

# Nev. Supreme Court suspends school choice program

By Michelle Rindels, AP

The Nevada Supreme Court has ruled that the state's voucher-style Education Savings Accounts – seen as the broadest school choice program in the country – have an unconstitutional funding mechanism and the program should remain blocked.

Justices issued a 4-2 ruling on Thursday striking down the program – which has been on hold since the winter and never disbursed funds to families as it intended – but upholding some of its key underpinnings.

Parties on both sides of the hotly debated issue claimed victory from the 35-page decision.

“Taxpayer money isn’t to be used to support the private education of a handful of kids,” said Rory Reid, son of Sen. Harry Reid president of the Rogers Foundation, which supported legal challenges against the program. “We’re proud to stand up for that proposition.”

Proponents framed the ruling as a victory, saying it agreed with some of their most fundamental arguments and adding that the program’s defects can be fixed by the Legislature.

“After (Thursday’s) ruling, there is only one step left to take in order to make the vision of educational choice a reality for thousands of Nevada families,” said Attorney General Adam Laxalt, a Republican who enlisted a star lawyer to help him defend the program. “Fortunately, the Supreme Court has made crystal clear that ESAs are constitutional and that the Legislature can fix this funding technicality and allow for the implementation of ESAs statewide.”

Lawmakers passed a Republican-backed bill on a party-line vote last year to create the program. It would allow parents to access more than \$5,000 in funds allocated each year for their child's public schooling and apply it toward private school tuition or other qualified education expenses.

The ruling says the program authorized last spring by the Nevada Legislature did not have its own dedicated funding source and is contradicting the Nevada Constitution by drawing on money allocated for public schools in the state's Distributive School Account.

"I'm angry and I'm disappointed," Republican state Sen. Scott Hammond, who sponsored the original bill, said in an interview shortly after the ruling came out. "Obviously it's going to affect thousands of kids. I'm disappointed that they'll have to wait until they figure this out."

But justices affirmed some central arguments from the proponents. They agreed that public money transferred to accounts for parents' discretion are no longer "public funds" that can't be used for sectarian purposes, such as religious schools.

One of the two lawsuits against the program argued primarily on the grounds of separation of church and state, saying the program would unconstitutionally divert money to religious schools that proselytize or can discriminate against students or staff.

Justices also affirmed that the Legislature can use its power to encourage other methods of education, and that the Education Savings Account program doesn't violate the Legislature's duty to "provide for a uniform system of common schools."

Republican Assembly Majority Leader Paul Anderson, who's leading the effort to keep his party in control of the Assembly during an election cycle more favorable to Democrats,

said his candidates will use the issue to motivate voters. Democrats have fought hard against the program on the grounds that it undermines an already strained public school system, but Republican control could more easily usher in a fix that could revive the program.

“It’s disappointing that more legislators don’t believe in school choice. It should not be a Republican-only issue,” Anderson said. But the funding problem “is much easier to overcome than had they ruled differently on the other points.”