

CHAPTER.....

AN ACT relating to charter schools; authorizing the Director of the Department of Business and Industry to issue bonds, notes and other obligations to finance the acquisition, construction, improvement, restoration or rehabilitation of property, buildings and facilities for charter schools; establishing the procedure for the issuance of such obligations; providing for the payment of the obligations; revising provisions relating to the closure of a charter school and the payment of its debts; authorizing a charter school to incorporate as a nonprofit corporation, borrow money and encumber its assets; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the Director of the Department of Business and Industry to issue bonds and other obligations to finance the acquisition, construction, improvement, restoration or rehabilitation of property, buildings and facilities for charter schools. **Sections 1-22** of this bill enact the Charter School Financing Law and provide for the issuance of such obligations by the Director.

Section 29 of this bill revises provisions governing the closure of a charter school to provide, among other things, for notice of the closure, the development of a plan for closure, an audit and the winding up of the financial affairs of the charter school. **Section 30** of this bill authorizes a charter school to incorporate as a nonprofit corporation. **Section 31** of this bill authorizes a charter school to borrow money and encumber its property and other assets, and to use public money to purchase property with the approval of the charter school's sponsor.

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. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. *Sections 2 to 22, inclusive, of this act may be cited as the Charter School Financing Law.*

Sec. 3. *As used in sections 2 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Bond” or “revenue bond” means any bond, note, security or other evidence of indebtedness issued pursuant to sections 2 to 22, inclusive, of this act.*



Sec. 4.3. *“Cost of the project” means all or a designated part of the cost of any project, including any incidental cost pertaining to the project. The cost of a project may include, without limitation, the costs of:*

1. Surveys, audits, preliminary plans, other plans, specifications, estimates and other costs of preparations;

2. Appraising, printing, estimating, advice and services of engineers, architects, financial consultants, attorneys, clerical personnel and other agents and employees;

3. Publishing, posting, mailing and otherwise giving notice, filing or recording instruments, taking options and fees to banks;

4. Establishment of a reserve for contingencies;

5. Interest on bonds for any time which does not exceed the estimated period of construction plus 1 year, discounts on bonds, reserves for the payment of the principal of and interest on bonds, replacement expenses and other costs of issuing bonds;

6. Amending any resolution or other instrument authorizing the issuance of, or otherwise relating to, bonds for the project; and

7. Short-term financing and the expense of operation and maintenance of the project.

Sec. 4.5. *“Director of the Department of Business and Industry” means the Director of the Department of Business and Industry or any person within the Department of Business and Industry designated by the Director to perform duties in connection with a project or the issuance of bonds pursuant to sections 2 to 22, inclusive, of this act.*

Sec. 4.7. *“Expense of operation and maintenance” means any reasonable and necessary expense of the State for the operation, maintenance and administration of a project or of the collection and administration of revenues from a project and includes, without limitation:*

1. Expenses for engineering, auditing, reporting, legal services and other expenses of the Director of the Department of Business and Industry which are directly related to the administration of projects.

2. Premiums for fidelity bonds and policies of property and liability insurance pertaining to projects, and shares of the premiums of blanket bonds and policies which may be reasonably allocated to the State.

3. Payments to pension, retirement, health insurance and other insurance funds.

4. Reasonable charges made by any paying agent, commercial bank, credit union, trust company or other depository



bank pertaining to bonds issued pursuant to sections 2 to 22, inclusive, of this act.

5. Services rendered under the terms of a contract, services of professionally qualified persons, salaries, administrative expenses and the cost of materials, supplies and labor pertaining to the issuance of any bonds pursuant to sections 2 to 22, inclusive, of this act, including the expenses of any trustee, receiver or other fiduciary.

6. Costs incurred in the collection and any refund of revenues from a project, including the amount of the refund.

7. Fees and costs incurred by the Director of the Department of Business and Industry for ensuring compliance with the provisions of sections 2 to 22, inclusive, of this act.

Sec. 5. "Finance" or "financing" includes, without limitation, the issuance of bonds by the Director of the Department of Business and Industry for the purpose of using all or any part of the proceeds to pay for or to reimburse a user or the designee of a user for the cost of acquiring, improving or equipping the facilities of a project, or to provide money for the project itself, where appropriate, whether these costs are incurred by the obligor or a designee of the obligor.

Sec. 5.5. "Financing agreement" means an agreement by which the Director of the Department of Business and Industry agrees to issue bonds pursuant to sections 2 to 22, inclusive, of this act to finance one or more projects and the obligor agrees to:

1. Make payments directly or through notes, debentures, bonds or other secured or unsecured debt obligations of the obligor executed and delivered by the obligor to the Director or his or her designee or assignee, including a trustee, sufficient to pay the principal of, premium, if any, and interest on the bonds;

2. Pay other amounts required by sections 2 to 22, inclusive, of this act; and

3. Comply with all the applicable provisions of sections 2 to 22, inclusive, of this act.

Sec. 6. "Mortgage" means a mortgage, trust deed or other security device.

Sec. 6.5. "Obligor" means a charter school, natural person, partnership, firm, company, corporation, association, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns, who agrees to make the payments required by a financing agreement.

Sec. 7. "Project" means:



1. Any building, structure or real property owned, to be acquired or used by a charter school for any of its educational purposes and all related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping and parking facilities, together with all the personal property necessary, convenient or appurtenant thereto; or

2. Any capital equipment owned, to be acquired or used by a charter school for any of its educational purposes.

Sec. 7.5. "Revenues" includes, with respect to a project, payments under a lease, agreement of sale or financing agreement, or under notes, debentures, bonds and other secured or unsecured debt obligations of an obligor executed and delivered by the obligor to the Director of the Department of Business and Industry or his or her designee or assignee, including a trustee, pursuant to a lease, agreement of sale or financing agreement, or under any guarantee of or insurance with respect to any such lease, agreement of sale or financing agreement.

Sec. 8. (Deleted by amendment.)

Sec. 8.1. 1. It is the intent of the Legislature to authorize the Director of the Department of Business and Industry to finance facilities or other improvements to be owned, acquired and used by a charter school for any of its educational purposes.

2. The Director of the Department of Business and Industry has all the powers necessary to accomplish the purposes set forth in sections 2 to 22, inclusive, of this act, but these powers must be exercised for the health, safety, convenience, prosperity and welfare of the inhabitants of this State.

3. Sections 2 to 22, inclusive, of this act must be liberally construed in conformity with the purposes set forth in this section.

Sec. 8.3. When the Director of the Department of Business and Industry has received requests from one or more charter schools, lessees, purchasers or other obligors, the Director may issue revenue bonds to obtain money to fulfill the requests. Title to or in a project may at all times remain in the obligor or the obligor's designee or assignee and, in that case, the bonds must be secured by a pledge of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the obligor.

Sec. 8.5. Except as otherwise provided in section 9.9 of this act, the Director of the Department of Business and Industry shall not finance a project unless, before financing the project, the Director finds and the State Board of Finance approves the findings of the Director that:



1. *The project consists of any land, building or other improvement, and all real and personal properties necessary in connection therewith, which is suitable for new construction, improvement, restoration or rehabilitation of charter school facilities;*

2. *The charter school for whose benefit the project is being financed is not in default under the written charter granted by its sponsor, as determined by the sponsor;*

3. *The charter school for whose benefit the project is being financed has received, within the immediately preceding 3 consecutive school years, one of the two highest ratings of performance pursuant to the statewide system of accountability for public schools, or has received equivalent ratings in another state, as determined by the Department of Education;*

4. *There are sufficient safeguards to ensure that all money provided by the Director of the Department of Business and Industry will be expended solely for the purposes of the project;*

5. *There are sufficient safeguards to ensure that the Director of the Department of Business and Industry will have the ability to monitor compliance with the provisions of sections 2 to 22, inclusive, of this act on an ongoing basis with respect to the project;*

6. *Through the advice of counsel or other reliable source, the project has received all approvals by the local, state and federal governments which may be necessary to proceed with construction, improvement, rehabilitation or redevelopment of the project; and*

7. *There has been a request by a charter school, lessee, purchaser or other obligor to have the Director of the Department of Business and Industry issue bonds to finance the project.*

Sec. 8.7. *1. Except as otherwise provided in section 9.9 of this act, before financing a project pursuant to section 8.5 of this act, the Director of the Department of Business and Industry and the State Board of Finance must:*

(a) Determine the total amount of money necessary to be provided by the Director of the Department of Business and Industry for financing the project.

(b) Except as otherwise provided in this subsection, receive a 5-year operating history from the contemplated charter school, lessee, purchaser or other obligor that will make or guarantee the payment of the principal, premium, if any, and interest on any bond issued. An operating history is not required if the bonds:



(1) Are to be sold only to qualified institutional buyers, as defined in Rule 144A of the Securities and Exchange Commission, 17 C.F.R. § 230.144A, in minimum denominations of at least \$100,000; or

(2) Will receive a rating within one of the top four rating categories of Moody's Investors Service, Inc., Standard and Poor's Rating Services or Fitch IBCA, Inc.

(c) Consider whether the contemplated charter school, lessee, purchaser or other obligor that will make or guarantee the payment of the principal, premium, if any, and interest on any bonds issued has received within the 12 months immediately preceding the date of the findings of the Director of the Department of Business and Industry, or then has or has not in effect, a rating within one of the top four rating categories of Moody's Investors Service, Inc., Standard and Poor's Rating Services or Fitch IBCA, Inc.

(d) Consider the extent to which the project is affected by any federal, state or local governmental action, activity, program or development.

(e) Consider the length of time the charter school, lessee, purchaser or other obligor of the project has maintained facilities appropriate to the community in this State.

2. The Director of the Department of Business and Industry may adopt regulations to set forth additional factors to be considered by the Director and the State Board of Finance before financing a project pursuant to section 8.5 of this act.

Sec. 8.9. *1. The Director of the Department of Business and Industry may provide financing for a project pursuant to sections 2 to 22, inclusive, of this act if:*

(a) The financing is limited in amount and purpose to the payment of the costs associated with:

(1) The acquisition, construction, improvement, restoration or rehabilitation of the project; and

(2) The cost of the project;

(b) The Director makes the findings required by section 8.5 of this act; and

(c) The Director complies with the guidelines established by the Director pursuant to subsection 2.

2. The Director of the Department of Business and Industry shall establish guidelines for the provision of financing for a project pursuant to sections 2 to 22, inclusive, of this act.

Sec. 9. (Deleted by amendment.)



Sec. 9.1. *1. All bonds issued by the Director of the Department of Business and Industry pursuant to sections 2 to 22, inclusive, of this act are special, limited obligations of the State. The principal of and interest on such bonds are payable, subject to the security provisions of sections 2 to 22, inclusive, of this act, solely out of the revenues derived from the financing, leasing or sale of the project or projects to be financed by the bonds.*

2. The bonds and interest coupons, if any, which are part of those bonds do not constitute the debt or indebtedness of the State or any city or county within the meaning of any provision or limitation of the Constitution of the State of Nevada or statutes, and do not constitute or give rise to a pecuniary liability of the State or a charge against its general credit or taxing powers. This limitation must be plainly stated on the face of each bond.

Sec. 9.3. *1. Any bonds issued pursuant to sections 2 to 22, inclusive, of this act must be authorized by an order of the Director of the Department of Business and Industry and must:*

- (a) Be in denominations;*
- (b) Bear the date or dates;*
- (c) Mature at the time or times, not exceeding 40 years after their respective dates;*
- (d) Bear interest at a rate or rates;*
- (e) Be in the form;*
- (f) Carry the registration privileges;*
- (g) Be executed in the manner;*
- (h) Be payable at the place or places within or without the State; and*
- (i) Be subject to the terms of redemption,*
↪ as provided by the order authorizing their issuance.

2. Any bonds issued pursuant to sections 2 to 22, inclusive, of this act may be sold in one or more series at par, or below or above par, in the manner and for the price or prices which the Director of the Department of Business and Industry determines in his or her discretion, and are not required to obtain a credit rating. As an incidental expense to any project to be financed by the bonds, the Director may employ financial and legal consultants in regard to the financing of the project on an ongoing basis.

3. Any bonds issued pursuant to sections 2 to 22, inclusive, of this act are fully negotiable under the terms of the Uniform Commercial Code—Investment Securities.

Sec. 9.5. *The principal of, the interest on and any prior redemption premiums due in connection with the bonds issued pursuant to sections 2 to 22, inclusive, of this act are payable*



from, secured by a pledge of, and constitute a lien on the revenues out of which the bonds have been made payable. In addition, they may, in the discretion of the Director of the Department of Business and Industry, be secured by:

1. A mortgage or mortgages covering all or part of any project financed with the proceeds of the bonds, or upon any other property of the lessees, purchasers or obligors of those projects, or by a pledge of the lease, the agreement of sale or the financing agreement with respect to one or more of the projects, or both.

2. A pledge of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the obligor of one or more of the projects.

3. The proceeds of the bonds and income from investment of the proceeds and of revenues.

Sec. 9.7. *The Director of the Department of Business and Industry shall adopt regulations to carry out the provisions of sections 2 to 22, inclusive, of this act, including, without limitation, regulations for:*

1. Investment and reinvestment of the proceeds from the sale of the bonds, including, without limitation:

(a) Bonds or other obligations of the United States of America.

(b) Bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States of America.

(c) Obligations issued or guaranteed as to principal and interest by any agency or person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States of America.

(d) Obligations issued or guaranteed by any state of the United States of America, or any political subdivision of any state.

(e) Prime commercial paper.

(f) Prime finance company paper.

(g) Bankers' acceptances drawn on and accepted by commercial banks.

(h) Repurchase agreements fully secured by obligations issued or guaranteed as to principal and interest by the United States of America or by any person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States of America.

(i) Certificates of deposit issued by credit unions or commercial banks, including banks domiciled outside of the United States of America.



(j) Money market mutual funds that:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued or guaranteed as to payment of principal and interest by the Federal Government, or its agencies or instrumentalities, or in repurchase agreements that are fully collateralized by such securities.

2. Receiving, holding and disbursing of proceeds of the sale of bonds by one or more banks, credit unions or trust companies located within or without this State.

Sec. 9.9. *1. Any bonds issued pursuant to sections 2 to 22, inclusive, of this act may be refunded by the Director of the Department of Business and Industry by the issuance of refunding bonds in an amount which the Director determines necessary to refund the principal of the bonds to be so refunded, any unpaid interest thereon and any premiums and incidental expenses necessary to be paid in connection with refunding.*

2. Refunding may be carried out whether the bonds to be refunded have matured or thereafter mature, either by sale of the refunding bonds and the application of the proceeds to the payment of the bonds to be refunded, or by exchange of the refunding bonds for the bonds to be refunded. The holders of the bonds to be refunded must not be compelled, without their consent, to surrender their bonds for payment or exchange before the date on which they are payable by maturity, option to redeem or otherwise, or if they are called for redemption before the date on which they are by their terms subject to redemption by option or otherwise.

3. All refunding bonds issued pursuant to this section must be payable solely from revenues and other money out of which the bonds to be refunded thereby are payable or from revenues out of which bonds of the same character may be made payable under this or any other law then in effect at the time of the refunding.

4. The Director of the Department of Business and Industry shall not issue refunding bonds unless, before the refinancing, the Director finds that issuance of refunding bonds will provide a lower cost of financing for the obligor or provide some other public benefit, but the findings, determinations and approval required by section 8.5 of this act are not required with respect to refunding bonds issued pursuant to this section.

Sec. 10. (Deleted by amendment.)



Sec. 10.1. *1. Except as otherwise provided in subsection 2, bonds and other securities issued pursuant to sections 2 to 22, inclusive, of this act, their transfer and the income produced by the bonds and other securities is and must forever be and remain free and exempt from taxation by this State or any political subdivision of this State.*

2. The provisions of subsection 1 do not apply to the tax on the transfers of taxable estates imposed by chapter 375A of NRS or the tax on generation-skipping transfers imposed by chapter 375B of NRS.

Sec. 10.3. *No action may be brought questioning the legality of any contract, lease, agreement, indenture, mortgage, order or bonds executed, adopted or taken in connection with any project or improvements authorized by sections 2 to 22, inclusive, of this act more than 30 days after the effective date of the order of the Director of the Department of Business and Industry authorizing the issuance of those bonds.*

Sec. 10.5. *The faith of the State is hereby pledged that sections 2 to 22, inclusive, of this act will not be repealed, amended or modified to impair any outstanding bonds or any revenues pledged to their payment, or to impair, limit or alter the rights or powers vested in a charter school to acquire, finance, improve and equip a project in any way that would jeopardize the interest of any lessee, purchaser or other obligor, or to limit or alter the rights or powers vested in the Director of the Department of Business and Industry to perform any agreement made with any lessee, purchaser or other obligor, until all bonds have been discharged in full or provisions for their payment and redemption have been fully made.*

Sec. 10.7. *1. Sections 2 to 22, inclusive, of this act, without reference to other statutes of this State, constitute full authority for the exercise of powers granted in those sections, including, without limitation, the authorization and issuance of bonds.*

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or restricts the carrying out of the acts authorized by sections 2 to 22, inclusive, of this act, to be done, applies to any proceedings taken or acts done pursuant to those sections, except for laws to which reference is expressly made in those sections or by necessary implication of those sections.

3. The provisions of no other law, either general or local, except as provided in sections 2 to 22, inclusive, of this act, apply



to the doing of the things authorized in those sections to be done, and no board, agency, bureau, commission or official not designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.

4. A project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this State or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to sections 2 to 22, inclusive, of this act, except that the provisions of NRS 338.013 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after July 1, 2013, by the Director of the Department of Business and Industry for work to be done on a project.

5. Any bank or trust company located within or without this State may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to sections 2 to 22, inclusive, of this act without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.

6. The powers conferred by sections 2 to 22, inclusive, of this act are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect, the powers conferred by any other law.

7. No part of sections 2 to 22, inclusive, of this act repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

8. The Director of the Department of Business and Industry or a person designated by the Director may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or accomplishing the purposes of sections 2 to 22, inclusive, of this act without the assistance or intervention of any other officer.

Secs. 11-22. (Deleted by amendment.)



Sec. 23. NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.610, inclusive, *and sections 2 to 22, inclusive, of this act*, the words and terms defined in NRS 386.495, 386.500 and 386.503 have the meanings ascribed to them in those sections.

Secs. 24-27. (Deleted by amendment.)

Sec. 28. NRS 386.5125 is hereby amended to read as follows:

386.5125 The State Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.490 to 386.610, inclusive ~~H~~, *and sections 2 to 22, inclusive, of this act*. The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools in accordance with the provisions of NRS 386.490 to 386.610, inclusive ~~H~~, *and sections 2 to 22, inclusive, of this act*.

Sec. 29. NRS 386.536 is hereby amended to read as follows:

386.536 1. ~~If except as otherwise provided in subsections 2 and 3, if~~ *If* a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall ~~appoint~~ :

(a) *Give written notice of the closure to:*

(1) *The sponsor of the charter school, unless the closure results from the revocation of the written charter;*

(2) *The Director of the Department of Business and Industry;*

(3) *The board of trustees of the school district in which the charter school is located, unless the board of trustees is the sponsor of the charter school and the closure results from the revocation of the written charter;*

(4) *The Department;*

(5) *The parents or legal guardians of the pupils enrolled in the charter school; and*

(6) *The creditors of the charter school;*

(b) *Except as otherwise provided in subsections 4 and 5, appoint* an administrator of the charter school, subject to the approval of the sponsor of the charter school, to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure ~~H~~;

(c) *As soon as practicable, develop and present to the sponsor of the charter school a written plan for the closure of the charter school;*



(d) Maintain an office at the charter school or elsewhere, with regular hours of operation and voice messaging stating the hours of operation;

(e) Maintain existing insurance coverage in force for the period required by the sponsor of the charter school;

(f) Conduct a financial audit and an inventory of all the assets of the charter school and cause a written report of the audit and inventory to be prepared for the sponsor of the charter school and the Department;

(g) Prepare a written list of the creditors of the charter school, identifying secured creditors and the assets in which those creditors have a security interest;

(h) Supply any information or documents required by the sponsor of the charter school; and

(i) Protect all the assets of the charter school from theft, misappropriation, deterioration or other loss.

2. The notice of the closure required by subsection 1 must include:

(a) The date of closure;

(b) A statement of the plan of the charter school to assist pupils to identify and transfer to another school; and

(c) The telephone number, mailing address and physical address of the office required by subsection 1.

3. The administrator appointed pursuant to subsection 1 shall carry out the duties prescribed for the governing body of the charter school by paragraphs (c) to (i), inclusive, of subsection 1 if the governing body ceases to exist or is otherwise unable to perform those duties and shall assume the responsibility for the records of the:

(a) Charter school;

(b) Employees of the charter school; and

(c) Pupils enrolled in the charter school.

~~12-1~~ *4. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection ~~11-1~~ 3, the governing body of the charter school shall appoint a qualified person to assume those duties.*

~~13-1~~ *5. If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection ~~12-1~~ 4, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection ~~11-1~~ 3.*

~~14-1~~ *6. In addition to performing the duties set forth in subsection 3, the administrator appointed by the governing body of*



the charter school or the sponsor, or the qualified person appointed to carry out the duties of the administrator, shall:

(a) Cause to be paid and discharged all the liabilities and obligations of the charter school to the extent of the charter school's assets;

(b) Terminate any lease, service agreement or any other contract of the charter school that is not necessary to complete the closure of the charter school;

(c) Supply any information or documents required by the sponsor of the charter school; and

(d) After the financial affairs of the charter school have been wound up and the closure of the charter school has otherwise been completed, cause a financial audit to be prepared and cause a written report of the audit to be prepared for the sponsor of the charter school and the Department.

7. The governing body of the charter school or the sponsor of the charter school may, to the extent practicable, provide financial compensation to the administrator or person appointed to carry out the provisions of this section. If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

Sec. 30. NRS 386.553 is hereby amended to read as follows:

386.553 A charter school ~~shall~~ :

1. *Shall* not operate for profit.

2. *May be incorporated as a nonprofit corporation pursuant to the provisions of chapter 82 of NRS.*

Sec. 31. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or in which a pupil enrolled in the charter school resides or with the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to NRS 386.561 before the provision of such services.



2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. *A charter school may:*

(a) Acquire by construction, purchase, devise, gift, exchange or lease, or any combination of those methods, and construct, reconstruct, improve, maintain, equip and furnish any building, structure or property to be used for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities and lands;

(b) Mortgage, pledge or otherwise encumber all or any part of its property or assets;

(c) Borrow money and otherwise incur indebtedness; and

(d) Use public money to purchase real property or buildings with the approval of the sponsor.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil 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 pupil is qualified to participate in the class or extracurricular activity.

➔ If the board of trustees of a school district authorizes a pupil 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 pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.



~~15-1~~ 6. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➔ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

~~16-1~~ 7. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections ~~14-and~~ 5 and 6 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, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so 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.

Sec. 32. NRS 386.562 is hereby amended to read as follows:

386.562 1. A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:

(a) Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;

(b) Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;

(c) Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;

(d) Require the charter school or proposed charter school to pay the contractor or educational management organization before the



payment of other obligations of the charter school or proposed charter school during a period of financial distress;

(e) Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;

(f) Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;

(g) Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management organization will provide financial management to the charter school or proposed charter school;

(h) Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person or entity other than the contractor or educational management organization;

(i) Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;

(j) Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;

(k) Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization; or

(l) Except as otherwise provided in this paragraph, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school.

2. As used in this section, “**contractor**” or “educational management organization” means a corporation, business, organization or other entity, whether or not conducted for profit,



with whom a committee to form a charter school or the governing body of a charter school, as applicable, contracts to assist with the operation, management or provision and implementation of educational services and programs of the charter school or proposed charter school. The term includes a corporation, business, organization or other entity that directly employs and provides personnel to a charter school or proposed charter school.

Sec. 33. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. The State Board shall prescribe a process which ensures that all charter schools, regardless of the sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the Superintendent of Public Instruction shall pay to the sponsor of a charter school one-quarter of the yearly sponsorship fee for the administrative costs associated with sponsorship for that school quarter, which must be deducted from the quarterly apportionment to the charter school made pursuant to NRS 387.124. Except as otherwise provided in subsection 4, the yearly sponsorship fee for the sponsor of a charter school must be in an amount of money not to exceed 2 percent of



the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124.

4. If the governing body of a charter school satisfies the requirements of this subsection, the governing body may submit a request to the sponsor of the charter school for approval of a sponsorship fee in an amount that is less than 2 percent but at least 1 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. The sponsor of the charter school shall approve such a request if the sponsor of the charter school determines that the charter school satisfies the requirements of this subsection. If the sponsor of the charter school approves such a request, the sponsor shall provide notice of the decision to the governing body of the charter school and the Superintendent of Public Instruction. If the sponsor of the charter school denies such a request, the governing body of the charter school may appeal the decision of the sponsor to the Superintendent of Public Instruction. Upon appeal, the sponsor of the charter school and the governing body of the charter school are entitled to present evidence. The decision of the Superintendent of Public Instruction on the appeal is final and is not subject to judicial review. The governing body of a charter school may submit a request for a reduction of the sponsorship fee pursuant to this subsection if:

(a) The charter school satisfies the requirements of subsection 1 of NRS 386.5515; and

(b) There has been a decrease in the duties of the sponsor of the charter school that justifies a decrease in the sponsorship fee.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have



been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Public Charter School Authority may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~{8. If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.}~~

Sec. 34. NRS 386.575 is hereby amended to read as follows:

386.575 1. If a charter school files a voluntary petition of bankruptcy or is declared bankrupt during a school year, ~~{the governing body of the charter school shall make an assignment of all}~~ *any* real property ~~{and}~~ *or* other property ~~{of the charter school to the State of Nevada for the repayment of all money received}~~ *held* by the charter school ~~{from this state for the operation of the charter school during that year. The governing body shall make full settlement with this state for such repayment, and the State may take any lawful action necessary to recover the money.}~~ *must be disposed of as provided in NRS 386.536.*

2. If a charter school files a voluntary petition of bankruptcy or is declared bankrupt during a school year, neither the State of Nevada nor the sponsor of the charter school may be held liable for any claims resulting from the bankruptcy.

Sec. 35. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled



in a university school for profoundly gifted pupils located in the county, for:

- (a) Pupils in the kindergarten department.
- (b) Pupils in grades 1 to 12, inclusive.
- (c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.

(d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection ~~4~~ 5 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.

(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:

- (a) The maintenance of an acceptable standard of instruction;
- (b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and



(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➔ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.

4. The provisions of subsection 3 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 36. NRS 387.1233 is hereby amended to read as follows:

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

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

(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

(4) The count of pupils who reside in the county and are enrolled:



(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils 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).

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils 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).

(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.475 on that day.

(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.475 on the last day of the first school month of the school district for the school year.

(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection ~~4~~ 5 of NRS 386.560, subsection 5 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils 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).

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

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



2. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years 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. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year 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.

4. If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 2 or 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year 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.

5. 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.

6. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections 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.

7. 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.



Sec. 37. (Deleted by amendment.)

Sec. 38. This act becomes effective on July 1, 2013.

