

SENATE BILL NO. 242—SENATOR HARRIS

MARCH 7, 2017

Referred to Committee on Education

SUMMARY—Revises provisions governing college savings plans.
(BDR 31-360)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 college savings plans; authorizing the Board of Trustees of the College Savings Plans of Nevada to delegate certain powers and duties relating to the Nevada Higher Education Prepaid Tuition Program to the State Treasurer; authorizing certain qualified beneficiaries to apply unused prepaid tuition benefits toward graduate-level studies; transferring the duty to adopt regulations governing the Nevada College Savings Program from the State Treasurer to the Board; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Board of Trustees of the College Savings Plans of Nevada was created
2 under existing law to oversee the Nevada Higher Education Prepaid Tuition
3 Program and the Nevada College Savings Program. (NRS 353B.001-353B.370)
4 Under existing law, the Board is required to develop and maintain the Nevada
5 Higher Education Prepaid Tuition Program for the prepayment of the tuition of the
6 beneficiary of a prepaid tuition contract at an eligible in-state or out-of-state public
7 or private university, college or community college. The tuition paid under the
8 contract is at a guaranteed rate based on an annual actuarial study for undergraduate
9 studies at a university, state college or community college that is a member of the
10 Nevada System of Higher Education. (NRS 353B.090) Existing law also: (1)
11 creates the Nevada Higher Education Prepaid Tuition Trust Fund for deposit of
12 payments under prepaid tuition contracts and other sources of money for the
13 Program and requires the State Treasurer to administer the Trust Fund; and
14 (2) sets forth certain powers and duties of the Board relating to promotion,
15 investment and contracting services for the Program and the Trust Fund. (NRS
16 353B.010-353B.190)

17 **Section 1** of this bill authorizes the Board to delegate to the State Treasurer
18 those powers and duties necessary for the efficient and effective administration of



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19 the Nevada Higher Education Prepaid Tuition Program and the Trust Fund. Under
20 existing law, the Board is authorized to make such a delegation to the State
21 Treasurer with respect to the Nevada College Savings Program and the Nevada
22 College Savings Program Trust Fund. (NRS 353B.320) **Sections 3 and 4** of this
23 bill expand the authorized use of benefits under a prepaid tuition contract to allow a
24 qualified beneficiary to apply any unused prepaid tuition benefits after his or her
25 graduation with an undergraduate degree toward his or her graduate-level studies.
26 **Section 3** also specifically requires the Board to adopt requirements for a master
27 agreement for the Program by regulation. **Section 7** of this bill requires the
28 Board to amend the master agreement for the Program to make the expanded
29 authorization for graduate-level studies applicable to existing prepaid tuition
30 contracts. (NAC 353B.140)

31 Existing law requires the State Treasurer to adopt regulations to establish and
32 carry out the Nevada College Savings Program, which offers tax-free investment
33 plans for saving money for the costs of higher education. (NRS 353B.310) **Section**
34 **6** of this bill transfers the duty to adopt regulations for the Nevada College Savings
35 Program from the State Treasurer to the Board. The Board has the authority under
36 existing law to adopt regulations to implement the Nevada Higher Education
37 Prepaid Tuition Program. (NRS 353B.090)

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

1 **Section 1.** Chapter 353B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *The Board may delegate to the State Treasurer any of its*
4 *administrative powers and duties specified in NRS 353B.010 to*
5 *353B.190, inclusive, if the Board determines that such delegation*
6 *is necessary for the efficient and effective administration of the*
7 *Nevada Higher Education Prepaid Tuition Program and the Trust*
8 *Fund.*

9 **Sec. 2.** NRS 353B.010 is hereby amended to read as follows:
10 353B.010 As used in NRS 353B.010 to 353B.190, *and section*
11 *1 of this act*, unless the context otherwise requires, the words and
12 terms defined in NRS 353B.030 to 353B.070, inclusive, have the
13 meanings ascribed to them in those sections.

14 **Sec. 3.** NRS 353B.090 is hereby amended to read as follows:
15 353B.090 1. The Board shall develop the Nevada Higher
16 Education Prepaid Tuition Program for the prepayment of tuition *for*
17 *a qualified beneficiary for:*

18 *(a) Undergraduate studies at:*

19 *(1) A university, state college or community college that is a*
20 *member of the System;*

21 *(2) An accredited college or university in this State that is*
22 *not a member of the System; or*

23 *(3) An accredited community college, college or university*
24 *in another state.*



1 (b) *If any money paid into the Trust Fund under a prepaid*
2 *tuition contract is remaining after a qualified beneficiary has*
3 *graduated with an undergraduate degree, for graduate-level*
4 *studies at:*

5 (1) *A university, state college or community college that is a*
6 *member of the System;*

7 (2) *An accredited college or university in this State that is*
8 *not a member of the System; or*

9 (3) *An accredited community college, college or university*
10 *in another state.*

11 2. *The amount of the tuition under a prepaid tuition contract*
12 *must be* at a guaranteed rate which is established based on the
13 annual actuarial study required pursuant to NRS 353B.190 for
14 undergraduate studies at a university, state college or community
15 college that is a member of the System.

16 ~~2.1~~ 3. The Board shall adopt regulations for the
17 implementation of the Program, including, without limitation,
18 regulations setting forth requirements for:

19 (a) Residency;

20 (b) A limit on the number of qualified beneficiaries;

21 (c) The termination, withdrawal and transfer of money paid into
22 the Trust Fund;

23 (d) A payment received by the Trust Fund as a matching
24 contribution made as described in NRS 363A.137 or 363B.117 to be
25 credited to the qualified beneficiary on whose behalf the matching
26 contribution was made;

27 (e) The time within which the money paid into the Trust Fund
28 must be used; ~~and~~

29 (f) Payment schedules ~~1.1~~; and

30 (g) *A master agreement for the Program.*

31 **Sec. 4.** NRS 353B.100 is hereby amended to read as follows:

32 353B.100 1. The Board may enter into a prepaid tuition
33 contract with a purchaser.

34 2. The Board shall create a prepaid tuition contract in
35 accordance with the provisions of this section.

36 3. The prepaid tuition contract must include, without
37 limitation:

38 (a) The terms and conditions under which the purchaser shall
39 remit payment, including, without limitation:

40 (1) The amount and number of payments that are required
41 from the purchaser on behalf of the qualified beneficiary;

42 (2) The date upon which each payment is due; and

43 (3) A provision for a reasonable penalty for a delinquent
44 payment or default.



1 (b) The name and date of birth of the qualified beneficiary on
2 whose behalf the prepaid tuition contract is drawn.

3 (c) The terms and conditions under which another person may
4 be substituted as the qualified beneficiary.

5 (d) The terms and conditions under which the purchaser, or
6 another person designated by the purchaser, may terminate the
7 prepaid tuition contract, receive a refund of money that he or she has
8 paid into the Trust Fund or withdraw money that he or she has paid
9 into the Trust Fund, including, without limitation, a provision
10 allowing the Board to impose a fee that amounts to more than a de
11 minimis penalty.

12 (e) A provision that the Board shall, after making a reasonable
13 effort to contact the purchaser, report any money that has been
14 deposited under a prepaid tuition contract that has not been
15 terminated and has not been used within a specified period to the
16 State Treasurer for proper disposition.

17 (f) The number of semesters for which the purchaser is
18 contracting.

19 (g) A provision that money paid into the Trust Fund under a
20 prepaid tuition contract may be applied toward tuition *for an*
21 *undergraduate degree* at:

22 (1) A university, state college or community college that is a
23 member of the System;

24 (2) An accredited college or university in this State that is not
25 a member of the System; or

26 (3) An accredited community college, college or university
27 in another state.

28 ➔ Payments authorized pursuant to subparagraph (2) or (3) must not
29 exceed the projected highest payment for tuition for the current
30 academic year at a university that is a member of the System.

31 (h) *A provision that any money under a prepaid tuition*
32 *contract that is remaining after a qualified beneficiary has*
33 *graduated with an undergraduate degree may be applied toward*
34 *tuition for graduate-level studies at:*

35 (1) *A university, state college or community college that is a*
36 *member of the System;*

37 (2) *An accredited college or university in this State that is*
38 *not a member of the System; or*

39 (3) *An accredited community college, college or university*
40 *in another state.*

41 ➔ *Payments authorized pursuant to this paragraph may not*
42 *exceed the total amount payable under the prepaid tuition contract*
43 *of the qualified beneficiary.*

44 (i) Any other term or condition that the Board considers
45 necessary or proper.



1 **Sec. 5.** NRS 353B.110 is hereby amended to read as follows:
2 353B.110 The Board:

3 1. May modify the regulations for the implementation of the
4 Program adopted pursuant to subsection ~~2~~ 3 of NRS 353B.090.

5 2. May establish agreements to fulfill its obligations under the
6 prepaid tuition contracts.

7 3. May contract for any necessary good or service, including,
8 without limitation, the power to engage financial consultants,
9 actuaries or legal counsel.

10 4. May procure insurance against any loss in connection with
11 the property, assets or activities of the Trust Fund, the State
12 Treasurer or the Board.

13 5. May solicit and accept a gift, including, without limitation, a
14 bequeathment or other testamentary gift, grant, loan or aid from any
15 source.

16 6. Shall solicit answers to requests for rulings from the Internal
17 Revenue Service regarding the tax status of fees paid to or on behalf
18 of a purchaser or a qualified beneficiary pursuant to a prepaid tuition
19 contract.

20 **Sec. 6.** NRS 353B.310 is hereby amended to read as follows:

21 353B.310 1. The ~~{State-Treasurer}~~ *Board* shall adopt
22 regulations to establish and carry out the Nevada College Savings
23 Program, which must comply with the requirements of a qualified
24 state tuition program pursuant to 26 U.S.C. § 529.

25 2. The regulations must be consistent with the provisions of the
26 Internal Revenue Code set forth in Title 26 of the United States
27 Code, and the regulations adopted pursuant thereto, to ensure that
28 the Nevada College Savings Program meets all criteria for federal
29 tax-deferred or tax-exempt benefits, or both.

30 3. The regulations must provide for the use of savings trust
31 agreements and savings trust accounts to apply distributions toward
32 qualified higher education expenses at eligible educational
33 institutions in accordance with 26 U.S.C. § 529.

34 4. The regulations must set forth requirements for a payment
35 received by the Trust Fund as a matching contribution made as
36 described in NRS 363A.137 or 363B.117 to be credited to the
37 savings trust account to which the contribution was made.

38 5. The regulations may include any other provisions not
39 inconsistent with federal law that the ~~{State-Treasurer}~~ *Board*
40 determines are necessary for the efficient and effective
41 administration of the Nevada College Savings Program and the
42 Trust Fund.

43 **Sec. 7.** 1. On or before October 1, 2017, the Board of
44 Trustees of the College Savings Plans of Nevada created by NRS
45 353B.005 shall amend the master agreement for the Nevada Higher



1 Education Prepaid Tuition Program created in accordance with
2 regulations adopted pursuant to NRS 353B.090, as amended by
3 section 3 of this act, to authorize, pursuant to NRS 353B.090, as
4 amended by section 3 of this act, the application of any money paid
5 into the Nevada Higher Education Prepaid Tuition Trust Fund
6 created pursuant to NRS 353B.140 under a prepaid tuition contract
7 that is remaining after a qualified beneficiary has graduated with an
8 undergraduate degree toward tuition for graduate-level studies by
9 the qualified beneficiary at:

10 (a) A university, state college or community college that is a
11 member of the System;

12 (b) An accredited college or university in this State that is not a
13 member of the System; or

14 (c) An accredited community college, college or university in
15 another state.

16 2. As used in this section:

17 (a) "Prepaid tuition contract" has the meaning ascribed to it in
18 NRS 353B.030.

19 (b) "Qualified beneficiary" has the meaning ascribed to it in
20 NRS 353B.050.

21 (c) "System" has the meaning ascribed to it in NRS 353B.004.

22 **Sec. 8.** Notwithstanding the amendatory provisions of this act
23 transferring authority to adopt regulations from the State Treasurer
24 to the Board of Trustees of the College Savings Plans of Nevada,
25 any regulations adopted by the State Treasurer pursuant to NRS
26 353B.310 before July 1, 2017, remain in effect and may be enforced
27 by the Board or the State Treasurer, as applicable, until the Board
28 adopts regulations to repeal or replace those regulations.

29 **Sec. 9.** This act becomes effective on July 1, 2017.

