 enrolled part-time in a program of distance education and part-time
2 in a:

3 (a) Public school other than a charter school, an apportionment
4 must be made to the school district in which the pupil resides. The
5 school district in which the pupil resides shall allocate a percentage
6 of the apportionment to the school district or charter school that
7 provides the program of distance education in the amount set forth
8 in the agreement entered into pursuant to NRS 388.854.

9 (b) Charter school, an apportionment must be made to the
10 charter school in which the pupil is enrolled. The charter school in
11 which the pupil is enrolled shall allocate a percentage of the
12 apportionment to the school district or charter school that provides
13 the program of distance education in the amount set forth in the
14 agreement entered into pursuant to NRS 388.858.

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

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

31 **Sec. 5.** NRS 388.850 is hereby amended to read as follows:

32 388.850 1. A pupil may enroll in a program of distance
33 education unless:

34 (a) Pursuant to this section or other specific statute, the pupil is
35 not eligible for enrollment or the pupil's enrollment is otherwise
36 prohibited;

37 (b) The pupil fails to satisfy the qualifications and conditions for
38 enrollment adopted by the State Board pursuant to NRS 388.874; or

39 (c) The pupil fails to satisfy the requirements of the program of
40 distance education.

41 2. A child who is exempt from compulsory attendance and is
42 enrolled in a private school pursuant to chapter 394 of NRS or is
43 being homeschooled is not eligible to enroll in or otherwise attend a
44 program of distance education, regardless of whether the child is
45 otherwise eligible for enrollment pursuant to subsection 1.



1 3. An opt-in child who is exempt from compulsory attendance
2 is not eligible to enroll in or otherwise attend a program of distance
3 education, regardless of whether the child is otherwise eligible for
4 enrollment pursuant to subsection 1, unless the opt-in child receives
5 only a portion of his or her instruction from a participating entity as
6 authorized pursuant to ~~NRS 353B.850.~~ *sections 19 to 33,*
7 *inclusive, of this act.*

8 4. If a pupil who is prohibited from attending public school
9 pursuant to NRS 392.264 enrolls in a program of distance education,
10 the enrollment and attendance of that pupil must comply with all
11 requirements of NRS 62F.100 to 62F.150, inclusive, and 392.251 to
12 392.271, inclusive.

13 **Sec. 6.** NRS 388A.471 is hereby amended to read as follows:

14 388A.471 1. Except as otherwise provided in subsection 2,
15 upon the request of a parent or legal guardian of a child who is
16 enrolled in a public school of a school district or a private school, or
17 a parent or legal guardian of a homeschooled child or opt-in child,
18 the governing body of the charter school shall authorize the child to
19 participate in a class that is not otherwise available to the child at his
20 or her school or homeschool or from his or her participating entity,
21 as defined in ~~NRS 353B.750.~~ *section 16 of this act,* or participate
22 in an extracurricular activity at the charter school if:

23 (a) Space for the child in the class or extracurricular activity is
24 available;

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

28 (c) The child is:

29 (1) A homeschooled child and a notice of intent of a
30 homeschooled child to participate in programs and activities is filed
31 for the child with the school district in which the child resides for
32 the current school year pursuant to NRS 388D.070; or

33 (2) An opt-in child and a notice of intent of an opt-in child to
34 participate in programs and activities is filed for the child with the
35 school district in which the child resides for the current school year
36 pursuant to NRS 388D.140.

37 2. If the governing body of a charter school authorizes a child
38 to participate in a class or extracurricular activity pursuant to
39 subsection 1, the governing body is not required to provide
40 transportation for the child to attend the class or activity. A charter
41 school shall not authorize such a child to participate in a class or
42 activity through a program of distance education provided by the
43 charter school pursuant to NRS 388.820 to 388.874, inclusive.

44 3. The governing body of a charter school may revoke its
45 approval for a child to participate in a class or extracurricular



1 activity at a charter school pursuant to subsection 1 if the governing
2 body determines that the child has failed to comply with applicable
3 statutes, or applicable rules and regulations. If the governing body
4 so revokes its approval, neither the governing body nor the charter
5 school is liable for any damages relating to the denial of services to
6 the child.

7 4. The governing body of a charter school may, before
8 authorizing a homeschooled child or opt-in child to participate in a
9 class or extracurricular activity pursuant to subsection 1, require
10 proof of the identity of the child, including, without limitation, the
11 birth certificate of the child or other documentation sufficient to
12 establish the identity of the child.

13 **Sec. 7.** NRS 388B.290 is hereby amended to read as follows:

14 388B.290 1. During the sixth year that a school operates as
15 an achievement charter school, the Department shall evaluate the
16 pupil achievement and school performance of the school. The
17 Executive Director shall provide the Department with such
18 information and assistance as the Department determines necessary
19 to perform such an evaluation. If, as a result of such an evaluation,
20 the Department determines:

21 (a) That the achievement charter school has made adequate
22 improvement in pupil achievement and school performance, the
23 governing body of the achievement charter school must decide
24 whether to:

25 (1) Convert to a public school under the governance of the
26 board of trustees of the school district in which the school is located;

27 (2) Seek to continue as a charter school subject to the
28 provisions of chapter 388A of NRS by applying to the board of
29 trustees of the school district in which the school is located, the
30 State Public Charter School Authority or a college or university
31 within the Nevada System of Higher Education to sponsor the
32 charter school pursuant to NRS 388A.220; or

33 (3) Remain an achievement charter school for at least 6 more
34 years.

35 (b) That the achievement charter school has not made adequate
36 improvement in pupil achievement and school performance, the
37 Department shall direct the Executive Director to notify the parent
38 or legal guardian of each pupil enrolled in the achievement charter
39 school that the achievement charter school has not made adequate
40 improvement in pupil achievement and school performance. Such
41 notice must include, without limitation, information regarding:

42 (1) Public schools which the pupil may be eligible to attend,
43 including, without limitation, charter schools, programs of distance
44 education offered pursuant to NRS 388.820 to 388.874, inclusive,



1 and alternative programs for the education of pupils at risk of
2 dropping out of school pursuant to NRS 388.537;

3 (2) The opportunity for the parent to establish an education
4 savings account pursuant to ~~[NRS 353B.850]~~ *section 25 of this act*
5 and enroll the pupil in a private school, have the pupil become an
6 opt-in child or provide for the education of the pupil in any other
7 manner authorized by ~~[NRS 353B.900]~~ *section 30 of this act*;

8 (3) Any other alternatives for the education of the pupil that
9 are available in this State; and

10 (4) The actions that may be considered by the Department
11 with respect to the achievement charter school and the manner in
12 which the parent may provide input.

13 2. Upon deciding that the achievement charter school has not
14 made adequate improvement in pupil achievement and school
15 performance pursuant to paragraph (b) of subsection 1, the
16 Department must decide whether to:

17 (a) Convert the achievement charter school to a public school
18 under the governance of the board of trustees of the school district
19 in which the school is located; or

20 (b) Continue to operate the school as an achievement charter
21 school for at least 6 more years.

22 3. If the Department decides to continue to operate a school as
23 an achievement charter school pursuant to subsection 2, the
24 Executive Director must:

25 (a) Terminate the contract with the charter management
26 organization, educational management organization or other person
27 that operated the achievement charter school;

28 (b) Enter into a contract with a different charter management
29 organization, educational management organization or other person
30 to operate the achievement charter school after complying with the
31 provisions of NRS 388B.210;

32 (c) Require the charter management organization, educational
33 management organization or other person with whom the Executive
34 Director enters into a contract to operate the achievement charter
35 school to appoint a new governing body of the achievement charter
36 school in the manner provided pursuant to NRS 388B.220, and must
37 not reappoint more than 40 percent of the members of the previous
38 governing body; and

39 (d) Evaluate the pupil achievement and school performance of
40 such a school at least each 3 years of operation thereafter.

41 4. If an achievement charter school is converted to a public
42 school under the governance of the board of trustees of a school
43 district pursuant to paragraph (a) of subsection 1, the board of
44 trustees must employ any teacher, administrator or paraprofessional
45 who wishes to continue employment at the school and meets the



1 requirements of chapter 391 of NRS to teach at the school. Any
2 administrator or teacher employed at such a school who was
3 employed by the board of trustees as a postprobationary employee
4 before the school was converted to an achievement charter school
5 and who wishes to continue employment at the school after it is
6 converted back into a public school must be employed as a
7 postprobationary employee.

8 5. If an achievement charter school becomes a charter school
9 sponsored by the school district in which the charter school is
10 located, the State Public Charter School Authority or a college or
11 university within the Nevada System of Higher Education pursuant
12 to paragraph (a) of subsection 1, the school is subject to the
13 provisions of chapter 388A of NRS and the continued operation of
14 the charter school in the building in which the school has been
15 operating is subject to the provisions of NRS 388A.378.

16 6. As used in this section, "postprobationary employee" has the
17 meaning ascribed to it in NRS 391.650.

18 **Sec. 8.** Chapter 388D of NRS is hereby amended by adding
19 thereto the provisions set forth as sections 9 to 33, inclusive, of this
20 act.

21 **Sec. 9.** *As used in NRS 388D.250 to 388D.280, inclusive, and*
22 *sections 9 to 33, inclusive, of this act, unless the context otherwise*
23 *requires, the words and terms defined in sections 10 to 18,*
24 *inclusive, of this act have the meanings ascribed to them in those*
25 *sections.*

26 **Sec. 10.** *"Account for Educational Choice" or "Account"*
27 *means the Account for Educational Choice created by section 22*
28 *of this act.*

29 **Sec. 11.** *"Director" means the Director of the Office of*
30 *Educational Choice.*

31 **Sec. 12.** *"Education savings account" means an account*
32 *established for a child pursuant to section 25 of this act.*

33 **Sec. 13.** *"Eligible institution" means:*

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

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

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

38 *and*

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

41 **Sec. 14.** *"Office of Educational Choice" or "Office" means*
42 *the Office of Educational Choice created by section 21 of this act.*

43 **Sec. 15.** *"Parent" means the parent, custodial parent, legal*
44 *guardian or other person in this State who has control or charge*
45 *of a child and the legal right to direct the education of the child.*



1 **Sec. 16.** *“Participating entity” means a person who has been*
2 *approved by the Director pursuant to section 30 of this act to serve*
3 *as a participating entity pursuant to sections 19 to 33, inclusive, of*
4 *this act.*

5 **Sec. 17.** *“Program of distance education” has the meaning*
6 *ascribed to it in NRS 388.829.*

7 **Sec. 18.** *“Resident school district” means the school district*
8 *in which a child would be enrolled based on his or her residence.*

9 **Sec. 19.** *In enacting sections 19 to 33, inclusive, of this act, it*
10 *is the intent of the Legislature to provide additional resources for*
11 *the support of education and assist parents, including, without*
12 *limitation, the parents of children who are pupils with disabilities*
13 *and parents in low-income households, in meeting the unique*
14 *educational needs of the children in their care.*

15 **Sec. 20.** *The Director shall adopt any regulations necessary*
16 *or convenient to carry out the provisions of sections 19 to 33,*
17 *inclusive, of this act.*

18 **Sec. 21.** *1. The Office of Educational Choice is hereby*
19 *created within the Department.*

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

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

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

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

27 **3.** *The Director may, with the approval of the Superintendent*
28 *of Public Instruction and within the limits of legislative*
29 *appropriation, appoint and fix the compensation of such assistants*
30 *as are necessary to enable the Director to carry out the duties*
31 *assigned pursuant to this section. Any such assistant is in the*
32 *classified service of the State.*

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

34 *(a) The provisions of sections 19 to 33, inclusive, of this act,*
35 *and all other provisions of law relating to the functions of the*
36 *Office; and*

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

39 **Sec. 22.** *1. The Account for Educational Choice is hereby*
40 *created in the State General Fund. The Director shall administer*
41 *the Account.*

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

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



1 ***(b) Unexpended appropriations made to the Account from the***
2 ***State General Fund,***

3 ***↪ must be credited to the Account.***

4 ***3. The money in the Account may be used by the Director***
5 ***only to make grants pursuant to sections 19 to 33, inclusive, of this***
6 ***act, to pay for the administrative costs of the Office of Educational***
7 ***Choice and for any other purpose authorized by the Legislature,***
8 ***and is hereby authorized for expenditure as a continuing***
9 ***appropriation for such purposes.***

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

13 ***5. Any money remaining in the Account at the end of a fiscal***
14 ***year, including, without limitation, any unexpended***
15 ***appropriations made to the Account from the State General Fund***
16 ***does not revert to the State General Fund, and the balance in the***
17 ***Account from gifts and grants must be carried forward to the next***
18 ***fiscal year.***

19 ***6. Support for the Account must be provided by legislative***
20 ***appropriation from the State General Fund together with all***
21 ***money derived from other sources authorized by law to be***
22 ***deposited in the Account.***

23 ***Sec. 23. 1. For any school year, the Director shall not enter***
24 ***into an agreement with or make a grant of money to a first-time***
25 ***applicant in a school district after the total number of first-time***
26 ***applicants in the school district to whom grants are made for that***
27 ***school year pursuant to sections 19 to 33, inclusive, of this act***
28 ***equals or exceeds 5 percent of the average daily enrollment of***
29 ***pupils in that school district for the quarter that was reported on***
30 ***or before October 1 of the immediately preceding school year by***
31 ***the school district to the Department of Education pursuant to***
32 ***NRS 387.1223.***

33 ***2. If more applications for grants are received in a school***
34 ***year from qualified first-time applicants in a school district than***
35 ***the maximum number authorized for approval in that school***
36 ***district for that school year pursuant to subsection 1, grants must***
37 ***be awarded in the order of the number assigned to the agreement***
38 ***entered into pursuant to section 25 of this act.***

39 ***3. As used in this section, "first-time applicant" means an***
40 ***applicant who has not received a grant of money pursuant to***
41 ***sections 19 to 33, inclusive, of this act during any part of the***
42 ***immediately preceding school year.***

43 ***Sec. 24. 1. The administrative and operating budget to***
44 ***carry out the provisions of sections 19 to 33, inclusive, of this act***
45 ***and any changes made to the budget must be submitted by the***



1 *Director for approval in the manner prescribed by the State*
2 *Budget Act.*

3 2. *On or before September 1 of each even-numbered year, the*
4 *Director shall prepare and submit to the Chief of the Budget*
5 *Division of the Office of Finance an estimate of the expenditure*
6 *requirements to carry out the provisions of sections 19 to 33,*
7 *inclusive, of this act for each of the next 2 fiscal years. The*
8 *estimate must be classified according to the projected number of*
9 *recipients of grants in each fiscal year who are pupils with a*
10 *disability, as defined in NRS 388.417, children with a household*
11 *income that is less than 185 percent of the federally designated*
12 *level signifying poverty, and all other recipients.*

13 **Sec. 25.** 1. *Except as otherwise provided in this section, the*
14 *parent of any child may apply to the Director to establish an*
15 *education savings account if one of the following requirements is*
16 *satisfied:*

17 (a) *The child is required by NRS 392.040 to attend a public*
18 *school and has been enrolled in a public school in this State*
19 *during the period immediately preceding the establishment of an*
20 *education savings account pursuant to this section for not less*
21 *than two consecutive quarters of the school year, or, if the child*
22 *has been enrolled in a public school in this State that uses a*
23 *system of enrollment other than quarters, for a number of school*
24 *days equivalent to two consecutive quarters of public school, as*
25 *determined by the Director.*

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

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

33 2. *A parent may not apply to establish an education savings*
34 *account for a child who will be homeschooled or who will remain*
35 *enrolled full-time in a public school, regardless of whether such a*
36 *child receives instruction from a participating entity. A parent may*
37 *establish an education savings account for a child who receives a*
38 *portion of his or her instruction from a public school and a*
39 *portion of his or her instruction from a participating entity.*

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



1 4. *Except as otherwise provided in this section, the Director*
2 *shall enter into or renew an agreement with the parent of a child*
3 *for the establishment of an education savings account if the child*
4 *satisfies the requirements of this section and the parent applies to*
5 *the Director in the manner provided by the Director. The Director*
6 *shall make the application available on the Internet website of the*
7 *Office of Educational Choice.*

8 5. *A number must be assigned to each agreement that is*
9 *entered into pursuant to this section which corresponds to the*
10 *order in which the application is approved. The number assigned*
11 *to an agreement remains the same with any renewal to the*
12 *agreement, except that if an agreement is not renewed for a school*
13 *year for any reason other than lack of adequate money in the*
14 *Account for Educational Choice, a new number must be assigned*
15 *if it is later renewed as though it were a new agreement.*

16 6. *An agreement entered into pursuant to this section must*
17 *include a copy of the provisions of sections 19 to 33, inclusive, of*
18 *this act and the requirements set forth therein must be included as*
19 *requirements in the agreement.*

20 7. *An agreement entered into pursuant to this section is valid*
21 *for 1 school year but may be terminated early. If the agreement is*
22 *terminated early, the child may not receive instruction from a*
23 *public school in this State until the end of the period for which the*
24 *last deposit was made into the education savings account pursuant*
25 *to section 27 of this act, except to the extent the pupil was allowed*
26 *to receive instruction from a public school under the agreement.*

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

31 9. *The Director shall provide to a parent who enters into or*
32 *renews an agreement pursuant to this section a written*
33 *explanation of the authorized uses, pursuant to section 28 of this*
34 *act, of the money in an education savings account and the*
35 *responsibilities of the parent and the Director pursuant to the*
36 *agreement and sections 19 to 33, inclusive, of this act.*

37 10. *An agreement entered into with the Director pursuant to*
38 *this section and the establishment of an education savings account*
39 *pursuant to section 27 of this act do not guarantee a grant of*
40 *money or that money will be deposited into the account except to*
41 *the extent of legislative appropriation and authorization. No*
42 *agreement may obligate the State to make a grant of money in*
43 *excess of the amount appropriated or authorized by law for that*
44 *purpose.*



1 *11. Any agreement that violates any of the provisions of*
2 *sections 19 to 33, inclusive, of this act, or a regulation adopted*
3 *pursuant thereto is void.*

4 **Sec. 26.** 1. *A parent may enter into a separate agreement*
5 *pursuant to section 25 of this act for each child of the parent. Not*
6 *more than one education savings account may be established for a*
7 *child.*

8 2. *The failure of a parent to enter into an agreement to*
9 *establish an education savings account for his or her child*
10 *pursuant to section 25 of this act for any school year for which the*
11 *child is required by NRS 392.040 to attend a public school in this*
12 *State or is eligible to be enrolled in a public school in this State*
13 *does not preclude the parent of the child from entering into an*
14 *agreement for a subsequent school year.*

15 3. *An agreement entered into pursuant to section 25 of this*
16 *act may be renewed for any school year for which the child is*
17 *required by NRS 392.040 to attend a public school in this State or*
18 *is eligible to be enrolled in a public school in this State. Failure to*
19 *renew an agreement for any school year does not preclude the*
20 *parent of the child from renewing the agreement for any*
21 *subsequent school year.*

22 **Sec. 27.** 1. *If an agreement is entered into pursuant to*
23 *section 25 of this act, an education savings account must be*
24 *established by the parent on behalf of the child. The account must*
25 *be maintained with a financial management firm qualified by the*
26 *Director pursuant to section 29 of this act.*

27 2. *Within the limits of legislative appropriation and*
28 *authorization, if a parent enters into or renews such an*
29 *agreement, a grant of money on behalf of the child must be*
30 *deposited by the Director into the education savings account of the*
31 *child.*

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

35 (a) *For a child who is a pupil with a disability, as defined in*
36 *NRS 388.417, or a child with a household income that is less than*
37 *185 percent of the federally designated level signifying poverty,*
38 *100 percent of the statewide average basic support per pupil; and*

39 (b) *For all other children, 90 percent of the statewide average*
40 *basic support per pupil.*

41 4. *If a child receives a portion of his or her instruction from a*
42 *participating entity and a portion of his or her instruction from a*
43 *public school, for the school year for which the grant is made, the*
44 *grant required by subsection 1 must be a pro rata amount based*
45 *on the percentage of the total instruction provided to the child by*



1 *the participating entity in proportion to the total instruction*
2 *provided to the child by the public school and the participating*
3 *entity.*

4 *5. If there are more applications for grants for a school year*
5 *than there is money available, grants must be awarded in the order*
6 *of the number assigned to the agreement entered into pursuant to*
7 *section 25 of this act. An agreement which is not renewed because*
8 *there is not enough money to award the grant retains the number*
9 *assigned to the agreement and priority for future grants.*

10 *6. The Director may deduct not more than 3 percent of each*
11 *grant for the administrative costs of implementing the provisions*
12 *of sections 19 to 33, inclusive, of this act.*

13 *7. The Director shall deposit the money for each grant in*
14 *quarterly installments pursuant to a schedule determined by the*
15 *Director.*

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

17 *(a) At the end of a school year may be carried forward to the*
18 *next school year if the agreement entered into pursuant to section*
19 *25 of this act is renewed.*

20 *(b) After an agreement entered into pursuant to section 25 of*
21 *this act is not renewed or is terminated because the child for whom*
22 *the account was established graduates from high school or for any*
23 *other reason, reverts to the Account for Educational Choice at the*
24 *end of the last day of the agreement.*

25 **Sec. 28. 1. Money deposited in an education savings**
26 **account must be used only to pay for:**

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

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

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

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

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

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

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



1 (h) Textbooks required for the child at an eligible institution
2 that is a participating entity or to receive instruction from any
3 other participating entity;

4 (i) Fees for the management of the education savings account,
5 as described in section 29 of this act;

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

9 (k) Purchasing a curriculum or any supplemental materials
10 required to administer the curriculum.

11 2. A participating entity that receives a payment authorized by
12 subsection 1 shall not:

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

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

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

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

25 **Sec. 29. 1.** The Director shall qualify one or more private
26 financial management firms to manage education savings
27 accounts and shall establish reasonable fees, based on market
28 rates, for the management of education savings accounts.

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

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

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

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

42 **Sec. 30. 1.** The following persons may become a
43 participating entity by submitting an application demonstrating
44 that the person is:



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

3 (b) An eligible institution;

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

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

8 (e) The parent of a child; or

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

12 2. The Director shall approve an application submitted
13 pursuant to subsection 1 or request additional information to
14 demonstrate that the person meets the criteria to serve as a
15 participating entity. If the applicant is unable to provide such
16 additional information, the Director may deny the application.

17 3. If it is reasonably expected that a participating entity will
18 receive, from payments made from education savings accounts,
19 more than \$50,000 during any school year, the participating entity
20 shall annually, on or before the date prescribed by the Director by
21 regulation:

22 (a) Post a surety bond in an amount equal to the amount
23 reasonably expected to be paid to the participating entity from
24 education savings accounts during the school year; or

25 (b) Provide evidence satisfactory to the Director that the
26 participating entity otherwise has unencumbered assets sufficient
27 to pay to the Director an amount equal to the amount described in
28 paragraph (a).

29 4. Each participating entity that accepts payments made from
30 education savings accounts shall provide a receipt for each such
31 payment to the parent who makes the payment.

32 5. The Director may refuse to allow an entity described in
33 subsection 1 to continue to participate in the grant program
34 pursuant to sections 19 to 33, inclusive, of this act if the Director
35 determines that the entity:

36 (a) Has routinely failed to comply with the provisions of
37 sections 19 to 33, inclusive, of this act; or

38 (b) Has failed to provide any educational services required by
39 law to a child receiving instruction from the entity if the entity is
40 accepting payments made from the education savings account of
41 the child.

42 6. If the Director takes an action described in subsection 5
43 against an entity described in subsection 1, the Director shall
44 provide immediate notice of the action to each parent of a child
45 receiving instruction from the entity who has entered into or



1 renewed an agreement pursuant to section 25 of this act and on
2 behalf of whose child a grant of money has been deposited
3 pursuant to section 27 of this act.

4 **Sec. 31. 1. Each participating entity that accepts payments**
5 **for tuition and fees made from education savings accounts shall:**

6 (a) *Ensure that each child on whose behalf a grant of money*
7 *has been deposited pursuant to section 27 of this act and who is*
8 *receiving instruction from the participating entity takes:*

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

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

14 (b) *Provide for value-added assessments of the results of the*
15 *examinations described in paragraph (a); and*

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

21 2. *The Department of Education shall:*

22 (a) *Aggregate the examination results provided pursuant to*
23 *subsection 1 according to the grade level, gender, race and family*
24 *income level of each child whose examination results are*
25 *provided; and*

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

29 (1) *The aggregated results and any associated learning*
30 *gains; and*

31 (2) *After 3 school years for which examination data has*
32 *been collected, the graduation rates, as applicable, of children*
33 *whose examination results are provided.*

34 3. *The Director shall administer an annual survey of parents*
35 *who enter into or renew an agreement pursuant to section 25 of*
36 *this act. The survey must ask each parent to indicate the number*
37 *of years the parent has entered into or renewed such an agreement*
38 *and to express:*

39 (a) *The relative satisfaction of the parent with the grant*
40 *program established pursuant to sections 19 to 33, inclusive, of*
41 *this act; and*

42 (b) *The opinions of the parent regarding any topics, items or*
43 *issues that the Director determines may aid the Director in*
44 *evaluating and improving the effectiveness of the grant program*
45 *established pursuant to sections 19 to 33, inclusive, of this act.*



1 **4. The Department may arrange for a third-party**
2 **organization to perform the duties of the Department prescribed**
3 **by this section.**

4 **Sec. 32. 1. The Director shall annually make available a**
5 **list of participating entities, other than any parent of a child.**

6 **2. Subject to the Family Educational Rights and Privacy Act**
7 **of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant**
8 **thereto, the Department shall annually require the resident school**
9 **district of each child on whose behalf a grant of money is made**
10 **pursuant to section 27 of this act to provide to the participating**
11 **entity any educational records of the child.**

12 **Sec. 33. Except as otherwise provided in sections 19 to 33,**
13 **inclusive, of this act, nothing in the provisions of sections 19 to 33,**
14 **inclusive, of this act shall be deemed to limit the independence or**
15 **autonomy of a participating entity or to make the actions of a**
16 **participating entity the actions of the State Government.**

17 **Sec. 34. NRS 388D.110 is hereby amended to read as follows:**

18 388D.110 1. The parent of an opt-in child shall provide
19 notice to the school district where the child would otherwise attend
20 or the charter school in which the child was previously enrolled, as
21 applicable, that the child is an opt-in child as soon as practicable
22 after entering into an agreement to establish an education savings
23 account pursuant to ~~[NRS 353B.850.]~~ **section 25 of this act.** Such
24 notice must also include:

25 (a) The full name, age and gender of the child; and

26 (b) The name and address of each parent of the child.

27 2. The superintendent of schools of a school district or the
28 governing body of a charter school, as applicable, shall accept a
29 notice provided pursuant to subsection 1 and shall not require any
30 additional assurances from the parent who filed the notice.

31 3. The school district or the charter school, as applicable, shall
32 provide to a parent who files a notice pursuant to subsection 1, a
33 written acknowledgment which clearly indicates that the parent has
34 provided the notification required by law and that the child is an
35 opt-in child. The written acknowledgment shall be deemed proof of
36 compliance with Nevada's compulsory school attendance law.

37 **Sec. 35. NRS 388D.270 is hereby amended to read as follows:**

38 388D.270 1. A scholarship organization must:

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

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

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



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

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

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

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

16 2. The maximum amount of a grant provided by the
17 scholarship organization pursuant to paragraph (e) of subsection 1
18 must be adjusted on July 1 of each year for the fiscal year beginning
19 that day and ending June 30 in a rounded dollar amount
20 corresponding to the percentage of increase in the Consumer Price
21 Index (All Items) published by the United States Department of
22 Labor for the preceding calendar year. On May 1 of each year, the
23 ~~Department of Education~~ *Director* shall determine the amount of
24 increase required by this subsection, establish the adjusted amounts
25 to take effect on July 1 of that year and notify each scholarship
26 organization of the adjusted amounts. The ~~Department of~~
27 ~~Education~~ *Director* shall also post the adjusted amounts on ~~its~~ *the*
28 Internet website ~~of the Office of Educational Choice~~.

29 3. A grant provided on behalf of a pupil pursuant to subsection
30 1 must be paid directly to the school chosen by the parent or legal
31 guardian of the pupil.

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

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

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

41 5. Each school in which a pupil is enrolled for whom a grant is
42 provided by a scholarship organization shall maintain a record of the
43 academic progress of the pupil. The record must be maintained in
44 such a manner that the information may be aggregated and reported



1 for all such pupils if reporting is required by the regulations of the
2 ~~[Department of Education.]~~ *Director*.

3 6. The ~~[Department of Education:]~~ *Director*:

4 (a) Shall adopt regulations prescribing the contents of and
5 procedures for applications for grants provided pursuant to
6 subsection 1.

7 (b) May adopt such other regulations as the ~~[Department]~~
8 *Director* determines necessary to carry out the provisions of this
9 section.

10 7. As used in this section, "private school" has the meaning
11 ascribed to it in NRS 394.103.

12 **Sec. 36.** NRS 388D.280 is hereby amended to read as follows:

13 388D.280 A scholarship organization which receives a
14 donation, gift or grant of money described in NRS 388D.270 shall
15 report to the ~~[Department of Education.]~~ *Director* on or before
16 January 31 of each year, on a form prescribed by the ~~[Department:]~~
17 *Director*:

18 1. The name, address and contact information of the
19 scholarship organization;

20 2. The total number of such donations, gifts and grants
21 received by the scholarship organization during the immediately
22 preceding calendar year;

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

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

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

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

32 (a) The name and address of the school;

33 (b) The number of pupils enrolled in the school for whom such a
34 grant was made; and

35 (c) The total dollar amount of such grants provided for pupils
36 enrolled in the school.

37 **Sec. 37.** NRS 392.033 is hereby amended to read as follows:

38 392.033 1. The State Board shall adopt regulations which
39 prescribe the courses of study required for promotion to high school,
40 including, without limitation, English language arts, mathematics,
41 science and social studies. The regulations may include the credits
42 to be earned in each course.

43 2. Except as otherwise provided in subsection 4, the board of
44 trustees of a school district shall not promote a pupil to high school
45 if the pupil does not complete the course of study or credits required



1 for promotion. The board of trustees of the school district in which
2 the pupil is enrolled may provide programs of remedial study to
3 complete the courses of study required for promotion to high school.

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

9 4. The board of trustees of each school district shall adopt a
10 policy that allows a pupil who has not completed the courses of
11 study or credits required for promotion to high school to be placed
12 on academic probation and to enroll in high school. A pupil who is
13 on academic probation pursuant to this subsection shall complete
14 appropriate remediation in the subject areas that the pupil failed to
15 pass. The policy must include the criteria for eligibility of a pupil to
16 be placed on academic probation. A parent or guardian may elect
17 not to place his or her child on academic probation but to remain in
18 grade 8.

19 5. A homeschooled child or opt-in child who enrolls in a public
20 high school shall, upon initial enrollment:

21 (a) Provide documentation sufficient to prove that the child has
22 successfully completed the courses of study required for promotion
23 to high school through an accredited program of homeschool study
24 recognized by the board of trustees of the school district or from a
25 participating entity, as applicable;

26 (b) Demonstrate proficiency in the courses of study required for
27 promotion to high school through an examination prescribed by the
28 board of trustees of the school district; or

29 (c) Provide other proof satisfactory to the board of trustees of
30 the school district demonstrating competency in the courses of study
31 required for promotion to high school.

32 6. As used in this section, "participating entity" has the
33 meaning ascribed to it in ~~NRS 353B.750.~~ *section 16 of this act.*

34 **Sec. 38.** 1. There is hereby appropriated from the State
35 General Fund to the Office of Educational Choice created by section
36 21 of this act for expenses to administer the Education Savings
37 Account Program pursuant to sections 19 to 33, inclusive, of this act
38 and the Educational Choice Scholarship Program the following
39 sums:

40	For the Fiscal Year 2019-2020	\$723,646
41	For the Fiscal Year 2020-2021	\$891,444

42 2. There is hereby appropriated from the State General Fund to
43 the Office of Educational Choice created by section 21 of this act to
44 be used only for grants made pursuant to sections 19 to 33,
45 inclusive, of this act the following sums:



1 For the Fiscal Year 2019-2020..... \$24,276,354
 2 For the Fiscal Year 2020-2021..... \$34,108,556

3 3. The sums appropriated by subsection 1 are available for
 4 either fiscal year. Any remaining balance of those sums must not be
 5 committed for expenditure after June 30, 2021, by the entity to
 6 which the appropriation is made or any entity to which money from
 7 the appropriation is granted or otherwise transferred in any manner,
 8 and any portion of the appropriated money remaining must not be
 9 spent for any purpose after September 17, 2021, by either the entity
 10 to which the money was appropriated or the entity to which the
 11 money was subsequently granted or transferred, and must be
 12 reverted to the State General Fund on or before September 17, 2021.

13 **Sec. 39.** The provisions of subsection 1 of NRS 218D.380 do
 14 not apply to any provision of this act which adds or revises a
 15 requirement to submit a report to the Legislature.

16 **Sec. 40.** For the purposes of section 23 of this act, and
 17 notwithstanding the provisions of that section, the limitation on the
 18 total number of first-time applicants in any school district for whom
 19 a grant may be made pursuant to sections 19 to 33, inclusive, of this
 20 act for the 2019-2020 school year must be calculated on the basis of
 21 the average daily enrollment of pupils for the quarter in the 2018-
 22 2019 school year that was reported on or before July 1, 2019, by the
 23 school district to the Department of Education pursuant to NRS
 24 387.1223. As used in this section, "first-time applicant" has the
 25 meaning ascribed to it in section 23 of this act.

26 **Sec. 41.** 1. Any regulations adopted by the State Treasurer to
 27 carry out the provisions of NRS 353B.700 to 353B.930, inclusive,
 28 before the effective date of this section remain in force until
 29 amended by the Director of the Office of Educational Choice
 30 created by section 21 of this act. The regulations may be enforced
 31 by the Director as though the Director had adopted the regulations.

32 2. Any contract or other agreement entered into by the State
 33 Treasurer relating to the provisions of NRS 353B.700 to 353B.930,
 34 inclusive, before the effective date of this section is binding upon
 35 the Office of Educational Choice.

36 3. As soon as practicable after the effective date of this section,
 37 the State Treasurer shall:

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

41 (b) Transfer the agreements, all information and data relating to
 42 the agreements and any other documents or information requested
 43 by the Director.

44 **Sec. 42.** NRS 353B.700, 353B.710, 353B.720, 353B.730,
 45 353B.740, 353B.750, 353B.760, 353B.770, 353B.820, 353B.850,



1 353B.860, 353B.870, 353B.880, 353B.900, 353B.910, 353B.920
2 and 353B.930 are hereby repealed.

3 **Sec. 43.** 1. This section and sections 1 to 22, inclusive, 24 to
4 39, inclusive, 41 and 42 of this act become effective upon passage
5 and approval.

6 2. Section 23 of this act becomes effective upon passage and
7 approval for the purpose of adopting any regulations and performing
8 any other preparatory administrative tasks that are necessary to carry
9 out the provisions of that section, and on July 1, 2019, for all other
10 purposes.

11 3. Section 40 of this act becomes effective on July 1, 2019.

LEADLINES OF REPEALED SECTIONS

353B.700 Definitions.

353B.710 “Education savings account” defined.

353B.720 “Eligible institution” defined.

353B.730 “Opt-in child” defined.

353B.740 “Parent” defined.

353B.750 “Participating entity” defined.

353B.760 “Program of distance education” defined.

353B.770 “Resident school district” defined.

353B.820 Regulations.

353B.850 Establishment of account; requirements; termination and renewal of agreement to establish account; prohibition against establishing account for child attending school outside this State or homeschooled child.

353B.860 Grant of money required to be deposited in account; amount of grant; deduction of administrative costs; money remaining in account carries forward if written agreement renewed.

353B.870 Limitations on use of money deposited in account; refunds and rebates.

353B.880 Management of account; annual audits; State Treasurer authorized to take action upon determination of substantial misuse of money in account.

353B.900 Participating entity: Application; criteria; requirements; authority of State Treasurer to terminate status as participating entity.

353B.910 Participating entity required to ensure children take certain examinations; aggregation of examination results; annual survey.



353B.920 Annual list of participating entities; resident school district required to provide educational records to participating entity.

353B.930 Autonomy of participating entity not limited; actions of participating entity not actions of State Government.

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