

SENATE BILL NO. 385—SENATORS WASHINGTON, O'DONNELL,
O'CONNELL, RAWSON, AMODEI AND PORTER

MARCH 12, 1999

JOINT SPONSOR: ASSEMBLYMAN GUSTAVSON

Referred to Committee on Human Resources and Facilities

SUMMARY—Establishes program of voucher schools. (BDR 34-261)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to education; providing in skeleton form for a program of voucher schools; authorizing certain private schools to apply for certification as voucher schools; authorizing pupils to participate in the program of voucher schools; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Title 34 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 16,
3 inclusive, of this act.
4 **Sec. 2.** *As used in sections 2 to 16, inclusive, of this act, unless the*
5 *context otherwise requires, the words and terms defined in sections 3 to*
6 *7, inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*
8 **Sec. 3.** *“Family of low income” means a family with a monthly*
9 *household income that is 150 percent or less of the federally designated*
10 *level signifying poverty.*
11 **Sec. 4.** *“Private school” has the meaning ascribed to it in NRS*
12 *394.103.*
13 **Sec. 5.** *“Program” means the program of voucher schools*
14 *established pursuant to section 8 of this act.*

1 **Sec. 6.** *“Voucher” means a document that may be exchanged by a*
2 *voucher school with the department for money for the educational*
3 *expenses of a pupil who participates in the program and attends the*
4 *voucher school.*

5 **Sec. 7.** *“Voucher school” means a private school that is certified*
6 *pursuant to section 10 of this act.*

7 **Sec. 8.** *There is hereby established the program of voucher schools,*
8 *to be administered by the department. The department shall:*

9 1. *Adopt regulations:*

10 (a) *Prescribing the process for submission of an application by a*
11 *private school to become certified as a voucher school and the contents*
12 *of the application;*

13 (b) *Prescribing the process for submission of an application by a*
14 *parent or legal guardian of a child to participate in the program; and*

15 (c) *As are necessary to carry out the provisions of sections 2 to 16,*
16 *inclusive, of this act.*

17 2. *Provide information to the general public concerning the*
18 *program.*

19 3. *Maintain a list available for public inspection that identifies which*
20 *private schools are certified as voucher schools pursuant to section 10 of*
21 *this act.*

22 **Sec. 9.** 1. *A private school may submit to the department an*
23 *application to become certified as a voucher school if the private school:*

24 (a) *Is licensed pursuant to chapter 394 of NRS; and*

25 (b) *Has an admissions policy that does not discriminate on the basis*
26 *of a single race or ethnicity.*

27 2. *Such an application must include:*

28 (a) *Proof that the private school is licensed pursuant to chapter 394 of*
29 *NRS;*

30 (b) *A written statement that the private school does not discriminate*
31 *on the basis of a single race or ethnicity;*

32 (c) *A written statement that the private school will not charge tuition*
33 *or fees to children from families of low income who participate in the*
34 *program; and*

35 (d) *The number of children from the program that the private school*
36 *is able to accommodate.*

37 **Sec. 10.** 1. *Upon receipt of an application from a private school,*
38 *the department shall review the application to determine whether it is*
39 *complete. The department shall approve an application if it is complete.*
40 *The department shall provide written notice to the applicant of its*
41 *approval or denial of the application.*

1 2. If an application is approved by the department, the department
2 and the private school shall enter into a written agreement which certifies
3 that the private school is a voucher school.

4 3. The certification of a voucher school pursuant to this section
5 remains valid indefinitely unless:

6 (a) The department revokes the certification pursuant to section 11 of
7 this act; or

8 (b) The voucher school requests the department to revoke the
9 certification.

10 4. If a voucher school requests that the department revoke the
11 certification of the voucher school during a school year, the voucher
12 school shall continue to provide an education to pupils who participate in
13 the program and are enrolled in the voucher school for the remainder of
14 the school year. Upon completion of the school year, the department
15 shall revoke the certification of the voucher school.

16 **Sec. 11. 1.** The department shall revoke the certification of a
17 voucher school if the:

18 (a) Voucher school fails to comply with the provisions of sections 2 to
19 16, inclusive, of this act.

20 (b) License of the voucher school is revoked pursuant to chapter 394
21 of NRS.

22 2. The department shall not interfere with the operation or
23 management of a voucher school except as authorized by sections 2 to
24 16, inclusive, of this act.

25 **Sec. 12. 1.** A voucher school shall:

26 (a) Comply with all laws and regulations relating to discrimination
27 and civil rights;

28 (b) Accept a voucher from a child from a family of low income as full
29 payment for the costs of providing an education to the child; and

30 (c) Comply with the provisions of sections 2 to 16, inclusive, of this
31 act.

32 2. A voucher school shall not charge tuition or fees to children from
33 families of low income who participate in the program and attend the
34 voucher school.

35 3. For all legal intents and purposes, a voucher school is not a public
36 employer.

37 **Sec. 13. 1.** The parent or legal guardian of a child may submit an
38 application to the department to participate in the program if, in the
39 immediately succeeding school year, the child:

40 (a) Was enrolled in a public school in this state;

41 (b) Was enrolled in a voucher school as a participant in the program;
42 or

43 (c) Was not enrolled in a school.

1 2. The department shall categorize the applications that it receives by
2 school district. For each school district, the department shall approve the
3 applications of not more than 10 percent of the children who reside
4 within each school district. If more eligible children apply for
5 participation in the program than the number of applications that may be
6 approved for a particular school district, the department shall select
7 applications at random by lottery for approval.

8 3. Upon approval of an application, the department shall provide a
9 written statement of approval to the parent or legal guardian of the child
10 indicating the date of approval.

11 4. A written statement of approval is valid for 1 school year. If a
12 parent or legal guardian desires that his child continue to participate in
13 the program, the parent or legal guardian must reapply for participation
14 in the program each year.

15 5. A parent or legal guardian may withdraw his child from
16 participation in the program at any time upon written notice to the
17 department.

18 **Sec. 14.** 1. Upon receipt of a written statement of approval
19 pursuant to section 13 of this act, the parent or legal guardian of a child
20 may apply for enrollment in a voucher school which is located within the
21 school district that the child would otherwise attend. Such an application
22 must be accompanied by a copy of the written statement of approval.

23 2. If more children who participate in the program apply for
24 enrollment in a voucher school than the number of spaces which are
25 available, the voucher school shall:

26 (a) Determine which applicants to enroll at random by lottery; and

27 (b) Provide the department with written evidence that the school
28 complied with the provisions of this subsection.

29 If the department determines that the voucher school did not comply with
30 the lottery system required by this subsection, the department may
31 withdraw the certification of the voucher school.

32 3. If a parent or legal guardian of a child who participates in the
33 program desires to continue his child's education in a voucher school,
34 the parent or legal guardian shall submit an application for enrollment
35 in a voucher school for each school year.

36 **Sec. 15.** Upon the written request of a parent or legal guardian of a
37 pupil who is enrolled in a voucher school, the school shall not require the
38 pupil to participate in any religious activity.

39 **Sec. 16.** 1. Pupils who participate in the program and are enrolled
40 in a voucher school, including, without limitation, pupils who are
41 enrolled in programs of special education in a voucher school, must be
42 included in the count of pupils in the school district for the purposes of

1 *apportionments and allowances from the state distributive school*
2 *account pursuant to NRS 387.121 to 387.126, inclusive.*

3 2. *A voucher school shall submit to the department a list of names of*
4 *the pupils that participate in the program and are accepted for*
5 *enrollment in the voucher school. Upon receipt of such a list, the*
6 *department shall verify that each pupil identified on the list has been*
7 *approved for participation in the program and resides within the school*
8 *district in which the voucher school is located. After the department*
9 *verifies the list of names, the department shall issue a voucher to each*
10 *parent or legal guardian of a pupil who is approved for participation in*
11 *the program and accepted for enrollment in a voucher school. The*
12 *parent or legal guardian shall restrictively endorse the voucher for use by*
13 *the voucher school that his child will attend and submit the voucher to*
14 *the voucher school.*

15 3. *A voucher school may submit all vouchers that it receives which*
16 *are endorsed to the department for payment. A parent or legal guardian*
17 *of a pupil may not submit a voucher directly to the department for*
18 *payment. Upon receipt of all vouchers from a voucher school, the*
19 *department shall pay to the voucher school for each child who*
20 *participates in the program and is enrolled in the voucher school, an*
21 *amount equal to:*

22 *(a) The per pupil amount of financial aid distributed to the school*
23 *district in which the voucher school is located from the state distributive*
24 *school account; or*

25 *(b) The annual tuition charged by the voucher school,*
26 *whichever is less. The department may pay the total amount due to a*
27 *voucher school pursuant to this subsection in quarterly payments.*

28 **Sec. 17.** Chapter 387 of NRS is hereby amended by adding thereto a
29 new section to read as follows:

30 *As used in this chapter, “voucher school” has the meaning ascribed to*
31 *it in section 7 of this act.*

32 **Sec. 18.** NRS 387.040 is hereby amended to read as follows:

33 387.040 1. Except as otherwise provided in subsection 2 and NRS
34 387.528, the state treasurer shall pay over all *money for the system of*
35 public ~~school money~~ *education* received by him for the support of school
36 districts only on warrants of the state controller issued upon the orders of
37 the superintendent of public instruction in favor of county treasurers. When
38 endorsed, the orders are valid vouchers in the hands of the state controller
39 for the disbursement of *money for the system of* public ~~school money.~~
40 *education.*

41 2. Except as otherwise provided in NRS 387.528, if the board of
42 trustees of a school district establishes and administers a separate account
43 pursuant to the provisions of NRS 354.603, the state treasurer shall pay

1 over to the school district all *money for the system of* public ~~{school~~
2 ~~money}~~ *education* due the school district.

3 3. The state treasurer shall pay over all *money for the system of* public
4 ~~{school-money}~~ *education* received by him for the support of charter
5 schools only on warrants of the state controller issued upon the orders of
6 the superintendent of public instruction in favor of the charter schools.
7 When endorsed, the orders are valid vouchers in the hands of the state
8 controller for the disbursement of *money for the system of* public ~~{school~~
9 ~~money-}~~ *education*.

10 **Sec. 19.** NRS 387.045 is hereby amended to read as follows:

11 387.045 1. ~~{No}~~ *Except as otherwise provided in section 16 of this*
12 *act, no* portion of the *money for the system of* public ~~{school-funds}~~
13 *education* or of the money specially appropriated for the purpose of public
14 ~~{schools-shall}~~ *education may* be devoted to any other object or purpose.

15 2. No portion of the *money for the system of* public ~~{school-funds~~
16 ~~shall}~~ *education may* in any way be segregated, divided or set apart for the
17 *direct* use or benefit of any sectarian or secular society or association.

18 **Sec. 20.** NRS 387.121 is hereby amended to read as follows:

19 387.121 The legislature declares that the proper objective of state
20 financial aid to public education is to ensure each Nevada child a
21 reasonably equal educational opportunity. Recognizing wide local
22 variations in wealth and costs per pupil, this state should supplement local
23 financial ability to whatever extent necessary in each school district to
24 provide programs of instruction in both compulsory and elective subjects ,
25 *whether in a public school or voucher school*, that offer full opportunity
26 for every Nevada child to receive the benefit of the purposes for which *the*
27 *system of* public ~~{schools-are}~~ *education is* maintained. Therefore the
28 quintessence of the state's financial obligation for such programs can be
29 expressed in a formula partially on a per pupil basis and partially on a per
30 program basis as: State financial aid to school districts equals the difference
31 between school district basic support guarantee and local available funds
32 produced by mandatory taxes minus all the local funds attributable to pupils
33 who reside in the county but attend a charter school. This formula is
34 designated the Nevada plan.

35 **Sec. 21.** NRS 387.1211 is hereby amended to read as follows:

36 387.1211 As used in NRS 387.121 to 387.126, inclusive:

37 1. "Average daily attendance" means the total number of pupils
38 attending a particular school each day during a period of reporting divided
39 by the number of days school is in session during that period.

40 2. "Enrollment" means the count of pupils ~~{enrolled}~~ *who:*

41 (a) *Are enrolled* in and scheduled to attend programs of instruction of a
42 school

district ;

1 *(b) Participate in the program of voucher schools pursuant to sections*
2 *2 to 16, inclusive, of this act and are enrolled in and scheduled to attend*
3 *programs of instruction in a voucher school; or*

4 *(c) Are enrolled in and scheduled to attend* a charter school ,
5 at a specified time during the school year.

6 3. "Special education program unit" means an organized instructional
7 unit which includes full-time services of persons licensed by the
8 superintendent of public instruction providing a program of instruction in
9 accordance with minimum standards prescribed by the state board.

10 **Sec. 22.** NRS 387.1233 is hereby amended to read as follows:

11 387.1233 1. Except as otherwise provided in subsection 2, basic
12 support of each school district must be computed by:

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

15 (1) Six-tenths the count of pupils enrolled in the kindergarten
16 department on the last day of the first school month of the school year,
17 including, without limitation, the count of pupils who reside in the county
18 and are enrolled in ~~{any}~~ a charter school ~~{,}~~ *and pupils who participate in*
19 *the program of voucher schools pursuant to sections 2 to 16, inclusive, of*
20 *this act and are enrolled in a voucher school.*

21 (2) The count of pupils enrolled in grades 1 to 12, inclusive, on the
22 last day of the first school month of the school year, including, without
23 limitation, the count of pupils who reside in the county and are enrolled in
24 ~~{any}~~ a charter school ~~{,}~~ *and pupils who participate in the program of*
25 *voucher schools pursuant to sections 2 to 16, inclusive, of this act and*
26 *are enrolled in a voucher school.*

27 (3) The count of pupils not included under subparagraph (1) or (2)
28 who are receiving special education pursuant to the provisions of NRS
29 388.440 to 388.520, inclusive, on the last day of the first school month of
30 the school year, excluding the count of pupils who have not attained the age
31 of 5 years and who are receiving special education pursuant to subsection 1
32 of NRS 388.490 on that day.

33 (4) Six-tenths the count of pupils who have not attained the age of 5
34 years and who are receiving special education pursuant to subsection 1 of
35 NRS 388.490 on the last day of the first school month of the school year.

36 (5) The count of children detained in detention homes, alternative
37 programs and juvenile forestry camps receiving instruction pursuant to the
38 provisions of NRS 388.550, 388.560 and 388.570 on the last day of the
39 first school month of the school year.

40 (b) Multiplying the number of special education program units
41 maintained and operated by the amount per program established for that
42 school year.

43 (c) Adding the amounts computed in paragraphs (a) and (b).

2. If the enrollment of pupils on the last day of the first school month of the school year in a school district, *including, without limitation, pupils who participate in the program of voucher schools pursuant to sections 2 to 16, inclusive, of this act and are enrolled in a voucher school*, or a charter school, is less than the enrollment of pupils in the same school district or charter school on the last day of the first school month for the immediately preceding school year, the larger number must be used for purposes of apportioning money from the state distributive school account to that school district or charter school pursuant to NRS 387.124.

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

4. Pupils who are incarcerated in a facility or institution operated by the department of prisons must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the department of education.

5. Part-time pupils who are enrolled in courses which are approved by the department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the department.

Sec. 23. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the superintendent shall apportion the state distributive school account in the state general fund among the several county school districts and charter schools in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve.

2. 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~~ :

(a) All the funds attributable to pupils who reside in the county but attend a charter school ~~and~~ ; and

(b) *The amount of money paid to a voucher school located in the county from the state distributive school account pursuant to section 16 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.

3. 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. If the apportionment per pupil to a

1 charter school is more than the amount to be apportioned to the school
2 district in which a pupil who is enrolled in the charter school resides, the
3 school district in which the pupil resides shall pay the difference directly to
4 the charter school.

5 ~~[2.]~~ 4. If the state controller finds that such an action is needed to
6 maintain the balance in the state general fund at a level sufficient to pay the
7 other appropriations from it, he may pay out the apportionments monthly,
8 each approximately one-twelfth of the yearly apportionment less any
9 amount set aside as a reserve. If such action is needed, the state controller
10 shall submit a report to the department of administration and the fiscal
11 analysis division of the legislative counsel bureau documenting reasons for
12 the action.

13 **Sec. 24.** NRS 387.185 is hereby amended to read as follows:

14 387.185 1. Except as otherwise provided in subsection 2 and NRS
15 387.528, all school money due each county school district must be paid
16 over by the state treasurer to the county treasurer on August 1, November
17 1, February 1 and May 1 of each year or as soon thereafter as the county
18 treasurer may apply for it, upon the warrant of the state controller drawn in
19 conformity with the apportionment of the superintendent of public
20 instruction as provided in NRS 387.124.

21 2. Except as otherwise provided in NRS 387.528, if the board of
22 trustees of a school district establishes and administers a separate account
23 pursuant to the provisions of NRS 354.603, all school money due that
24 school district must be paid over by the state treasurer to the school district
25 on August 1, November 1, February 1 and May 1 of each year or as soon
26 thereafter as the school district may apply for it, upon the warrant of the
27 state controller drawn in conformity with the apportionment of the
28 superintendent of public instruction as provided in NRS 387.124.

29 3. No county school district may receive any portion of the *money for*
30 *the system of* public ~~school money~~ *education* unless that school district
31 has complied with the provisions of this Title and regulations adopted
32 pursuant thereto.

33 4. All school money due each charter school must be paid over by the
34 state treasurer to the governing body of the charter school on August 1,
35 November 1, February 1 and May 1 of each year or as soon thereafter as
36 the governing body may apply for it, upon the warrant of the state
37 controller drawn in conformity with the apportionment of the
38 superintendent of public instruction as provided in NRS 387.124.

39 **Sec. 25.** NRS 387.195 is hereby amended to read as follows:

40 387.195 1. Each board of county commissioners shall levy a tax of
41 75 cents on each \$100 of assessed valuation of taxable property within the
42 county for the support of the *system of* public ~~schools~~ *education* within
43 the county school district.

2. In addition to any tax levied in accordance with subsection 1, each board of county commissioners shall levy a tax for the payment of interest and redemption of outstanding bonds of the county school district.

3. The tax collected pursuant to subsection 1 and any interest earned from the investment of the proceeds of that tax must be credited to the county's school district fund.

4. The tax collected pursuant to subsection 2 and any interest earned from the investment of the proceeds of that tax must be credited to the county school district's debt service fund.

Sec. 26. NRS 387.210 is hereby amended to read as follows:

387.210 Except when the board of trustees of a county school district elects to establish a separate account under the provisions of NRS 354.603, each county treasurer shall:

1. Receive and hold as a special deposit all *money for the system of public ~~[school moneys.] education~~*, whether received by him from the state treasurer or raised by the county for the benefit of the *system of public ~~[schools.] education~~*, or from any other source, and keep separate accounts thereof and of their disbursements.

2. Pay over all *money for the system of public ~~[school moneys] education~~* received by him only on warrants of the county auditor, issued upon orders of the board of trustees of the county school district. All orders issued in accordance with law by the board of trustees shall be valid vouchers in the hands of the county auditors for warrants drawn upon such orders.

Sec. 27. NRS 387.225 is hereby amended to read as follows:

387.225 No tax collector or county treasurer shall receive any fees or compensation whatever for collecting, receiving, keeping, transporting or disbursing any *money for the system of public ~~[school moneys.] education~~*.

Sec. 28. NRS 394.130 is hereby amended to read as follows:

394.130 1. In order to secure uniform and standard work for pupils in private schools in this state, instruction in the subjects required by law for pupils in the public schools shall be required of pupils receiving instruction in such private schools, either under the regular state courses of study prescribed by the state board ~~[of education]~~ or under courses of study prepared by such private schools and approved by the state board ~~. [of education.]~~

2. Such private schools shall be required to furnish from time to time such reports as the superintendent of public instruction may find necessary as to enrollment, attendance and general progress within such schools.

3. ~~[Nothing in this section shall be so construed as:~~

~~(a) To interfere]~~ *This section is not intended to:*

(a) Interfere with the right of the proper authorities having charge of private schools to give religious instruction to the pupils enrolled therein.

(b) ~~[To]~~ *Except as otherwise provided in section 16 of this act*, give such private schools any right to share in the ~~{public school funds}~~ *money* apportioned for the support of the *system of* public ~~{schools}~~ *education* of this state.

Sec. 29. NRS 41.0305 is hereby amended to read as follows:

41.0305 As used in NRS 41.0305 to 41.039, inclusive, the term “political subdivision” includes an organization that was officially designated as a community action agency pursuant to 42 U.S.C. § 2790 before that section was repealed and is included in the definition of an “eligible entity” pursuant to 42 U.S.C. § 9902, the Nevada rural housing authority, an airport authority created by special act of the legislature, a regional transportation commission and a fire protection district, irrigation district, school district and other special district that performs a governmental function, even though it does not exercise general governmental powers. *The term does not include a voucher school that is operating pursuant to sections 2 to 16, inclusive, of this act.*

Sec. 30. NRS 241.015 is hereby amended to read as follows:

241.015 As used in this chapter, unless the context otherwise requires:

1. “Action” means:

(a) A decision made by a majority of the members present during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present during a meeting of a public body; or

(c) A vote taken by a majority of the members present during a meeting of a public body.

2. “Meeting” means the gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

3. Except as otherwise provided in this subsection, “public body” means any administrative, advisory, executive or legislative body of the state or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405. “Public body” does not include ~~{the}~~ :

(a) *The* legislature of the State of Nevada.

(b) *A voucher school that is operating pursuant to sections 2 to 16, inclusive, of this*

act.

1 4. “Quorum” means a simple majority of the constituent membership
2 of a public body or another proportion established by law.

3 **Sec. 31.** NRS 286.070 is hereby amended to read as follows:

4 286.070 1. “Public employer” means the state, one of its agencies or
5 one of its political subdivisions, the system, irrigation districts created
6 under the laws of the State of Nevada, a nonprofit corporation to which a
7 public hospital has been conveyed or leased pursuant to NRS 450.500, a
8 public or quasi-public organization or agency that is funded, at least in part,
9 by public money, including a regional transportation commission, and a
10 council of governments created pursuant to the laws of the State of Nevada.

11 *The term does not include a voucher school that is operating pursuant to*
12 *sections 2 to 16, inclusive, of this act.*

13 2. State agencies are those agencies subject to state control and
14 supervision, including those whose employees are governed by chapter 284
15 of NRS, unless specifically exempted therefrom, and those which deposit
16 money with the state treasurer.

17 **Sec. 32.** This act becomes effective on July 1, 1999.