SENATE BILL NO. 302—SENATOR HAMMOND

MARCH 16, 2015

Referred to Committee on Education

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

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

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

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

Section 7 of this bill authorizes the parent of any child required to attend school to enter into an agreement with the Department of Education, according to which the child will be enrolled in a private school and receive the grant. Each agreement is valid for 1 school year and may be renewed for any subsequent school year. Not entering into or renewing an agreement for any given school year does not preclude the parent from entering into or renewing an agreement for any subsequent year. If such an agreement is entered into, an education savings account must be opened by the parent on behalf of the child. Under section 8 of this bill, for any...
school year for which the agreement is entered into or renewed, the Department
must deposit the amount of the grant into the education savings account. Under
section 16 of this bill, the amount of the grant must be deducted from the total
apportionment to the resident school district of the child on whose behalf the grant
is made. The Department may deduct from the amount of the grant not more than 3
percent for the administrative costs of implementing the provisions of this bill.

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

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

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

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

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

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

Section 1. Chapter 385 of NRS is hereby amended by adding
thereto the provisions set forth as sections 2 to 15, inclusive, of this
act.
Sec. 2. As used in sections 2 to 15, inclusive, of this act,
unless the context otherwise requires, the words and terms defined
in sections 2 to 6, inclusive, of this act have the meanings ascribed
to them in those sections.
Sec. 3. “Education savings account” means an account
established for a child pursuant to section 7 of this act.
Sec. 4. “Parent” has the meaning ascribed to it in
NRS 392.700.
Sec. 5. “Participating school” means a private school
licensed pursuant to chapter 394 of NRS, the governing body of
which has provided to the Department the notification described in
subsection 1 of section 11 of this act.
Sec. 6. “Resident school district” means the school district in which a child would be enrolled based on his or her residence.

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

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

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

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

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

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

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

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

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

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

8. Upon entering into or renewing an agreement pursuant to subsection 1 or 4, the Department shall provide to the parent who enters into or renews the agreement a written explanation of the
authorized uses, pursuant to section 9 of this act, of the money in
an education savings account and the responsibilities of the parent
and the Department pursuant to the agreement and sections 2 to
15, inclusive, of this act.

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

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

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

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

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

Sec. 9. 1. Money deposited in an education savings account
must be used only to pay for:
(a) Tuition and fees at the participating school in which the
child on whose behalf the money is deposited is enrolled;
(b) Textbooks required for the child at the participating
school;
(c) Tutoring or other teaching services provided by a person or
facility accredited to provide tutoring or other teaching services by
a state, regional or national accrediting organization;
(d) Tuition and fees for an online education program, if the
program is not offered by a public school or the Department;
(e) Fees for any national norm-referenced achievement
examination, advanced placement or similar examination or
standardized examination required for admission to a college or
university;
(f) Payments to the Nevada Higher Education Prepaid Tuition
Trust Fund created by NRS 353B.140 pursuant to a prepaid
tuition contract entered into on behalf of the child or the Nevada
College Savings Trust Fund created by NRS 353B.340 pursuant to
a savings trust agreement entered into on behalf of the child;
(g) If the child is a pupil with a disability, as that term is defined in NRS 388.440, fees for any special instruction or special services provided to the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11. 1. The governing body of a private school licensed pursuant to chapter 394 may notify the Department, in a manner provided for by the Department, that the governing body desires to participate in the grant program provided for in sections 2 to 15, inclusive, of this act by accepting payments for tuition and fees.
made from education savings accounts and otherwise complying
with the provisions of sections 2 to 15, inclusive, of this act.

2. If it is reasonably expected that a participating school will
receive, from payments made from education savings accounts,
more than $50,000 during any school year, the participating
school shall annually, on or before the date prescribed by the
Department by regulation:
   (a) Post a surety bond in an amount equal to the amount
reasonably expected to be paid to the participating school from
tuition payments made from education savings accounts during the school year; or
   (b) Provide evidence satisfactory to the Department that the
participating school otherwise has unencumbered assets sufficient
to pay to the Department an amount equal to the amount
described in paragraph (a).

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

4. The Department may refuse to allow a private school
licensed pursuant to chapter 394 to participate or continue to
participate in the grant program provided for in sections 2 to 15,
inclusive, of this act if the Department determines that the private
school:
   (a) Has routinely failed to comply with the provisions of
sections 2 to 15, inclusive, of this act; or
   (b) Has failed to provide any educational services required by
law to a child enrolled at the private school if the school is
accepting payments made from the education savings account of
the child.

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

Sec. 12. 1. Each participating school that accepts payments
for tuition and fees made from education savings accounts shall:
   (a) Ensure that each child on whose behalf a grant of money
has been deposited pursuant to section 8 of this act and who is
enrolled in the participating school takes:
      (1) Any examinations in mathematics and English
language arts required for pupils of the same grade pursuant to
chapter 389 of NRS; or
      (2) Norm-referenced achievement examinations in
mathematics and English language arts each school year;
(b) Provide for value-added assessments of the results of the examinations described in paragraph (a); and

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

2. The Department shall:
   (a) Aggregate the examination results provided pursuant to subsection 1 according to the grade level, gender, race and family income level of each child whose examination results are provided; and
   (b) Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, make available on the Internet website of the Department:
      (1) The aggregated results and any associated learning gains; and
      (2) After 3 school years for which examination data has been collected, the graduation rates, as applicable, of children whose examination results are provided.

3. The Department shall administer an annual survey of parents who enter into or renew an agreement pursuant to section 7 of this act. The survey must ask each parent to indicate the number of years the parent has entered into or renewed such an agreement and to express:
   (a) The relative satisfaction of the parent with the grant program established pursuant to sections 2 to 15, inclusive, of this act; and
   (b) The opinions of the parent regarding any topics, items or issues that the Department determines may aid the Department in evaluating and improving the effectiveness of the grant program established pursuant to sections 2 to 15, inclusive, of this act.

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

Sec. 13. The Department shall:

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

2. Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, require the resident school district of each child on whose behalf a grant of money is made pursuant to section 8 of this act to provide to the participating school in which the child enrolls any educational records of the child.
Sec. 14. Except as otherwise provided in sections 2 to 15, inclusive, of this act, nothing in the provisions of sections 2 to 15, inclusive, of this act, shall be deemed to limit the independence or autonomy of a participating school or to make the actions of a participating school the actions of the State Government.

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

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

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

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

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

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

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

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

6. Except as otherwise provided in NRS 387.1244, the apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school.
governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

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

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

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