

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Seventy-Seventh Session  
April 9, 2013**

The Senate Committee on Revenue and Economic Development was called to order by Chair Ruben J. Kihuen at 1:11 p.m. on Tuesday, April 9, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Ruben J. Kihuen, Chair  
Senator David R. Parks, Vice Chair  
Senator Moises (Mo) Denis  
Senator Debbie Smith  
Senator Ben Kieckhefer  
Senator Michael Roberson  
Senator Greg Brower

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Joe Reel, Deputy Fiscal Analyst  
Bryan Fernley-Gonzalez, Counsel  
Mike Wiley, Committee Secretary

**OTHERS PRESENT:**

Lucas Foletta, General Counsel and Policy Director, Office of the Governor  
Chris Nielsen, Executive Director, Department of Taxation  
Rorie Fitzpatrick, Interim Superintendent of Public Instruction, Department of Education  
Lynn Chapman, Nevada Families for Freedom  
John Wagner, State Chairman, Independent American Party  
Geoffrey Lawrence, Nevada Policy Research Institute  
Janine Hansen, Nevada Eagle Forum  
Craig Hulse, StudentsFirst

Dick Cervi, Faith Baptist Academy  
Shirley Beasley  
Craig Stevens, Nevada State Education Association  
Dotty Merrill, Ed.D., Executive Director, Nevada Association of School Boards

**Chair Kihuen:**

Today we are going to work session on three bills and hear one bill. We will start with Senate Bill (S.B.) 445.

**SENATE BILL 445:** Establishes the Nevada Educational Choice Scholarship Program. (BDR 34-907)

**Lucas Foletta (General Counsel and Policy Director, Office of the Governor):**

This bill creates an opportunity scholarship fund for the benefit of low-income students in Nevada. Governor Brian Sandoval is a supporter of school choice, and this bill is to advance school choice to benefit the students of the State. This bill is a departure from the Governor's previous efforts to support school choice. During the 2011 Session, the Governor supported a constitutional amendment to allow the implementation of a voucher system. This bill does not reflect the voucher approach; it is a legal, permissible way of promoting school choice.

**Chris Nielsen (Executive Director, Department of Taxation):**

I have submitted my written testimony for S.B. 445 ([Exhibit C](#)) that establishes the Nevada Educational Choice Scholarship Program.

**Rorie Fitzpatrick (Interim Superintendent of Public Education, Department of Education):**

The Department of Education is partnering with school districts, communities, businesses and policy makers to improve the educational outcome for the students of Nevada. The improvement process is slower than we would expect. Students living in conditions of poverty are particularly at risk. Parents with higher living standards have the opportunity to make choices that these parents do not have. Senate Bill 445 is intended to change that dynamic as 14 other states have implemented this type of program and expanded educational choice. There is a cap on the total amount of contributions that can be made on this program. The focus of the program is to provide opportunities for students who would be left out.

There will be pushback on the bill, which has happened from school districts in the other states. We have schools in high-risk, high-poverty areas doing well, and while poverty is prevalent, it does not prevent school success. If schools are successful, parents will want to keep their children in these neighborhood schools. These funds do not diminish the Distributive School Account (DSA). Per pupil funding amounts are not reduced through this approach. The DSA formula includes a hold harmless provision. If districts receive funds for the same amount of students for the subsequent year and students have decreased, there is an opportunity for the districts to plan for the transitions. Districts will have a year to address the reduction in students. Poverty should not be a reason for educational failure. This program is a strategy to support college and career readiness for all students.

**Senator Kieckhefer:**

Why do we recognize the use of this scholarship for private and home schools but not for transportation to other public schools? Could we not create an open zoning mechanism so these scholarships could be used for transportation for other public schools within the district?

**Mr. Foletta:**

We are open to amending the bill to include a use of scholarship funds in these areas.

**Senator Smith:**

Where does this fit into the budget?

**Mr. Nielsen:**

I am not aware that it is in the budget.

**Senator Smith:**

Is the fiscal note in your budget?

**Mr. Nielsen:**

No, it is not in our budget.

**Chair Kihuen:**

You mention that 14 other states had implemented a similar program. What was their success?

**Ms. Fitzpatrick:**

When you are involved in private schooling, the metrics are difficult because the states are not comparable. It would be difficult to make a statement on comparability, but there is a high degree of parent satisfaction in the other states. The budget for education is not decreased through this bill.

**Senator Smith:**

The money has to come out of some budget.

**Mr. Nielsen:**

The Modified Business Tax is a General Fund revenue source.

**Senator Smith:**

The money will come from somewhere?

**Mr. Nielsen:**

Any credit will come from the General Fund.

**Mr. Foletta:**

We understand we are approaching first committee passage. We would appreciate if the Committee would rerefer this bill to the Senate Committee on Finance.

**Chair Kihuen:**

We will open the discussion up to supporters.

**Lynn Chapman (Nevada Families for Freedom):**

We are in favor of the bill. We have one concern on page 4 of S.B. 445, section 5, subsection 1, paragraph (e), subparagraph (2). That language has been taken out of our home school laws and should not be part of the bill.

**John Wagner (State Chairman, Independent American Party):**

I am in favor of school choice because it promotes better schools all around.

**Geoffrey Lawrence (Nevada Policy Research Institute):**

One of the other 14 states with scholarships programs is Florida whose program is called Step Up For Students. The Florida program is structured differently than this proposal, S.B. 445, in that to be eligible, you must be 200 percent below the federal poverty level, but it also accepts all students who are English

Language Learners (ELL). Florida has over 33,000 students enrolled. The average household income of participants is \$26,504 and average household size is 4.2 people.

The demographic makeup is different from most Florida public schools. Based on statewide figures, the regular Florida school students are 54.3 percent Caucasian, 25.4 percent African American, 18.2 percent Hispanic and 2 percent Asian. There is a higher correlation among minorities and a higher likelihood they will fall into one of the categories of being an ELL student below the 200 percent poverty level. As a result, the scholarship program has 36.7 percent African American, 25.4 percent Hispanic, 24.1 percent Caucasian, 5.9 percent multiracial, 1.7 percent Asian and 6.2 percent unknown.

The program disproportionately benefits minorities who are economically disadvantaged. Over the past 12 years, Florida test scores on the national tests for educational progress have increased. The state's test scores started at the same level as Nevada and now are significantly higher than Nevada. This program is the reason that, today, Hispanic students in Florida test higher than the average Nevada student on the English reading test. A big reason is that ELL students are eligible for this type of tax credit program.

The Nevada Policy Research Institute commissioned an economic analysis that was peer-reviewed a few years ago on how this type of program would impact Nevada public schools. This review found Nevada public schools spend \$10,500 per student which is total out-the-door costs; if the scholarship amount is around \$8,000, that allows the school district to capture the \$2,500 difference for each student who selects the choice program. The money can be redirected to other educational programs within the public school program. Your per pupil spending level would go up. I have submitted the study as an exhibit ([Exhibit D](#)).

**Chair Kihuen:**

Do you have any data on how successful the program has been for ELL students?

**Mr. Lawrence:**

Florida publishes an annual report. I have not been able to find that information, but I will submit the report as well ([Exhibit E](#)).

**Chair Kihuen:**

The State has approximately 80,000 ELL students, so the results would be interesting to see.

**Janine Hansen (Nevada Eagle Forum):**

Over the years, we have had many discussions, at many levels, concerning home schooling. The program has been successful, and this bill is another wonderful opportunity. This approach has been successful all over the Country to help students least able to help themselves to opportunities in education. One of the statistical examples occurred in Washington, D.C., which has a scholarship program that provides for choice in education. Washington, D.C., spends \$28,000 a year per student, and through the scholarship program, the pay is 25 percent of that number. The graduation rate for students in the program is 82 percent compared to regular district students at 56 percent.

**Craig Hulse (StudentsFirst):** I have a friendly amendment to submit for S.B. 445 ([Exhibit F](#)). We support the bill and think a couple of changes will make it better. There are two components to the amendment; the first component would require a student with a scholarship be enrolled in an underperforming school, and the second would be accountability metrics required from the Department of Education.

**Dick Cervi (Pastor, Faith Baptist Church):**

We have a private school in Silver Springs which has many attention deficit disorder students and kids who are slow. We give students a personalized curriculum based on their test scores which allows them to work without the pressure of falling behind. We have 17 students.

**Shirley Beasley:**

There is not going to be a perfect choice bill, but we can see from the studies that allowing choice improves the schools and the educational experience.

**Craig Stevens (Nevada State Education Association):**

We are opposed to S.B. 445—for the hole it leaves in the budget.

**Dotty Merrill, Ed.D. (Executive Director, Nevada Association of School Boards):**

We feel depleting the revenues going into the General Fund by providing a tax credit draws money away from the potential support for public education. According to the bill, there is not a one-time impact, and it would go on for

5 years, as provided for in section 4, subsection 5. Our objection is to the policy created to reduce funding for public education.

**Senator Smith:**

Does this apply to Christian schools?

**Mr. Foletta:**

The funds in the scholarship can be applied to any type of school.

**Senator Smith:**

I would like information on the other states in the program. Also, provide me with the tax being used for the credit.

**Chair Kihuen:**

Can corporations get tax credits for making donations?

**Mr. Foletta:**

I do not know of any other tax credits against the Modified Business Tax.

**Chair Kihuen:**

Is there any data showing the correlation between this program being successful for ELL students?

**Mr. Foletta:**

We will do the research and send it to you.

**Mr. Nielsen:**

To answer your earlier question, a Modified Business Tax credit for donations from corporations does not exist.

**Chair Kihuen:**

We will close the hearing on S.B. 445 and open the work session on S.B. 152.

**SENATE BILL 152:** Revises provisions governing the administration of sales and use taxes and related taxes. (BDR 32-877)

**Joe Reel (Deputy Fiscal Analyst):**

The work session document ([Exhibit G](#)) for Senate Bill 152 provides that the right of a retailer to claim a sales tax deduction or refund based on bad debt, as

provided under law, is not affected by the assignment of the debt to a closely held affiliated group that includes the retailer. Testimony in support of S.B. 152 was provided by Senator Moises (Mo) Denis and Bob Crowell, representing DriveTime Car Sales Company, LLC. There was no testimony in opposition to the bill. An amendment submitted by Mr. Crowell changes the definition of an affiliated group to match the federal definition. The amendment requires common ownership of 80 percent to be an affiliated group, rather than 50 percent common ownership currently under the bill as drafted.

SENATOR ROBERSON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 152.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Mr. Reel:**

Next, we have the work session on S.B. 238.

**SENATE BILL 238**: Makes various changes relating to taxation. (BDR 32-973)

As noted in the work session document ([Exhibit H](#)), S.B. 238 transfers the responsibility for administering the appeal and hearing process related to appeals of the Real Property Transfer Tax from the county recorder's office to the Department of Taxation. A hearing officer appointed by the Department of Taxation may review any decision made by the county recorder and may reverse, affirm or modify any decision made by the county recorder's office. Senator Kieckhefer offered opening remarks, and Alan Glover, Carson City Clerk-Recorder, supported the bill. There was no testimony in opposition.

SENATOR BROWER MOVED TO DO PASS S.B. 238.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Mr. Reel:**

Our final bill in work session is S.B. 509.

**SENATE BILL 509**: Revises provisions governing taxes on transient lodging.  
(BDR S-1198)

As shown in the work session document ([Exhibit I](#)), this bill removes the requirement that the 2.5 percent room tax rate imposed within the City of Sparks pursuant to A.B. No. 205 of the 72nd Session must expire upon the repayment of certain general or special obligation bonds. Senator Smith offered the primary testimony in support, and additional support was provided by the City of Sparks and local business owners. There was no testimony in opposition.

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 509.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Kihuen:**

Is there any public testimony? With no further business to come before the Senate Committee on Revenue and Economic Development, the meeting is adjourned at 1:58 p.m.

RESPECTFULLY SUBMITTED:

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Mike Wiley,  
Committee Secretary

APPROVED BY:

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Senator Ruben J. Kihuen, Chair

DATE: \_\_\_\_\_

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
S.B. 445	C	2	Chris Nielsen	Prepared Testimony
S.B. 445	D	2	Geoffrey Lawrence	School Choice
S.B. 445	E	28	Geoffrey Lawrence	2010 Step Up For Students Annual Report
S.B. 445	F	1	Craig Hulse	Amendment to SB 445
S.B. 152	G	5	Joe Reel	Work Session Document
S.B. 238	H	1	Joe Reel	Work Session Document
S.B. 509	I	1	Joe Reel	Work Session Document