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SECOND REPRINT **S.B. 404**

SENATE BILL NO. 404–SENATOR WASHINGTON

MARCH 19, 2007

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing homeschooled children. (BDR 34-738)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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; revising provisions governing homeschooled children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, compulsory attendance in public school is required of children between the ages of 7 and 17 years. (NRS 392.040) Compulsory attendance is excused if satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board of Education. (NRS 392.070) **Sections 3 and 5** of this bill excuse compulsory attendance if a child is enrolled in a private school or if a notice of intent to homeschool the child is filed with the superintendent of schools of the school district in which the child resides. **Sections 1 and 5** of this bill authorize the board of trustees of a school district or the governing body of a charter school, as applicable, to require a birth certificate or other documentation to prove the identity of the homeschooled child who wishes to participate in certain activities and classes offered by the public schools in this State and requires such proof under certain circumstances.

Section 3 of this bill sets forth requirements concerning a notice of intent to homeschool and establishes certain rights for a child that is being homeschooled and the parents of that child.

Under existing law, the State Board of Education is required to prescribe the courses of study required for promotion to high school. (NRS 392.033) **Section 4** of this bill prescribes the information that must be provided by a homeschooled child who wishes to enroll in a public high school to demonstrate competency in those courses of study or successful completion of those courses.

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

Section 1. NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school that is dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who:

(a) Is a sibling of a pupil who is currently enrolled in the charter school; or

(b) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

➥ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter

school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 7, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

(a) Race;

(b) Gender;

(c) Religion;

(d) Ethnicity; or

(e) Disability,

➥ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his school or home school or participate in an extracurricular activity at the charter school if:

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

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

➥ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

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

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

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk.

➥ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 2. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of high school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the circumstances warrant enrollment for the pupil; or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that the circumstances warrant enrollment for the pupil.

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and ~~[receiving equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070]~~ ***is enrolled in a private school pursuant to chapter 394 of NRS or is being homeschooled*** is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to 62F.140, inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

Sec. 3. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written or electronic notice of intent to homeschool the child. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

2. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance. A notice of intent to homeschool that is filed with a school district remains valid in that school district without renewal until:

(a) The child is no longer subject to compulsory attendance; or

(b) The child is enrolled in a public or private school in this State.

3. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to

homeschool with the superintendent of schools of the school district in which the child resides.

4. A notice of intent to homeschool must include only the following:

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

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) If applicable, the name of the public school in this State which the child most recently attended; and

(e) An optional statement that the parent may sign which provides:

> ***I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.***

5. Each superintendent of schools of a school district shall accept any notice of intent to homeschool that is filed with him pursuant to this section and meets the requirements of subsection 4, and shall not require or request any additional information or assurances from the parent who filed the notice.

6. The superintendent of schools of a school district with whom a notice of intent to homeschool is filed shall:

(a) Upon receipt, indicate on the notice the date of receipt; and

(b) Retain a copy of the notice for not less than 15 years. The copy of the notice may be retained in an electronic format.

7. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if he is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

8. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only

commonly used practices in determining the academic ability, placement or eligibility of the child.

9. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

10. Each school district shall allow homeschooled children to participate in the high school proficiency examination administered pursuant to NRS 389.015 and all college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test. Each school district shall maintain on its Internet website a tab for homeschooling, and shall post in a timely manner all pertinent information concerning such examinations available to homeschooled children within the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations.

11. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

12. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his child based on religious preference unless it is:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means of furthering that compelling governmental interest.

13. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

Sec. 4. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. The board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of

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

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

4. A homeschooled child who enrolls in a public high school shall, upon initial enrollment:

(a) Provide documentation sufficient to prove that the child has successfully completed the courses of study required for promotion to high school through an accredited program of homeschool study recognized by the board of trustees of the school district;

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

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

Sec. 5. NRS 392.070 is hereby amended to read as follows:

392.070 1. Attendance ***of a child*** required by the provisions of NRS 392.040 must be excused when ~~[satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child is receiving at home or in some other school equivalent instruction of the kind and amount approved by the State Board.]~~ ***:***

(a) The child is enrolled in a private school pursuant to chapter 394 of NRS; or

(b) A parent of the child chooses to provide education to the child and files a notice of intent to homeschool the child with the superintendent of schools of the school district in which the child resides in accordance with section 3 of this act.

2. The board of trustees of each school district shall provide programs of special education and related services for homeschooled children. The programs of special education and related services required by this section must be made available:

(a) Only if a child would otherwise be eligible for participation in programs of special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(b) In the same manner that the board of trustees provides, as required by 20 U.S.C. § 1412, for the participation of pupils with

disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians; and

(c) In accordance with the same requirements set forth in 20 U.S.C. § 1412 which relate to the participation of pupils with disabilities who are enrolled in private schools within the school district voluntarily by their parents or legal guardians.

3. Except as otherwise provided in subsection 2 for programs of special education and related services, upon the request of a parent or legal guardian of a child who is enrolled in a private school or a parent or legal guardian of a homeschooled child, the board of trustees of the school district in which the child resides shall authorize the child to participate in ~~[a class that is not available to the child at the private school or home school or to participate in an extracurricular activity,]~~ ***any classes and extracurricular activities,*** excluding sports, at a public school within the school district if:

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

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the child is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a child to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the child to attend the class or activity. A homeschooled child must be allowed to participate in interscholastic activities and events governed by ~~[an association]~~ ***the Nevada Interscholastic Activities Association*** pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events, including sports, pursuant to subsection 5.

4. The board of trustees of a school district may revoke its approval for a pupil to participate in a class or extracurricular activity at a public school pursuant to subsection 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees. If the board of trustees revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

5. In addition to those interscholastic activities and events governed by ~~[an association]~~ ***the Nevada Interscholastic Activities Association*** pursuant to NRS 386.420 to 386.470, inclusive, homeschooled children must be allowed to participate in interscholastic activities and events, including sports. A homeschooled child who participates in interscholastic activities and events at a public school pursuant to this subsection must participate

within the school district of the child's residence through the public school which the child is otherwise zoned to attend. Any rules or regulations that apply to pupils enrolled in public schools who participate in interscholastic activities and events, including sports, apply in the same manner to homeschooled children who participate in interscholastic activities and events, including, without limitation, provisions governing:

(a) Eligibility and qualifications for participation;

(b) Fees for participation;

(c) Insurance;

(d) Transportation;

(e) Requirements of physical examination;

(f) Responsibilities of participants;

(g) Schedules of events;

(h) Safety and welfare of participants;

(i) Eligibility for awards, trophies and medals;

(j) Conduct of behavior and performance of participants; and

(k) Disciplinary procedures.

6. If a homeschooled child participates in interscholastic activities and events pursuant to subsection 5:

(a) No challenge may be brought by ~~[an association,]~~ ***the Association,*** a school district, a public school or a private school, a parent or guardian of a pupil enrolled in a public school or a private school, a pupil enrolled in a public school or a private school, or any other entity or person claiming that an interscholastic activity or event is invalid because the homeschooled child is allowed to participate.

(b) Neither the school district nor a public school may prescribe any regulations, rules, policies, procedures or requirements governing the eligibility or participation of the homeschooled child that are more restrictive than the provisions governing the eligibility and participation of pupils enrolled in public schools.

7. The programs of special education and related services required by subsection 2 may be offered at a public school or another location that is appropriate.

8. ***The board of trustees of a school district:***

(a) May, before providing programs of special education and related services to a homeschooled child pursuant to subsection 2, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

(b) May, before authorizing a homeschooled child to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 3, require proof of the identity of the child, including, without limitation, the birth certificate of the child or

other documentation sufficient to establish the identity of the child.

(c) Shall, before allowing a homeschooled child to participate in interscholastic activities and events governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, and interscholastic activities and events pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

9. The Department ~~[may]~~ ***shall*** adopt such regulations as are necessary for the boards of trustees of school districts to provide the programs of special education and related services required by subsection 2.

~~[9.]~~ ***10.*** As used in this section, "related services" has the meaning ascribed to it in 20 U.S.C. § ~~[1401(22).]~~ ***1401.***

Sec. 6. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ ***Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;*** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ ***Enroll in a***

private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

➥ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) ~~[Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070;]~~ ***Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled;*** or

(b) Enroll in a program of independent study provided pursuant to paragraph (b) of subsection 3 of NRS 389.155 or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 7. The regulations adopted by the State Board of Education which are codified as NAC 392.011 to 392.065, inclusive, are hereby declared void. In preparing the supplements to the Nevada Administrative Code on or after July 1, 2007, the Legislative Counsel shall remove those regulations.

Sec. 8. This act becomes effective on July 1, 2007.

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