

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
February 18, 2015**

The Committee on Education was called to order by Chair Melissa Woodbury at 3:21 p.m. on Wednesday, February 18, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Melissa Woodbury, Chair
Assemblyman Lynn D. Stewart, Vice Chair
Assemblyman Elliot T. Anderson
Assemblyman Derek Armstrong
Assemblywoman Olivia Diaz
Assemblywoman Victoria A. Dooling
Assemblyman Chris Edwards
Assemblyman Edgar Flores
Assemblyman David M. Gardner
Assemblyman Pat Hickey
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Shelly M. Shelton
Assemblywoman Heidi Swank

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

H. Pepper Sturm, Committee Policy Analyst
Kristin Rossiter, Committee Policy Analyst
Karly O'Krent, Committee Counsel
Sharon McCallen, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Craig M. Stevens, Director, Intergovernmental Relations,
Community and Government Relations, Clark County School
District
Chris Giunchigliani, Private Citizen, Las Vegas, Nevada
Alan Waxler, Chief Executive Officer, AWG Ambassador, Las
Vegas, Nevada
Scott Baez, Government Affairs Specialist, Washoe County School
District
Christopher G. Nielsen, Deputy Chief of Staff, Office of the
Governor
Deonne E. Contine, Executive Director, Department of Taxation
Dale A.R. Erquiaga, Superintendent of Public Instruction,
Department of Education
Ryan Sanshuck, Private Citizen, Las Vegas, Nevada
Lesley Pittman, representing American Federation for Children
Janine Hansen, representing Nevada Families for Freedom
Lynn Chapman, Member, Nevada Eagle Forum
Mary-Sarah Kinner, representing the Las Vegas Sands
Tom Greene, Regional Advocacy Director, Western Region,
Excellence in Education National
Elizabeth Purtee, Private Citizen, Carson City, Nevada
Tray Abney, Director of Government Relations, Reno-Sparks
Chamber of Commerce
Justin Harrison, Director, Government Affairs, Las Vegas Metro
Chamber of Commerce
Lacy Henderson, Private Citizen, Las Vegas, Nevada
Melissa Morgan, Private Citizen, Las Vegas, Nevada
Aurora Espinoza, Private Citizen, Las Vegas, Nevada
Diana Reyes, Private Citizen, Las Vegas, Nevada

Juanita Clark, Board Member, Charleston Neighborhood
Preservation, Las Vegas, Nevada
Robert Tzall, Private Citizen, Las Vegas, Nevada
Emi Fujiyama, Private Citizen, Las Vegas, Nevada
Laura Hirsch, Private Citizen, Carson City, Nevada
Elisa Gould, Private Citizen, Las Vegas, Nevada
Frederick I. Cooper, Private Citizen, Reno, Nevada
Lonnie Feemster, Private Citizen, Carson City, Nevada
Dawn Miller, Member, Nevada Parent Teacher Association
Terrence Brooks, Private Citizen, Las Vegas, Nevada
Andrew Diss, State Director, StudentsFirstNV
Victor Joecks, Executive Vice President, Nevada Policy Research
Institute
Seth Rau, Policy Director, Nevada Succeeds
Jacob Hafter, Private Citizen, Las Vegas, Nevada
Victoria Carreón, Director, Education Policy, Kenny C. Guinn Center
for Policy Priorities
Ruben Murillo Jr., President, Nevada State Education Association
Patrick Gavin, Director, State Public Charter School Authority
Kathleen Conaboy, representing K12 Inc.

Chair Woodbury:

[Roll was taken. Committee protocol and rules were explained.] We have a work session today that we will hear first. We only have two bills. I will turn the time over to Pepper Sturm.

H. Pepper Sturm, Committee Policy Analyst:

I would direct the Committee's attention to the work session document in front of you ([Exhibit C](#)). The first bill for the work session is Assembly Bill 27.

Assembly Bill 27: Makes various changes regarding the licensure of educational personnel. (BDR 34-315)

As you will recall, we heard Assembly Bill 27 on February 9, 2015. There were three amendments proposed by Mr. Erquiaga. You can see those in the mock-up that follows the work session page describing the bill.

Chair Woodbury:

Is there any discussion on the bill from the Committee?

Assemblyman Munford:

Would it ever come to the point where we would sunset it, or we would not have to take this route to recruit more teachers under this type of circumstance?

Karly O'Krent, Committee Counsel:

Currently, this bill is not set to sunset at any particular time, but the bill can be amended if the Committee wishes to do so.

Chair Woodbury:

Is there any further discussion?

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 27.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Ms. Diaz, do you mind doing the floor statement?

H. Pepper Sturm, Committee Policy Analyst:

The next bill in the work session is Assembly Bill 107.

Assembly Bill 107: Revises provisions relating to reports of accountability for public schools. (BDR 34-407)

This is a bill we heard on Monday, February 16, 2015 ([Exhibit D](#)). There were three proposed amendments by Mr. Erquiaga on behalf of the Governor's Council on Food Security. There is no mock-up for this; these are just conceptual amendments.

In the second conceptual amendment it is not only for participants; it is for both those eligible and participants.

There is a fiscal note following the work session document. There was mention from the rural districts of concern regarding converting the data into a format that could be used to comply with this bill.

Chair Woodbury:

After consulting with the Superintendent, my intent is to send a letter to him asking the Department of Education to assist the school districts in converting their data to comply with this bill. Is there any discussion from the Committee? If not, I will take a motion to amend and do pass, including sending the letter.

ASSEMBLYWOMAN DIAZ MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 107.

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Anderson will take the floor statement. I will now open the hearing on Assembly Bill 117.

Assembly Bill 117: Authorizes a school district to lease school buses or vehicles belonging to the school district in certain circumstances. (BDR 34-510)

Assemblyman Elliot T. Anderson, Assembly District No. 15:

I am here to present Assembly Bill 117 for your consideration. I would like to thank everyone in the audience for coming here today to support my bill.

Assembly Bill 117 allows school districts in the state to enter into a written agreement to lease school buses or other vehicles owned by the school districts to provide them to private entities that are not a part of a school district program. Across the United States, many states have adopted similar measures—California, Idaho, and Indiana to name a few—that have enabled the use of school buses to transport elderly populations, employees of government agencies, and other people in times of emergencies.

I will walk you through a few of the key provisions of the bill. The bill authorizes the school district to enter into an agreement to lease school buses or other vehicles for special events. A school district's board of trustees must enter into the agreement, and as part of that, must ensure it does not interfere with the regular transportation of the district's pupils—the key mission of the school district, as it relates to school buses. The agreement must charge a fee equal to or greater than the cost to operate the school bus. It is possible if they enter into fees more than that amount, the money could be used to fund the purchase and maintenance of school buses or vehicles. The agreement would also have to indemnify the school district against liability or any claims and associated costs. It would require the lessee to provide proof that the driver would be properly licensed in Nevada, and require proof of insurance to cover the cost of the bus or vehicle.

A detailed amendment ([Exhibit E](#)) has been proposed by Clark County School District (CCSD). I fully accept the provisions of that amendment.

The proposed amendment would eliminate the need for an annual determination of whether or not to lease the school buses or vehicles. It would also require the transportation department of the school districts, rather than the Board of Trustees, to determine the fees and costs related to the use of the vehicles.

They also talked about additional language that would indemnify the school district in the event of a loss or damages of any kind, all requiring the lessee to be responsible for damages of any kind.

Mr. Craig Stevens with the Clark County School District will provide you with any answers to questions you may have regarding the amendment. I am more than comfortable going off the amendment if you have any questions. I believe the amendment strengthens the intent of the bill, which is to allow permissive authority for the school district to take care of special events, such as the Electric Daisy Carnival (EDC) or National Association for Stock Car Auto Racing (NASCAR) if they so desire, which will allow us to ease the congestion on I-15 to make sure we do not have drunk drivers or others putting people at risk. It would be a way to provide for those events efficiently and to make sure our roads are safer while alleviating the traffic problems we get during those special events.

Again, to emphasize, this is not mandatory for the school district. They do not have to do this if they are not comfortable. I am willing to entertain any suggestions that would make the bill stronger.

I have also spoken with the Nevada State Education Association (NSEA), and I believe they will be talking about a friendly amendment to ensure that any drivers that may be regular school district employees that decide to do drive on their off time will have to be indemnified as long as they are within the scope of their contract with a lessee who enters into a contract with the school district. We want to make sure that none of our school district personnel or districts has legal problems because of this.

Assemblyman Stewart:

I was relieved to see that the drivers would be certified to drive the bus and there would be proper insurance coverage. Do you anticipate this to be short term, a day or two? Could we have the CCSD or other districts mention how this would be used or what they anticipate?

Assemblyman Elliot T. Anderson:

I would anticipate the school district could do it as long as they wanted. They would just have to ensure it would not interfere with the regular duties.

The events I spoke specifically about have been a couple of days of events during the summer. In that case, it would be well suited for a short-term agreement. This is not designed for anything but special events, and that language should still be in the legislation after the amendment. I am not trying to have the school district enter into long-term lease agreements.

Assemblyman Stewart:

Could Mr. Stevens respond?

Craig M. Stevens, Director, Intergovernmental Relations, Community and Government Relations, Clark County School District:

We agree completely as long as it does not interfere with the normal routine of the school district. We do not anticipate a long-term lease either.

Assemblyman Edwards:

Is there any limitation on the distance the vehicle can travel? Can it go interstate to an event in California and stay overnight?

Assemblyman Elliot T. Anderson:

There is no limit specified in the bill; however, we can make it clear that the school district could enter into those provisions as part of the lease if they want. My intent for this legislation is to create a floor for what an agreement must include. If we need clarity on additional protections, I would be more than willing to ensure they would not be going too far.

Chair Woodbury:

Section 1, subsection 3 talks about concealing the school district's name. Do you know how you would do that?

Assemblyman Elliot T. Anderson:

I would probably leave that to the school district to determine how exactly that would be done. The intent of that provision is to ensure that people who see the bus know it is not the school district operating it at that juncture.

Craig Stevens:

That would be part of an inquiry on how they would use the bus. Later in the bill it says they cannot deface or paint the bus. Again, those would have to be local discussions and local decisions on how they would do that. However, if it is going to affect the bus in any way, we would certainly take that under consideration.

Assemblyman Armstrong:

If we are using these vehicles for special events and there are no seatbelts in the school buses, is that a concern? Maybe there is a requirement that would make us put seatbelts in the school buses; has that been addressed?

Assemblyman Elliot T. Anderson:

It would not be my intent to require the school district to install seatbelts. For example, we went on a pre-session tour with the CCSD, and the bus was not outfitted with seatbelts. As a part of the agreement, they would have to indemnify the school district and through the school district to stay it from any liability. I cannot tell you I know that there is a law requiring school districts to have seatbelts at this time. I am pretty sure there is not, or we would have them on our school buses. The bill would not affect that. That would be at their own risk, and we would be indemnified under the provisions of this bill.

Chair Woodbury:

I will take testimony in support of Assembly Bill 117.

Chris Giunchigliani, Private Citizen, Las Vegas, Nevada:

I was the genesis of this bill based on my taking a tour in Phoenix, Arizona, on Valley Metro Rail, where I met with a businessman from Las Vegas who actually does the transport for the Electric Daisy Carnival concerts. He mentioned to me at that time that it would be wonderful if the school districts could be a partner where they could lease the buses short-term. He has to go out of state, sometimes up to five states, to get charter buses. He would rather try to keep the employment and the money here and utilize some of our services.

When we looked at the legislation, it was absent. The intent of this is enabling legislation so that any of the school districts could enter into a short-term lease agreement.

One area we would need to clarify is that the bus drivers would be the best people. Perhaps section 1, subsection 2, paragraph (c) could be amended to make sure it is the buses and the drivers and give them the right of first refusal. They can work through their union.

Most of these events are after the school year is over, and most bus drivers, unfortunately, are unemployed during that time. They may want to look at a call back or something along those lines that they could work out with both the NSEA and the school district.

I have Mr. Waxler here who actually does the transport for several types of these events.

Alan Waxler, Chief Executive Officer, AWG Ambassador, Las Vegas, Nevada:

We are a destination management company as well as a transportation company, and we have been charged for the past four years to provide transportation for the Electric Daisy Carnival at the Las Vegas Motor Speedway.

The biggest challenge for this event, or any event at the Las Vegas Motor Speedway, is that there are only two arteries into the Speedway, I-15 and Las Vegas Boulevard. The issue was trying to shuttle people out to these events to try to relieve some of that. The unfortunate situation in Las Vegas is at the very most, approximately 90 buses exist in Las Vegas at this present time. Of those 90, many are on charters every day for places like the Nevada National Security Site. We have had to secure buses from up to five surrounding states. Last year we had 390 buses; this year we are shooting for 410, which we have secured. Of those 90 buses available in Las Vegas, we were only able to secure 55 this year—the lowest number.

When I spoke to Chris Giunchigliani, I mentioned that it would be nice, with the money we are spending out of the state, if we could have it go into the school system. I drive by a couple of the various bus yards, and the buses are sitting there for the summer. It would be a benefit to both the concert goers as well as the state and the school system. I am not sure what that cost would be. Of course, we would make it a premium to facilitate some of the needs of the school district. That is really the genesis of the whole reason for coming to you and saying this would be a benefit to all involved.

We will be moving 45,000 people into this venue each night, both ways. That is a total of 90,000 a night. Last year we moved 42,000; this year we are shooting for 45,000 each night. It is a 3-day operation and we hold preliminary meetings so the drivers and staff are aware. It is a massive commitment, and Nellis Air Force Base allows us access to the base to get to the Speedway to relieve the traffic.

Assemblyman Stewart:

Would it be your intent with the local buses to use local drivers? Is that correct?

Alan Waxler:

Ideally, we would like to use the drivers that are on relief for the summer. They are familiar with the units. I do not think we can find that many excess drivers with a Class B license. They are not easy to find. We would want to go to the

school district first. We would then, of course, use whatever local buses were available to us, and then after we exhausted that effort we would go to the school.

Chris Giunchigliani:

The short answer is yes. The intent we are suggesting is to make sure any amendment would include that it is the bus and the drivers. They are the most familiar with the buses and already licensed for them. They would have to work out a procedure for hiring. The intent was to hire local, then the local charters, and then if they have to go out of state, which they will, then to go to that third party in the long run.

Assemblyman Hickey:

I assume it will be the responsibility of your company to clean the buses before returned. The children may not understand what the smell of patchouli oil is. Serious question—I assume you are going to give them back to us in good shape.

Alan Waxler:

We have units during, pre-, and post event to clean buses. Also, from a wrapping standpoint, other than the fact they are yellow, we could do full bus wraps that would cover any indication that it was a school bus. The answer is yes, we would clean them and air them out.

Assemblywoman Diaz:

Who is responsible for maintenance? Is the factor of the maintenance built into how much you would be paying for the bus? Also, while on the bus, who is liable if two individuals are intoxicated and may have a physical confrontation inside the bus?

Assemblyman Elliot T. Anderson:

The intent of the measure would require the fee to include "wear and tear, maintenance, appropriate staffing, administrative costs, and an additional rental service fee." That is in CCSD's amendment in section 1, subsection 2(a). I am entertaining that as a friendly amendment to ensure that issues are taken care of.

As for your second question on liability, the intent would be section 1, subsection 2(b) of CCSD's amendment. It would ensure that no matter what type of incident happens, whether it is in the scope of employment of the bus drivers they hire, or any type of liability that could happen, the school district needs to be indemnified. The school district needs to be left whole and so

would the bus drivers they hire as long as they are in the scope of their employment. We do not want any of our bus drivers to suffer any liability.

Assemblyman Armstrong:

Have we talked to or done any polling of those bus drivers to see if they would even be willing to do this? The EDC event would be somewhere between 9 p.m. and midnight. Are those bus drivers willing to take on that shift? It is quite a bit different than the school bus schedule.

Chris Giunchigliani:

No, we have not polled anyone. Basically because this was evidenced to be an enabling legislation, not mandatory. It allowed for them to work that part out. Because it is at the end of the school year, most bus drivers are unemployed. They do not even get to collect unemployment. It does not interfere with any of their schedules. That is why I suggested they could create a callback schedule or something similar that they would work out both with the Nevada State Education Association (NSEA) or Education Support Employees Association (ESEA) or whoever else represents them. In the long run, it would give them some additional revenue they would not have; it is a benefit to them.

Scott Baez, Government Affairs Specialist, Washoe County School District:

I am here to testify in support of A.B. 117 as amended with the Clark County School District. As to the proposed oral amendment, I would have to get with our transportation people and bus drivers and let you know how they feel about that.

Chair Woodbury:

Is there anyone else here in support? [There was no one.] Is there anyone here who wants to testify in opposition to A.B. 117? [There was no one.] Is there anyone here neutral? [There was no one.] Assemblyman Anderson, do you have any closing comments? [He did not.] I am closing the hearing on Assembly Bill 117 and opening the hearing on Assembly Bill 165.

Assembly Bill 165: Establishes the Nevada Educational Choice Scholarship Program. (BDR 34-747)

Assemblyman David M. Gardner, Assembly District No. 9:

This bill is colloquially known as the Opportunity Scholarship. As it is currently designed, it is going to give a tax credit to the modified business tax to businesses who give monies to scholarship organizations. A scholarship organization is going to be a nonprofit that has to cap their administrative costs at 5 percent of all of the income they receive. They have to be tracking these scholarship recipients to make sure they are following the academics. That will

be part of what the Department of Education (DOE) does. The eligibility for these scholarships will be set at 300 percent of poverty level. This is a needs-based bill. The scholarship organization will be required to submit a report every single year to the DOE according to the DOE regulations.

In a nutshell, that is what this bill does. It gives parents, especially lower income parents, the ability to send their children to any kind of school they would like. They may not have access to private schools wherever they are living.

Christopher G. Nielsen, Deputy Chief of Staff, Office of the Governor:

This Opportunity Scholarship program is one of the key priorities in Governor Sandoval's education package. Obviously, he fully supports Assembly Bill 165. For the first time, it will give certain children the option or choice to attend private schools without having to worry about paying the high cost of tuition. For many families, we believe these tuition costs have been an impediment to school choice. We also believe this program provides an opportunity for individuals and businesses to partake in the program and in the education of our children.

I will now turn the time over to Deonne Contine, who is the Director of the Department of Taxation, to walk you through some of the tax mechanics of the bill. Then we will hear from the Superintendent, who will touch on some of the policy, reporting requirements, and accountability pieces.

Deonne E. Contine, Executive Director, Department of Taxation:

Because this program involves a tax credit, I am going to walk through some of the mechanics and the tax implications of the bill.

This program, as you have heard, is known as the Nevada Educational Choice Scholarship Program. It involves four groups I will briefly talk about.

First, the businesses are taxpayers, and these are businesses subject to the modified business tax in Nevada, the payroll tax on businesses pay for the gross wages of their employees.

Second is the scholarship organizations. A scholarship organization is defined in section 5 of the bill. It has the following requirements and prohibitions:

- They must be a 501(c)(3).
- They cannot own or operate a school.
- They cannot spend more than 5 percent of their funds on administrative costs.

- They have to grant awards or scholarships to students who live in households that have income of not more than 300 percent of the federally designated poverty level.
- They have to grant their scholarships to more than one school so they cannot just identify a single school and grant scholarships there.
- They cannot have any other limitations with respect to the students who get the scholarships, only the 300 percent of the federally designated poverty level.
- They cannot provide a grant amount that exceeds the amount of tuition or the per pupil spending that is provided in statute.

Next are the students who are eligible, or those students who are below the 300 percent of the federal poverty line. The final participants are the schools, which include the private schools as defined in statute.

Section 4 of the bill outlines the donation and tax credit process. Basically, the taxpayer would notify the scholarship organization of their intent to make a donation. The scholarship organization would apply to the Department of Taxation for approval of the credit. The way I view that would be the Department of Taxation would be reviewing the application to ensure the taxpayer was a registered taxpayer in Nevada, and the limits of the credits have not been exhausted. We would also have information as to who might be using the credit so we could have notice as the company submitted their returns that included the credit for the donation. The Department of Taxation would then review the application, notify the organization within 20 days, then the donor would make the donation within 10 days of receiving notice from the scholarship organization. The scholarship organization would make the grant directly to the school.

The accountability and limitations within the bill are that the Department of Taxation cannot approve an application for more than \$10 million in the first year, or \$11 million in the second year, or no more than a 110 percent increase from the previous year each year thereafter.

Sections 7 and 8 just make the changes to the relevant modified general business tax provisions and financial institutions that would allow for this credit.

Assemblyman Hickey:

In section 3, you talked about the limits per year of \$10 million. Is that the total number of scholarships to be awarded, and are there any limits for individual businesses with respect to how many scholarships or amount for which they can qualify?

Deonne E. Contine:

To my knowledge the \$10 million is the amount for which the Department of Taxation cannot approve the credits. That is how I read that provision, and I do not see any other limitations in the bill.

Assemblyman Hickey:

Do you mean it can exceed awarding credit for more than that amount?

Deonne E. Contine:

Right. I think of it as if there were, optimistically, a thousand people who wanted to do this, we could get to the point where we have exhausted that \$10 million and the Department of Taxation would have to say they could not issue the credit because we have exhausted the \$10 million. That is the only limitation I see.

Assemblyman Gardner:

I want to introduce an amendment to this bill ([Exhibit F](#)). The amendment is basically just changing the reporting time for the businesses at 20 days after they have been told by the Department of Taxation. The current language gives them 10 days to respond to that. Just to give them more time, the amendment I am proposing extends that to 30 days. Also, we would be changing section 9, which states that this bill will become effective upon passage and approval.

Dale A.R. Erquiaga, Superintendent of Public Instruction, Department of Education:

I will explain the accountability and reporting provisions on pages 4 and 5 of the measure. Essentially, the Department of Education prescribes the forms for going back and forth between the scholarship organization and the Department of Education. The Department would also prescribe the manner in which the school would maintain a record of academic progress. These schools are outside the state testing regimen I have discussed with you a number of times. We would agree with that school industry as to how that record would be kept and what information would need to be included.

Last, we have some denominated things that we must require of the scholarship organizations, so there is an annual accounting purpose required of them to us. Important to us and the overall power to adopt regulations. We have entities here dealing with personally identifiable information, so we would have to extend the confidentiality requirements to these organizations. We would likely maintain a registry of organizations. That is not an approval process. Their requirements are spelled out in the law. Moms and dads or guardians want to know who would have these programs, so we would likely maintain a voluntary registry through regulations so people could find them. We would

limit the reporting requirements to schools that actually enroll students. We do not wish to create a new reporting requirement for private schools. They have certain reporting requirements to the State Board of Education because the Board licenses them. We have no interest in going beyond into the world of private school recordkeeping. We would limit our reporting from them.

Then we would set a deadline for ourselves by which we must communicate the tuition information. As the Director of Taxation has pointed out to you, the bill contains provisions for how that calculation is made. Logically, the Department of Education would make that calculation because it varies among the 17 counties. We would set a deadline for ourselves so we could inform the scholarship organization so they could calculate that information.

Assemblyman Hickey:

Is the responsibility for communicating about the program going to fall on the nonprofit organizations, or is the Department of Education going to have a role in that?

Dale Erquiaga:

As I understand the bill, that is a responsibility of the scholarship organization. Obviously, the Department of Education would support this measure and would want to make the information available to families in our state. The primary responsibility for identifying these students and their families would fall to the organizations.

Assemblyman Elliot T. Anderson:

How would private schools go about choosing which students to select? One of the problems we talk about is the issues we have in trying to get English language learners up to speed. The way I understand private schools is they could have a policy where they are not going to accept anyone who does not speak English because it is harder to educate that populace. Is that your understanding? Could they also refuse to accept other protected classes?

Dale Erquiaga:

You are correct. A private school has control over their admittance requirements. The Director of Taxation cited a section of the bill that states that burden falls on the scholarship organization; they cannot limit it to a specific student. The organization could not say they are an organization for only certain classes. You are correct; the private school remains in charge of its admittance requirements.

Assemblyman Elliot T. Anderson:

Can you point me to that section of the bill?

Dale Erquiaga:

The section that relates to the organization is section 5, subsection 1(g). That points to the organization, not the school.

Assemblyman Elliot T. Anderson:

Theoretically, they could get the scholarship and the private school could say we are still not going to admit them.

Dale Erquiaga:

As I read the bill, that is possible.

Assemblywoman Swank:

We all like to see schools be diverse. It is good for the students to have a lot of racial and economic diversity in the schools. I would like to go back to section 5, subsection 1(e) regarding the 300 percent of poverty. It was stated this is a needs-based scholarship. For a family of four, 300 percent of poverty is about \$72,000 per year. The median income in the State of Nevada is \$51,000 per year; that is not so different across the country, which is about \$53,000. My concern is that if our median income is about \$50,000 and this is set at \$72,000—and we know that children who come from wealthier families tend to be better prepared for school—it would probably be children who have the needs, lower income and less prepared and not able to compete as well against the higher income children. I am wondering about this 300 percent and how we got there. It does not seem as though it is needs based if it is \$72,000 per year. An incoming professor at the University of Nevada, Las Vegas makes considerably less. We also know that to qualify for free and reduced lunch is at 185 percent of poverty. To qualify for Nevada Check Up it is at 205 percent. If we set this at 200 percent of poverty, that puts us at \$48,500 for a family of four. That gets more to the intent of this bill, that it is a needs-based scholarship. Can you speak more to that?

Assemblyman Gardner:

The idea was that we did not want to arbitrarily set some kind of lower number because we were concerned that we would not include some people. There are some teachers who are earning \$50,000 per year. If their spouse earns \$20,000 per year, they would be well above that \$48,000. The concern was trying to get more students and trying not to discriminate as much as we could. If you are earning above \$72,000, the people probably do not need it as much. If you are below \$72,000 and a two-person household, you could get to that number very quickly.

Assemblywoman Swank:

We want to aim this at the students if it is a needs-based scholarship. I still think 200 percent is basically the standard we have used across the state. It hits right at that income level—both 200 percent and 300 percent are arbitrary in some ways. If we are really looking to help poor children, 200 percent is more fitting with all of the other programs we run in the state.

Assemblywoman Diaz:

These private voucher schemes take our tax money out of the public schools and classrooms and take away from resources that are already lacking. For example, I receive calls from teachers that they cannot get transportation for their students because it is an alternative school. We are basically putting roadblocks in those individual's access to an education. Yet, I am particularly concerned how this affects my constituency. I have to look at my students and my statistics, and my students are not getting to college, unfortunately. Who is going to provide the transportation to school? Sometimes they are just outside of the busing zone. It is hard for them to get from their two-mile spot to school. Where is the transportation piece for my constituents? Where is the food aspect if they qualified for free and reduced-price lunches? What other services are going to be guaranteed to them? For example, speech therapy, occupational therapy, and English language learner, as well as other things that come with a student who has needs? What is the support system?

Dale Erquiaga:

Let me begin by saying this is not a voucher, nor does this money come from the Distributive School Account (DSA). The modified business tax is not earmarked for the DSA. There is a delineated set of taxes that go there. If you wish to characterize it as money from the state General Fund, you could do so. However, I would say that it is not one of the taxes that goes into the DSA. I would like to correct that for the record.

There is no requirement among private schools to provide some of the services you mentioned, including transportation. This is a choice. If a family wished to make this choice, to have their tuition paid, then the school would accept that student and the family would have made that choice. The family could arrange with the school for transportation or other services, but the choice here rests with the family. No one is forcing a family to make this choice.

I do believe that the amount of money that is expressed here is adequate enough to give many families an option of private school that they simply do not have today. It is not a complete answer, and it will not be within reach of all families, but this program is so far from where we are today, which closes the door entirely for those families. This is why the administration supports it.

Assemblyman Munford:

This applies to K-12, is that correct?

Assemblyman Gardner:

Yes. That is my understanding.

Assemblyman Munford:

Can this interfere with students wanting to make the choice to go to a particular school because of athletics? It is almost like Bishop Gorman High School was doing certain things to recruit players to come to their school by offering some kind of scholarship assistance or program. That is already out there for Gorman. You are offering the same thing now for any student no matter where he lives that decides he wants to go to a certain school because that student wants to play basketball or football. If someone will give the scholarship, and the student is eligible and qualifies for the scholarship, could it interfere with or create a problem with recruiting players? Can you see that?

Assemblyman Gardner:

I would actually argue that it would not change it at all. As you said, Gorman already does that. The schools that would be doing that like Findlay Prep. There are already private schools that have that ability. They are recruiting students, so I do not see how this would change that. Also, this is something where the parents would choose where to send their children.

Assemblyman Munford:

It interferes with the competition level of sports. It is almost like college when you are recruiting students to go here and go there. Students usually play in the zone or neighborhood where they live. That is the school they should attend. This is taking another step to some school trying to load up their athletic program. The public school in an oppressed or low-income socio-economic area will suffer.

I think about the district that I represent. There is so much pride and feeling about the Prime 6 schools. It takes something away from the community. I receive so much input from my constituency. Even the state superintendent and the ministers know about it. It is losing something my community was built upon. Are we losing our schools? My district has taken enough hits because of charter schools. On the other hand, what are you going to do, close down all the schools in my district and shovel the students out to other places? This really disturbs me. I will have a hard time accepting this.

Assemblyman Gardner:

As far as recruiting, once again, I do not think it will change anything. Those things are happening right now, with or without this bill. As far as affecting your neighborhood or any neighborhood, this is a choice. We are not requiring students to leave or parents to choose. We are saying they have an option that is currently not given to them.

Assemblyman Munford:

We will talk about it sometime.

Assemblyman Stewart:

Can you remind us about the selection process, how a student remains eligible, and if they are not functioning properly, how they are removed? Is there a waiting list?

Dale Erquiaga:

Those policies are at the school level. The Department of Education does not reach into private school acceptance or retention policies. The decision would be between the student and his or her family and the school. What we would be required to track is the academic progress of the student and where that student begins and finishes the year. The social contract regarding attendance is not regulated by the Department.

Assemblyman Edwards:

For context, if we are running the numbers correctly, looking at an average of approximately \$5,000 per scholarship, we are talking about 2,000 students across the state. That would be less than one half of a percent, which might be the equivalent of a high school. We are not really going to be taking that many resources from anyone, or diminishing schools within any area. It is \$10 million in a \$3 billion budget.

Dale Erquiaga:

I would not disagree with any of those numbers nor your context. This is a fairly small universe of children of the 450,000 in our school system.

Since you used the word context—to my dear friend Mr. Munford—this too is a piece of context for me. The Governor has recommended a comprehensive education program that includes significant investment in our traditional district schools, as well as significant reforms. The levels of those reforms and investments touch on the students across the great band and incredible diversity of our population. This is one piece of an agenda. This bill alone is not the panacea for even a single family, let alone for our state. It is part of a greater whole, and as Assemblyman Gardner has said, it offers a choice

where none exists today. Taken in that context of how many students are in my charge, and the focus of this bill, that is why the administration is happy to support this Committee's bill.

Assemblywoman Joiner:

As a follow-up to Assemblyman Anderson's question, it surprised me to hear your answer relating to his question. I want to make sure we have it very clear on the record. I admire the creativity and the phrasing of this program. I understand that you do not want to sell it as a voucher, but it is diverted public tax dollars. These dollars are going into private schools that will be allowed to continue to discriminate based on disability—such as autism—based on race, creed, and on family fit. Is that correct?

Dale Erquiaga:

I am going to ask that a representative of a private school speak to your phrasing around discrimination. I license these schools for lots of other reasons, but I would like to have you talk to someone from a private school about what rules apply to them—not state law, but perhaps other rules. I do not want to hold myself out as an expert in something that I am not.

Assemblywoman Joiner:

When I looked at this bill, I tried to figure out the very question of who is this helping and how many students. In northern Nevada we have a very small group of private schools. Most of them are creed-based. If we do not have seats for these students to use these scholarships, what are you hoping to accomplish? Currently, who is being left out if the schools are going to be allowed to continue to choose a fit family for their community, or in other ways, select their students? I understand that you take exception to my use of the word discriminate, but they are selecting their own students. Who will this benefit if the students are not already the ones in those private schools?

Dale Erquiaga:

In our view, this will benefit families who today do not have that choice or to even engage in that conversation with a private school. This option is not within their financial realm. This gives them a possibility which we think is good. Private schooling, like many other endeavors, is driven by need. If we can raise the demand for more seats, there will be more schools. We have an overcrowding problem in our public schools; that, too, factors into this for us. It may also drive more opportunities. There are 202 private schools in our state today and you are correct; there are not very many in the north.

Assemblywoman Diaz:

What happens when a student who receives the opportunity to attend a private school through this program, starts the private school and finds out that it is not the right fit, his needs are not being met, or he might be kicked out of the school? What happens to those dollars that were attached to that student who has to come back to the public school system?

Dale Erquiaga:

That is something we could address in regulation. You could require the scholarship organization to pay in installments based on enrollment. That is an excellent point we should discuss when the regulations are adopted. How would the scholarship organization restore those funds to its pool?

Assemblywoman Diaz:

Who is this organization? Who is going to be part of this entity that manages the scholarships, and who are they going to be ultimately accountable to?

Assemblyman Gardner:

The requirements for the scholarship organization start in section 5, subsection 1, paragraphs (a) through (g). It is going to be any organization that fits those qualifications. They will be accountable to the Legislature and they will have direct contact with the Department of Education who will track what they are doing and how they are doing, and they will be accountable to the parents. As far as who it will be, I do not believe anyone has been specified in the statutes. You just have to follow section 5, subsection 1, paragraphs (a) through (g) of this bill.

Assemblywoman Swank:

Earlier, Assemblywoman Diaz spoke of school vouchers. If you look on the web page for the National Conference of State Legislatures, they define school vouchers, also referred to as opportunity scholarships, as state-funded scholarships that pay for students to attend private school rather than public schools. I am wondering if you can clarify the difference between these and school vouchers.

Dale Erquiaga:

I think of a voucher as taking state dollars out of a state account and transmitting it to a private school. These dollars never reach the state. This is a tax incentive. This is like you giving money to the Boys and Girls Club or some other charity of your choice and taking a deduction on your tax return. This money goes from a business to a private organization, a nonprofit, which then engages in the philanthropic activity of sending children grants to attend a private school. They are given forgiveness of their taxes. The Director can

explain that better than I can. It is not, in my mind, a voucher where we take money out of a state bank account and give it directly to a private school. This is a tax incentive.

Chair Woodbury:

Ms. O'Krent, do you have anything you can add if this is a voucher or how it differs from a voucher?

Karly O'Krent, Committee Counsel:

A school voucher is a certificate of funding issued by the government that provides for the direct payment of state money either to the parents of a pupil to direct toward a school of their choosing, or to the school. The program discussed in this bill provides that a taxpayer may receive a credit against tax dollars that are otherwise due for a donation of money made by a taxpayer to the scholarship organization. According to the U.S. Supreme Court, a tax credit is not a government expenditure. Therefore, the difference between the program that is established and this bill, and a voucher system, is that in this bill, no government expenditure is being made. When a person contributes money to a scholarship organization, it is not the state spending money but the person spending his or her own dollars.

Assemblywoman Swank:

For clarification, it is more that the state does not get the money that it would have otherwise gotten, instead it goes to a private school. It is circumventing the state and going into a private school, correct?

Dale Erquiaga:

I defer to your counsel. I think her answer was much better than I could have expressed it.

Assemblyman Elliot T. Anderson:

This is public policy stated under *Nevada Revised Statutes* (NRS) 360.137, which is a tax expenditure report. We have noticed, whenever we do provide an exemption, the fiscal effect it has on our state budget. We have been trying to keep account of how much our exemptions have cost and the liability to the General Fund. Would you admit this does have a fiscal impact on our General Fund revenues? For every exemption we get, it is dollars that do not come into the General Fund. Are we really talking about a different character of money?

Dale Erquiaga:

I was answering the statement that this is money from schools. This money is not from the DSA. I acknowledge it is money from the state General Fund,

but that the state would not receive. I only have the school piece. The Director of Taxation is here for the other piece. In the school piece, this is not money from the monies that I receive and distribute to schools.

Assemblyman Elliot T. Anderson:

I want to direct your attention to page 4, lines 1 and 2, the requirement that the scholarship organization must be a 501(c)(3). If I recall correctly, a 501(c)(3) can include organizations that are operated exclusively for religious purposes. Is that correct?

Dale Erquiaga:

I have no idea.

Assemblyman Elliot T. Anderson:

I wondered about that because you said one of the other requirements in the bill is that they could not designate specific pupils. Is there anything about a religious organization being qualified as a scholarship organization as a category where they could say it was religiously based? Could they do that?

Assemblyman Gardner:

If you look at page 4, lines 28 and 29, it talks about the limits. They can only do what is enumerated in their qualifications. They are not allowed to add other limits. That is here in the law.

Assemblyman Elliot T. Anderson:

A 501(c)(3) can be a religious organization, right?

Assemblyman Gardner:

I am not a tax attorney. I believe they can, but I do not know.

Karly O'Krent:

A 501(c)(3) corporation can be a religious organization, that is correct. However, the provisions of the bill do provide that organization cannot limit the scholarship money it provides to a particular group of students.

Assemblyman Armstrong:

I see this as an opportunity for students and their families to have more choices, but I also see this as an opportunity for the business community as well. Nowhere in this do I see that there is a limit to what businesses can contribute. Yes, we are limiting the amount of tax credits we are providing, but nowhere do I see that after the \$10 million number for the first year that the business cannot then contribute more. Am I reading that correctly?

Assemblyman Gardner:

I would say yes. There is only a limit on how many scholarships we get out, but if someone wants to give more and not get a tax credit in exchange, that is allowable under this bill.

Assemblyman Edwards:

You had mentioned there are over 200 private schools. Do you have any idea how many of them are not religiously oriented?

Dale Erquiaga:

I do not know that, but I can find out.

Assemblyman Edwards:

So it is very likely it is 50/50, so the students could go anywhere. The fear that it is going to a parochial school is probably not well founded.

Assemblyman Flores:

What thresholds are we going to put into place to ensure we are holding them accountable? If the students are not performing well, et cetera, what safeguards do we have in place?

Dale Erquiaga:

As the bill states at the bottom of page 4, section 5, subsection 4, the school is required to maintain records of academic progress. That gives us a glimpse of how one could aggregate these reports over time, respecting private information, to see if there is a change in student performance. The scholarship organization or the Department of Education could request that information, but there is a reporting requirement here on academic progress that is not normally in place for a school licensed under NRS Chapter 394, private schools.

Assemblyman Flores:

It is entirely plausible under this amendment that we have different standards for different students and we have different accountability measures to be instituted where one student is being held to one standard and one level of measurement, then for another student we have a completely different metric. Is that correct?

Dale Erquiaga:

That is correct. Charter schools and district schools use state standards and state summative assessments. Private schools, as a general rule, do not. Some private schools, however, use the high school examinations, but they do not use our summative criterion-referenced tests in almost any instance I can think of.

Chair Woodbury:

If there are no further questions from the Committee, I will take testimony in support of Assembly Bill 165.

Ryan Sanshuck, Private Citizen, Las Vegas, Nevada:

This program is very much needed. As a disabled veteran and a Purple Heart recipient who deployed with the National Guard of Nevada to Iraq from 2006 to 2007, this enables me to exercise my religious right to raise my children in a Jewish school. To identify a very large elephant in a very small room, the Clark County School District is one of the worst school districts in the nation. This bill would give me a better option to better educate my children the way I see fit. This is, indeed, a parent's choice to better educate our children.

If you want to improve the school district here, I am in favor of that. I am in favor of creating better revenue for our children who go to public school here in Clark County. Nevada is fifty out of fifty when it comes to the quality of education in the nation. Mississippi's education is better than the state of Nevada. That is why I believe this is important.

My blood is on that American flag and the state flag. It is my religious and constitutional right to educate my children to the best of my ability. I believe I can do that in a Jewish school.

Lesley Pittman, representing American Federation for Children:

We are a national advocacy organization for school choice. We applaud Governor Sandoval, Chairwoman Woodbury, and Assemblyman Gardner for putting this legislation forward for which we are very much in support.

This bill is very similar to a tax credit scholarship opportunity program that exists in Florida that is now in its twelfth year. Although we know Nevada is not Florida, I thought I would provide for you some information about how that program has been successful in Florida ([Exhibit G](#)).

More than two-thirds of the families served in this program are minority students. The average household income is around \$25,000 for a family of four—well below the income limit to qualify. What is most important is that these low-income students on the tax credit program were in the lowest quartile in test scores when in public schools but are now making learning gains similar to all students nationally of all ethnicities and all income levels.

We believe the outstanding results seen in Florida will be replicated here in Nevada, and more importantly, for the families who prefer another option for their child who cannot afford that choice. This bill will provide that chance.

Janine Hansen, representing Nevada Families for Freedom:

We are very pleased to be able to support this bill. We supported the Governor's bill two years ago. I was glad to hear the testimony about Florida, so I will not cover that.

Parental school choice makes a huge difference in the education of our children. For that reason, this is a bill for the children. Not only is it for the children, but in America we believe in the freedom of choice, not a monopoly. It is important that government promote freedom of choice.

As reported by the National Center for Education Statistics, children in a school choice program in Washington, D.C., called Opportunity Scholarship Program, had remarkable results as well. The students came from homes making \$22,000 a year. They saw a graduation rate of 82 percent, which was so much different than those in regular D.C. schools, which was only 56 percent. It really helped the children who were in poverty in Washington, D.C., many of whom were minorities.

School choice can reduce the cost of education while increasing learning. Washington, D.C. schools spent \$28,000 per pupil; the Opportunity Scholarship schools spent one-fourth of that cost. More than 18 states as well as the District of Columbia now offer school choice programs. This was a success in Wisconsin too.

A Harvard University study showed that Milwaukee voucher students made substantial gains in achievement. The longer they stayed in the school, the better their progress. [Read statistics from [Exhibit G](#).]

Don Alt is not here. He testified two years ago on this bill. He is now a county commissioner in Lyon County. I want to share his perspective on this. Last session, he talked about how he was involved in a private school in Lyon County. This school serves all at-risk students who are not only at-risk, but low income. That is the focus of their school. There are many private schools, and he said they are taking many students into their school who had not succeeded in the public schools and who, in fact, had been kicked out. They were trying to fill this gap for at-risk students whose parents were unable to afford regular private schools.

There are many options available for those who need this program the most. We are very happy and pleased to be able to support freedom of choice for all of our children to have the opportunity to make that choice in the state of Nevada—especially those who are in financial need.

Lynn Chapman, Member, Nevada Eagle Forum:

I would like to start by saying the National Eagle Forum has always supported school choice. I would like to point out some items in a very interesting article by Andrew J. Coulson, Director, Cato Institute Center for Educational Freedom ([Exhibit H](#)). The article was adapted from his testimony to the Committee on Education and the Workforce in the U.S. House of Representatives on February 10, 2011.

In his article he spoke of how many congresses and presidents have sought to take care of two things for the American elementary and secondary schools. One was to raise overall achievement, and the second was to narrow the gap between high- and low-income students, as well as between minority and Caucasian students. [Read from ([Exhibit H](#)).]

It was said well in the *Education Reporter* put out by National Eagle Forum, that school choice adheres to the principle that parents will make the right decisions for their children. As an additional advantage, the Goldwater Institute reports that nearly all of these school choice options come at a lower cost than traditional public schools. With education costs rising, the cost-effectiveness of school choice may be the tipping point that may someday give all parents the option to decide their children's education future.

Mary-Sarah Kinner, representing the Las Vegas Sands:

The Las Vegas Sands wholeheartedly supports Assembly Bill 165 establishing the Nevada Educational Choice Scholarship Program. The Sands believes the future of the hospitality industry depends on leaders who can make a difference and that a quality education can and does help build a foundation for leadership.

As a company, the Sands is dedicated to helping their employees learn, advance, and share new ideas that drive innovation. The Sands believes that A.B. 165 will provide at-risk Nevada students with the opportunity to earn a high quality education at the institution of their choice. The company also wants to ensure that the children of their employees have opportunities to pursue their education and have choices in their education.

For students in failing schools, the opportunity to choose where they receive an education can provide a much-needed lifeline. For students who may need additional supportive services, the opportunity to attend a specialized educational institution may change the course of their lives. Simply put, A.B. 165 can provide a choice and a chance for Nevada's at-risk students.

In his State of the State Address, Governor Sandoval noted that "An education system for this century requires bold, new ideas to meet the reality of our

time." The Sands believes that A.B. 165 brings a bold idea to the table and helps raise the bar for our schools.

The Las Vegas Sands has a track record of supporting educational opportunity for its employees and their families. They believe A.B. 165 will provide educational opportunity for Nevadans. The Las Vegas Sands is proud to support this bill.

Tom Greene, Regional Advocacy Director, Western Region, Excellence in Education National:

We applaud Governor Sandoval and Superintendent Erquiaga for their tireless leadership on this issue, including Assemblywoman Woodbury.

I am glad Florida was brought up as an example. One other piece to talk about is how this helps low-income children. I used to be a public high school teacher in an affluent district, and we had a huge achievement gap. It was a flip of the coin if you were successful, if you were a minority, African American or Hispanic, or if you were low-income. Same building, same teacher.

Sometimes the traditional public school is not a good fit. This would provide an opportunity for families who could not afford this option to be able to afford that and to go to a school that better fits their needs and serves them better.

The programs are clearly helping many students who desperately need high quality school choice options. However, research has found that Florida's tax credit scholarship program produces a net savings of about \$1.49 for every dollar lost in income tax revenue due to the scholarship. It is saving Florida money, it is helping families who traditionally are left out of these opportunities, and we hope Nevada will become the fifteenth state to have tax credit scholarships for students at risk.

Elizabeth Purtee, Private Citizen, Carson City, Nevada:

I am a mother of five graduates from the Nevada school system, and I am a grandmother of eight. As such, I am a concerned citizen speaking as an individual for Assembly Bill 165 educational choice scholarships.

Our children deserve the best education that we can provide, and a choice in education gives them that opportunity. Scholarships made available for children who choose private schools are a good idea and will help to reform our failing education system.

Tray Abney, Director of Government Relations, Reno-Sparks Chamber of Commerce:

I am representing the 1,800 members of The Chamber. We support this bill. The Governor has laid out a bold, aggressive agenda, and remember, this is only a piece of the bigger reform puzzle—this is not a silver bullet, this is not a cure-all. We are talking about the future workforce for our members. That is why we are very concerned about the education system in this state. We think the idea of business using its own dollars in order to make a difference in this critical area is a good one. We urge your support of this bill.

Justin Harrison, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:

We are here in support of the concept of opportunity scholarships. I will echo the comments from my colleague from the northern Nevada Chamber, as well as Superintendent Erquiaga and Assemblyman Gardner.

We also recognize that this is only a piece of the larger education agenda that has been put forth by the Governor, and we believe this is an important piece as mentioned. This gives opportunities to families that currently do not have choices; they have one choice and this gives them multiple options, so long as they fall within 300 percent of the federally designated poverty level.

Lacy Henderson, Private Citizen, Las Vegas, Nevada:

I am here to support the bill. As a parent and a teacher, I understand the benefits that this bill could have on children growing up in the Las Vegas Valley. [Read from prepared testimony ([Exhibit I](#)).]

I know with my students, I urge and encourage them to apply for every magnet and every charter school available by kindergarten because I know that their needs will not be met in kindergarten or first grade at my school. Their parents pray their name gets pulled from the lottery. It is not fair to them. They have to go to the school they are zoned for unless their name gets pulled from the lottery. I believe this bill will enable parents to have the choice to send their children to a private school whether it be religious or non-religious. I support the bill and I urge each of you to support it as well.

Melissa Morgan, Private Citizen, Las Vegas, Nevada:

I am here to testify in support of Assembly Bill 165. Having worked with students in poverty in a number of settings in the Las Vegas Valley since 2005, I understand how important education is. [Read from prepared testimony ([Exhibit J](#)).]

Some of the concerns are working with students who receive special education or English language learner services. It is a concern that some of the schools may not offer these services. However, I urge you to think beyond that and to think about the schools that would open specifically to serve these students and to ensure their needs are met. Unfortunately, they are not currently being met in a lot of the schools that are available to them. [Resumed reading from prepared testimony ([Exhibit J](#)).]

Aurora Espinoza, Private Citizen, Las Vegas, Nevada:

I have two children, Anlleli in tenth grade and Kaylie in fifth grade, at our local public school. While they have had many good experiences in the past, it seems like the last two years they have been struggling a big struggle, especially for my oldest child. [Read from prepared testimony ([Exhibit K](#)).]

I cannot afford to move to a better neighborhood with better public schools and certainly cannot afford private school tuition. I hope you will pass this bill so I can finally have a chance to choose the best school for my child, just like other families that have greater financial resources do for their children. I just want the best for my kids. Thank you for hearing my testimony today, and I hope you will support this bill.

My daughter comes home and tells me that sometimes she does not even eat because the school is overflowing with a lot of students. It does not give her enough time to get her lunch. Many times during the week she does not eat.

Diana Reyes, Private Citizen, Las Vegas, Nevada:

I am a parent and this is my husband Elias. We want to share our family story with you. My son Daniel is in seventh grade. He was attending public school until a year and a half ago. The last couple of years in public school he was really struggling academically. He was a C student and we knew he had a higher potential. He had a problem with math and English and had tutoring sessions at the school, but he still struggled. [Read from prepared testimony ([Exhibit L](#)).]

I hope you will think of Daniel and his future today as you consider this bill. There are many other kids like Daniel who, for various reasons, just need a different setting, maybe a different curriculum, maybe a different school; really just another chance to be who they can be to reach their full potential.

Thank you for your time today and your support of this wonderful bill.

**Juanita Clark, Board Member, Charleston Neighborhood Preservation,
Las Vegas, Nevada:**

It is a pleasure to see all of you together. Many of us walk for some of you. We request that yes be your vote on Assembly Bill 165, Educational Choice Scholarships.

Curriculum choice improves academic performance, graduation rates and saves tax dollars. Learning is fun and our great state of Nevada has been creeping away from enrichment and saving for too many years. [Read from prepared testimony ([Exhibit M](#)).]

Robert Tzall, Private Citizen, Las Vegas, Nevada:

I am a member of the Board of Directors of Yeshiva Day School of Las Vegas. I am here today to speak about diversity. We have heard a lot of testimony focusing on the makeup of our schools and our student bodies. I was fortunate to grow up in an affluent public school district. My parents moved there specifically to be a part of that district. As an adult, I may say I had a very good education of the 3 Rs; racial, economic, and of thought, there was very little diversity in the schools that I went to. I decided to send my children to private school. It was a personal choice, but as I got more involved in the school, I saw that I was not only dealing with people who were like me—but I was dealing with people who were not like me; different backgrounds whether it be racial, ethnic, or socio-economic. To see everyone working together and building educational experiences not only enrich a child's mind but create an environment where a person can become a whole human being. I cannot see a better reason to want to send your children to school and want them to have an education.

I stand here as a parent of private school students, and I made the choice because I felt it was the best for my children. The most democratic, empathetic, and socially responsible thing I can do as a constituent and as a voter is remember the people who might not have those same choices and include them. I speak for myself and our school and support A.B. 165 because we want to continue our mission in creating whole human beings, creating a diversity of experience, and giving that opportunity to every child in Nevada.

Emi Fujiyama, Private Citizen, Las Vegas, Nevada:

My son goes to DJ's Community Christian Academy. People are speaking about diversity, so I want to explain our situation. My husband is African American, so my son is mixed with Japanese. I support Assembly Bill 165.

Laura Hirsch, Private Citizen, Carson City, Nevada:

The person I am here to support is in the overflow room. She is the director of our school, which is the only school in northern Nevada for children with autism. It is a wonderful program, and many of the children there go back into the public school. My son has been there for four years and is thriving. We could not financially afford for him to go there for a time so we tried to get back into the school district, and the only program they had to offer us was a living skills program in a high school of 2,000 students. They made foods he could not eat because of his severe food allergies. I tried to go to an online charter school; they did not have a program for him either. We had to go back to the private school, which we had to pay for. I had to go back to work full-time in order to pay for him to go to school.

I was coming here in full support of this bill until I heard the income cutoff. Now that I am working again, because of the 300 percent poverty, my family no longer qualifies. I do support the bill for all of the other students, and I do support this bill but I would suggest that possibly it becomes eliminated because there are many families like mine who have to pay out-of-pocket for all of the medical expenses not covered for children with autism, which is about \$20,000 per year. One in sixty-eight children have autism and it is getting worse every year. There are no sufficient programs within our school district for children like mine.

Elisa Gould, Private Citizen, Las Vegas, Nevada:

I am a parent of three children, and I am here in support of the bill because my children were not getting the education they needed in our district. One of my children had a Section 504, which his teacher was not following. At one point, his teacher was his class bully. It put him to a point of being almost suicidal. We found suicide notes. We worked several years to get him into an Individualized Educational Program (IEP). It should not have taken that long, but the school district kept "accidentally" losing all of his files and paperwork.

We finally got his IEP and began to get him the attention he needed through the schools, but at that point he was a lost soul. I believe in this bill because I have tried extremely hard with all three of my children. With the years that we have spent with my one son, I feel like we have lost so much. We still struggle everyday with him. I am here to support Assembly Bill 165 because I see with my other two children a huge difference in what the private schools are doing with them.

Chair Woodbury:

Is there anyone else in support of Assembly Bill 165? [There was no one.]
I will take testimony in opposition.

Frederick I. Cooper, Private Citizen, Reno, Nevada:

Thank you for the opportunity to voice my concerns about Assembly Bill 165. I am very pleased to observe that the Governor and the Legislature are taking responsibility to improve Nevada's public schools so that our young citizens will have a fair chance at success in their adult life. [Read from prepared testimony ([Exhibit N](#)).]

Lonnie Feemster, Private Citizen, Carson City, Nevada:

I am speaking as a long-time education advocate for children and community activism in low-income areas. I was president of the National Association for the Advancement of Colored People (NAACP) for eight years in Reno, Nevada.

I am concerned because my Christian belief and teachings have taught me that you have to be sensitive to the issues of the poor. Assembly Bill 165 increases economic inequality in our community. We have to be sensitive to what happens when we keep degrading our low-income, census-tract schools to the point the potential for success is less and less.

As one young lady put it, no one in my school talked about going to college or moving out to the suburbs. Every one of her peers was talking about getting ready for college, so she thought she should get ready too. She went to college. You are in a school where the student body continues to become weaker and weaker because we are bleeding off the strength. Like the black communities around the United States, including Las Vegas and Washoe County, patriarchs and matriarchs in our community have left and have moved out like I had to do. I moved to a nice piece of land and built a house, and my children went to top schools in an affluent area. I came back because my wife has taught and been a principal in elementary, middle, and high schools in low-income areas. I had to help her do budgets and go in to do programs at the school. She made me join a dozen committees with the Washoe County School District, so I was intimately involved with the hard part of coming up with policy as a community advocate.

My concern is we need to recognize that the problems of low-income families have largely been the inability to get the transportation and money for childcare. They do not have the ability to take their children to a choice school or a charter private school. They cannot take off work, and they do not have the resources; sometimes they have to work two jobs and ride the bus.

Assembly Bill 165 has a disparate impact on low-income children, their schools, and their families. There is a systemic problem in the equality in our school system in Nevada in many areas of the community.

I am concerned because we look too much at the money. Yes, it may have a fiscal impact, but we have to recognize that what has happened to the black community is happening to our public schools in low-income areas. We are draining off the human capital. The strongest students with the strongest parents, and that have the most money, are taking their children out, and the peer pressure is pulling children down.

This is why I am concerned and have spoken out today. It is important that we recognize this bill says choice, but there is no choice for the poorest in our community. They cannot choose to go anywhere. If we keep draining off the human capital, the best students, and giving them vehicles to get out of the school, these schools are going to get worse. I saw this happen in our black communities. Some of our leaders and black churches stayed, but a lot of the strength left. It had a devastating impact. The same thing is happening in these low-income schools.

I hope you will consider the impact of this is and not that it is bad. I am saddened to hear these families who are sending their children to public school and the children are suffering because we do not recognize we are weakening these schools more and more. It is hurting these families, and some of them think that the only thing is to give them a choice, but they do not have a choice because most of them cannot go to a choice school.

Assemblyman Munford:

What you said has so much merit and makes a lot of sense in relating to the district that I represent. I did not see one black parent come up and speak in support of this bill. Maybe I should have made some contact with the constituency and residents of my community to weigh in on this bill.

I am in total agreement with what you just expressed. I tried to say it earlier, and I was looking more to save the community because if you lose the community, you lose our schools. The schools are such an important pillar of a community. I am a strong advocate of the Prime 6 schools in my district, and I am a strong advocate of public schools because I taught in the public schools for 38 years. I thought they were pretty good then, and I still think they are pretty good if you put the resources and the money there where it needs to be. I am happy to see that you came up and spoke in that tone. I agree with you.

Dawn Miller, Member, Nevada Parent Teacher Association:

I am speaking for the 17,000 members of the Nevada Parent Teacher Association (PTA) in opposition to Assembly Bill 165. The Nevada PTA recognizes that changes must be made within our public schools to provide an equitable and excellent educational opportunity for every child. As stated earlier

by Superintendent Erquiaga, there are only 200 private schools in the state, leaving out most of our rural students. Vouchers, tax credits, deductions, and other such funding sources do not provide the means for bringing about improvements to our public schools.

Terrence Brooks, Private Citizen, Las Vegas, Nevada:

I am not opposed; I am actually for. I have two sons who are 14 years old. A gentleman mentioned earlier that he did not have an African-American to support this bill, but I do. Like the other gentleman, I spent three tours in the military sweating for our flag too. I saved every penny I made fighting for our country and our freedom overseas in a hazard zone so that I could come back and send my children to school. I have eleven brothers and five sisters, so I know what poverty is about. I know what hand-me-downs are about and about wearing my brother's shoes. The school district that I was raised in was not a good one.

I was diagnosed with education deficiency, but I overcame that and the military helped me. Today, I hold two associates degrees, two bachelors, two masters, and my Ph.D. I want my sons to be able to achieve the same education I did not receive, that I had to fight for.

Again, I saved every penny to send them to a private school, and the money is running out. I am working 14-hour days and I am struggling with tuition. My children did attend a public school until the fifth grade, but now they are ninth-graders and come home with a smile on their face. They do their homework, they speak about their teachers every day. I need this bill to pass so they can have a chance in life and not have to look for an alternative. Although it is not bad to fight for your country in order to have a good education, the military is not for everyone.

My sons are excellent athletes. They did not attend their school for the athletic portion. I understand when Assemblyman Munford mentioned Bishop Gorman High School and other recruiting schools. This is an excellent school. I attended the same school, Mountain View Christian School, as the young lady who spoke of her scholarship funding running out.

I support Assembly Bill 165 and I need you to not look at the athletic part, just the education part. There are many African-Americans who attend private schools. It is a choice. Give us the choice to pick the school for our children. It is a personal and private choice. As far as transportation, if you want to advance in life, then you have to have sacrifice. Those parents who are making those choices will make those sacrifices as I did.

Chair Woodbury:

Is there anyone in opposition? [There was no one.] Is there anyone neutral?

Andrew Diss, State Director, StudentsFirstNV:

We wholeheartedly support the intent of Assembly Bill 165 to give low-income families the ability to attend the school of their choosing. I think you have seen, based on the testimony today, and all of the people who are also supporting this bill, that it is going to be a pretty popular program.

Our concern is that the demand is going to exceed the means available to these families. When you cap it at \$10 million you could quickly run out of funds to go to all of these families. We would like to see some provisions included in the bill that would make it strictly a means-based bill. If you have all of these families competing with each other, we want to ensure that the most low-income families have access to those funds and preference be given to the students that are lower on the income scale than closer to the higher end of the 300 percent.

We are happy to work with Assemblyman Gardner and Superintendent Erquiaga in coming to a solution. That is why we are neutral; we would like to see some minor changes to the bill.

Victor Joecks, Executive Vice President, Nevada Policy Research Institute:

I want to talk about the background of school choice and how it is working around the country. Twenty-four states and Washington, D.C., currently operate some program of school choice. This includes 14 states running 18 opportunity scholarship programs which are similar to Assembly Bill 165. School choice has increased student achievement. The Freedom Foundation has found that there are 12 empirical studies that have examined academic outcomes for school choice participants using random assignment, which is the gold standard for social science. Eleven of those have found that choice improves student outcomes, one found no difference, and no empirical study has found a negative impact.

There have been a lot of concerns today about what happens to students who stay in public schools. The Freedom Foundation finds that there are 23 empirical studies, using all methods that have examined the impact of school choices on academic outcomes in public schools, and of those 23 studies, 22 find that choice improves the public schools, and 1 found no visible impact. No empirical study has found that choice harms public schools. School choice works. It would benefit Nevada's students. Our one suggestion would be to not limit the pool but increase the cap—maybe to \$100 million to increase the number of students who could use this program.

Seth Rau, Policy Director, Nevada Succeeds:

We are testifying in support of the idea of opportunity tax credit scholarships but neutral on the current version of Assembly Bill 165.

In a state where every low-income student does not yet have the ability to attend a high-performing school, these tax credit scholarships can have the ability to change lives. For example, research for the fourteen states that are currently implementing the opportunity tax credit scholarship have shown that there is both a long-term savings and improved academic outcomes. We are glad there are going to be accountability metrics embedded in A.B. 165. This bill reflects a long-term investment in the future of our state. More available seats that currently exist will be opened to students if A.B. 165 were to pass.

We support the conceptual amendments that StudentsFirst has proposed here that say that the students of greatest needs would have first access to these limited funds. We must ensure that those who would benefit the most from these funds would benefit first.

Thank you for consideration of these important amendments and of this important policy.

Assemblywoman Swank:

These scholarships are for about \$5,000, and I am wondering if you could tell me what the average cost of a private school is in Nevada. With a quick Internet search, it looks like in Las Vegas the average cost for a private school is \$8,000, leaving the low-income families we are trying to reach out to, to come up with an additional \$3,000 on average for the school. If I could get that information it would be very helpful.

Seth Rau:

Absolutely. If you look at the current-based distributive schools account, the amount is \$5,676 for fiscal year 2015. Obviously, that amount has not been set for fiscal year 2016 and 2017. If you look at some of the funds that have been added into this, the amount could go up to \$7,000 and could meet some of that demand. We have been trying to figure out the amount of available seats, and we have been working with the Kenny C. Guinn Center for Policy Priorities, but we have not found out the exact number of currently available seats. We have estimated about 20,000 students are enrolled in private schools across the state of Nevada.

Assemblywoman Swank:

It would be helpful if we could get the average tuition for private schools in Las Vegas, in the north, and in the rural areas, along with the number of seats in rural private schools. Could we have that information sent to us?

Assemblyman Gardner:

I do not have that, but there has been talk about an amendment that has not been created yet. That is why I have not mentioned it. The amendment is regarding whether or not private schools would accept the amount students receive in scholarship as the full tuition payment. The parents would not have to worry about it. That is currently being worked on, but we have not reached that point yet.

Jacob Hafter, Private Citizen, Las Vegas, Nevada:

I am a Nevada native and a product of the Clark County School District (CCSD). I went to Bonanza High School when Assemblyman Munford was teaching there. I am a parent of four children who are currently enrolled in the CCSD.

We have heard many touching comments today that are important for this Committee to hear. I think the problem is what they show is that there is a need for comprehensive school reform, not for a particular scholarship program. However, I do not think this scholarship will be harmful, and that is why I am testifying neutral. I do think there are a lot of flaws with this bill. That is why I have affectionately named this the attorney employment act, one of many that will be passed this year.

The reality is that in the 14 states that have this kind of credit, most of those states already have had substantial litigation as to the constitutionality of such credit. Many of those issues are still unresolved. The way this bill is structured, we will be the fifteenth state adding to litigation.

What is being missed is that all private schools have scholarship programs. They all have committees that assign scholarships, and anybody who has need and will qualify for that school is perfectly capable of applying to obtain a scholarship.

Moreover, there is nothing that prevents any business owner, let alone any taxpayer, to be able to donate to those schools and to the scholarship programs, and obtain a tax credit on their federal income tax.

We already have tax incentives for scholarship donations without the need to get government involved in trying to create an arduous regulatory stream to administer these types of scholarship programs.

That is exactly what this program does. It is making the government bigger without any necessarily positive or predictive results. One of the most concerning things is how this is going to be administered. My understanding is there are no scholarship agencies specifically designed for that currently in existence. The specifications for what makes a scholarship agency eligible under this bill are quite arduous. Unless you have a branch of another charity that would be administering, or forming a secondary arm to administer this program, I do not know of any nonprofit organization that can work under a 5 percent cap for administrative expenses. What you are going to see is large organizations fighting for this small amount of money, which is my other concern, that \$10 million is not sufficient.

This only benefits business owners, who actually pay the tax. Many small business owners do not pay a substantial amount of the tax to really benefit from the credit you are providing. This is really for large business owners or corporations that are publically traded corporations here in Nevada who actually do pay the tax. This will not encourage donations from private individuals or small business owners who do have the ability to contribute, but are not otherwise contributing.

The ultimate question is why are we not doing vouchers? That is what we really need and what everybody is alluding to. This is America. Competition is what made this country great. Why are we so scared of competition in our education? Our children's lives and our children's futures deserve it. I would encourage you to gain some courage and put forth a bill from this Committee that actually addresses the beginning process to get a constitutional amendment passed to allow vouchers. That is what we need and what the people were expecting. This is very disappointing.

Assemblyman Armstrong:

You say there is no incentive for private individuals, and this would only be a large-business deduction. Section 5, subsection 1, paragraph (a) says "A scholarship organization must: be exempt from taxation pursuant to section 501(c)(3) . . . " and I would say that individuals or small businesses, in addition to the \$10 million cap, would have an incentive because there is still a federal deduction for donating to 501(c)(3)s.

Jacob Hafter:

I think my testimony at the beginning said that. We already have this program in place through that exemption by donating to 501(c)(3)s. The issue is that if we really wanted to make this a tax credit to encourage all people to donate to private educations, why not give it a credit toward property tax? Why only make it a business credit tax that is only eligible for people who are business

owners paying that modified business tax? That is the problem. This would be much smarter if it was put forward as a property tax. Moreover, many courts have said that property tax credits are constitutional, where business tax credits are unconstitutional. They encourage disproportionate spending in-state versus out-of-state, and interfere with interstate commerce, whereas a credit on the property tax would not disparately treat those that are using those tax dollars. This is an equal employment opportunity act for attorneys.

Victoria Carreón, Director, Education Policy, Kenny C. Guinn Center for Policy Priorities:

We have conducted a comprehensive analysis of the Governor's education proposals in conjunction with Nevada Succeeds. We looked at the potential impact on academic outcomes of each of the proposals. Based on empirical research we ranked each of them high, medium, or low. In this case, this one we ranked as a low priority.

We identified in our analysis that while there are benefits to expanding choice to parents, we did find some issues with this. The main issue is capacity. The number of students who would qualify for this at 300 percent of the federal poverty level is quite large—68 percent of all students in Nevada public schools—315,000 students. If it was 200 percent of poverty, that would be nearly half of Nevada students at 224,000. When we do that math, it would be approximately 1,800 seats that would be available.

As a lot of students would be eligible, we would suggest that perhaps if this is supposed to be targeted at low-income, this be pegged on the free and reduced-price lunch rate.

Nevada has one of the lowest private school enrollments in the country. We are ranked 50 out of 51. It is less than 5 percent of all students. There were only 20,374 students enrolled in a private school in the last fiscal year. We have limited capacity; we do not have information about the number of available seats. That is something we are still looking into. We think that is something the Legislature should study more extensively. There may be a few seats available now, but possibly that could increase if Assembly Bill 165 did go into effect.

Regarding capacity, there has been discussion about the rural counties. Private schools only exist in eight counties throughout the state. There are no private schools in nine counties. Those counties are Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Pershing, Storey, and White Pine. Even in those rural counties that do have private schools, the enrollment is very limited.

Elko County only had 34 students enrolled in private schools in the last fiscal year.

The capacity issue should be analyzed further by the Legislature, especially the impact on rural students, and also at targeting it more to the students who are eligible for free and reduced price lunch.

The second issue is accountability measures. There has been a lot of talk about having accountability measures for all of the Governor's education proposals. We think there should be strong metrics included in this proposal as well.

The last thing is, the fiscal impact to the state and to districts should also be taken into consideration. Superintendent Erquiaga stated earlier that the modified business tax is not part of the revenue sources that go into the distributive school account (DSA); however, it is important to note that 80 percent of the revenue that goes into the DSA is from the General Fund. The modified business tax is a revenue source for the General Fund. The impact on the school districts should be taken into account as well.

Ruben Murillo Jr., President, Nevada State Education Association:

The Nevada State Education Association (NSEA) is neutral on A.B. 165. We are in the process of trying to better understand this proposal, its fiscal impact on the budget, and its implementation. [Submitted letter ([Exhibit O](#)).]

Assemblyman Elliot T. Anderson:

Last session NSEA was opposed to a very similar measure. What has changed since then?

Ruben Murillo:

It was slightly different in its proposal. I would have to take a look at it. Again, this time we want to look at it to see what the differences are, what the fiscal impact is, and how it is going to be implemented. Many of the questions that have been asked here.

Chair Woodbury:

Is there anyone else wishing to testify neutral? [There was no one.] Are there closing comments?

Assemblyman Gardner:

Some of the comments in opposition were saying we are not responsible for the students in private school. I do not agree with this. We are responsible for all of the students in the state. We should be focused on the education of all of them, including the ones attending private school. I believe, as was stated

earlier, this helps both private schools and public schools and helps all of our children. That is another point to be talked about. Superintendent Erquiaga stated that this is just one program that will help some, but we are doing a lot of other things to help other people who are trying to get better schools. We are trying to do Zoom Schools and other things. This is just one thing.

Litigation regarding this bill was talked about. I have studied that quite a bit. This type of bill has never lost in court in all of the states that have related litigation. It has won in all of them.

Regarding the point about it only helping big businesses, if you are paying the Modified Business Tax (MBT) rate, even small businesses pay that. Anyone who is subject to that tax would be able to use the tax credit. It would help even small businesses.

Assemblyman Elliot T. Anderson:

Was not the Florida case struck down from the uniform provision of the constitution?

Assemblyman Gardner:

A voucher was struck down, but I do not believe a tax credit bill was.

Assemblywoman Diaz:

When you are a public school teacher in a district that is constantly under-achieving or has to work around so many challenges, you are really comparing apples to oranges. Unfortunately, in the system of accountability we are living in today, more is demanded of the public school teacher. We are not paying our teachers enough. There is a long list of things we could be doing to improve our public schools and address the issues that all of these individuals who had to change their children to private institutions or private schools are having; their children do deserve the best from the state. They should not have had to go through those experiences with their children. We also have to own it as a state—we are not funding our public schools adequately. We are not providing the resources, we are demanding more and more with less, and when we have to address the needs of our school, we are asked to look at the root cause. I ask, what is the root cause? Is spreading all of this money thinly going to get us the results we need to move forward in the state?

Assemblyman Gardner:

Actually, we are on the lower end of funding education, no one would doubt that. If you look at some of the other states such as Utah and Idaho that spend less than us, they have much better school systems. I would have to say, comparatively, there has to be something wrong with the system. This is part

of the fixing of that system, and there are other things we should be doing to fix the system. When states can spend a lot less than us, such as Utah and Idaho, and they can perform better than us—not by a little bit—it makes you think there are other things that can be done. There are also states who spend a lot more than Nevada that are not too much better than we are as far as an educational system is concerned. Money has been overblown a little on this. It is important, but it is not the answer.

Chair Woodbury:

I am going to close the hearing on Assembly Bill 165. We do have a presentation today from the Nevada State Public Charter School Authority.

Patrick Gavin, Director, State Public Charter School Authority:

I am here to give you an overview of the authority ([Exhibit P](#)). Charter schools began in Nevada in 1997 and elected to adopt charter school legislation. We were created as an agency 14 years later in 2011 when we were tasked with the responsibility of overseeing those charter schools that were formerly overseen by the State Board of Education. We were also tasked with the responsibility for chartering new, high-quality charter schools which would be more academically successful than other schools previously chartered by other agencies in the state.

We have an independent board appointed by members of your body as well as members of the Senate, the Governor, and the Charter School Association of Nevada. We are also the local education agency for all schools within our portfolio, which is to say we are essentially their school district. Federal funds and special education funds flow to charter schools through us directly. Schools still do not receive allocated special education monies that go to districts. We have to apply for a special allocation for the Department of Education.

Overall enrollment has grown significantly since the charter school movement started in Nevada. Since our creation as an agency, our portfolio has doubled in size, from approximately 10,000 to 20,000 students.

A critical piece of data for you to be aware of, is that the decision this body made and the Senate made four years ago to create us as an entity has been a success.

With the overall performance of schools chartered by the state, whether formerly by the State Board, or now us, you will see that the schools that were chartered prior to our creation did not perform as well as schools that were chartered by us afterwards.

Student achievement has also increased significantly over the past three years for which we have star data. The most relevant data point is that the overall students in three-, four-, and five-star schools have grown from 62 percent to 77 percent.

Assemblyman Gardner:

Do you have something to compare charter schools to the rest of the state?

Patrick Gavin:

The state has essentially remained flat in terms of changes in star ratings. For example, the total number of one-star schools has varied between 1 and 2 percent for the past three years. The total number of five-star schools has varied between 15 and 18 percent.

Significant data points for schools within the State Public Charter School Authority (SPCSA) portfolio show 14 percent of those schools in 2011-2012 were rated at the one-star level, which is the lowest possible level—this past year, only 3 percent of schools were rated one-star. That is a significant decrease in the total number of academically unacceptable schools in this state and has resulted in growth and opportunity for students. More importantly is the data point related to the number of students who are served by these schools.

Under the policy of my Board, the State Board of Education, and the state Superintendent in adopting new regulations, we have changed what the criteria are for charter schools to add more students or to add additional campuses. That has resulted in a dramatic increase in the number of students who are served by the highest-performing schools. In 2011-2012, roughly 2,400 students were in five-star schools within the SPCSA portfolio. This past academic year, it was 6,158 students. The total number of students in four-and five-star schools within the SPCSA portfolio grew 171 percent between the beginning of the administration of the star system and today.

Why the difference? What is critical here is there are a couple of things going on. One that predates the administration of our agency was the hiring of my predecessor, Dr. Steve Canavero, who is now the Deputy Superintendent at the Department of Education. He was responsible for revamping the charter school office within the Department of Education.

Building on Deputy Superintendent Canavero's success and the work he did, in 2011 the legislature opted to create us as an independent agency. It takes what had been a side project for the Department of Education and for the

State Board of Education, which also had to approve all charter applications, and created a dedicated agency which was specifically for this purpose.

What we have done as an agency, in building on national best practices and on the groundwork that was done by Deputy Superintendent Canavero, is to focus on authorizing activity on those schools and applicants which have the most capacity to be academically successful, financially viable, and accountable organizations. That is a marked change from the previous regimen which, under the initial 1997 legislation, essentially granted charters by right based on compliance metrics. The shift from compliance to quality, a key component of the 2011 change in the statutes, has been an essential piece of why this success has happened. We need to continue to focus on and recognize that as much as we want to increase the overall numbers of charter schools in the state, we want to make sure every school we open is a high-quality school that provides high-quality seats for the children it serves.

Another area that deserves emphasis is that in addition to the emphasis on overall quality on the front end in terms of screening applications, we have also as of the 2013 Legislative Session, put in significant new accountability standards for operating charter schools. Those fall into two areas. One is the creation of a performance framework which is a set of operational, academic and financial standards that all schools have to comply with. We have provided a floor that if you do not meet the standard, then you must be closed.

Key things to be aware of with regard to automatic closure—automatic closure requires that any school which meets the one-star criteria for three consecutive years must be closed. That is a statutory requirement. Sponsors have very little legal room to do otherwise. There is, in fact, an accountability mechanism with being called into account before the State Board in the event a sponsor did not move forward and follow its responsibilities under the law.

There is a proposed pause in the statewide accountability system during this current academic year due to the change in state testing regimens. That may have an impact on what the timeline looks like for certain schools to be closed.

Assemblyman Stewart:

Do you take into account these one-star schools that are improving but they do not quite get up there but are making dramatic improvement toward a higher level?

Patrick Gavin:

There is a growth component to the statewide accountability star system. To the degree there is significant growth that would move a school from

a one-star to a two- or three-star, that would be reflected to some degree in the star rating. As to what the sensitivity is of the rating, I am not qualified to get into the details. I do know there is a growth metric as a component of the star rating system.

Assemblyman Stewart:

These schools are frustrated when they are making improvements and still going to be closed because they are not quite there.

Assemblyman Elliot T. Anderson:

After we passed Assembly Bill No. 205 of the 77th Session and some of the other charter measures last session, what was the reaction from the national charter community? How did they take all of the new laws?

Patrick Gavin:

Our Governor won an award for signing this particular measure. Our overall ranking in terms of the rating of our charter school law by both the National Alliance for Public Charter Schools and the National Association of Charter School Authorizers, or sponsor organizations such as ourselves, also singled out Nevada for particular praise. We are on the cutting edge of this work. There are only a handful of other states which have enacted this kind of automatic closure legislation; Texas would be one other that has received praise as well.

Another key element to A.B. 205 of the 77th Session worth focusing on is the performance framework. We not only ask if the school is going to be academically successful, financially viable, and an effective and well-run organization, we actually test that on an annual basis through a rigorous process, both in terms of looking at a school's academic performance, looking at how they govern themselves, and how accountable they are for public funds. We ask what their cash position looks like, whether or not they are going to be solvent. That is a question that needs to be asked of any organization that is receiving public dollars. We have a rigorous accountability system in place that looks at all three of those areas. We do hold schools accountable for this.

There is a three-tiered intervention process. We begin with the notice of concern, based on initial issues. If the concern is serious enough, or if there are multiple violations, we can issue a notice of breach. Schools are required to make key corrective actions in that case. Finally, there is the notice of closure, which is the point at which we would send a notice to a school and say we are recommending to the State Public Charter School Authority Board that you be closed based on these performance issues, either academically, financially, or organizationally. The schools would then have an opportunity to come before our Board, make a case for why this was a justifiable or not

justifiable decision. Then the board would be in a position to act. By way of context, we currently have two schools which are in breach based on organizational metrics and two schools that are in breach based on academic metrics. In both cases, those schools are being required to comply with certain corrective actions or investigative matters related to operational or academic issues.

Chair Woodbury:

Why is it 11 out of 22 schools? Is it because those other schools have not renewed their contract yet?

Patrick Gavin:

That is correct. Student population is one area that does deserve discussion. As it currently stands, the SPCSA portfolio is not as diverse as we are as a state. This is an area where we have significant opportunity to improve, and we are appreciative of many of the initiatives that have been outlined in the Governor's budget request. They align with the areas we have identified as an agency in our strategic plan that are essential to increasing the equity in access of our portfolio.

The critical question is, how are we attracting the best-in-class charter operators to Nevada? We have a strong homegrown portfolio, an exemplary rural and urban portfolio, and we have very high achieving five-star schools serving both of those populations. We know there is a need to increase the access of students of our urban core, in particular in Clark County and in Washoe County, but certainly other smaller communities statewide as well, and to ensure we are providing really strong high-quality academic options for those students. We recognize this is an area where we need external capacity. A number of the Governor's budget initiatives are aligned with these strategic elements we have identified. These are also based on national data regarding what it takes for states that want to attract these high-quality, best-in-class operators which routinely graduate 100 percent of their students and have 90 percent of their students with proficiency rates on their examinations, and send their children through college at rates higher than we typically see in urban public schools.

These are organizations which we are actively engaged in recruiting to Nevada, and we believe the measures outlined in the Governor's budget could be very helpful in ensuring we are able to do that work.

Assemblyman Stewart:

Last session, I believe we passed Senator Scott Hammond's bill to help charter schools better fund their facilities. Can you comment on that, and can you get us a current list of charter schools?

Patrick Gavin:

I can, and I have one that is broken out by Senate and Assembly Districts as well as by campus if that would be valuable. With regard to the bond legislation that Senator Hammond sponsored, it has had one school which is in the process of going through that right now—coincidentally, it is the school for which Senator Hammond is a founding member of that board, Somerset Academy of Las Vegas. We have other schools that had previously gone through bonding outside of that process. Somerset is the first school that has reached the eligibility criteria necessary to be able to go through that. There were a couple of criteria in that bill, including academic achievement, that were necessary in order for the school to be able to do that.

There are certainly some schools that could do this, but have found they have a more advantageous lease arrangement or other option which gives them more flexibility. Bonding for a charter school, while it is often a lower cost than renting a facility, does have additional expenses involved. In most cases, for example, there is a requirement that schools allocate a significant reserve annually. That is money they cannot spend on day-to-day operations. That is a trade off that some school boards look at and have to evaluate. We are encouraged by the fact there is this opportunity for school boards that do wish to take advantage of it.

There is another element that Senator Hammond also helped spearhead which has been valuable to our schools, and that is a revolving loan fund. We currently have two schools which have taken advantage of that revolving fund. Due to the current fiscal situation, it is likely an amount of the money in that fund will be swept as part of the strategy for filling the current fiscal hole. You will note that in the budget request submitted by the Governor that there is a request that our schools be made whole so we can continue to lend money to schools, particularly some of the high achieving schools that are doing exemplary work and use that money to expand; like Oasis Academy in Fallon.

Chair Woodbury:

I will hear public comment.

Kathleen Conaboy, representing K12 Inc.:

I am the Chair of the Public Charter School Authority Board. I would like to ask if we may come back another day. What you just heard from Patrick Gavin,

while a quick overview, is a very small bite of a very large apple of policy and funding issues. There are a lot of things for us to discuss with you as far as issues about building the capacity of our organization to allow us to help build the capacity necessary in our schools on the academic, organizational, and financial parameters that Patrick Gavin described to you.

As a board, we want to have the capacity to serve our schools effectively, to strengthen them, to help them serve their students effectively, and that we would face closure as an absolute last resort.

We have other policy issues that will be discussed in other bills that will come before you, and for the Assembly Committee on Ways and Means, we will have some funding issues as well. Please consider this an opening salvo.

Chair Woodbury:

Is there anyone else here for public comment? [There was no one.]

Meeting adjourned [at 6:15 p.m.].

RESPECTFULLY SUBMITTED:

Sharon McCallen
Committee Secretary

APPROVED BY:

Assemblywoman Melissa Woodbury, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Education

Date: February 18, 2015

Time of Meeting: 3:21 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 27	C	H. Pepper Sturm, Committee Policy Analyst	Work session document
A.B. 107	D	H. Pepper Sturm, Committee Policy Analyst	Work session document
A.B. 117	E	Clark County School District	Proposed Amendment
A.B. 165	F	Assemblyman Gardner	Amendment
A.B. 165	G	Lesley Pittman, representing American Federation for Children	Prepared Testimony
A.B. 165	H	Lynn Chapman, Member, Nevada Eagle Forum	Article from Cato Institute Center for Educational Freedom
A.B. 165	I	Lacy Henderson, Private Citizen, Las Vegas, Nevada	Prepared Testimony
A.B. 165	J	Melissa Morgan, Private Citizen, Las Vegas, Nevada	Prepared Testimony
A.B. 165	K	Aurora Espinoza, Private Citizen, Las Vegas, Nevada	Prepared Testimony
A.B. 165	L	Diana Reyes, Private Citizen, Las Vegas, Nevada	Prepared Testimony
A.B. 165	M	Juanita Clark, Board Member Charleston Neighborhood Preservation	Prepared Testimony
A.B. 165	N	Fred Cooper, Private Citizen, Reno, Nevada	Prepared Testimony
A.B. 165	O	Ruben Murillo Jr., President, Nevada State Education Association	Letter from NSEA
	P	Patrick Gavin, Director, State Public Charter School Authority	PowerPoint Presentation