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ASSEMBLY BILL NO. 22—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DEPARTMENT OF EDUCATION)

PREFILED DECEMBER 20, 2014

Referred to Committee on Ways and Means

**SUMMARY**—Revises provisions relating to annual audits of the count of pupils for apportionment purposes. (BDR 34-317)

**FISCAL NOTE:** Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 2)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

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AN ACT relating to education; requiring each school district to conduct an annual audit of the count of certain pupils for apportionment purposes; requiring the Department of Education to publish a manual that prescribes certain auditing procedures; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires the Superintendent of Public Instruction to apportion the  
2 State Distributive School Account in the State General Fund among the school  
3 districts, charter schools and university schools for profoundly gifted pupils in  
4 certain amounts based on a formula. This formula bases the State’s financial  
5 obligation to programs of instruction partially on a per pupil basis. (NRS 387.121-  
6 387.126) Existing law requires each school district to conduct a count of pupils, and  
7 this count is used by the Superintendent to apportion money from the State  
8 Distributive School Account. (NRS 387.123) Existing law also requires the  
9 Department of Education to conduct an annual audit of the count of pupils reported  
10 by each school district. (NRS 387.304) **Section 2** of this bill requires each school  
11 district to conduct an annual audit of the count of pupils for apportionment  
12 purposes of the pupils who attend public schools in the school district, except for  
13 charter schools and university schools for profoundly gifted pupils in the district.  
14 **Section 2** requires this audit to be conducted by a certified public accountant or by  
15 a registered partnership or professional corporation for the practice of public  
16 accounting. **Section 3** of this bill requires the Department to publish a manual that



17 prescribes the manner in which certain audits are required to be conducted. **Section**  
18 **6** of this bill removes the requirement that the Department conduct such an annual  
19 audit of the count of pupils. The Department does, however, continue to conduct an  
20 annual audit of the count of pupils for apportionment purposes of the pupils who  
21 attend charter schools and university schools for profoundly gifted pupils.  
22 Additionally, **section 6** requires the Department to review each school district's  
23 annual audit of the count of pupils for apportionment purposes. **Section 6** also  
24 authorizes the Department to enter into a contract with any auditor to carry out its  
25 duties.

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

1 **Section 1.** Chapter 387 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *Each school district shall conduct an annual*  
4 *audit of the count of pupils for apportionment purposes*  
5 *determined by the school district pursuant to NRS 387.123, except*  
6 *that the audit must not include information relating to the count*  
7 *of pupils enrolled in any charter school or university school for*  
8 *profoundly gifted pupils located within the school district.*

9 **2.** *The annual audit must be conducted:*

10 (a) *In accordance with the audit manual published by the*  
11 *Department pursuant to section 3 of this act; and*

12 (b) *By a certified public accountant or by a partnership or*  
13 *professional corporation that is registered pursuant to chapter 628*  
14 *of NRS.*

15 **Sec. 3.** *The Department shall publish a manual that*  
16 *prescribes the manner in which an audit must be conducted*  
17 *pursuant to subsection 1 of NRS 387.304, subsection 2 of NRS*  
18 *354.624 and section 2 of this act.*

19 **Sec. 4.** NRS 387.1211 is hereby amended to read as follows:

20 387.1211 As used in NRS 387.121 to 387.126, inclusive ~~§~~,  
21 *and sections 2 and 3 of this act:*

22 1. "Average daily attendance" means the total number of pupils  
23 attending a particular school each day during a period of reporting  
24 divided by the number of days school is in session during that  
25 period.

26 2. "Enrollment" means the count of pupils enrolled in and  
27 scheduled to attend programs of instruction of a school district,  
28 charter school or university school for profoundly gifted pupils at a  
29 specified time during the school year.

30 3. "Special education program unit" means an organized unit  
31 of special education and related services which includes full-time  
32 services of persons licensed by the Superintendent of Public  
33 Instruction or other appropriate licensing body, providing a program



1 of instruction in accordance with minimum standards prescribed by  
2 the State Board.

3 **Sec. 5.** NRS 387.1243 is hereby amended to read as follows:

4 387.1243 1. The first apportionment based on an estimated  
5 number of pupils and special education program units and  
6 succeeding apportionments are subject to adjustment from time to  
7 time as the need therefor may appear, including, without limitation,  
8 an adjustment made for a pupil who is not properly enrolled in or  
9 attending a public school, as determined through an independent  
10 audit or other examination conducted pursuant to NRS 387.126 or  
11 through an annual audit of the count of pupils conducted pursuant to  
12 *paragraph (b) of subsection 1 of NRS 387.304* ~~§~~ *or section 2 of*  
13 *this act.*

14 2. The apportionments to a school district may be adjusted  
15 during a fiscal year by the Department of Education, upon approval  
16 by the State Board of Examiners and the Interim Finance  
17 Committee, if the Department of Taxation and the county assessor  
18 in the county in which the school district is located certify to the  
19 Department of Education that the school district will not receive the  
20 tax levied pursuant to subsection 1 of NRS 387.195 on property of  
21 the Federal Government located within the county if:

22 (a) The leasehold interest, possessory interest, beneficial interest  
23 or beneficial use of the property is subject to taxation pursuant to  
24 NRS 361.157 and 361.159 and one or more lessees or users of the  
25 property are delinquent in paying the tax; and

26 (b) The total amount of tax owed but not paid for the fiscal year  
27 by any such lessees and users is at least 5 percent of the proceeds  
28 that the school district would have received from the tax levied  
29 pursuant to subsection 1 of NRS 387.195.

30 ↪ If a lessee or user pays the tax owed after the school district's  
31 apportionment has been increased in accordance with the provisions  
32 of this subsection to compensate for the tax owed, the school district  
33 shall repay to the State Distributive School Account in the State  
34 General Fund an amount equal to the tax received from the lessee or  
35 user for the year in which the school district received an increased  
36 apportionment, not to exceed the increase in apportionments made  
37 to the school district pursuant to this subsection.

38 3. On or before August 1 of each year, the board of trustees of  
39 a school district shall provide to the Department, in a format  
40 prescribed by the Department, the count of pupils calculated  
41 pursuant to subparagraph (8) of paragraph (a) of subsection 1 of  
42 NRS 387.1233 who completed at least one semester during the  
43 immediately preceding school year. The count of pupils submitted  
44 to the Department must be included in the final adjustment  
45 computed pursuant to subsection 4.



1 4. A final adjustment for each school district, charter school  
2 and university school for profoundly gifted pupils must be  
3 computed as soon as practicable following the close of the school  
4 year, but not later than August 25. The final computation must be  
5 based upon the actual counts of pupils required to be made for the  
6 computation of basic support and the limits upon the support of  
7 special education programs, except that for any year when the total  
8 enrollment of pupils and children in a school district, a charter  
9 school located within the school district or a university school for  
10 profoundly gifted pupils located within the school district described  
11 in paragraphs (a), (b), (c) and (e) of subsection 1 of NRS 387.123 is  
12 greater on the last day of any school month of the school district  
13 after the second school month of the school district and the increase  
14 in enrollment shows at least:

15 (a) A 3-percent gain, basic support as computed from first-  
16 month enrollment for the school district, charter school or university  
17 school for profoundly gifted pupils must be increased by 2 percent.

18 (b) A 6-percent gain, basic support as computed from first-  
19 month enrollment for the school district, charter school or university  
20 school for profoundly gifted pupils must be increased by an  
21 additional 2 percent.

22 5. If the final computation of apportionment for any school  
23 district, charter school or university school for profoundly gifted  
24 pupils exceeds the actual amount paid to the school district, charter  
25 school or university school for profoundly gifted pupils during the  
26 school year, the additional amount due must be paid before  
27 September 1. If the final computation of apportionment for any  
28 school district, charter school or university school for profoundly  
29 gifted pupils is less than the actual amount paid to the school  
30 district, charter school or university school for profoundly gifted  
31 pupils during the school year, the difference must be repaid to the  
32 State Distributive School Account in the State General Fund by the  
33 school district, charter school or university school for profoundly  
34 gifted pupils before September 25.

35 **Sec. 6.** NRS 387.304 is hereby amended to read as follows:

36 387.304 1. The Department shall:

37 ~~[1-] (a) Conduct an annual audit of [the count of pupils for~~  
38 ~~apportionment purposes reported by each school district pursuant to~~  
39 ~~NRS 387.123 and]~~ the data reported by each school district pursuant  
40 to NRS 388.710 that is used to measure the effectiveness of the  
41 implementation of a plan developed by each school district to  
42 reduce the pupil-teacher ratio as required by NRS 388.720.

43 ~~[2-] (b) Conduct an annual audit of the count of pupils for~~  
44 ~~apportionment purposes reported by each school district pursuant~~  
45 ~~to NRS 387.123 of the pupils enrolled in any charter school or~~



1 *university school for profoundly gifted pupils located within the*  
2 *school district.*

3 *(c) Review the annual audit of the count of pupils for*  
4 *apportionment purposes conducted by each school district*  
5 *pursuant to section 2 of this act.*

6 *(d) Review each school district's report of the annual audit*  
7 *conducted by a public accountant as required by NRS 354.624, and*  
8 *the annual report prepared by each district as required by NRS*  
9 *387.303, and report the findings of the review to the State Board and*  
10 *the Legislative Committee on Education, with any recommendations*  
11 *for legislation, revisions to regulations or training needed by school*  
12 *district employees. The report by the Department must identify*  
13 *school districts which failed to comply with any statutes or*  
14 *administrative regulations of this State or which had any:*

15 ~~(a)~~ *(1) Long-term obligations in excess of the general*  
16 *obligation debt limit;*

17 ~~(b)~~ *(2) Deficit fund balances or retained earnings in any fund;*

18 ~~(c)~~ *(3) Deficit cash balances in any fund;*

19 ~~(d)~~ *(4) Variances of more than 10 percent between total*  
20 *general fund revenues and budgeted general fund revenues; or*

21 ~~(e)~~ *(5) Variances of more than 10 percent between total actual*  
22 *general fund expenditures and budgeted total general fund*  
23 *expenditures.*

24 ~~(3)~~ *(e) In preparing its biennial budgetary request for the State*  
25 *Distributive School Account, consult with the superintendent of*  
26 *schools of each school district or a person designated by the*  
27 *superintendent.*

28 ~~(4)~~ *(f) Provide, in consultation with the Budget Division of the*  
29 *Department of Administration and the Fiscal Analysis Division of*  
30 *the Legislative Counsel Bureau, training to the financial officers of*  
31 *school districts in matters relating to financial accountability.*

32 *2. The Department may enter into a contract with any*  
33 *qualified auditor to carry out its duties pursuant to this section.*

34 **Sec. 7.** NRS 354.624 is hereby amended to read as follows:

35 354.624 1. Each local government shall provide for an annual  
36 audit of all of its financial statements. A local government may  
37 provide for more frequent audits as it deems necessary. Except as  
38 otherwise provided in subsection 2, each annual audit must be  
39 concluded and the report of the audit submitted to the governing  
40 body as provided in subsection 6 not later than 5 months after the  
41 close of the fiscal year for which the audit is conducted. An  
42 extension of this time may be granted by the Department of  
43 Taxation to any local government that submits an application for an  
44 extension to the Department. If the local government fails to provide  
45 for an audit in accordance with the provisions of this section, the



1 Department of Taxation shall cause the audit to be made at the  
2 expense of the local government. All audits must be conducted by a  
3 certified public accountant or by a partnership or professional  
4 corporation that is registered pursuant to chapter 628 of NRS.

5 2. The annual audit of a school district must:

6 (a) Be concluded and the report submitted to the board of  
7 trustees as provided in subsection 6 not later than 4 months after the  
8 close of the fiscal year for which the audit is conducted.

9 (b) *Be conducted in accordance with the audit manual*  
10 *published by the Department of Education pursuant to section 3 of*  
11 *this act.*

12 (c) If the school district has more than 150,000 pupils enrolled,  
13 include an audit of the expenditure by the school district of public  
14 money used:

15 (1) To design, construct or purchase new buildings for  
16 schools or related facilities;

17 (2) To enlarge, remodel or renovate existing buildings for  
18 schools or related facilities; and

19 (3) To acquire sites for building schools or related facilities,  
20 or other real property for purposes related to schools.

21 3. The governing body may, without requiring competitive  
22 bids, designate the auditor or firm annually. The auditor or firm  
23 must be designated, and notification of the auditor or firm  
24 designated must be sent to the Department of Taxation not later than  
25 3 months before the close of the fiscal year for which the audit is to  
26 be made.

27 4. Each annual audit must cover the business of the local  
28 government during the full fiscal year. It must be a financial audit  
29 conducted in accordance with generally accepted auditing standards  
30 in the United States, including findings on compliance with statutes  
31 and regulations and an expression of opinion on the financial  
32 statements. The Department of Taxation shall prescribe the form of  
33 the financial statements, and the chart of accounts must be as nearly  
34 as possible the same as the chart that is used in the preparation and  
35 publication of the annual budget. The report of the audit must  
36 include:

37 (a) A schedule of all fees imposed by the local government  
38 which were subject to the provisions of NRS 354.5989;

39 (b) A comparison of the operations of the local government with  
40 the approved budget, including a statement from the auditor that  
41 indicates whether the governing body has taken action on the audit  
42 report for the prior year;

43 (c) If the local government is subject to the provisions of NRS  
44 244.186, a report showing that the local government is in



1 compliance with the provisions of paragraphs (a) and (b) of  
2 subsection 1 of NRS 244.186; and

3 (d) If the local government is subject to the provisions of NRS  
4 710.140 or 710.145, a report showing that the local government is in  
5 compliance with the provisions of those sections with regard to the  
6 facilities and property it maintains and the services it provides  
7 outside its territorial boundaries.

8 5. Each local government shall provide to its auditor:

9 (a) A statement indicating whether each of the following  
10 funds established by the local government is being used expressly  
11 for the purposes for which it was created, in the form required by  
12 NRS 354.6241:

13 (1) An enterprise fund.

14 (2) An internal service fund.

15 (3) A fiduciary fund.

16 (4) A self-insurance fund.

17 (5) A fund whose balance is required by law to be:

18 (I) Used only for a specific purpose other than the  
19 payment of compensation to a bargaining unit, as defined in NRS  
20 288.028; or

21 (II) Carried forward to the succeeding fiscal year in any  
22 designated amount.

23 (b) A list and description of any property conveyed to a  
24 nonprofit organization pursuant to NRS 244.287 or 268.058.

25 (c) If the local government is subject to the provisions of NRS  
26 244.186, a declaration indicating that the local government is in  
27 compliance with the provisions of paragraph (c) of subsection 1 of  
28 NRS 244.186.

29 (d) If the local government is subject to the provisions of NRS  
30 710.140 or 710.145, a declaration indicating that the local  
31 government is in compliance with the provisions of those sections  
32 with regard to the facilities and property it maintains and the  
33 services it provides outside its territorial boundaries.

34 6. The opinion and findings of the auditor contained in the  
35 report of the audit must be presented at a meeting of the governing  
36 body held not more than 30 days after the report is submitted to it.  
37 Immediately thereafter, the entire report, together with the  
38 management letter required by generally accepted auditing standards  
39 in the United States or by regulations adopted pursuant to NRS  
40 354.594, must be filed as a public record with:

41 (a) The clerk or secretary of the governing body;

42 (b) The county clerk;

43 (c) The Department of Taxation; and

44 (d) In the case of a school district, the Department of Education.



1 7. After the report of the audit is filed by the local government,  
2 the report of the audit, including, without limitation, the opinion and  
3 findings of the auditor contained in the report of the audit, may be  
4 disseminated by or on behalf of the local government for which the  
5 report was prepared by inclusion, without limitation, in or on:

6 (a) An official statement or other document prepared in  
7 connection with the offering of bonds or other securities;

8 (b) A filing made pursuant to the laws or regulations of this  
9 State;

10 (c) A filing made pursuant to a rule or regulation of the  
11 Securities and Exchange Commission of the United States; or

12 (d) A website maintained by a local government on the Internet  
13 or its successor,

14 ↪ without the consent of the auditor who prepared the report of the  
15 audit. A provision of a contract entered into between an auditor and  
16 a local government that is contrary to the provisions of this  
17 subsection is against the public policy of this State and is void and  
18 unenforceable.

19 8. If an auditor finds evidence of fraud or dishonesty in the  
20 financial statements of a local government, the auditor shall report  
21 such evidence to the appropriate level of management in the local  
22 government.

23 9. The governing body shall act upon the recommendations of  
24 the report of the audit within 3 months after receipt of the report,  
25 unless prompter action is required concerning violations of law or  
26 regulation, by setting forth in its minutes its intention to adopt the  
27 recommendations, to adopt them with modifications or to reject  
28 them for reasons shown in the minutes.

29 **Sec. 8.** The provisions of NRS 354.599 do not apply to any  
30 additional expenses of a local government that are related to the  
31 provisions of this act.

32 **Sec. 9.** This act becomes effective:

33 1. Upon passage and approval for the purposes of developing  
34 the audit manual required by section 3 of this act and performing  
35 any other administrative tasks necessary to carry out the provisions  
36 of this act; and

37 2. On July 1, 2016, for all other purposes.

