

Senate Bill No. 178—Senators Denis; and Woodhouse

Joint Sponsors: Assemblymen Diaz and Thompson

CHAPTER.....

AN ACT relating to education; replacing the term “limited English proficient” with the term “English learner” for consistency with federal law; creating the Account for the New Nevada Education Funding Plan; providing for the distribution of money from the Account for the support of certain pupils who perform below a designated level of proficiency and are English learners or eligible for a free or reduced-price lunch; prescribing the purposes for which such money may be used; requiring the collection and reporting of certain information relating to the use of such money; requiring the Department of Education to contract with an independent consultant to research issues relating to certain categories of pupils; making appropriations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under the Federal Every Student Succeeds Act, which reauthorized the Elementary and Secondary Education Act of 1965, the term “limited English proficient” was replaced with “English learner.” (20 U.S.C. § 7801(20)) **Section 1** of this bill makes conforming changes to existing law to replace the term “limited English proficient” with “English learner.” (NRS 385.007)

Existing law declares that “the proper objective of state financial aid to public education is to ensure each Nevada child a reasonably equal educational opportunity.” (NRS 387.121) To accomplish this objective, the Legislature establishes, during each legislative session and for each school year of the biennium, an estimated statewide average basic support guarantee per pupil. (NRS 387.122) This is the per pupil amount that is “guaranteed” on a statewide basis through a combination of state money and certain local revenues. The basic support guarantee for each school district is computed by multiplying the basic support guarantee per pupil that is established by law for the school district for each school year by pupil enrollment. (NRS 387.121-387.1223)

Commencing with Fiscal Year 2016-2017, the Legislature stated its intent to provide school districts and charter schools with additional resources expressed as a multiplier of the basic support guarantee, to meet the unique needs of certain categories of pupils, including pupils with disabilities, pupils who are English learners, pupils who are at risk and gifted and talented pupils. These additional resources are expressed as a multiplier of the basic support guarantee per pupil. (NRS 387.121, 388.429)

Sections 7-11 of this bill provide school districts and charter schools with additional resources on a per pupil basis. Specifically, **section 7** of this bill creates the Account for the New Nevada Education Funding Plan and requires the money in the Account to be used for public schools and public education in the manner set forth in **sections 7-11**. **Section 8** of this bill distributes the money in the Account to public schools for the support of pupils enrolled in each public school who: (1) are English learners or eligible for a free or reduced-price lunch; (2) scored at or below



the 25th percentile on certain assessments of proficiency; (3) are not enrolled at a Zoom school or Victory school; and (4) do not have an individualized education program. If an insufficient amount of money exists in the Account to provide \$1,200 for each such pupil in each public school in this State, **section 8** requires money to be distributed first to the lowest performing public schools.

Section 9 of this bill prescribes the services for which money received from the Account may be used. To the extent that a use of money from the Account by a public school creates the capacity to serve pupils in addition to those for whom the money was provided, **section 9** authorizes a public school to serve additional pupils who scored at or below the 25th percentile on certain assessments of proficiency. **Section 9** requires a public school to consult with the staff of the school district in which the public school is located to coordinate the use of money from the Account to maximize the efficient use of such money. **Section 9** also requires a public school to consult with parents and guardians of pupils enrolled in the public school and develop a plan for the use of money from the Account.

Section 10 of this bill prescribes the assessments of proficiency used to determine whether a pupil qualifies for the distribution of money from the Account. **Section 11** of this bill requires the Department of Education to prescribe annual measurable objectives and performance targets for public schools that receive money from the Account and requires each such school to submit a report to the school district in which the public school is located measuring the effectiveness of the public school in providing services using money from the Account. **Section 11** also requires the submission of such information to the Department for evaluation by an independent evaluator.

Section 14 of this bill requires the Department to contract with an independent consultant to perform research relating to certain categories of pupils and the appropriate funding adjustments for such pupils.

Section 13 of this bill provides an appropriation to the Account for the New Nevada Education Funding Plan for the upcoming biennium and an appropriation to the Department for the costs of the independent consultant selected by the Department pursuant to **section 14**.

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

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

Section 1. NRS 385.007 is hereby amended to read as follows:

385.007 As used in this title, unless the context otherwise requires:

1. “Achievement charter school” means a public school operated by a charter management organization, as defined in NRS 388B.020, an educational management organization, as defined in NRS 388B.030, or other person pursuant to a contract with the Achievement School District pursuant to NRS 388B.210 and subject to the provisions of chapter 388B of NRS.

2. “Department” means the Department of Education.



3. *“English learner” has the meaning ascribed to it in 20 U.S.C. § 7801(20).*

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

~~4. “Limited English proficient” has the meaning ascribed to it in 20 U.S.C. § 7801(25).†~~

5. “Opt-in child” means a child for whom an education savings account has been established pursuant to NRS 353B.850, who is not enrolled full-time in a public or private school and who receives all or a portion of his or her instruction from a participating entity, as defined in NRS 353B.750.

6. “Public schools” means all kindergartens and elementary schools, junior high schools and middle schools, high schools, charter schools and any other schools, classes and educational programs which receive their support through public taxation and, except for charter schools, whose textbooks and courses of study are under the control of the State Board.

7. “State Board” means the State Board of Education.

8. “University school for profoundly gifted pupils” has the meaning ascribed to it in NRS 388C.040.

Secs. 2-5. (Deleted by amendment.)

Sec. 6. Chapter 387 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 11, inclusive, of this act.

Sec. 7. 1. *The Account for the New Nevada Education Funding Plan is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2. The interest and income earned on the sum of:*

(a) The money in the Account; and

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

↪ must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.



2. *The money in the Account may only be used for public schools and public education pursuant to sections 7 to 11, inclusive, of this act.*

3. *The board of trustees of each school district and the sponsor of each charter school shall establish a special revenue fund and direct that the money the board of trustees or sponsor receives pursuant to section 8 of this act be deposited in the special revenue fund. Money in the special revenue fund must not be commingled with money from other sources. The board of trustees or the sponsor, as applicable, shall disburse money in the special revenue fund to public schools in the school district or sponsored by the sponsor, as applicable, in accordance with section 8 of this act. The money in the special revenue fund:*

(a) Must be used only as provided in section 9 of this act;

(b) Must not be used to settle or arbitrate disputes between a recognized organization representing employees of the school district or the governing body of the charter school and the school district or governing body, as applicable, to settle any negotiation or to adjust the schedules of salaries and benefits of the employees of a school district or charter school, as applicable; and

(c) Which remains in the special revenue fund at the end of a fiscal year reverts to the Account for the New Nevada Education Funding Plan.

Sec. 8. *1. On or before July 1 of each year, the Department shall, using the final count of pupils from the previous school year, determine the number of pupils in each public school who:*

(a) Are English learners or are eligible for a free or reduced-price lunch pursuant to 42 U.S.C. §§ 1751 et seq.;

(b) Scored at or below the 25th percentile on an assessment of proficiency described in paragraphs (a) to (e), inclusive, of subsection 1 of section 10 of this act or, for a grade level for which such an assessment does not exist or does not provide sufficient information to identify all such pupils, are projected to be at or below the 25th percentile for proficiency by the Department pursuant to subsection 2 of section 10 of this act;

(c) Are not enrolled at a Zoom school or Victory school; and

(d) Do not have an individualized education program.

2. On or before July 1 of each year, the Department shall determine, beginning with the category of all public schools that received the lowest rating possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools, and proceeding through each category of all public schools that



received the immediately higher rating until not all public schools within a category could be funded, each category of public schools for which the Department could provide a per pupil allocation of \$1,200 from the Account for the New Nevada Education Funding Plan created by section 7 of this act for the upcoming school year for each pupil identified in subsection 1 who is enrolled at each public school in the category.

3. If the Department determines that one or more categories of public schools could not be fully funded pursuant to subsection 2, the Department shall rank each public school within the lowest category of public schools that could not be fully funded pursuant to subsection 2 by the highest number of pupils identified in subsection 1 who are enrolled at each such public school.

4. On or before July 15 of each year, the Department shall transfer money from the Account for the New Nevada Education Funding Plan to the board of trustees of each school district and each sponsor of a charter school on a per pupil basis as follows:

(a) First, for each public school within a category identified in subsection 2 as capable of being fully funded which is located in the school district or sponsored by the sponsor, as applicable, an amount of \$1,200 per pupil identified in subsection 1 who is enrolled at the public school; and

(b) Second, beginning with the highest ranked public school pursuant to subsection 3 and until the money in the Account for the New Nevada Education Funding Plan is exhausted, an amount of \$1,200 per pupil identified in subsection 1 who is enrolled at the public school.

↳ The board of trustees of a school district or the sponsor of a charter school that receives money pursuant to this subsection shall distribute the money to each identified public school on a per pupil basis for each pupil identified in subsection 1 who is enrolled at the public school.

Sec. 9. 1. *A public school that receives money pursuant to section 8 of this act shall use the money only for the purposes identified in this section.*

2. Before using any money received pursuant to section 8 of this act, a public school must:

(a) Consult with:

(1) The appropriate staff of the school district in which the public school is located to coordinate the use of the money by the public school with the use of money received pursuant to section 8 of this act by other public schools located in the school district in a manner that maximizes the efficient use of such money; and



(2) The parents or legal guardians of pupils enrolled at the public school and, if an organizational team exists for the school, the organizational team, to determine the needs of pupils and the preference of the parents and legal guardians and the organizational team, if any, for services provided pursuant to subsections 4 and 5; and

(b) In consultation with the parents or legal guardians of pupils enrolled at the public school and the organizational team, if any, develop a plan for the use of such money and the goals to be achieved as a result of the use of such money.

3. A public school that receives money pursuant to section 8 of this act must use the money only on programs or services which are evidence-based, as defined in 20 U.S.C. § 7801(21).

4. A public school that receives money pursuant to section 8 of this act shall use 90 percent or more of the money to provide one or more of the following:

(a) Extended learning opportunities, including, without limitation:

(1) A summer academy;

(2) An intersession academy;

(3) A program which provides learning opportunities for children before or after school;

(4) An extended school day; or

(5) A learning opportunity delivered at another time when school is not in session.

(b) Academic interventions, including, without limitation:

(1) A reading or literacy center;

(2) The administration of a common, valid and reliable formative and summative assessment which is aligned to statewide standards and allows for comparisons between schools;

(3) The implementation of relevant curriculum or software which is supported by evidence described in 20 U.S.C. § 7801(21)(A)(i) and which may include, without limitation, a course of instruction in college and career readiness; or

(4) The hiring of personnel to implement an academic intervention which is supported by evidence described in 20 U.S.C. § 7801(21)(A)(i).

(c) Early childhood education, including, without limitation, a prekindergarten program that meets the standards for quality established by the Department.

(d) Any other strategy designed by the public school and approved by the Department.



(e) In addition to one or more of the services described in paragraphs (a) to (d), inclusive, and to the extent determined by the public school to be necessary to adequately support such services, strategies to respond to the needs of the school and its pupils and their families identified by the public school, including, without limitation:

(1) Programs and services designed to engage parents and families;

(2) Programs to improve school climate and culture; or

(3) The provision of social, psychological or health care services to pupils and their families, which may include, without limitation, counseling or wrap-around services.

5. A public school that receives money pursuant to section 8 of this act may not use more than 10 percent of the money to provide support for teachers and other licensed educational personnel, which may include, without limitation:

(a) Professional development which is supported by evidence described in 20 U.S.C. § 7801(21)(A)(i);

(b) Reimbursement for the coursework required to obtain an endorsement relating to English language acquisition and development for teachers or other licensed educational personnel who serve pupils who are English learners; or

(c) Retention incentives for teachers or other licensed educational personnel who serve pupils who are English learners and have obtained an endorsement described in paragraph (b).

6. A public school that receives money pursuant to section 8 of this act:

(a) Shall use the money to provide the services described in subsections 4 and 5 to pupils identified in subsection 1 of section 8 of this act who are enrolled at the public school; and

(b) May, to the extent that the use of money pursuant to paragraph (a) creates the capacity to serve additional pupils, provide the services described in subsections 4 and 5 to pupils enrolled at the public school who scored at or below the 25th percentile on an assessment of pupil proficiency described in paragraphs (a) to (e), inclusive, of subsection 1 of section 10 of this act.

7. A public school shall ensure that any money received pursuant to section 8 of this act which is used to provide services to pupils who are English learners complies with any plan adopted by the board of trustees of the school district in which the public school is located for services provided to pupils who are English learners.



8. As used in this section:

(a) *“Organizational team” has the meaning ascribed to it in section 9 of Assembly Bill No. 469 of this Legislative Session.*

(b) *“Wrap-around services” means supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance.*

Sec. 10. 1. *To determine the proficiency of a pupil pursuant to paragraph (b) of subsection 1 of section 8 of this act, the Department shall use, for a pupil who is:*

(a) *An English learner in any grade, the assessment of proficiency in the English language prescribed by the State Board pursuant to NRS 390.810.*

(b) *In kindergarten or grade 1 or 2, the “Measures of Academic Progress” published by the Northwest Evaluation Association, if implemented by the Department.*

(c) *In grade 3, 4, 5, 6, 7 or 8, the examinations administered pursuant to NRS 390.105.*

(d) *In grade 9 or 10, the end-of-course examination required pursuant to NRS 390.600 for mathematics.*

(e) *In grade 11 or 12, the college and career readiness assessment administered pursuant to NRS 390.610.*

2. *The Department shall, by regulation, establish a method for projecting the number of pupils who are at or below the 25th percentile for proficiency in any grade level for which an assessment identified in subsection 1 does not exist or does not provide sufficient information to identify all such pupils. Such a method may allow for the number of pupils to be projected by examining:*

(a) *The proficiency of pupils in nearby grade levels if an assessment for a grade level has not been fully implemented; or*

(b) *Information on credit deficiency for any grade in high school for which insufficient information exists to identify all such pupils.*

Sec. 11. 1. *The Department shall prescribe annual measurable objectives and performance targets which must be used by a public school that receives money pursuant to section 8 of this act to evaluate and track the performance of pupils who receive services pursuant to section 9 of this act. The annual measurable objectives and performance targets prescribed by the Department must be aligned to the statewide system of accountability for public schools.*



2. Each public school that receives money pursuant to section 8 of this act shall submit, on or before a date prescribed by the board of trustees of the school district in which the public school is located or the sponsor of the charter school, as applicable, a report to the school district or sponsor which uses the measurable objectives and performance targets prescribed by the Department to measure the effectiveness of the public school in providing services pursuant to section 9 of this act.

3. On or before November 30 of each year, the board of trustees of a school district and the sponsor of a charter school shall gather the reports submitted by each public school located in the school district or sponsored by the sponsor, as applicable, which contains information for the preceding school year and submit a report to the Department which contains such information for all public schools located in the school district or sponsored by the sponsor.

4. The Department shall contract with an independent evaluator to evaluate the effectiveness of services provided pursuant to section 9 of this act. The evaluation must include, without limitation, a determination of whether each public school is making an effective use of the money received by the public school pursuant to section 8 of this act and an identification of services which have been identified to offer the greatest and the least improvement to pupil performance. The evaluation must be provided on or before February 1 of:

(a) Each even-numbered year to the Legislative Committee on Education.

(b) Each odd-numbered year to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 12. There is hereby appropriated from the State General Fund to the Account for a New Nevada Education Funding Plan created by section 7 of this act the following sums:

1. For the Fiscal Year 2017-2018 \$36,000,000
2. For the Fiscal Year 2018-2019 \$36,000,000

Sec. 13. 1. There is hereby appropriated from the State General Fund to the Department of Education the sum of \$250,000 for the costs associated with contracting with an independent consultant to perform the work described in section 14 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2019, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise



transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 14. 1. The Department of Education shall develop a request for proposals for an independent consultant who is qualified and knowledgeable on issues relating to the funding of public education to:

(a) Conduct a review of the report entitled “Study of a New Method of Funding for Public Schools in Nevada,” published by the American Institutes for Research on September 22, 2012, and LCB Bulletin No. 15-5, “Interim Study Report of the Task Force on K-12 Public Education Funding”;

(b) Update the report and bulletin identified in paragraph (a) with more current information, focusing on the determination and implementation of the appropriate funding adjustments for the additional costs associated with serving low-income pupils and English learners, as defined in 20 U.S.C. § 7801(20);

(c) Review the meaning of the term “pupils who are at-risk,” as defined in NRS 387.121, to establish an appropriate definition of the term and recommend appropriate funding adjustments for the additional costs associated with serving such pupils;

(d) Review the multiplier to the basic support guarantee per pupil for pupils with disabilities pursuant to NRS 387.122;

(e) Review the meaning of the term “gifted and talented pupils,” as defined in NRS 388.5231, to establish an appropriate definition for the term and recommend a consistent statewide standard to identify such pupils; and

(f) Make recommendations for the implementation of the findings of the independent consultant pursuant to paragraphs (a) to (e), inclusive.

2. The Department of Education shall, on or before September 15, 2017, enter into a contract with an independent consultant to perform the work identified in subsection 1.

3. The independent consultant selected by the Department of Education shall complete the work identified in subsection 1 and, on or before August 1, 2018, submit a preliminary report containing the information described in subsection 1 to the Department of Education. Upon receipt of the preliminary report, the Department of Education shall immediately forward the preliminary report to the Legislative Committee on Education.



4. Upon receipt of the preliminary report, the Legislative Committee on Education shall review the preliminary report and provide recommendations to the independent consultant. After receiving such recommendations from the Legislative Committee on Education and any recommendations which may be provided by the State Board of Education and Department of Education, the independent consultant shall prepare a final report which includes such recommendations and, on or before October 15, 2018, submit the final report to the Governor and the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

Sec. 15. The Legislative Counsel shall, in preparing the Nevada Revised Statutes and the supplements to the Nevada Administrative Code, substitute appropriately the term “limited English proficient” for the term “English learner.”

Sec. 16. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 17. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2017, for all other purposes.

