

SENATE BILL NO. 200—SENATOR HAMMOND

MARCH 2, 2023

Referred to Committee on Finance

**SUMMARY**—Revises provisions relating to education savings accounts and education funding. (BDR 34-181)

**FISCAL NOTE:** Effect on Local Government: No.

Effect on the State: Contains Appropriation not included in Executive Budget.

~

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

AN ACT relating to education; reenacting and revising provisions relating to the education savings account program; providing that certain pupils participating in the program are not included in determining the average daily enrollment and computing the yearly apportionment from the State Education Fund for a school district; declaring the intention of the Legislature regarding the program; creating an account in the State General Fund to carry out the education savings account program; setting the maximum number of first-time applicants who may apply for the program each school year; imposing certain duties on the State Treasurer relating to the administration of the program; making appropriations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Senate Bill No. 302 (S.B. 302) of the 78th Session of the Nevada Legislature established the education savings account program, pursuant to which grants of money are made to certain parents on behalf of their children to defray the cost of instruction outside the public school system. (Chapter 332, Statutes of Nevada 2015, at page 1824) Following a legal challenge of S.B. 302, the Nevada Supreme Court held in *Schwartz v. Lopez*, 132 Nev. 732 (2016), that the legislation was valid under Section 2 of Article 11 of the Nevada Constitution, which requires a uniform system of common schools, and under Section 10 of Article 11 of the Nevada Constitution, which prohibits the use of public money for a sectarian purpose. However, the Nevada Supreme Court found that the Legislature did not make an appropriation for the support of the education savings account program and held that the use of any money appropriated for K-12 public education for the education



\* S B 2 0 0 \*

savings account program would violate Sections 2 and 6 of Article 11 of the Nevada Constitution. The Court enjoined the enforcement of section 16 of S.B. 302, which amended NRS 387.124, to require that all money deposited in education savings accounts be subtracted from each school district's quarterly apportionments from the State Distributive School Account. During the 80th Session of the Nevada Legislature, the Legislature repealed the entirety of the provisions governing the education savings account program. (Chapter 537, Statutes of Nevada 2019, at page 3294)

**Sections 5-26** of this bill reenact the provisions that were repealed during the 80th Session of the Nevada Legislature, with some revisions. In response to the *Schwartz* decision, **section 27** of this bill appropriates money to fund the administration of the education savings account program for the 2023-2025 biennium.

**Section 15** of this bill: (1) creates the Account for Educational Choice in the State General Fund; (2) requires the Account to be administered by the State Treasurer; and (3) authorizes the State Treasurer to accept gifts and grants for deposit in the Account. **Section 15** also: (1) restricts the use of the money in the Account to making grants under the education savings account program and for other purposes authorized by the Legislature; and (2) authorizes any money in the Account for expenditure as a continuing appropriation for such purposes. **Sections 18 and 20** of this bill require the reversion of any balance remaining in an education savings account that has been terminated or not renewed to the Account. **Section 27** makes an appropriation to the Office of the State Treasurer to administer the education savings account program and to make grants pursuant to the education savings account program.

**Sections 16 and 28** of this bill limit the number of grants that may be made in a school year to first-time applicants in a school district under the education savings account program. In addition, when more applications are received than money is available, **section 20** requires that grants be awarded in the order in which applications are approved. **Section 17** of this bill requires the State Treasurer to comply with the State Budget Act in administering the program and, as part of the budgeting process, to estimate the amount of money required for the program for each biennium. **Section 18** authorizes the State Treasurer to enter into an agreement to establish an education savings account without a guarantee that money will be deposited in the account. No agreement may obligate the State to make a grant in excess of the amount appropriated or authorized for the education savings account program.

**Section 18** provides for the establishment of education savings accounts for children who are at least 5 years of age and less than 7 years of age and children of active duty members of the military, regardless of whether those children had been enrolled in a public school in Nevada for not less than 2 consecutive quarters of the school year preceding the establishment of an education savings account for such a child.

**Sections 8, 10, 11 and 23** of this bill allow the State Treasurer to approve as a participating entity in the education savings account program a person or entity that is located outside Nevada or that meets criteria established by the State Treasurer for participating in the program.

Existing law requires each school district to report to the Department of Education, on a quarterly basis, the average daily enrollment of pupils in the school district. The enrollment of pupils in each school district is used to calculate the yearly apportionment that will be provided for each district. Existing law also includes a "hold harmless" provision, pursuant to which a school district with a significant decline in enrollment is protected against a corresponding reduction in apportionments from the State Education Fund. (NRS 387.1223) **Section 2** of this bill provides that children in the school district who are receiving grants from the



education savings account program are not to be included in the count of pupils in a school district for determining enrollment or for the purpose of computing the yearly apportionment, under most circumstances.

---

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

**Section 1.** NRS 387.045 is hereby amended to read as follows:  
387.045 *Except as otherwise provided in sections 5 to 26, inclusive, of this act:*

1. No portion of the public school funds or of the money specially appropriated for the purpose of public schools shall be devoted to any other object or purpose.

2. No portion of the public school funds shall in any way be segregated, divided or set apart for the use or benefit of any sectarian or secular society or association.

**Sec. 2.** NRS 387.1223 is hereby amended to read as follows:  
387.1223 1. On or before October 1, January 1, April 1 and July 1, each school district shall report to the Department, in the form prescribed by the Department, the average daily enrollment of pupils pursuant to this section for the immediately preceding quarter of the school year. If October 1, January 1, April 1 or July 1 falls on a Saturday, Sunday or legal holiday, the report may be submitted before 5 p.m. on the next business day.

2. Except as otherwise provided in ~~[subsection 3,]~~ *this section*, the yearly apportionment from the State Education Fund for each school district must be computed by:

(a) Multiplying the adjusted base per pupil funding established for that school district for that school year by the sum of:

(1) The count of pupils enrolled in kindergarten and grades 1 to 12, inclusive, in a public school in the school district based on the average daily enrollment of those pupils during the quarter.

(2) The count of pupils not included under subparagraph (1) who are enrolled full-time in a program of distance education provided by that school district, based on the average daily enrollment of those pupils during the quarter.

(3) 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 ~~or~~ *or who are receiving a portion of their instruction from a participating entity, as defined in section 10 of this act*, based on the average daily enrollment of those pupils during the quarter.



(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by the school district **or who are receiving a portion of their instruction from a participating entity, as defined in section 10 of this act**, based on the average daily enrollment of those pupils during the quarter.

(4) The count of pupils not included under subparagraph (1), (2) or (3), who are receiving special education pursuant to the provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to 388.5267, inclusive, based on the average daily enrollment of those pupils during the quarter and excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to NRS 388.435.

(5) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to NRS 388.435, based on the average daily enrollment of those pupils during the quarter.

(6) 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, based on the average daily enrollment of those pupils during the quarter.

(7) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 1 of NRS 388A.471, subsection 1 of NRS 388A.474 or subsection 1 of NRS 392.074, based on the average daily enrollment of pupils during the quarter and 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 (1).

(8) The count of pupils enrolled in a challenge school based on the average daily enrollment of those pupils calculated in the manner set forth in an agreement entered into pursuant to NRS 388D.330.

(b) Adding to the amount computed in paragraph (a) the amounts appropriated pursuant to paragraphs (a), (b) and (e) of subsection 2 of NRS 387.1214.

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 based on the average daily enrollment of pupils during the quarter of the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school based on the average daily enrollment of pupils during the same quarter of the immediately preceding school year, the enrollment of pupils during the same quarter of the immediately preceding school year must be used for



purposes of making the monthly apportionments from the State Education Fund to that school district or charter school pursuant to NRS 387.124. *For the purposes of this subsection, any decline in the average daily enrollment of pupils in a school district or a charter school that is attributable to any child receiving a grant pursuant to sections 5 to 26, inclusive, of this act must not be used in determining whether this subsection applies to the school district or charter school.*

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 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 Education Fund to that school district or charter school pursuant to NRS 387.124.

5. The Department shall prescribe a process for reconciling the quarterly reports submitted pursuant to subsection 1 to account for pupils who leave the school district or a public school during the school year.

6. 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.

7. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing the yearly apportionment pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

8. 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 the yearly apportionment pursuant to this section.

*9. Except as otherwise provided in subparagraph (3) of paragraph (a) of subsection 2, any child receiving a grant pursuant to sections 5 to 26, inclusive, of this act must not be counted in determining the average daily enrollment of pupils or for the purpose of computing the yearly apportionment pursuant to this section.*

**Sec. 3.** NRS 388A.471 is hereby amended to read as follows:

388A.471 1. Except as otherwise provided in subsection 2, 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 or her school



1 or homeschool *or from his or her participating entity, as defined in*  
2 *section 10 of this act*, or participate in an extracurricular activity at  
3 the charter school if:

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

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

9 (c) The child is a homeschooled child and a notice of intent of a  
10 homeschooled child to participate in programs and activities is filed  
11 for the child with the school district in which the child resides for  
12 the current school year pursuant to NRS 388D.070.

13 2. If the governing body of a charter school authorizes a child  
14 to participate in a class or extracurricular activity pursuant to  
15 subsection 1, the governing body is not required to provide  
16 transportation for the child to attend the class or activity. A charter  
17 school shall not authorize such a child to participate in a class or  
18 activity through a program of distance education provided by the  
19 charter school pursuant to NRS 388.820 to 388.874, inclusive.

20 3. The governing body of a charter school may revoke its  
21 approval for a child to participate in a class or extracurricular  
22 activity at a charter school pursuant to subsection 1 if the governing  
23 body determines that the child has failed to comply with applicable  
24 statutes, or applicable rules and regulations. If the governing body  
25 so revokes its approval, neither the governing body nor the charter  
26 school is liable for any damages relating to the denial of services to  
27 the child.

28 4. The governing body of a charter school may, before  
29 authorizing a homeschooled child to participate in a class or  
30 extracurricular activity pursuant to subsection 1, require proof of the  
31 identity of the child, including, without limitation, the birth  
32 certificate of the child or other documentation sufficient to establish  
33 the identity of the child.

34 **Sec. 4.** Chapter 388D of NRS is hereby amended by adding  
35 thereto the provisions set forth as sections 5 to 26, inclusive, of this  
36 act.

37 **Sec. 5.** *As used in sections 5 to 26, inclusive, of this act,*  
38 *unless the context otherwise requires, the words and terms defined*  
39 *in sections 6 to 12, inclusive, of this act have the meanings*  
40 *ascribed to them in those sections.*

41 **Sec. 6.** *“Account for Educational Choice” or “Account”*  
42 *means the Account for Educational Choice created by section 15*  
43 *of this act.*

44 **Sec. 7.** *“Education savings account” means an account*  
45 *established for a child pursuant to section 18 of this act.*



**Sec. 8. "Eligible institution" means:**

**1. A university, state college or community college within the Nevada System of Higher Education; or**

**2. Any other college or university that is:**

**(a) Exempt from taxation pursuant to 26 U.S.C. § 501(c)(3); and**

**(b) Accredited by a regional accrediting agency recognized by the United States Department of Education.**

**Sec. 9. "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. 10. "Participating entity" means a person who has been approved by the State Treasurer pursuant to section 23 of this act to serve as a participating entity pursuant to sections 5 to 26, inclusive, of this act.**

**Sec. 11. 1. "Program of distance education" means a program comprised of one or more courses of distance education that is provided by the board of trustees of a school district, the governing body of a charter school, the Department of Education, a private school licensed pursuant to chapter 394 of NRS or any other public or private entity who provides one or more courses of distance education, whether located within or outside of this State.**

**2. As used in this section, "course of distance education" has the meaning ascribed to it in NRS 388.823.**

**Sec. 12. "Resident school district" means the school district in which a child would be enrolled based on his or her residence.**

**Sec. 13. In enacting sections 5 to 26, inclusive, of this act, it is the intent of the Legislature to provide additional resources for the support of education and to assist parents, including, without limitation, the parents of children who are pupils with disabilities and parents in low-income households, in meeting the unique educational needs of the children in their care.**

**Sec. 14. The State Treasurer shall adopt any regulations necessary or convenient to carry out the provisions of sections 5 to 26, inclusive, of this act.**

**Sec. 15. 1. The Account for Educational Choice is hereby created in the State General Fund. The State Treasurer shall administer the Account.**

**2. The interest and income earned on:**

**(a) The money in the Account, after deducting any applicable charges; and**

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

**↪ must be credited to the Account.**



3. The money in the Account may be used by the State Treasurer only to make grants pursuant to sections 5 to 26, inclusive, of this act and for any other purpose authorized by the Legislature, and is hereby authorized for expenditure as a continuing appropriation for such purposes.

4. The State Treasurer may accept gifts and grants from any source for deposit in the Account and may expend such gifts and grants from the Account pursuant to subsection 3.

5. Any money remaining in the Account at the end of a fiscal year, including, without limitation, any unexpended appropriations made to the Account from the State General Fund, does not revert to the State General Fund, and the balance in the Account from gifts and grants must be carried forward to the next fiscal year.

6. Support for the Account must be provided by legislative appropriation from the State General Fund together with all money derived from other sources authorized by law to be deposited in the Account.

**Sec. 16.** 1. For any school year, the State Treasurer shall not enter into an agreement with or make a grant of money to a first-time applicant in a school district after the total number of first-time applicants in the school district to whom grants are made for that school year pursuant to sections 5 to 26, inclusive, of this act equals or exceeds 5 percent of the average daily enrollment of pupils in that school district for the quarter that was reported on or before October 1 of the immediately preceding school year by the school district to the Department pursuant to NRS 387.1223.

2. If more applications for grants are received in a school year from qualified first-time applicants in a school district than the maximum number authorized for approval in that school district for that school year pursuant to subsection 1, grants must be awarded in the order of the number assigned to the agreement entered into pursuant to section 18 of this act.

3. As used in this section, “first-time applicant” means an applicant who has not received a grant of money pursuant to sections 5 to 26, inclusive, of this act during any part of the immediately preceding school year.

**Sec. 17.** 1. The administrative and operating budget to carry out the provisions of sections 5 to 26, inclusive, of this act and any changes made to the budget must be submitted by the State Treasurer for approval in the manner prescribed by the State Budget Act.

2. On or before September 1 of each even-numbered year, the State Treasurer shall prepare and submit to the Chief of the





*Budget Division of the Office of Finance an estimate of the expenditure requirements to carry out the provisions of sections 5 to 26, inclusive, of this act for each of the next 2 fiscal years. The estimate must be classified according to the projected number of recipients of grants in each fiscal year who are pupils with a disability, as defined in NRS 388.417, children with a household income that is less than 185 percent of the federally designated level signifying poverty, and all other recipients.*

**Sec. 18.** *1. Except as otherwise provided in this section, the parent of any child may apply to the State Treasurer to establish an education savings account if one of the following requirements is satisfied:*

*(a) The child is required by NRS 392.040 to attend a public school and has been enrolled in a public school in this State during the period immediately preceding the establishment of an education savings account pursuant to this section for not less than 2 consecutive quarters of the school year, or, if the child has been enrolled in a public school in this State that uses a system of enrollment other than quarters, for a number of school days equivalent to 2 consecutive quarters of public school, as determined by the State Treasurer.*

*(b) The child is eligible to be enrolled in a public school in this State and a parent of the child is a member of the Armed Forces of the United States who is on active duty.*

*(c) The child is eligible to be enrolled in a public school in this State and will be at least 5 years of age and less than 7 years of age on or before September 30 of the school year for which the application is submitted.*

*2. A parent may not apply to establish an education savings account for a child who will be homeschooled or who will remain enrolled full-time in a public school, regardless of whether such a child receives instruction from a participating entity. A parent may establish an education savings account for a child who receives a portion of his or her instruction from a public school and a portion of his or her instruction from a participating entity.*

*3. To establish an education savings account for a child pursuant to this section, the parent of the child must enter into a written agreement with the State Treasurer, in the manner and on a form prescribed by the State Treasurer. An agreement may be allowed only if the child of the parent will receive instruction from a participating entity for the school year for which the agreement applies.*

*4. Except as otherwise provided in this section, the State Treasurer shall enter into or renew an agreement with the parent of a child for the establishment of an education savings account if*



1 *the child satisfies the requirements of this section and the parent*  
2 *applies to the State Treasurer in the manner provided by the State*  
3 *Treasurer. The State Treasurer shall make the application*  
4 *available on the Internet website of the State Treasurer.*

5 *5. A number must be assigned to each agreement that is*  
6 *entered into pursuant to this section which corresponds to the*  
7 *order in which the application is approved. The number assigned*  
8 *to an agreement remains the same with any renewal to the*  
9 *agreement, except that if an agreement is not renewed for a school*  
10 *year for any reason other than lack of adequate money in the*  
11 *Account for Educational Choice, a new number must be assigned*  
12 *if it is later renewed as though it were a new agreement.*

13 *6. An agreement entered into pursuant to this section must*  
14 *include a copy of the provisions of sections 5 to 26, inclusive, of*  
15 *this act, and the requirements set forth therein must be included as*  
16 *requirements in the agreement.*

17 *7. An agreement entered into pursuant to this section is valid*  
18 *for 1 school year but may be terminated early. If the agreement is*  
19 *terminated early, the child may not receive instruction from a*  
20 *public school in this State until the end of the period for which the*  
21 *last deposit was made into the education savings account of*  
22 *the child pursuant to section 20 of this act, except to the extent the*  
23 *child was allowed to receive instruction from a public school*  
24 *under the agreement.*

25 *8. An agreement terminates automatically if the child no*  
26 *longer resides in this State. In such a case, any money remaining*  
27 *in the education savings account of the child reverts to the*  
28 *Account for Educational Choice.*

29 *9. The State Treasurer shall provide to a parent who enters*  
30 *into or renews an agreement pursuant to this section a written*  
31 *explanation of the authorized uses of the money in an education*  
32 *savings account, pursuant to section 21 of this act, and the*  
33 *responsibilities of the parent and the State Treasurer pursuant to*  
34 *the agreement and sections 5 to 26, inclusive, of this act.*

35 *10. An agreement entered into with the State Treasurer*  
36 *pursuant to this section and the establishment of an education*  
37 *savings account pursuant to section 20 of this act do not*  
38 *guarantee a grant of money will be deposited into the account*  
39 *except to the extent of legislative appropriation and authorization.*  
40 *No agreement may obligate the State to make a grant of money in*  
41 *excess of the amount appropriated or authorized by law for that*  
42 *purpose.*

43 *11. Any agreement that violates any of the provisions of*  
44 *sections 5 to 26, inclusive, of this act, or a regulation adopted*  
45 *pursuant thereto, is void.*



**Sec. 19. 1.** *A parent may enter into a separate agreement pursuant to section 18 of this act for each child of the parent. Not more than one education savings account may be established for a child.*

**2.** *The failure of a parent to enter into an agreement to establish an education savings account for his or her child pursuant to section 18 of this act for any school year for which the child is required by NRS 392.040 to attend a public school in this State or is eligible to be enrolled in a public school in this State does not preclude the parent of the child from entering into an agreement for a subsequent school year.*

**3.** *An agreement entered into pursuant to section 18 of this act may be renewed for any school year for which the child is required by NRS 392.040 to attend a public school in this State or is eligible to be enrolled in a public school in this State. Failure to renew an agreement for any school year does not preclude the parent of the child from renewing the agreement for any subsequent school year.*

**Sec. 20. 1.** *If an agreement is entered into pursuant to section 18 of this act, an education savings account must be established by the parent on behalf of the child. The account must be maintained with a financial management firm qualified by the State Treasurer pursuant to section 22 of this act.*

**2.** *Within the limits of legislative appropriation and authorization, if a parent enters into or renews such an agreement, a grant of money on behalf of the child must be deposited by the State Treasurer into the education savings account of the child.*

**3.** *Except as otherwise provided in subsections 4 and 5, the grant required by subsection 2 must, for the school year for which the grant is made, be in an amount equal to:*

*(a) For a child who is a pupil with a disability, as defined in NRS 388.417, or a child with a household income that is less than 185 percent of the federally designated level signifying poverty, 100 percent of the statewide base per pupil funding amount; and*

*(b) For all other children, 90 percent of the statewide base per pupil funding amount.*

**4.** *If a child receives a portion of his or her instruction from a participating entity and a portion of his or her instruction from a public school, for the school year for which the grant is made, the grant required by subsection 2 must be a pro rata amount based on the percentage of the total instruction provided to the child by the participating entity in proportion to the total instruction provided to the child by the public school and the participating entity.*



5. If there are more applications for grants for a school year than there is money available, grants must be awarded in the order of the number assigned to the agreement entered into pursuant to section 18 of this act. An agreement which is not renewed because there is not enough money to award the grant retains the number assigned to the agreement and priority of future grants.

6. The State Treasurer may deduct not more than 3 percent of each grant for the administrative costs of implementing the provisions of sections 5 to 26, inclusive, of this act.

7. The State Treasurer shall deposit the money for each grant into the education savings account of a child in quarterly installments pursuant to a schedule determined by the State Treasurer.

8. Any money remaining in an education savings account:

(a) At the end of a school year may be carried forward to the next school year if the agreement entered into pursuant to section 18 of this act is renewed.

(b) After an agreement entered into pursuant to section 18 of this act is not renewed or is terminated because the child for whom the account was established graduates from high school or for any other reason reverts to the Account for Educational Choice at the end of the last day of the agreement.

**Sec. 21. 1.** Money deposited in an education savings account must be used only to pay for:

(a) Tuition and fees at a school that is a participating entity in which the child is enrolled;

(b) Textbooks required for a child who enrolls in a school that is a participating entity;

(c) Tutoring or other teaching services provided by a tutor or tutoring facility that is a participating entity;

(d) Tuition and fees for a program of distance education that is a participating entity;

(e) Fees for any national norm-referenced achievement examination, advanced placement or similar examination or standardized examination required for admission to a college or university;

(f) If the child is a pupil with a disability, as defined in NRS 388.417, fees for any special instruction or special services provided to the child;

(g) Tuition and fees at an eligible institution that is a participating entity;

(h) Textbooks required for the child at an eligible institution that is a participating entity or to receive instruction from any other participating entity;



(i) Fees for the management of the education savings account, as described in section 22 of this act;

(j) Transportation required for the child to travel to and from a participating entity or any combination of participating entities up to but not to exceed \$750 per school year; or

(k) Purchasing a curriculum or any supplemental materials required to administer the curriculum.

2. A participating entity that receives a payment authorized by subsection 1 shall not:

(a) Refund any portion of the payment to the parent who made the payment, unless the refund is for an item that is being returned or an item or service that has not been provided; or

(b) Rebate or otherwise share any portion of the payment with the parent who made the payment.

3. A parent who receives a refund pursuant to subsection 2 shall deposit the refund in the education savings account from which the money refunded was paid.

4. Nothing in this section shall be deemed to prohibit a parent or child from making a payment for any tuition, fee, service or product described in subsection 1 from a source other than the education savings account of the child.

**Sec. 22.** 1. The State Treasurer shall qualify one or more private financial management firms to manage education savings accounts and shall establish reasonable fees, based on market rates, for the management of education savings accounts.

2. An education savings account must be audited randomly each year by a certified public accountant. The State Treasurer may provide for additional audits of an education savings account as he or she determines necessary.

3. If the State Treasurer determines that there has been substantial misuse of the money in an education savings account, the State Treasurer may:

(a) Freeze or dissolve the account, subject to any regulations adopted by the State Treasurer providing for notice of such action and opportunity to respond to the notice; and

(b) Give notice of his or her determination and action to the Attorney General or the district attorney of the county in which the parent resides.

**Sec. 23.** 1. The following persons may become a participating entity by submitting an application demonstrating that the person is:

(a) A private school licensed pursuant to chapter 394 of NRS or exempt from such licensing pursuant to NRS 394.211;

(b) An eligible institution;



(c) A program of distance education that is not operated by a public school or the Department;

(d) A tutor or tutoring facility that meets the criteria established by the State Treasurer to serve as a participating entity;

(e) The parent of a child; or

(f) Any other person who provides educational services and meets the criteria established by the State Treasurer to serve as a participating entity.

2. The State Treasurer shall approve an application submitted pursuant to subsection 1 or request additional information to demonstrate that the person meets the criteria to serve as a participating entity. If the applicant is unable to provide such additional information, the State Treasurer may deny the application.

3. If it is reasonably expected that a participating entity will receive more than \$50,000 during any school year from payments made from education savings accounts, the participating entity shall annually, on or before the date prescribed by the State Treasurer by regulation:

(a) Post a surety bond in an amount equal to the amount reasonably expected to be paid to the participating entity from education savings accounts during the school year; or

(b) Provide evidence satisfactory to the State Treasurer that the participating entity otherwise has unencumbered assets sufficient to pay to the State Treasurer an amount equal to the amount described in paragraph (a).

4. Each participating entity that accepts payments made from education savings accounts shall provide a receipt for each such payment to the parent who makes the payment.

5. The State Treasurer may refuse to allow an entity described in subsection 1 to continue to participate in the grant program pursuant to sections 5 to 26, inclusive, of this act if the State Treasurer determines that the entity:

(a) Has routinely failed to comply with the provisions of sections 5 to 26, inclusive, of this act; or

(b) Has failed to provide any educational services required by law to a child receiving instruction from the entity, if the entity is accepting payments made from the education savings account of the child.

6. If the State Treasurer takes an action described in subsection 5 against an entity described in subsection 1, the State Treasurer shall provide immediate notice of the action to each parent of a child receiving instruction from the entity who has entered into or renewed an agreement pursuant to section 18 of



*this act and on behalf of whose child a grant of money has been deposited pursuant to section 20 of this act.*

**Sec. 24. 1.** *Each participating entity that accepts payments for tuition and fees made from education savings accounts shall:*

*(a) Ensure that each child on whose behalf a grant of money has been deposited pursuant to section 20 of this act and who is receiving instruction from the participating entity takes:*

*(1) Any examinations in mathematics and English language arts required for pupils of the same grade pursuant to chapter 390 of NRS; or*

*(2) Norm-referenced achievement examinations in mathematics and English language arts each school year;*

*(b) Provide for value-added assessment of the results of the examinations described in paragraph (a); and*

*(c) Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, provide the results of the examinations described in paragraph (a) to the Department or an organization designated by the Department pursuant to subsection 4.*

**2.** *The Department shall:*

*(a) Aggregate the examination results provided pursuant to subsection 1 according to the grade level, gender, race and family income level of each child whose examination results are provided; and*

*(b) Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, make available on the Internet website of the Department:*

*(1) The aggregated results and any associated learning gains; and*

*(2) After 3 school years for which examination data has been collected, the graduation rates, as applicable, of children whose examination results are provided.*

**3.** *The State Treasurer shall administer an annual survey of parents who enter into or renew an agreement pursuant to section 18 of this act. The survey must ask each parent to indicate the number of years the parent has entered into or renewed such an agreement and to express:*

*(a) The relative satisfaction of the parent with the grant program established pursuant to sections 5 to 26, inclusive, of this act; and*

*(b) The opinions of the parent regarding any topics, items or issues that the State Treasurer determines may aid the State Treasurer in evaluating and improving the effectiveness of the grant program established pursuant to sections 5 to 26, inclusive, of this act.*





4. *The Department may designate a third-party organization to perform the duties of the Department prescribed by this section.*

**Sec. 25.** 1. *The State Treasurer shall annually make available a list of participating entities, other than any parent of a child.*

2. *Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the Department shall annually require the resident school district of each child on whose behalf a grant of money is made pursuant to section 20 of this act to provide to the participating entity any educational records of the child.*

**Sec. 26.** *Except as otherwise provided in sections 5 to 26, inclusive, of this act, nothing in the provisions of sections 5 to 26, inclusive, of this act shall be deemed to limit the independence or autonomy of a participating entity or to make the actions of a participating entity the actions of the State Government.*

**Sec. 27.** 1. There is hereby appropriated from the State General Fund to the Office of the State Treasurer for expenses to administer the education savings account program pursuant to sections 5 to 26, inclusive, of this act the following sums:

For the Fiscal Year 2023-2024..... \$723,646

For the Fiscal Year 2024-2025..... \$891,444

2. There is hereby appropriated from the State General Fund to the Account for Educational Choice created by section 15 of this act to be used only for grants made pursuant to sections 5 to 26, inclusive, of this act by the State Treasurer the following sums:

For the Fiscal Year 2023-2024..... \$24,276,354

For the Fiscal Year 2024-2025..... \$34,108,556

3. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2025, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2025, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2025.

**Sec. 28.** 1. For the purposes of section 16 of this act, and notwithstanding the provisions of that section, the limitation on the total number of first-time applicants in any school district for whom a grant may be made pursuant to sections 5 to 26, inclusive, of this act for the 2023-2024 school year must be calculated on the basis of the average daily enrollment of pupils for the quarter in the 2022-2023 school year that was reported on or before July 1, 2023, by the





1 school district to the Department of Education pursuant to NRS  
2 387.1223, as that section existed on June 30, 2023.

3 2. As used in this section, “first-time applicant” has the  
4 meaning ascribed to it in section 16 of this act.

5 **Sec. 29.** As soon as practicable after July 1, 2023, the State  
6 Treasurer shall assign a number to each agreement that was entered  
7 into for the establishment of an education savings account pursuant  
8 to NRS 353B.700 to 353B.930, inclusive, that corresponds to the  
9 order in which the application was approved.

10 **Sec. 30.** This act becomes effective on July 1, 2023.

