

SENATE BILL NO. 351—SENATORS SEEVERS GANSERT,
SETTELMAYER, GOICOECHEA, HANSEN, PICKARD;
HAMMOND, HARDY AND KIECKHEFER

MARCH 18, 2019

JOINT SPONSORS: ASSEMBLYMEN HARDY,
HAFEN, TOLLES AND ROBERTS

Referred to Committee on Education

SUMMARY—Makes certain changes relating to education.
(BDR 34-247)

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; requiring the Department of Education to initiate certain evaluations of the Nevada Educational Choice Scholarship Program; requiring scholarship organizations that provide grants under the Nevada Educational Choice Scholarship Program to meet certain requirements; revising provisions relating to pupils with certain disabilities; requiring the Department to conduct an independent evaluation of certain scholarship programs for pupils; revising provisions relating to the authorization of certain tax credits; creating a tax credit from the insurance premium tax for donations made to a scholarship organization; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law establishes the Nevada Educational Choice Scholarship Program.
2 (NRS 388D.250-388D.280) **Section 1** of this bill requires the Department of
3 Education to initiate a request for proposals from certain institutions to conduct a
4 study of the Program. **Section 1** also requires the Department of Education to
5 contract with an independent evaluator to evaluate the effectiveness of the Program.
6 Existing law requires a scholarship organization that provides grants under the
7 Program to meet certain requirements. A scholarship organization must provide



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grants to pupils who are members of a household that has a household income which is not more than 300 percent of the federal poverty level. (NRS 388D.270) **Section 3** of this bill exempts pupils who have certain disabilities from that income requirement.

Existing law establishes a tax credit from the modified business tax for a taxpayer who makes a donation to a scholarship organization. Existing law authorizes the Department of Taxation to approve applications for such a tax credit until the total amount of credits authorized is \$20,000,000 for Fiscal Year 2017-2018. (NRS 363A.139, 363B.119) **Sections 4 and 5** of this bill authorize the Department of Taxation to approve up to \$10,000,000 in tax credits for each fiscal year. Existing law also requires an insurer to pay an insurance premium tax. (NRS 680B.027) **Section 6** of this bill extends the tax credit for donations to scholarship organizations to the insurance premium tax.

Section 2 of this bill makes a conforming change.

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

Section 1. Chapter 388D of NRS is hereby amended by adding thereto a new section to read as follows:

The Department of Education:

1. Shall initiate a request for proposals from institutions within the Nevada System of Higher Education for a quantitative analysis of outcome data of pupils participating in the Nevada Educational Choice Scholarship Program.

2. Shall conduct a study which contains an analysis of:

(a) The year-to-year longitudinal progress of pupils participating in the Program;

(b) The number of students meeting or exceeding typical growth as determined by the publisher of the assessment; and

(c) Other outcome data for pupils participating in the program, as measured by their performance on approved norm-referenced tests.

3. Shall, to the extent that money is available, contract with an independent evaluator to evaluate the effectiveness of any program or service provided pursuant to NRS 388D.250 to 388D.280, inclusive, and sections 1 and 6 of this act, including, without limitation, consideration of the achievement of a pupil who participated in such a program or received such services. When complete, the results of the evaluation must be provided contemporaneously to the Department and the Legislative Committee on Education.

Sec. 2. NRS 388D.250 is hereby amended to read as follows:

388D.250 NRS 363A.139, 363B.119 and 388D.250 to 388D.280, inclusive, ***and sections 1 and 6 of this act*** may be cited as the Nevada Educational Choice Scholarship Program.



Sec. 3. NRS 388D.270 is hereby amended to read as follows:

388D.270 1. A scholarship organization must:

(a) Be exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3).

(b) Not own or operate any school in this State, including, without limitation, a private school, which receives any grant money pursuant to the Nevada Educational Choice Scholarship Program.

(c) Accept donations from taxpayers and other persons and may also solicit and accept gifts and grants.

(d) Not expend more than 5 percent of the total amount of money accepted pursuant to paragraph (c) to pay its administrative expenses.

(e) ~~Provide~~ *Except as otherwise provided in subsection 2, provide* grants on behalf of pupils who are members of a household that has a household income which is not more than 300 percent of the federally designated level signifying poverty to allow those pupils to attend schools in this State chosen by the parents or legal guardians of those pupils, including, without limitation, private schools. The total amount of a grant provided by the scholarship organization on behalf of a pupil pursuant to this paragraph must not exceed \$7,755 for Fiscal Year 2015-2016.

(f) Not limit to a single school the schools for which it provides grants.

(g) Except as otherwise provided in paragraph (e), not limit to specific pupils the grants provided pursuant to that paragraph.

2. A pupil with one or more of the following disabilities diagnosed by a health care provider is exempt from the income eligibility requirements of paragraph (e) of subsection 1:

(a) An intellectual disability;

(b) A hearing impairment, including, without limitation, deafness;

(c) A speech and language impairment;

(d) A visual impairment, including, without limitation, blindness;

(e) An emotional disturbance;

(f) An orthopedic impairment;

(g) A specific learning disability, including, without limitation, dyslexia;

(h) An autism spectrum disorder;

(i) A traumatic brain injury; or

(j) A developmental delay.

~~2.1~~ **3.** The maximum amount of a grant provided by the scholarship organization pursuant to paragraph (e) of subsection 1 must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount



1 corresponding to the percentage of increase in the Consumer Price
2 Index (All Items) published by the United States Department of
3 Labor for the preceding calendar year. On May 1 of each year, the
4 Department of Education shall determine the amount of increase
5 required by this subsection, establish the adjusted amounts to take
6 effect on July 1 of that year and notify each scholarship organization
7 of the adjusted amounts. The Department of Education shall also
8 post the adjusted amounts on its Internet website.

9 ~~{3-}~~ 4. A grant provided on behalf of a pupil pursuant to
10 subsection 1 must be paid directly to the school chosen by the parent
11 or legal guardian of the pupil.

12 ~~{4-}~~ 5. A scholarship organization shall provide each taxpayer
13 and other person who makes a donation, gift or grant of money to
14 the scholarship organization pursuant to paragraph (c) of subsection
15 1 with an affidavit, signed under penalty of perjury, which includes,
16 without limitation:

17 (a) A statement that the scholarship organization satisfies the
18 requirements set forth in subsection 1; and

19 (b) The total amount of the donation, gift or grant made to the
20 scholarship organization.

21 ~~{5-}~~ 6. Each school in which a pupil is enrolled for whom a
22 grant is provided by a scholarship organization shall maintain a
23 record of the academic progress of the pupil. The record must be
24 maintained in such a manner that the information may be aggregated
25 and reported for all such pupils if reporting is required by the
26 regulations of the Department of Education.

27 ~~{6-}~~ 7. The Department of Education:

28 (a) Shall adopt regulations prescribing the contents of and
29 procedures for applications for grants provided pursuant to
30 subsection 1.

31 (b) May adopt such other regulations as the Department
32 determines necessary to carry out the provisions of this section.

33 ~~{7-}~~ 8. As used in this section ~~{, "private"}~~ :

34 (a) *"Health care provider" has the meaning ascribed to it in 45*
35 *C.F.R. § 160.103 and includes a clinical professional counselor*
36 *and a behavior analyst.*

37 (b) *"Private school"* has the meaning ascribed to it in
38 NRS 394.103.

39 **Sec. 4.** NRS 363A.139 is hereby amended to read as follows:

40 363A.139 1. Any taxpayer who is required to pay a tax
41 pursuant to NRS 363A.130 may receive a credit against the tax
42 otherwise due for any donation of money made by the taxpayer to a
43 scholarship organization in the manner provided by this section.

44 2. To receive the credit authorized by subsection 1, a taxpayer
45 who intends to make a donation of money to a scholarship



organization must, before making such a donation, notify the scholarship organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. A scholarship organization shall, before accepting any such donation, apply to the Department of Taxation for approval of the credit authorized by subsection 1 for the donation. The Department of Taxation shall, within 20 days after receiving the application, approve or deny the application and provide to the scholarship organization notice of the decision and, if the application is approved, the amount of the credit authorized. Upon receipt of notice that the application has been approved, the scholarship organization shall provide notice of the approval to the taxpayer who must, not later than 30 days after receiving the notice, make the donation of money to the scholarship organization. If the taxpayer does not make the donation of money to the scholarship organization within 30 days after receiving the notice, the scholarship organization shall provide notice of the failure to the Department of Taxation and the taxpayer forfeits any claim to the credit authorized by subsection 1.

3. The Department of Taxation shall approve or deny applications for the credit authorized by subsection 1 in the order in which the applications are received.

4. Except as otherwise provided in subsection 5, the Department of Taxation may, for each fiscal year, approve applications for the credit authorized by subsection 1 until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection is:

(a) For Fiscal Year 2015-2016, \$5,000,000;

(b) For Fiscal Year 2016-2017, \$5,500,000; and

(c) For each succeeding fiscal year, an amount equal to 110 percent of the amount authorized for the immediately preceding fiscal year.

↪ The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized for any fiscal year.

5. In addition to the amount of credits authorized by subsection 4, ~~{for Fiscal Year 2017-2018,}~~ the Department of Taxation may approve applications for the credit authorized by subsection 1 for ~~{that}~~ each fiscal year until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection, ~~{and}~~ subsection 5 of NRS 363B.119 and subsection 5 of section 6 of this act is ~~is~~ **\$20,000,000. \$10,000,000.** The provisions of paragraph (c) of subsection 4 do not apply to the amount of credits authorized by this subsection and the amount of credits authorized by this subsection must not be



considered when determining the amount of credits authorized for a fiscal year pursuant to that paragraph. If, in ~~Fiscal Year 2017-2018,~~ *a fiscal year*, the amount of credits authorized by subsection 1 and approved pursuant to this subsection is less than ~~\$20,000,000,~~ *\$10,000,000*, the remaining amount of credits pursuant to this subsection must be carried forward and made available for approval during subsequent fiscal years until the total amount of credits authorized by subsection 1 and approved pursuant to this subsection is equal to ~~\$20,000,000,~~ *\$10,000,000*. The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized pursuant to this subsection.

6. If a taxpayer applies to and is approved by the Department of Taxation for the credit authorized by subsection 1, the amount of the credit provided by this section is equal to the amount approved by the Department of Taxation pursuant to subsection 2, which must not exceed the amount of the donation made by the taxpayer to a scholarship organization. The total amount of the credit applied against the taxes described in subsection 1 and otherwise due from a taxpayer must not exceed the amount of the donation.

7. If the amount of the tax described in subsection 1 and otherwise due from a taxpayer is less than the credit to which the taxpayer is entitled pursuant to this section, the taxpayer may, after applying the credit to the extent of the tax otherwise due, carry the balance of the credit forward for not more than 5 years after the end of the calendar year in which the donation is made or until the balance of the credit is applied, whichever is earlier.

8. As used in this section, "scholarship organization" has the meaning ascribed to it in NRS 388D.260.

Sec. 5. NRS 363B.119 is hereby amended to read as follows:

363B.119 1. Any taxpayer who is required to pay a tax pursuant to NRS 363B.110 may receive a credit against the tax otherwise due for any donation of money made by the taxpayer to a scholarship organization in the manner provided by this section.

2. To receive the credit authorized by subsection 1, a taxpayer who intends to make a donation of money to a scholarship organization must, before making such a donation, notify the scholarship organization of the taxpayer's intent to make the donation and to seek the credit authorized by subsection 1. A scholarship organization shall, before accepting any such donation, apply to the Department of Taxation for approval of the credit authorized by subsection 1 for the donation. The Department of Taxation shall, within 20 days after receiving the application, approve or deny the application and provide to the scholarship organization notice of the decision and, if the application is



approved, the amount of the credit authorized. Upon receipt of notice that the application has been approved, the scholarship organization shall provide notice of the approval to the taxpayer who must, not later than 30 days after receiving the notice, make the donation of money to the scholarship organization. If the taxpayer does not make the donation of money to the scholarship organization within 30 days after receiving the notice, the scholarship organization shall provide notice of the failure to the Department of Taxation and the taxpayer forfeits any claim to the credit authorized by subsection 1.

3. The Department of Taxation shall approve or deny applications for the credit authorized by subsection 1 in the order in which the applications are received.

4. Except as otherwise provided in subsection 5, the Department of Taxation may, for each fiscal year, approve applications for the credit authorized by subsection 1 until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection is:

(a) For Fiscal Year 2015-2016, \$5,000,000;

(b) For Fiscal Year 2016-2017, \$5,500,000; and

(c) For each succeeding fiscal year, an amount equal to 110 percent of the amount authorized for the immediately preceding fiscal year.

➤ The amount of any credit which is forfeited pursuant to subsection 2 must not be considered in calculating the amount of credits authorized for any fiscal year.

5. In addition to the amount of credits authorized by subsection 4, ~~for Fiscal Year 2017-2018,~~ the Department of Taxation may approve applications for the credit authorized by subsection 1 for ~~that~~ *each* fiscal year until the total amount of the credits authorized by subsection 1 and approved by the Department of Taxation pursuant to this subsection, ~~and~~ subsection 5 of NRS 363A.139 *and subsection 5 of section 6 of this act* is ~~[\$20,000,000.]~~ *\$10,000,000.* The provisions of paragraph (c) of subsection 4 do not apply to the amount of credits authorized by this subsection and the amount of credits authorized by this subsection must not be considered when determining the amount of credits authorized for a fiscal year pursuant to that paragraph. If, in ~~Fiscal Year 2017-2018,~~ *a fiscal year,* the amount of credits authorized by subsection 1 and approved pursuant to this subsection is less than ~~[\$20,000,000.]~~ *\$10,000,000,* the remaining amount of credits pursuant to this subsection must be carried forward and made available for approval during subsequent fiscal years until the total amount of credits authorized by subsection 1 and approved pursuant to this subsection is equal to ~~[\$20,000,000.]~~ *\$10,000,000.* The



1 amount of any credit which is forfeited pursuant to subsection 2
2 must not be considered in calculating the amount of credits
3 authorized pursuant to this subsection.

4 6. If a taxpayer applies to and is approved by the Department
5 of Taxation for the credit authorized by subsection 1, the amount of
6 the credit provided by this section is equal to the amount approved
7 by the Department of Taxation pursuant to subsection 2, which must
8 not exceed the amount of the donation made by the taxpayer to a
9 scholarship organization. The total amount of the credit applied
10 against the taxes described in subsection 1 and otherwise due from a
11 taxpayer must not exceed the amount of the donation.

12 7. If the amount of the tax described in subsection 1 and
13 otherwise due from a taxpayer is less than the credit to which the
14 taxpayer is entitled pursuant to this section, the taxpayer may, after
15 applying the credit to the extent of the tax otherwise due, carry the
16 balance of the credit forward for not more than 5 years after the end
17 of the calendar year in which the donation is made or until the
18 balance of the credit is applied, whichever is earlier.

19 8. As used in this section, "scholarship organization" has the
20 meaning ascribed to it in NRS 388D.260.

21 **Sec. 6.** Chapter 680B of NRS is hereby amended by adding
22 thereto a new section to read as follows:

23 *1. Any taxpayer who is required to pay a tax pursuant to NRS*
24 *680B.027 may receive a credit against the tax otherwise due for*
25 *any donation of money made by the taxpayer to a scholarship*
26 *organization in the manner provided by this section.*

27 *2. To receive the credit authorized by subsection 1, a taxpayer*
28 *who intends to make a donation of money to a scholarship*
29 *organization must, before making such a donation, notify the*
30 *scholarship organization of the taxpayer's intent to make the*
31 *donation and to seek the credit authorized by subsection 1. A*
32 *scholarship organization shall, before accepting any such*
33 *donation, apply to the Department of Taxation for approval of the*
34 *credit authorized by subsection 1 for the donation. The*
35 *Department of Taxation shall, within 20 days after receiving the*
36 *application, approve or deny the application and provide to the*
37 *scholarship organization notice of the decision and, if the*
38 *application is approved, the amount of the credit authorized. Upon*
39 *receipt of notice that the application has been approved, the*
40 *scholarship organization shall provide notice of the approval to*
41 *the taxpayer who must, not later than 30 days after receiving the*
42 *notice, make the donation of money to the scholarship*
43 *organization. If the taxpayer does not make the donation of money*
44 *to the scholarship organization within 30 days after receiving the*
45 *notice, the scholarship organization shall provide notice of the*



1 failure to the Department of Taxation and the taxpayer forfeits
2 any claim to the credit authorized by subsection 1.

3 3. The Department of Taxation shall approve or deny
4 applications for the credit authorized by subsection 1 in the order
5 in which the applications are received.

6 4. Except as otherwise provided in subsection 5, the
7 Department of Taxation may, for each fiscal year, approve
8 applications for the credit authorized by subsection 1 until the
9 total amount of the credits authorized by subsection 1 and
10 approved by the Department of Taxation pursuant to this
11 subsection is:

12 (a) For the Fiscal Year 2019-2020, \$7,320,500;

13 (b) For the Fiscal Year 2020-2021, \$8,052,550; and

14 (c) For each succeeding fiscal year, an amount equal to 110
15 percent of the amount authorized for the immediately preceding
16 fiscal year.

17 ➡ The amount of any credit which is forfeited pursuant to
18 subsection 2 must not be considered in calculating the amount of
19 credits authorized for any fiscal year.

20 5. In addition to the amount of credits authorized by
21 subsection 4, the Department of Taxation may approve
22 applications for the credit authorized by subsection 1 for each
23 fiscal year until the total amount of the credits authorized by
24 subsection 1 and approved by the Department of Taxation
25 pursuant to this subsection, subsection 5 of NRS 363A.139 and
26 subsection 5 of NRS 363B.119 is \$10,000,000. The provisions of
27 paragraph (c) of subsection 4 do not apply to the amount of credits
28 authorized by this subsection and the amount of credits authorized
29 by this subsection must not be considered when determining the
30 amount of credits authorized for a fiscal year pursuant to that
31 paragraph. If, in a fiscal year, the amount of credits authorized by
32 subsection 1 and approved pursuant to this subsection is less than
33 \$10,000,000, the remaining amount of credits pursuant to this
34 subsection must be carried forward and made available for
35 approval during subsequent fiscal years until the total amount of
36 credits authorized by subsection 1 and approved pursuant to this
37 subsection is equal to \$10,000,000. The amount of any credit
38 which is forfeited pursuant to subsection 2 must not be considered
39 in calculating the amount of credits authorized pursuant to this
40 subsection.

41 6. If a taxpayer applies to and is approved by the Department
42 of Taxation for the credit authorized by subsection 1, the amount
43 of the credit provided by this section is equal to the amount
44 approved by the Department of Taxation pursuant to subsection 2,
45 which must not exceed the amount of the donation made by the



1 *taxpayer to a scholarship organization. The total amount of the*
2 *credit applied against the taxes described in subsection 1 and*
3 *otherwise due from a taxpayer must not exceed the amount of the*
4 *donation.*

5 *7. If the amount of the tax described in subsection 1 and*
6 *otherwise due from a taxpayer is less than the credit to which the*
7 *taxpayer is entitled pursuant to this section, the taxpayer may,*
8 *after applying the credit to the extent of the tax otherwise due,*
9 *carry the balance of the credit forward for not more than 5 years*
10 *after the end of the calendar year in which the donation is made*
11 *or until the balance of the credit is applied, whichever is earlier.*

12 *8. As used in this section, "scholarship organization" has the*
13 *meaning ascribed to it in NRS 388D.260.*

14 **Sec. 7.** 1. There is hereby appropriated from the State
15 General Fund to the Department of Education the sum of \$30,000
16 for the purpose of contracting with an independent evaluator to
17 conduct an evaluation pursuant to subsection 3 of section 1 of this
18 act.

19 2. Any remaining balance of the appropriation made by this
20 section must not be committed for expenditure after June 30, 2021,
21 by the entity to which the appropriation is made or any entity to
22 which money from the appropriation is granted or otherwise
23 transferred in any manner, and any portion of the appropriated
24 money remaining must not be spent for any purpose after
25 September 17, 2021, by either the entity to which the money was
26 appropriated or the entity to which the money was subsequently
27 granted or transferred, and must be reverted to the State General
28 Fund on or before September 17, 2021.

29 **Sec. 8.** This act becomes effective on July 1, 2019.

