

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

**Eightieth Session
April 4, 2019**

The Committee on Taxation was called to order by Chair Dina Neal at 4:10 p.m. on Thursday, April 4, 2019, in Room 4100 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Dina Neal, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Shea Backus
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Lesley E. Cohen
Assemblyman Chris Edwards
Assemblyman Edgar Flores
Assemblyman Gregory T. Hafen II
Assemblyman Al Kramer
Assemblywoman Susie Martinez
Assemblywoman Heidi Swank

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Jason Frierson, Assembly District No. 8

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant



OTHERS PRESENT:

Alex Marks, Political Coordinator, Nevada State Education Association
Annette Magnus, Executive Director, Battle Born Progress
Amanda Morgan, Legal Director, Educate Nevada Now
Nayvi Waite, Private Citizen, Carson City, Nevada
Daniel Honchariw, Senior Policy Analyst, Government Affairs, Nevada Policy
Research Institute:
Lisa Friend, Private Citizen, Dayton, Nevada
Denise H. Lasher, representing AAA Scholarship Foundation
Bryan Anderson, Private Citizen, Fallon, Nevada
Janine Hansen, State President, Nevada Families for Freedom
Michael Sweazy, Private Citizen, Chico, California
Jaden Hairr, Private Citizen, Henderson, Nevada
Aimee Hairr, Private Citizen, Henderson, Nevada
Landon Hairr, Private Citizen, Henderson, Nevada
Steve Brown, Chairman, Clark County Libertarian Party
Jesus Marquez, Senior Political Consultant, Marquez Group Strategies
Heather Kidd, Private Citizen, North Las Vegas, Nevada
Buddy Hampton, Private Citizen, North Las Vegas, Nevada
Suzette Stabile-Lacorazza, Private Citizen, Las Vegas, Nevada
Alicia Manzano, Private Citizen, Las Vegas, Nevada
Ed Uehling, Private Citizen, Las Vegas, Nevada
Shari Ghiorzi, Private Citizen, Las Vegas, Nevada
Amy Bauer, Private Citizen, Henderson, Nevada
Valeria Gurr, Nevada State Director, Nevada School Choice Coalition
Deborah Dahl, Principal, Las Vegas Junior Academy, Las Vegas, Nevada
Sandra Canales, Private Citizen, North Las Vegas, Nevada
Karen Zeh, Tuition and Accounts Manager, Calvary Chapel Christian School,
Las Vegas, Nevada
Camilo Perez, President, Consejo Pastoral De Las Vegas, Henderson, Nevada
Christian Martinez, Private Citizen, Las Vegas, Nevada
Rina Oseguera, Private Citizen, Henderson, Nevada
Wendy Florez, Private Citizen
David Holdridge, Private Citizen
Randolph D. Doeing, Private Citizen, Las Vegas, Nevada
Erin Phillips, President, Power2Parent, Las Vegas, Nevada
Rebecca Larrieu, School Director, Newton Learning Center, Reno, Nevada
Melanie Young, Executive Director, Department of Taxation
Michael Pelham, Director of Government and Community Affairs, Nevada Taxpayers
Association
Bryan Wachter, Senior Vice President, Retail Association of Nevada
Chelsea Capurro, representing Amazon.com Services, Inc.

Edith Duarte, representing eBay Inc.
Omar Saucedo, representing AT&T Nevada
Elisa Cafferata, representing Nevada Technology Association, Inc.

Chair Neal:

[Roll was taken and Committee rules and protocol were reviewed.] I will open the hearing on Assembly Bill 458. Assemblyman Frierson, please come to the table.

Assembly Bill 458: Revises provisions relating to certain tax credits for the Nevada Educational Choice Scholarship Program. (BDR 32-794)

Assemblyman Jason Frierson, Assembly District No. 8:

I am presenting Assembly Bill 458 today. I want to give you some background about this bill in case folks do not know about the Nevada Educational Choice Scholarship Program. This program, also known as the Opportunity Scholarship Program, was approved in 2015 [Assembly Bill 165 of the 78th Session]. It is a tax credit scholarship program that authorizes corporations to claim 100 percent of the modified business tax (MBT) when they contribute to approved scholarship-granting organizations (SGOs). The SGO provides private school scholarships to families who meet certain income requirements. Nevada is one of 19 states with a tax credit program. To be eligible, family income cannot exceed 300 percent of the federal poverty level, which was \$75,000 in fiscal year 2018-2019. In that fiscal year, 90 schools participated in the program and the maximum scholarship was \$8,132. The amount of the scholarship increases by the consumer price index (CPI) each year.

The number of scholarships has increased each year, beginning in 2016 with 371 scholarships awarded, and in 2019, 2,306 scholarships were awarded. Before the 2019-2020 fiscal year there were seven registered SGOs serving Nevada. Under existing law, in order to become an SGO, the Nevada Department of Education is authorized to approve applications that meet criteria until the maximum amount of tax credits authorized for that fiscal year is met. Currently the amount of credits authorized is equal to 110 percent of the amount authorized for the immediately preceding fiscal year. For example, in 2017-2018 the amount authorized was \$6.05 million; in 2018-2019, that 110 percent made it \$6.655 million. That brings me to A.B. 458 and what it does.

First, I want to clarify what A.B. 458 does not do. Assembly Bill 458 does not get rid of the Opportunity Scholarship Program. This bill is designed to deal with the 110 percent increase in the credits authorized. The measure provides that the amount is \$6.655 million, which it is currently, and any remaining amount of tax credits carried forward from the additional credit authorization made in 2017-2019.

This language, as it currently exists, has a 10 percent growth factor every year. That is simply unsustainable. There is no budget allocation in our state budget that could sustain 10 percent growth every year. It is independent of recession and independent of the state budget—the requirement that we fund education first. It is independent of revenue and shortfalls. It makes little sense to me, from a fiscal responsibility standpoint, to artificially

build in 10 percent growth each year for something that would be out of control in a short amount of time. In order for us to continue to provide this service to families and to students who are receiving it, I think it warrants stability and certainty, and taking out the 10 percent growth factor is a step toward ensuring we are being fiscally responsible with our entire budget. That is the intent of the bill.

Assemblyman Hafen:

Thank you for bringing this forward. I agree with you, we want to ensure this program stays in place, and I understand that 10 percent may be an unsustainable increase year after year. Had you considered doing a CPI, or some other kind of increase to go along with this, to ensure this continues and keeps up with the cost of inflation?

Assemblyman Frierson:

No. We do not give teachers CPI raises. We do not give universities CPI raises. We have a budget that we have to allocate every biennium and we work with what we have. I think to build in only one category of allocation for automatic growth is irresponsible.

Assemblyman Edwards:

If the program is not desired, then the 10 percent growth does not happen—if 10 percent more people do not apply for it, the 10 percent growth does not occur. Is that correct?

Assemblyman Frierson:

That is correct.

Assemblyman Edwards:

If 10 percent more people have this desire, why would we not want a successful program to grow? Our constituents want it and it would be a good way for their children to get into a better environment—or have a better choice for them. If I am running the numbers correctly, and the most they got was \$8,000, then that is about \$2,000 less than what we pay in the public schools. Would that not actually free up resources?

Assemblyman Frierson:

If we gave out 20 percent, people would apply for it. If we gave out 50 percent, people would apply for it. People would apply to get free money. Of course they would apply for it. We are not in the business of just giving away money in this state. We have a limited budget and we have to allocate our money responsibly. Quite frankly, I think some of the resources we do not collect in the way of these taxes, and give away, is money we are taking away from the rest of the population. You mentioned per-pupil spending. I would disagree with you that we do not spend \$10,000 across the board per pupil necessarily, but I would welcome ensuring the base for per-pupil spending was \$10,000. The fact of the matter is, if there is free money, of course people are going to apply for it in any tax credit bracket. People would apply for it at the expense of everybody else who is left behind. I do not want to get into the debate about the policy behind it. I am not trying to get rid of the program, but I do think that 10 percent automatic growth factor is just not a responsible way to budget in any capacity.

Assemblyman Edwards:

You do not think there would be any reasonable sustainable number we could use?

Assemblyman Frierson:

For this particular program, I do not think a built-in growth factor is a responsible way to budget anyway. I think that we as a Legislature have an opportunity to fund at appropriate levels every session we come back. If this were something this body collectively thought warranted 10 percent more, then I think we have the ability to allocate funds in the existing program by 10 percent more. But to have a built-in growth factor is just not responsible and does not take into account all the other dynamics of our budget. If we come back next session, we may very well agree this program is worthy of a 10 percent increase in the amount of funding. I do not think it is responsible to mandate that in statute.

Chair Neal:

Members, do you have any additional questions? [There were none.] We will move to those wishing to testify in support of A.B. 458.

Alex Marks, Political Coordinator, Nevada State Education Association:

The Nevada State Education Association has been a consistent advocate for adequate public education funding and keeping public funding in a public school. We support A.B. 458 to eliminate the automatic 10 percent annual increase in total amount of tax credits allowed for the Opportunity Scholarships. Every dollar allowed in a tax credit going to an Opportunity Scholarship is a dollar that the Legislature could program in our underfunded public schools, where 90 percent of Nevada children receive their education.

In February, hundreds of educators from across Nevada rallied under the banner of Red for Ed to draw attention to chronic underfunding of public education. Despite recent efforts, Nevada continues to rank near the bottom of states in most metrics. In the 2018 Quality Counts report from *Education Week*, Nevada ranked 47th in per-pupil funding and dead last in both class size and overall education quality. Nevada needs to do better.

Opportunity Scholarships are really just back-door school vouchers. Instead of diverting funding to programs that pay for a limited number of students to go to private schools, Nevada has the responsibility to allocate sufficient funds to public schools which are accessible to every Nevada student.

Over the last three years, not including the one-time expansion of the program last session, appropriations for Opportunity Scholarships have increased by more than 33 percent, while over the same period, per-pupil base funding for K-12 has only increased by a little more than 4 percent. This is significantly less than the increased cost of doing business, which is a major reason we saw draconian budget cuts in school districts across the state immediately after the last legislative session. We believe public money should be invested in public schools ([Exhibit C](#)).

Annette Magnus, Executive Director, Battle Born Progress:

Today I am here as a native Nevadan and proud graduate of the Clark County School District (CCSD) to represent the 20,000-plus subscribers to our Battle Born Progress Network statewide. We have a long history of opposing vouchers in the state of Nevada, and the Opportunity Scholarship Program is nothing but a voucher scheme promoted by the Koch brothers. That is what this program has always been.

We believe that when taxpayer money is spent, it should be spent on our public schools. Vouchers in any form are the wrong choice for public school reform. We need to strengthen neighborhood schools, improve classroom teaching, and enhance student achievement. We support A.B. 458 and we encourage you all to support it as well.

Assemblyman Edwards:

You said that every dollar should be spent on public schools. Did you mean students?

Annette Magnus:

I mean students, class size reduction, whatever it takes to ensure our public schools are strong. I do not have children, but I believe every taxpayer dollar I put into the system should be going to our public schools. That is where it belongs, not a private education.

Assemblyman Edwards:

You confused me there, because initially I thought you said students.

Annette Magnus:

It can be students. It can be teachers. It can be whatever the classroom needs.

Amanda Morgan, Legal Director, Educate Nevada Now:

We are powered by the Rogers Foundation and are a partner of the Public Money, Public Schools coalition. I have provided written testimony ([Exhibit D](#)) in support of A.B. 458 but would just like to emphasize a few points.

First, we have seen multiple national and state-level studies that have made very clear we need to start investing more in Nevada public schools so we can support the actual cost of providing our students the opportunity to succeed. That includes additional resources for students with unique needs such as English learners, at-risk students, and students with disabilities. Research and our own experiences in the state have shown investment in public schools matters, especially for these students. Compare that to the private school vouchers that have shown very weak results in Nevada, with 74 percent of voucher recipients sampled showing no growth or worse achievement levels. Other states have had similar results.

Additionally, Educate Nevada Now has analyzed available information on staffing in private schools and found over 50 percent of teacher and voucher recipient schools have never been licensed in Nevada, and some schools currently have no licensed staff educating students. Compare this to the high standards and professional development expected of our public school teachers. Every single dollar counts and we believe taxpayer dollars should go where

there is accountability and results. Our taxpayers deserve that, but more important, our students deserve a high-quality public education, and if there is a 10 percent growth factor, that should be in Nevada's public schools. For that reason, we support A.B. 458 and limiting private school voucher funding.

Chair Neal:

Is there anyone else who would like to speak in support of A.B. 458? [There was no one.] I will now take testimony from those who are in opposition to A.B. 458.

Nayvi Waite, Private Citizen, Carson City, Nevada:

I am asking you to please vote no for A.B. 458. We need the Opportunity Scholarship Program to grow and give other kids choices for their education. I am a mother of five, who migrated to this country 33 years ago because of the opportunity of a better life—the American Dream. My life here with my family has been a dream. I want my kids to know all the opportunities America offers. The most important opportunity I want them to have is the Nevada Opportunity Scholarship and the chance for the best education possible.

I am grateful and thankful for God's blessing to me and my family, and I know other minority parents who receive the Nevada Opportunity Scholarship feel this way too. How uplifting it is for children from low-income minority homes to have the best chance for the American Dream.

Page 3 of the 2017-2018 Nevada Educational Choice Scholarship Program report on the Department of Education website shows that 59 percent of the 2,330 scholarship recipients are minority, which is a blessing for the unrepresented wanting a better life for their children. It is not irresponsible to invest in our children, especially minorities who are receiving this scholarship.

To Ms. Magnus, who does not have any children, you will do whatever to give the best education possible to your children. We are so grateful for this scholarship, and there are people on the waiting list. It is not a waste of money to invest in children.

Assemblywoman Martinez:

I agree with you. All of our children deserve a good education. My daughter was in the public schools. When I would take her to school when it was raining, the ceilings would leak, and that is because we do not have the funding for the schools. I do agree every kid, whether they are in a school that is privately funded or regular schools, they all deserve a proper education.

Chair Neal:

I know we have a lot of people signed in, in opposition. This is not being disrespectful, but I am going to try to limit comments to two minutes. If someone has said something already, do not repeat it. If you have a unique position about what is going on with your child, state that.

Daniel Honchariw, Senior Policy Analyst, Government Affairs, Nevada Policy Research Institute:

The Nevada Policy Research Institute opposes A.B. 458 in the strongest terms. During a time when the state of Nevada should be prioritizing the proliferation of alternative educational options for our state's struggling students, this bill proposes to do the precise opposite. There are nearly half a million Nevada students enrolled in public K-12 schools statewide, yet this proposal suggests that providing a choice for a few thousand struggling, low-income students—which amounts to a mere rounding error in terms of total education funding—is not worth doing. What kind of message are we sending to our youth by denying these students an escape from their local schools that are not working for them? There are other options out there for these students that would work better for them, including Opportunity Scholarships, which, by the way, generate a fiscal savings to the state in the long run. Such programs should be embraced, not shunned. I urge this Committee to retain the 10 percent biennial increase on modified business tax credits, which can be used to finance these scholarships, by opposing A.B. 458. Let us please give these students a real chance for life success ([Exhibit E](#)).

Lisa Friend, Private Citizen, Dayton, Nevada:

I am here today in opposition of A.B. 458, which would eliminate the annual increase in funds for the Nevada Educational Opportunity Scholarship Program. The implementation of this bill would be disastrous to many Nevada families, as only current students would be able to receive scholarships. I am a single mother of three children and they have significantly benefited from the Nevada Educational Opportunity Scholarship Program. It has helped fund the educational needs and environments that are unique to each of my children.

I am here today to advocate for the many families who are currently on waiting lists—whose children may also have special learning needs—to have the same opportunity to benefit from the scholarship program. The positive impact of this program has extended beyond reasonable imagination, with 366 percent growth in its participation. The beneficiaries of this legislation are not only the economically disadvantaged but also the underrepresented students with disabilities whose needs extend beyond public capacity.

I truly believe in this program and the benefits it has for all Nevadans who are current recipients and those who may, for unforeseen reasons, need the program in the future. Please do not take this opportunity or last hope away from these families. The Opportunity Scholarship Program has been a blessing in my life. Please remember that none of this money associated with the scholarship program comes from any state revenue. All funding comes from private businesses that wish to give a financial avenue to the underresourced, and that funding is managed by a select number of registered scholarship organizations. The businesses also get afforded a benefit in a tax credit ([Exhibit F](#)).

Denise H. Lasher, representing AAA Scholarship Foundation:

I want to share a couple of factual statements on this particular program. The average scholarship amount is only \$5,000, which is significantly less than what we are spending per pupil on our public school students. Almost 80 percent of the households earn 185 percent or

less of poverty. You may remember getting a presentation from the Department of Taxation on total expenditures—I am talking about tax programs here in the state. This program represents 0.1 percent of the over \$30 billion in 2018 that were given in tax expenditure programs to businesses. There are numerous MBT tax credit programs currently in the state that have no cap, and there are several bills under consideration this session that also have no cap and no sunset.

This increase of 10 percent allows siblings of families who are currently benefiting from the program to be served, and just a handful of additional families. The 10 percent next year will mean about 110 to 120 additional students would be able to get a scholarship. The following year it is going to be about 140 extra students. This is a very small number of students whom we are talking about at this point.

These programs empower families and parents and also businesses to expand their philanthropic outreach into our community, and particularly for educational programs. In the current biennium, over 320 businesses had applications approved and utilized the credits under this program—320 businesses. These include the largest taxpayers in the state as well as some of the smallest. They come from the gaming sector, health care sector, manufacturing, retail, and distribution industries. Businesses support this program because they can expand their current reach within the community. They realize the long-term benefit this program provides for the few number of children—2,308 this year—whom this program serves, because these are the future workforce of our state and the future for our economy in the state.

On behalf of the families on the wait list for a scholarship, which is well over 1,000, and the hundreds of Nevada businesses that support this program, I ask for you to please vote no on this bill [([Exhibit G](#)), ([Exhibit H](#)), and ([Exhibit I](#))].

Bryan Anderson, Private Citizen, Fallon, Nevada:

I want to put a face behind things. This is my grandson, Jarron [referring to his grandson sitting to his right]. Jarron is a recipient of the scholarship. Jarron comes to me via the passing of his mother. My daughter passed away seven years ago and I have guardianship of my grandson. Jarron is diagnosed as having RAD, which is a relationship associated disorder. That means he has a hard time bonding with people. The public education system in Churchill County failed him miserably. They do not understand his disorder, nor did they want to take the time to understand it, even with us offering to buy the books for the school. We bought the books for Logos Christian Academy where he now attends. The teachers read the books and now he is getting straight A's.

I also have a daughter who attends Sierra Lutheran High School and who happens to be a math prodigy. She takes computational analytical mathematics from Cal Tech [California Institute of Technology] as a sophomore.

I am not here to be bagging on public education but to let you know that people like myself need to have the funding for schools. We are barely above the poverty line, and my wife works for the state of Nevada. Our public schools are not doing the job they should be doing. I do not know why, transient or whatever population. All I know is I am responsible for this young man and my daughter. I want them to have the best education possible.

Janine Hansen, State President, Nevada Families for Freedom:

We have long supported choice in education for many years. We truly want our children to have a successful education. In order for some children to, that includes choice in education. We need choice in America. It is a foundational principle and it provides competition against monopolies. The Gallup poll in April 2017 reported that 59 percent of Americans support school choice, and that 73 percent of Americans support scholarship tax credit programs for educational choice. These are very important because they realize that one-size-fits-all is not good for every child.

Parental choice in schools makes a huge difference in the education of our children. As reported by the National Center for Education Statistics, children in school choice programs in Washington, D.C., called the Opportunity Scholarship, had remarkable results. Students came from homes making less than \$22,000 per year. The students who had scholarships saw a graduation rate of 82 percent while graduation rates for the regular Washington, D.C., school program was only 56 percent. School choice can reduce the cost of education, which you saw some of these students only get \$5,000, while increasing learning. Washington, D.C., spent over \$28,000 per pupil, for the cost of scholarships for children in the choice program were less than one-fourth.

I think it is so important to provide Americans with the opportunity to make the best choice for their children as to what type of an education would benefit them. This is not free money. This is money to educate children, and many of those are with special needs. It is very important to give them an opportunity.

Michael Sweazy, Private Citizen, Chico, California:

Two years ago my wife and I were at an intersection of frustration. My oldest daughter is challenged with dyslexia and while she worked very hard to overcome it, she lost her confidence in her capacity to read. Two years ago, we got access to a program that is funded to a private school and my daughter is going to graduate this year as an A/B student. Had we not had access to that, she would have stayed in the same public school environment. I will say they did work very hard to help her. She just had trouble. The private school environment gave her a smaller classroom size and administratively, by connecting with the principals and things like that, made a gigantic difference in their helping her accelerate and be able to graduate on time.

Chair Neal:

We will now hear from those in Las Vegas who are in opposition to A.B. 458.

Jaden Hairr, Private Citizen, Henderson, Nevada:

I am 13 years old and I currently attend the American Heritage Academy. This year I had the privilege to attend this school because of the Opportunity Scholarship. I have attended numerous public and charter schools in Clark County. I have struggled with each and every one. I was born with a learning disability and was a foster child until the age of 3. I struggled with reading, writing, and had an IEP [individualized education program]. I spent years in special education classrooms, being pulled out of class, and I could still never keep up with my grade level. Every single school, up until about sixth grade, my teachers separated the struggling kids from the smart kids. I could not focus with the amount of kids in my classroom and I felt embarrassed in being pulled out of the classroom or sitting at the struggling table. Even with special education I never felt that I belonged and even came close to failing every school. My self-confidence was so low.

My mom pulled me out of school to home school me so I could catch up with reading and spelling. I did not like being home schooled. For the first time in my life I made A/B honor roll two times. This year is the only year I have not been in a special education class, lower math, and I am able to take a 20-word spelling test like my classmates. I can now go to school not embarrassed of any special education class or table. Every teacher takes the time to listen to my questions and answer them to my understanding. In this private school I have had the privilege to stay after school for questions and problems that I do not understand. Please vote no on this bill. I would still be struggling in school if I did not get this Opportunity Scholarship. It has changed my academic life forever. Please do not cut the 10 percent increase because you will be cutting kids like me. Thank you so much for listening ([Exhibit J](#)).

Aimee Hairr, Private Citizen, Henderson, Nevada:

I am speaking in opposition to A.B. 458. I am a retired dental hygienist of 16 years, a local small business owner, a full-time mom, and a foster parent. I am currently parenting ten children. Two of my sons here today had the privilege of receiving the Opportunity Scholarship this past year. Years ago my son's special education teacher and facilitator told me in an IEP meeting that my expectations might be too high for my son, that he may only be a C/D student and to try to accept that. They were right; my expectations were too high in the public school setting. But given the opportunity to place him in a learning environment that best fit his needs, he quickly proved us all wrong. We wanted the free public education and charter schools to work for our kids. The partial 30 percent scholarship we get allows us to send our kids to a private school that best fits their individual needs. We also contribute our own money to pay for their private school and contribute tax dollars to our public schools. It is no coincidence that four of my children, from all different backgrounds, once placed in the proper learning environment, did a complete 180 with their education. This is no longer a hopeful belief but something I see working on a daily basis.

I have two children who joined our family with needs far greater than our public schools can accommodate. Without the 10 percent growth, there is no advancement and there are no new kids. By voting yes, you are cutting back on the community's most vulnerable children. The trauma these children have suffered is incomprehensible to many of us and which can affect

all aspects of their academic future. Their resilience with a new learning environment can be astounding. They need a chance and you can give that to them. Please vote no on A.B. 458 ([Exhibit K](#)).

Landon Hairr, Private Citizen, Henderson, Nevada:

I am here to testify for keeping the Opportunity Scholarships for kids like me. In public school I was learning the same thing over and over. By the time I was in fifth grade getting ready to go into middle school, I could barely do division, and I could not read well, write well, or know any mistakes between my grammar. The requirement for fifth grade requires knowing how to multiply and divide by fractions, and how to analyze characters, plots, and settings, as well as to recognize the author's purpose for writing and his or her organizational strategies. My older brother and best friend were bullied for months, and my parents and brother's best friend's parents took years to get the matter resolved. The bullying only stopped when both children's parents took them out and put them in private schools. Since then and up until last week, my cousin was bullied as well. He came and told me kids were calling him transgender and other nonappropriate words. He was even touched in unkind ways. When I was at a charter school two years ago, my grades started to suffer because I, too, was bullied due to a medical issue and IEP. I have my voice. For the last two years I have been in private school and have learned much more in the last two years than I would have in public school. There are many kids like me who want a chance, so I am asking you to please leave it alone and open for new kids like me. Our high school graduation rate is second-lowest in the country and less than 20 percent of Nevada adults have a bachelor's degree. Please vote no for A.B. 458 and let the kids who are bullied or struggling with learning find a place where they can learn and feel safe, and we will be the change you need to put Nevada higher on the ranking ([Exhibit L](#)).

Steve Brown, Chairman, Clark County Libertarian Party:

You spoke about fiscal responsibility. You do not have enough money for the roofs and all this other stuff. It is interesting considering there is a bottomless pit of money when it comes to the administrators. I am going to read to you just some of the salaries and benefits for people up at the top: \$363,000, \$300,000; correct me if I am wrong but that is over \$600,000. Is that not how much the 10 percent increase would have been—\$600,000. Two guys made enough money to fund the entire increase. Let us keep going: \$292,000, \$248,000; now you are well over \$1 million and you only have four names. I could go down five more names and that puts us well over \$2 million. There are 50 names to this page. I cannot even get close to the bottom and you could have funded the whole program with this.

The question is, if the school district is so broke, why are you paying these gargantuan salaries to the administrators? They do not teach classes. They do not drive buses. They do not provide security. They are paper pushers. A lot of these people, I do not even know what they are doing. Are they really worth that much more money than these kids who have come up and testified? Do you really have to pay someone \$248,000 per year to be an assistant superintendent? That does not tell the whole story. Then we are going to go into their golden parachute pensions. There is a member of the Nevada State Senate. She is

making almost \$114,000 in her pension last year. They make \$200,000. They retire with a six-figure pension, and there are lots of them. We are not talking about a few now, and that still does not tell the whole story. Now let us talk about the consultants. You have a member, she retired as an administrator, making \$120,000 per year on her pension, then signed a contract for another \$130,000 per year to be a consultant. That is \$250,000 for one person. That still does not tell the whole story. They can retire on a Friday and start on a Monday, working for the school district again. They can retire as an administrator with \$100,000-per-year pension, then go back as a sub-administrator for another \$120,000.

Why, when you talk about fiscal responsibility, you talk about this program which is really a small amount of money compared to what these folks are making. You do not have enough money to fix the roofs, you do not have enough money for the bus drivers, but there is a bottomless pit of money when it comes to your friends, the administrators.

Mr. Frierson, you should look everybody right in the face and tell them why they should be paying all these \$200,000-per-year salaries to the administrators but we do not have enough money for a \$6,000 scholarship for a poor kid. You need to come back on screen and explain that, because you have not done that at all.

Jesus Marquez, Senior Political Consultant, Marquez Group Strategies:

I am a local community organizer and father of a 10- and 5-year-old. I am here to oppose A.B. 458 because it will cut the ability for hundreds of families to receive the benefit of the Opportunity Scholarship Program. Most of the students who receive the Opportunity Scholarships are kids from low-income families. These kids have been left behind under the public school system. It simply does not work for them. Now this does not mean that the public system does not work at all; in fact, it does work for many but not every student is the same.

My role as a community organizer has helped hundreds of low-income families from all backgrounds apply for and receive the Opportunity Scholarship in the past three years. Their lives have changed dramatically for the good. By helping hundreds of families in Latino and African-American communities, I have found that the children who receive the Opportunity Scholarship have something in common. They are all different, and have different qualities and needs, and they are all looking for an education that fits those needs. I have personally followed up with these families and in the last three years have found that all the options that this program offers have literally changed their lives. Children who were not doing well in school, who were being bullied and were not happy at all, are now joyful and excelling in their new schools.

With all due respect, the stability and control that you are talking about the system does not mean anything for the hundreds of families that will lose the scholarship. Like someone in the community said, this program is working. If it is working, then why not leave it in place? Why not invest more in it?

Someone mentioned the Koch brothers, but the Koch brothers do not represent the hundreds of Latino and African-American students; these low-income families who are using this benefit. If you pass this bill, it will take away the joy and hope of hundreds of students in Nevada. It will take away their dreams. Please vote no on A.B. 458.

Heather Kidd, Private Citizen, North Las Vegas, Nevada:

I want to talk to you about America in 1776. Here is a nation of literate people who received private classical educations. The founding fathers have used this diverse education background to create one of the most perfect and enduring documents, the *United States Constitution*. Its strength is in the diversity of thought and experience that created it. Had the founding fathers all been required to attend homogenized and highly regulated public schools, that living document would have suffered a lack of depth and richness.

It would be foolish to put all of our educational resources into one ideological basket. That is not how America began and it is not our best future. There are 2,300 students using the Opportunity Scholarship. These kids are free to choose their educators and their scholastic culture. There are 1,300 additional students wait-listed because funding for the scholarship has been regulated to cap out. Assembly Bill 458 wants to cut the modest annual increase built into the Opportunity Scholarship that allows it to include students on that wait list. Our family of seven is grateful for the private school we could not afford without this funding.

As a military family, we live lives of personal sacrifice, fighting to maintain this nation's sacred liberty. We are not from Nevada and we would not choose to live here. Many aspects of our lives are already directed by the government. Our ability to choose educational opportunities for our children should not be further limited. Incidentally, we have been stationed at Nellis Air Force Base before, and we had the public school experience. The charter school experience here was not that great. The children have sacrificed enough. We vote a firm no on A.B. 458.

An additional thought: In listening to some of the people who are for it, it is ironic that the public school administrators want to take this money for their public schools. They somehow think that if these private donations were not being given to private schools that they would have access to that money. It is a mystery where all the public school money goes. Donations from private business to a public school do not have anything to do with public schools. They need to keep their hands out of our pockets. I already pay my tax dollars and that is where the public school funding comes from. This is a private donation. They need to stay out of it. It is not my fault if they cannot make their budget work.

Buddy Hampton, Private Citizen, North Las Vegas, Nevada:

My son, who is 7 years old, is a recipient of the Opportunity Scholarship. I am a single, middle-class father. I receive \$2,000 of the \$8,100 tuition—that is 25 percent. I am a homeowner. I am a taxpayer. I am not only paying my taxes but I am also paying an additional \$6,100 towards his education that the school district is not footing the bill for.

That is not what I want to talk about today. I want to talk about the other 2,000-plus students who are receiving these scholarships. We have children here who have multiple different learning disabilities—ADHD [attention deficit hyperactivity disorder], ADD [attention deficit disorder], and autism. As you can tell, I have ADHD, so I know what it is like to be educated in the state of Nevada with ADHD. It failed me. I worked really hard. I had tutors. I stayed after school. I never fit in. They were wrong. Not because of what the school district did for me, but because of what my parents and what the private tutors did for me. I graduated with honors. I went on to the police academy and graduated at the top of my class, not because of what the school district did but because of what other people did.

The most important thing for children with challenges is consistency. The school district does not give you consistency. They have a special education teacher who comes in, spends about four weeks in a class, then that teacher moves somewhere else. All those students who have made so much progress in that month start all over again from square one. The Opportunity Scholarship gives kids who have those challenges resources—resources they cannot get in the public school system. The public school system works awesome for educating the people but fails to individually educate each child. No one knows better than the parent how to educate their child. If I believe, or the other families here believe, that the Opportunity Scholarship and private education is the best for our students, why are other people telling us no, you do not get that? I receive \$2,000, so like I said before, I pay \$6,100 out of my pocket and I am middle-class. I do not make a lot of money, but I work hard. I volunteer at my child's school every single day. People say that a private school is failing them; not at my kid's school. I have seen kids come in here and they are not at grade point average coming in from a public school. Within months they are growing leaps and bounds, not only educationally but as a member of the community. These kids grow together. They make lasting friendships that they are not making in the public school system. If you decide to cap this scholarship now, at what it is now, you are going to fail so many other students, not just my son but countless other students. Please consider voting against A.B. 458.

Suzette Stabile-Lacorazza, Private Citizen, Las Vegas, Nevada:

I am here to speak in opposition to A.B. 458. The Opportunity Scholarship has helped my daughter succeed. I am the proud parent of one of the 2,300 students in the Opportunity Scholarship Program. Being a single mom with two young girls, elementary and middle school were a challenge for me to navigate through, but being the parent of a child on the spectrum brings with it a unique set of circumstances and challenges that really cannot be understood unless you are the parent of a child with special needs.

Thankfully, I was fortunate enough to have had wonderful support from the CCSD for her early childhood education. At the age of 2, my daughter Isabella was placed in an early intervention program due to her delay in social and communication skills. She has been on an IEP since the age of 3. With the proper assistance and in the right environment, she excelled, not only maintaining straight A's but also becoming more social and being able to express herself throughout most of her elementary and middle school years. When it came time for high school, I was scared Isabella would get lost in the shuffle of an overpopulated public high school. Because of this program, my daughter Isabella was and still is fortunate

enough to attend a private high school. I find comfort in knowing that Isabella is being given the opportunity to thrive in a small classroom setting with all the benefits that come along with that, and also being part of a spiritual community, helping guide her way.

This has been a life-changing program, not only for my daughter and our whole family but many other families. It saddens me that A.B. 458 would remove the 10 percent increase that is built into this program. If it were not for this program, I would struggle to continue her education at a school where she is excelling. There are 2,300 other families in this program who all have their own stories and reasons for deciding the fate of the children involved. My being here today gives you just one face of the numbers being crunched in deciding the fate of the Opportunity Scholarship. Understand that every child in this program is more than just a number. It is a person with a family who has counted on the support of this scholarship to make real-life decisions that are in the best interest of their children. I implore this coalition to consider my daughter's story and keep the previously agreed-upon 10 percent increase intact so that others like Isabella can thrive in places more suited for them.

Alicia Manzano, Private Citizen, Las Vegas, Nevada:

I am the mother of four children. Three of them are of school age. They receive the scholarship and thanks to it, they now attend a good school with a safe environment and good academic level. Their previous school had a low academic level in addition to a high level of violence, and the students are exposed to alcohol and drugs daily. Today I am much calmer knowing that my children attend a safe school with an academic environment that challenges them to give their best each and every day.

I am here to ask you to not remove the 10 percent increase that this scholarship includes. If so, my children, including the youngest, will not be able to access this scholarship and will have to attend a school with low academic performance and unsafe walls ([Exhibit M](#)).

Ed Uehling, Private Citizen, Las Vegas, Nevada:

I think the main issue here is funding. The people in favor of this bill constantly state that the money is being taken out of the school district but, in fact, money is being put into the school district. The average cost of a student who is in the CCSD is \$9,000 per year. The maximum amount of these scholarships, as I understand, is \$8,100. For every student who gets the scholarship and goes to another school, that results in a \$1,000 bonus to the CCSD. The best thing the schools, the Legislature, and the establishment could hope for is as many students as possible take these scholarships because for every one there is at least \$1,000, and maybe as much as \$3,000 to \$4,000 each goes into the school district to pay these huge salaries for consultants, hangers-on, or whatever. Hopefully more students could participate in this.

I am in sort of a unique position. I graduated from Boulder City High School in Clark County in 1958. This was before the CCSD was formed. Three of the 60 students in our class received National Merit Scholarships, which was 5 percent of our class. I think the average in the CCSD now is around 1 percent, or even less than 1 percent.

The real problem here is the CCSD. The more money that could go directly to students and not to this monstrosity that is destroying the lives of students and causing bad results, the better off we will be. This program puts money into the schools. The people who are in favor of this bill, please quit lying. It is not true that it takes money out of the schools. That is a lie.

Shari Ghiorzi, Private Citizen, Las Vegas, Nevada:

I am here to oppose A.B. 458. I have worked for a scholarship grant organization for the past three years and am currently working for another one that is new this year. I can quote you the statistics, but you have heard them all. What I want to go to, and address, is how much the parents put into these programs. As you heard from one of the gentlemen who spoke earlier, he only got \$2,000 for his son's scholarship. There are many parents like that, and I have had parents who have asked for less than the scholarship, and not even applied for the full scholarship because they wanted other children to have the opportunity as well.

The parents are working two and three jobs sometimes to cover the balance of the tuitions in the private schools so their kids can have the better opportunity. I can give you story after story. They are not just minority families that are affected by this. There are parents, like the grandfather who has custody of his grandson. I have been in tears many days over letters that I have gotten from people that I just could not help because of the restrictions involved in giving out these scholarships.

It is so important for the ones who can fall through the cracks so easily. Grandparents are more and more these days becoming guardians of their grandchildren. They need this help. Usually they are not working. Usually they are on a limited income and want to have the best for the child who is already facing emotional instability. They need the one-on-one time that the private schools give them.

When I came here from New York years ago with my kids, I took my child out of school and homeschooled her because it was so bad. She was so far ahead of the class she was put in she got bored. Kids with behavioral problems today, who have had problems in public schools, have gone on to these private schools and have been exemplary students. This is so important to families today and to the kids we are raising to be our leaders tomorrow.

Amy Bauer, Private Citizen, Henderson, Nevada:

I am a native Nevadan and a product of the CCSD. I am here against A.B. 458. I ask you to keep the scholarship program and continue the increase of 10 percent—the scholarship for our kids here in Nevada. Supporting our children and their education is, and should be, the top priority of our state and the Legislature. They are our future.

Our family currently has two children receiving this scholarship, and in the next five years will have two more kids able to go to school. That being said, we also have one graduating, so we have a large span. Without the growth, how are we to ensure our smaller children will be able to be in the program too? The 10 percent is necessary to families.

This is our first year participating in the scholarship program and it was not an easy process. You have to fill out lots of paperwork and there is a lot of waiting. We got our scholarship after school had already started. This is not an easy process.

I started homeschooling my two oldest when they were school age because they were two grades ahead of where their peers were at the same age. When I went to the public school, they did not care about their educational level or where it was. They told me they would only put my child in the grade their age assigns to them. We tried to put my daughter in school when she was in third grade—she should have been at fifth grade. It was a charter school. Even though I had the transcripts from her schooling, they put her back in third grade instead of putting her at the fifth grade where she was supposed to be.

Now, because of the scholarship program, they allowed my advanced children to learn at their level, with their peers, in a loving environment. We have a strong value system in our family and my kids wanted that to be a part of where they went to school. Because of the program, we are able to do that.

We are also stretched financially even with the scholarship program, but it is worth the benefits to my children to allow them to be in an environment where they are thriving and loved. Please vote against A.B. 458. I have a ton of friends who would love to have their kids at the school where we have our kids, but they are not able to get the scholarships because there is not enough funding. We need this 10 percent increase every single year so we can help more families.

Valeria Gurr, Nevada State Director, Nevada School Choice Coalition:

I am the Nevada State Director for the Nevada School Choice Coalition, a project of the American Federation for Children. I am here to testify against A.B. 458. Currently there are over 2,300 students in the Opportunity Scholarship Program, and if you decide to let the program remain flat, the \$6.6 million will not cover all the students in the program or the students who are on the waiting list. Unless new funding is allocated, siblings as well as new students will not have access to the program either.

I am here to share why I believe in this program today. I am the daughter of a mother who did not graduate from high school. I know all the struggles she faced to raise me as a single mother, a mother who was never able to escape poverty because she did not have an education. She struggled; we struggled. My mother did everything she could to ensure I was provided with an education and put food on the table. However, I was the weak kid at school. I was bullied every day and unable to focus. All I remember is I was passed grade by grade in a large class setting.

My mother tried to put me into a private school but we could not afford that. There were no such things as Opportunity Scholarships at that time. I grew up thinking that all the horrible things others said were true. I grew up thinking I was not smart. I ask myself today why I went through this. Today I know. It was so I would understand when a parent knocks on my door to ask me for help; it was so I understand that a ZIP Code should not determine the

quality of education someone receives; it was so I understand that in 20 years things have not changed that much; it was so I can help all these families who are here today and the ones who do not have a voice—the ones who are behind me who cannot speak English—to share this story with you.

School choice should not be for the wealthy and well connected but for those who need it most. And that is exactly who the Opportunity Scholarships are serving. Many of the parents who are not here today are immigrants; parents who struggle; single parents, the ones searching for options. Many are just like my mother—they are just looking to give their children what they think is best, the right to an education that works for their children. Please do not take away the 10 percent so that we can serve them ([Exhibit N](#)).

Deborah Dahl, Principal, Las Vegas Junior Academy, Las Vegas, Nevada:

I honor you all for the hard work you do. I understand it is very challenging for you to be able to hear the hearts of those who have been speaking on behalf of our young people. They are our future and I know you all take that to heart in your considerations.

The reason I am here today is because I need to say the scholarship itself is double what I charge at our private school, so we are half of what the Opportunity Scholarship allows parents to have. We are fully accredited nationally. I heard someone say that the schools do not have licensed teachers. In speaking for myself and other schools, that is not true. We also have norm-referenced testing done, and we are fully qualified to do the jobs we do. You have heard people say their children are thriving in these environments. I do not think those would be environments for people who are uneducated and who are unlicensed, regardless of the type of licensing they have.

I am speaking as a principal. I have seen children come into my school who could not thrive in the public setting. I know for a fact that there are increases in the academic standards and Clark County schools are improving in reading and math areas in certain grades. I commend them for that.

Overall we are having more gains in our small private environments than the huge conglomerate that the CCSD is. I commend them for the efforts they are making; however, we are not taking away from anything they are doing. I think we are assisting them financially, as you have heard. We are charging a lot less than what you pay for the public education, and we are making strides in all gains. We are actually helping our community. Young people who are coming from our schools are able to go into the community and become positive, contributing citizens.

Please do not say it is free money. Most of the parents are paying a lot more into the process in order to keep their children in those schools, and my particular school charges less than half of the \$8,000 that is paid in the public system. Please vote your conscience for all the hearts you have heard today in this room.

Sandra Canales, Private Citizen, North Las Vegas, Nevada:

I am the mother of three children. Two of them are attending private school. I want to give you a small story about it. I cannot speak English very well, and I did not grow up here. I came from Mexico and that is why I am so worried. Now my children have the big opportunity to attend private school. When I was a child I attended public school. The environment in that school was so hard for me. I grew up with scares and violence. All of us know the situation in Mexico. Now I am scared for my kids to lose the opportunity to be better. They grew up here, I got married here, and I am living here, but I have bad memories. That is why my husband and me, we put them into a private school. We make a lot of sacrifices to put them into this school but we thought that this was a good decision.

Since one year my husband broke in his company and we did not have enough money to continue with their education into this school, somebody told me about the Opportunity Scholarship and I attended with them and they gave me that opportunity. Now I am thinking about the other kids, and probably they have the same problems that I have in my family. They gave me the opportunity that I needed at that time to continue with the most important thing in my life, my kids' education. They gave me the life I needed to continue with them into this school. It is hard to think that I did not have enough money to continue with this, but at the same time they gave me the life I needed to continue. They give me money that I did not have. Thinking about other kids, that they could lose that opportunity, please vote against this law because we really need it.

As a parent, we work so hard, at home and outside. You do not know in our heart. Every day we are thinking, in the public school, because around my house, every month or every year, I sell candles on the corner and outside the public schools, that somebody kills another kid, and I do not want that for my kids. I am scared.

When I got married here in the United States, I be thinking about the future for my kids. I said, do not worry about it. I am in the United States. I can find the best future for my kids because this is a good country. I think and I really believe because they give me a lot of opportunity, even I cannot speak English very well, but I am trying because I am attending in the school, because I want to be better for my kids and for this country I am living in now. I come from a poor country. You have the rich country, that you can believe that you cannot imagine what a big country you are living in. Give them that opportunity.

Karen Zeh, Tuition and Accounts Manager, Calvary Chapel Christian School, Las Vegas, Nevada:

We are a preschool through twelfth grade school, and our population is about 512 students. We are accredited through the ACSI, which is the Association of Christian Schools International. Our core teachers, at a minimum, are required to have a bachelor's degree. I was educated in public schools in the state of Nevada. I have three adult daughters who are thriving young professionals who were also educated through Nevada public schools. I believe, as well as a lot of people here, that it is the parent's choice to seek the best situation for them, for where their students should be attending school.

At our school we have 180 students who are receiving the Opportunity Scholarship, which is almost 40 percent of our student population. Our student population is very diverse. Of those 180 scholarship students almost 60 percent are minority—almost 30 percent are African American, 10 percent are mixed race, 16 percent are Hispanic, and 3 percent are Native American/Pacific Islanders. Our students are thriving academically. They take part in geography, spelling bees, speech meets, math Olympics, and art festivals. One of our scholarship students did so well he was able to go to Washington, D.C., to compete in a national spelling bee when otherwise that might not have happened for him. Our students also thrive athletically. They take part in most major sports with our girls' varsity basketball team winning the regional championships.

Because of the Opportunity Scholarship Program, families can choose the best school for their family and situation. Our scholarship students and families are embedded in our school with very close friendships and relationships that have been formed over the years, and losing them would be a very sad situation because they are part of our family now.

Many young lives have been positively affected by the Opportunity Scholarship Program and altering their educational paths now could have a very adverse and negative effect on their lives. Our hopes and prayers are that the program is not reduced but rather increased to allow for more families to be able to choose the school that best suits their family's needs and for the students who are already in the program to remain there. Please vote no on A.B. 458 ([Exhibit O](#)).

Camilo Perez, President, Consejo Pastoral De Las Vegas, Henderson, Nevada:

I am a pastor for the Hispanic community at Strong Tower Christian Center in Henderson, Nevada. I am also the President of the Hispanic Pastoral Association, Consejo Pastoral De Las Vegas. I am here because I have experienced working with the Hispanic community. Before I became a pastor, I had the opportunity to become a teacher in my born country, Colombia. When I started working in the community here in Nevada, I was very worried about the low level of education in this state.

I am not absolutely against the state because I know the state is working hard for the community. I know working with people is not an easy job for any corporation, state, or government, but I think that for the low level of education here, it is time to work together. If this bill passes, it is the end for a lot of charter schools.

Also, we have a plan to open a charter school in our church this year, and maybe we will be opening others, but if this bill passes, it is not the end for me or my church, it is the end for a lot of charter schools. Right now this would really help for the education level here. I think right now we need to work together for good education and good options for our community.

Christian Martinez, Private Citizen, Las Vegas, Nevada:

I am here as a concerned member of the community and the state. I grew up pretty privileged, but I also grew up with a lot of friends in this diverse community who were not as privileged as I was to have the different opportunities that I have been afforded. I am just

asking you to remember what is at stake here, and what is at stake here is a lot. I always told myself that one day if I ever ran for office, my slogan would be, For our tomorrow we take action today, so I hope you guys find that when you go to vote for this. I hope you guys really let this serenade with you and all these people who are here in support of the Opportunity Scholarship Program.

Rina Oseguera, Private Citizen, Henderson, Nevada:

I am a mother of four children. Three of them are in elementary school—fourth, third, and second grades. I truly believe that as parents we should all have the ability to choose for the education of our children. Our state is 50th in education. This is not to attack the state, but contribute together for the best interests of our children. One of my children has been a very bright student but in his classroom he is with 40 other students, and one teacher. He has been struggling to keep his good grades. As a mother I worried when he did not achieve the grades that as parents we want for them. Also, I truly believe that the opportunity for this scholarship would not only help children like my son, but a lot of children who are out there in very packed classrooms. I think all of us together, we can work to better our education. It is very important as a nation to have prepared children, ready children, encouraged to work hard for their grades. In my case, I do not want my children to be used to getting C's on their report card. It is probably not their fault but maybe they are not having personalized close education with his teacher because there are so many other students there. Please say no to A.B. 458. I am Hispanic and I believe that education is the best way for all of us to get a better country. All of us are here for the best education [spoken in Spanish].

Wendy Florez, Private Citizen:

I have a bachelor's degree in international business from the University of Nevada, Las Vegas. I grew up on Owens Avenue and Pecos Road in North Las Vegas. It was very difficult to attend Rancho High School. Out of 200 students, only 50 percent graduated high school and only 20 students graduated from college. My father was a construction worker. He built some of the casinos in town. He has paid taxes for so many years. It was very difficult and I lived in a very rough neighborhood. Please consider to keep the Opportunity Scholarship Program for hundreds of students. This is a lifetime opportunity for them. It is more than education. They will have an opportunity to have a better life in the future. This program is great for minorities and for low-income families. We are in a democratic country. We are in an equal opportunity country. These programs should be good for the rich, the poor, the special needs kids—everybody should have the opportunity to expand and choose their education.

There are many kids who live in rough and violent neighborhoods, like I did in the past, and it would greatly benefit the kids to go in and have a career in life. We need to stop violence and vandalism, and this is one of the opportunities that will help to get these kids to have a better chance in life.

David Holdridge, Private Citizen:

I come before you as a parent and the fiancé of a beautiful woman who has disabled kids. Our kids have benefited from this program in the fact that they have been provided the

education and the attention that public schools neglect to provide to them. I have a daughter who would fail in class. We tried everything. We switched schools. We talked to teachers. We took them to afterschool programs. They would not progress because they would get bullied in school, they would get pushed around. We have a kid with cerebral palsy and he used to hate going to school. Today he wakes up every morning with excitement to be in school, thanks to the ability of having programs like this, to be able to further his education to a smaller school where he could have more attention from a teacher, individual attention, with a little bit more patience than a public school does.

Other things that were brought to concern, earlier on it was said that it is just a scheme to get free money. It is not a scheme to get free money because it is being given back to the kids, and there is no solid proof to that. I am a business owner. If you have solid proof for something, bring it over, not just say the words. We have brought solid proof that this program does work and does benefit the community, not just our children but the community, a future we are trying to build. A lot of these schools are faith-based schools that also put that family-oriented growth into our kids that public schools have failed to do.

My kid cannot say the Pledge of Allegiance under God—as this country was built on—any more because schools do not allow that. So when I take my kid to a faith school, he is also led to believe that we are still a country under God, which a lot of public schools nowadays have taken out of the Pledge of Allegiance.

Randolph D. Doeing, Private Citizen, Las Vegas, Nevada:

I am a 44-year resident of Las Vegas. I raised two sons who attended the CCSD, Stanford Elementary School, Mike O'Callaghan Middle School, and Eldorado High School. I am a Cub Scout pack charter member for Pack 124, First Good Shepherd Lutheran School in downtown Las Vegas. I am a council committee member, working with First Good Shepherd to ensure that we put together a program that provides a quality education, with qualified people, in a great facility that meets all the inspection requirements from the school district, from OSHA [Occupational Safety and Health Administration] and that meets the standards of our overall group of folks in the congregation who support our school.

One of the things we have done over time is we have come to know that enrollment is the key to the success of any school program. We put a number out there, that is the number we need to reach as far as dollars for a quality program, and then we study the demographics of the downtown area. First Good Shepherd is located in downtown Las Vegas, 301 South Maryland Parkway and Bridger Avenue. It does not get much more downtown than that. We have the cost of a quality education and a facility, which we have a very new facility, and then we have an economic situation with folks who cannot afford that school.

We came forward with multiple programs, multiple donors, and volunteers to bridge that gap. What is happening now is we have an adopt-a-student program where congregant members and other family members and grandparents provide up to 25 percent of the tuition for students. We also have the family choice scholarships and have two scholarship generators who work with the families in need to get those things done.

We have a very large group of people who have made tough decisions on how to maintain quality, but to make it affordable—and to ensure we do not leave people behind. I really believe that family choice should really be called family hope.

There are a lot of children who cannot afford to go to a private school and gain those opportunities that other wealthy families have. Something you may not know about, First Good Shepherd was the charter in the group of people who had the foresight to start a private school in the west valley in Summerlin. You may have heard of it, Faith Lutheran Academy, Faith Lutheran Middle School, and Faith Lutheran High School. Dr. Steven Buuck comes to our graduation ceremonies and he continuously praises our students as performing at a grade to grade and a half higher than those assigned numbers. We are not looking at the family choice scholarship program as an answer, but a key component to how we can maintain education and provide it to those people in the downtown area. It does not get much poorer. We have so many people pulling for these folks and you are a key portion of that. I stand here before you today hoping and praying that you will say no to A.B. 458.

Erin Phillips, President, Power2Parent, Las Vegas, Nevada:

I am grateful for the opportunity to speak today after all of these amazing parents who have been so clear, emotionally expressing themselves, and what this scholarship means to their families. Thank you for hearing them out today.

I think we all know that it is not this Legislature's intention to further fund Opportunity Scholarships, even though I would love that to be the case. But instead we are seeing not just not funding this program, but essentially introducing a bill that would dissolve this program. We know the growth comes from private business taxes and if we stunt that growth, we will essentially be stunting the program altogether.

I spoke to a family recently who had made the decision for their child to seek an Opportunity Scholarship because their public school was not working for them. When they made that decision, they applied for the scholarship. As another parent mentioned, it is quite an extensive process. They waited. They did not find out if they had received a scholarship before the start of the school year. They made the decision to each seek a second job—each parent had a second job—so they could help make it through that year, this particular year, for their child to be able to attend the school they felt was best suited for their child. They ended up receiving a partial scholarship about half-way through the year and some financial aid from the school, but they still had to make up for the rest of that tuition, which was more than half of the tuition for that school. This was a huge sacrifice for their family. They also have younger children whom they are hoping to be able to put in a better school situation as well, and if this program is not allowed to grow and effectively is dissolved, none of their kids will be able to utilize the program.

What I am asking you today is to consider all of the testimony you have heard. These are low-income families who are seeking just exactly what this is called, an opportunity to a better education. When talking to some of you, I have heard people say we are not going to do away with the Opportunity Scholarship Program, we are just not going to divert any more

money to it until public school is fully funded. I think we all know that public school is not going to be fully funded any time in the near future. This is an innovative, creative program. School choice is a parental right. I am asking you to continue to let this program grow organically. Do not cut it. Listen to these families. Help them make the choices that are best for their children. Do not pass this bill. Do not vote against opportunity for these families.

Rebecca Larrieu, School Director, Newton Learning Center, Reno, Nevada:

I can only speak for my school and the population I serve. I run a private school specifically for kids with autism. What we do is work with our students to give them the skills and strategies they need that are not being given to them and presented to them in the public school system. While the public school does work with the majority of our kids, we work with that small percent whom it does not work for. What we do is give them those skills and strategies, then send the child back to that comprehensive school. We work with the public school system. We actually have a contract with the local school district and we collaborate with them to work with that student and get them back in.

While some of our students are funded by the school district, some of our students are not, and this is where the Opportunity Scholarship comes in—to help those families get their child the services they need—so we can transition them back to a comprehensive campus. I am against A.B. 458 and I hope you vote no.

Chair Neal:

Is there anyone who would like to testify as neutral on A.B. 458 in Las Vegas or Carson City? [There was no one.] Assemblyman Frierson had to leave so there will be no closing remarks. [([Exhibit P](#))] was submitted but not discussed, and is included as an exhibit of the meeting.] I will close the hearing on A.B. 458 and open the hearing on Assembly Bill 445.

[Assemblywoman Spiegel assumed the Chair.]

Assembly Bill 445: Revises provisions governing sales and use taxes. (BDR 32-797)

Assemblywoman Dina Neal, Assembly District No. 7:

I will be presenting Assembly Bill 445. I want to give you a little bit of history, and it will apply to both bills, A.B. 445 and Assembly Bill 447, but we are hearing them separately. Last June the U.S. Supreme Court handed down a landmark decision in South Dakota versus Wayfair [*South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080 (2018)], eliminating the requirement that businesses must be physically present in a state before their sales can be taxed, and granting states the ability to collect taxes from out-of-state and Internet retailers. The effect of this case was to pivot states to focus on economic nexus.

The first economic nexus law was enacted in 2016 by the South Dakota Legislature in Senate Bill 106, and the *Wayfair* case made this law. I want to help the Committee understand what economic nexus is and sales tax nexus is. Economic nexus refers to when a business has a certain amount of economic activity, such as the amount of transactions or sales, that require

them to collect and remit applicable sales and use taxes. For example, in the *Wayfair* case, a remote seller has economic nexus in South Dakota if the gross revenue of sales into the state exceeds \$100,000, or has 200 or more separate transactions. Sales tax nexus simply refers to the connection a business has to a state. Once a business has nexus, it is required to collect and remit sales and use tax to the state in its local taxing jurisdictions. Before the *Wayfair* decision, physical presence was required for a business to have nexus, and so this bill, A.B. 445, represents the movement forward under the *Wayfair* decision.

As a Committee, you may be wondering what Nevada had before the *Wayfair* decision. We had physical presence and we also had an agreement with Amazon.com to collect sales tax. The agreement was entered into in 2012 and they started remitting on January 1, 2014. Other than that, the only businesses that were remitting taxes were the businesses that had a physical presence in the state.

I wanted to give you that framework to help you understand why we are doing a remote seller bill—an economic nexus bill. It is to come into compliance with what the United States Supreme Court stated under *Wayfair*. I am now going to get into the provisions of the bill to try to help you understand how this bill works.

It is a unique bill that we created using Iowa law, and I gave the Committee a series of handouts to help you understand what we went through in order to look at this. You have an Oklahoma statute ([Exhibit Q](#)), which is very different than Iowa. You have Chapter 423 [Iowa Code 2019], the Streamlined Sales and Use Tax Act (SSUTA) ([Exhibit R](#)), and I believe you have a couple of things from Iowa [([Exhibit S](#)) and ([Exhibit T](#))] around digital goods and other things. You were provided this material because we wanted you to know how deeply we thought about what this bill should be, reviewing several states, thinking about where we wanted to land, how we wanted to make a law that was best suited for Nevada—that was going to serve the future of where the market can grow in terms of Internet sales.

Section 1 of A.B. 445 amends Chapter 372 of the *Nevada Revised Statutes* (NRS), which contains the Sales and Use Tax Act of 1955 and other provisions relating to the state sales and use tax, by adding the provisions set forth in sections 2 through 8. Section 2 specifies that sections 2 through 8, inclusive, unless otherwise required, the words and terms defined in sections 3 and 4 have the meanings ascribed to them. Section 3 defines "marketplace facilitator." If an individual is only functioning under section 3, subsection 1, paragraphs (a) through (i), they are not a facilitator. What makes them a facilitator is they have to then capture section 3, subsection 2 as well. They have to be doing one or more of those things in both. Here is how you know. Go to page 3, line 37 of the bill, where it says "; and"; that is the joining of those two provisions where you become a market facilitator because you are doing subsection 1 and subsection 2. That is how you are captured by us in Nevada.

I have tried to find real-life examples of what the provisions mean. We were not able to find real-life examples for all of them. If you look at section 3, subsection 1, paragraph (c), where it says, "Owns, rents, licenses, makes available," it is kind of like a consignment, and in

section 3, subsection 1, paragraph (b), think about what eBay and Amazon.com are doing. When you go to Amazon.com, they will sell someone else's products and then they will ship someone else's products to you. If you have ever bought anything from Amazon.com and it did not come from them but it came from something like Julie's Store, that technically is a consignment. If you go on down to section 3, subsection 1, paragraph (h), we thought a good example of who does returns and exchanges of tangible personal property that could also be eBay. I just wanted to give you those examples.

If you turn to page 4 of the bill, section 3, subsection 2, paragraph (e), there were some questions around virtual currency. The only thing we could come up with is Kohl's Cash. If anyone shops at Kohl's, you get those little coupons that will take \$15 off your next purchase. That was the best example we could use for virtual currency, because I did not want to use the phrase "Bitcoin." But if it will help you figure out what virtual currency is, think Kohl's Cash and think Bitcoin, but do not ask me how to explain how Bitcoin works.

In section 4 we have the definition of "marketplace seller." We needed to clarify who the seller is and in this section it is pretty self-explanatory. A marketplace seller is a seller who makes retail sales through any physical or electronic marketplace owned, operated, or controlled by a marketplace facilitator, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such marketplace. A seller is also a person who makes retail sales resulting from a referral by a referrer, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such referrer.

Those are the most significant parts of the bill you need to understand. We are trying to capture facilitators and make them perform in the marketplace, and eventually we will get those sellers because depending on their relationship, they will have to remit sales tax to the state of Nevada.

In section 5, subsection 1 specifies that, "Except as otherwise provided in this section and section 6 of this act, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year." Then there is a breakout of cumulative gross receipts from retail sales made or facilitated by the marketplace. This provision also deals with our describing the economic nexus or threshold I defined at the beginning of my testimony.

Section 5, subsection 2, specifies, "The provisions of this chapter relating to the imposition, collection, and remittance of sales tax and the collection and remittance of use tax do not apply to a marketplace facilitator . . . if the marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax." So what that does is create an option. You can have the facilitator remit the sales tax for you, or you can opt out and do it on your own.

I need to make a correction to section 6. I have submitted a proposed amendment ([Exhibit U](#)). If you go to page 6, lines 5 and 10 of the bill, where it says the word "seller" you need to change that to "facilitator."

Section 6, subsection 1, specifies, "In administering the provisions of this chapter, the Department [of Taxation] shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter." This chapter has the liability provisions that determine whether a facilitator is liable and at what point. Section 6 states:

2. Except as otherwise provided in subsection 3, in administering the provisions of this chapter, the Department shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter which is attributable to a retail sale made or facilitated on behalf of a marketplace seller who is not an affiliate of the marketplace facilitator if the marketplace facilitator provides proof satisfactory to the Department that:

- a) The retail sale was made before January 1, 2022;
- b) The retail sale was made through a marketplace of the marketplace facilitator; and
- c) The failure to collect the sales tax or use tax was due to an error other than an error in sourcing the retail sale.

Section 6, subsection 3, limits the relief from liability that may be provided to the marketplace facilitator pursuant to subsection 2. The relief provided shall not exceed the following percentage of the total sales and use tax owed on the cumulative gross receipts of the marketplace facilitator for one or more marketplace sellers to customers in Nevada, as follows:

- For calendar years 2019 and 2020, 10 percent; and
- For calendar year 2021, 5 percent.

There are some concerns about this provision. Some people are saying we are creating inequity between brick-and-mortar and online retail sellers. Because we are potentially capturing third-party retailers whom we may not have captured before and their products they are now going to be responsible for remitting the sales tax for, we wanted to give a window to ramp up, and the percentages represent a margin of error. The liability provision basically says if you do not remit the sales tax, you are on the hook, so they did not want to be liable for immediate remission of sales tax because they are trying to figure out how many people they are going to capture. They are going to have to do an internal agreement between the seller and themselves in order to figure out who is going to opt-in to what we are doing as an internal process to remit the sales tax on their behalf.

We could be picking up somebody who is in a Chinese province, and if that individual does not know or understand that we passed this law and now they have to remit a sales tax for the 200 products they have sold on the Amazon.com platform, there needs to be leeway to ensure there are no errors. Hopefully that makes sense. That is the best way I can explain what this provision was meant to do. In Nevada we are giving a smaller window than what some other states have done.

Section 7, subsection 1, specifies, "Except as otherwise provided in this section, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a referrer during a calendar year in which, or during a calendar year immediately preceding any calendar year in which" one of the following criteria is met, and once again it brings back the economic threshold. Section 7, further specifies:

2. The provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax do not apply to a referrer:

(a) Posts a conspicuous notice on each platform of the referrer that includes all of the following:

- (1) A statement that sales and use tax is due on certain purchases;
- (2) A statement that the marketplace seller from whom the person is purchasing on the platform may or may not collect and remit sales and use tax on a purchase.

It also goes on to say:

(b) The referrer provides a monthly notice to each marketplace seller to whom the referrer made a referral of a potential customer located in this State during the previous calendar year, which shall contain all of the following:

- (1) A statement that Nevada imposes sales and use tax on retail

I have labeled that as notice provisions. If you are wondering who a referrer is, according to section 7, subsection 5, paragraph (c), subparagraph (1), a referrer is a person who does all of the following:

(I) Contracts or otherwise agrees with a retailer, seller or marketplace facilitator to list or advertise for sale a product of the retailer, seller or marketplace facilitator on a platform, provided such listing or advertisement identifies whether or not the retailer, seller or marketplace facilitator collects sales and use tax;

(II) Receives a commission, fee or other consideration from the retailer, seller or marketplace facilitator for the listing or advertisement;

- (III) Provides referrals to a retailer, seller or marketplace facilitator, or an affiliate of a retailer, seller or marketplace facilitator; and
- (IV) Does not collect money or other consideration from the customer for the transaction.

For the purposes of this definition, in section 7, subsection 5, paragraph (c), subparagraph (2), the term referrer does not include the following:

- (I) A person primarily engaged in the business of printing or publishing a newspaper; or
- (II) A person who does not provide the retailer's, seller's or marketplace facilitator's shipping terms and who does not advertise whether a retailer, seller or marketplace facilitator collects sales or use tax.

Section 8, subsection 1, specifies that nothing in sections 2 to 8 in this act shall be construed to create any remedy or private right of action against a marketplace facilitator. Section 8, subsection 2, specifies, "A marketplace facilitator that is required to collect taxes imposed by this chapter is immune from civil liability for claims arising from or related to the overpayment of taxes imposed by this chapter if the marketplace facilitator acted in good faith and without malicious intent."

Section 8, subsection 3, clarifies that nothing in this section shall apply to or otherwise limit the following:

- Any claim, action, mandate, that the Department of Taxation has the power to do.
- The right of a taxpayer to seek a refund pursuant to NRS 372.630 to 372.720, inclusive.

I am not going to go through sections 9 through 16. They simply add the new sections to Chapter 374 of NRS, which governs the local school support tax (LSST) portion of the sales tax that mirrors the provisions that were added to Chapter 372 of NRS in sections 1 through 8. The addition of these sections ensures that the provisions added by this bill for the state 2 percent sales tax also apply to the LSST. Furthermore, the sections that are listed for Chapter 374 of NRS ensure that these provisions also apply to the basic city-county relief tax and supplemental city-county relief tax portions of the sales tax pursuant to NRS Chapter 377, as well as any local option sales tax rates imposed in Nevada counties pursuant to NRS Chapters 374A, 376A, 377A, 377B, and 543. The last change is in section 17, which will be an amendment showing the effective date will be October 1, 2019.

That is the gist of the bill. Sections 9 through 16 just mimic and add the new taxes, so the meat and the conversation is around sections 1 through 8. I am open for any questions on those sections.

Vice Chair Spiegel:

In section 3, I could see there being instances where two transactions look pretty much the same and one might be captured by a marketplace facilitator and the other would not. For example, if I email someone and tell them I want to buy an orange from them, and I send the money via PayPal, in that case it seems like PayPal would not be a marketplace facilitator because the payment vehicle was outside of the scope of the transaction. But if I was on an online store and ordered oranges, and PayPal was a vehicle I could use to pay for the order, in that case PayPal would be a marketplace facilitator. How would the state be able to differentiate between the two different transactions?

Assemblywoman Neal:

To your first example, the economic threshold is going to kick them out of this conversation. You have to have 200 sales or you need to have expended \$100,000. So the economic threshold is the key point here. Regardless if you fall under one and two, you still need to meet the threshold of 200 transactions or \$100,000 in revenue.

In your second example, you still have to meet the threshold of 200 transactions or \$100,000 in revenue. The PayPal vehicle is irrelevant because you still have to fall under one and two, and the threshold in order for us to pick you up and say you are responsible for remitting tax to this state.

Vice Chair Spiegel:

There may be some instances where that comes in, in terms of some other things and other kinds of transactions. I am just pointing it out as a point of something to think through.

Assemblyman Flores:

We have already started seeing this, and/or we will, a pattern of businesses opening 20 different accounts, doing 199 transactions and/or going all the way up to \$99,000. For example, if I sell online and the way I structure my business model, I may have Edgar's License Plate Souvenirs, and then I will have Edgar Flores' Glasses, and then I will have Edgar Flores' Pens. They are all different accounts—in that structure they are technically all different businesses—even though it is Edgar doing the whole thing. For purposes of marketing, easy identification, and acquiring my customers, I want to structure it that way because it is much easier. Also, for purposes of managing the business, it is easy to see which one is doing better. It automatically keeps everything spread out for me. I am curious to know if that conversation is already happening. Do we have any information on that?

Assemblywoman Neal:

I am not aware of that. Maybe that is a question you can ask the Department of Taxation. What I am aware of is that in the law, one of the things we tried to ensure as we were constructing this bill is we have an occasional sales rule which says if you sell two or more, we are going to capture you anyway. Unless you sell fewer than two items, you will not be picked up. If you did 199 sales, you are going to be captured somewhere because of our existing sales tax law. That is my understanding.

Assemblyman Hafen:

You kind of addressed my question with the amendment under section 17, the effective date being July 1, 2019. I was going to propose a friendly amendment to make the effective date January 1, 2020. We are not going to be done with session until June, and I thought 30 days was a little short. Do you have any feedback or consideration on that? I do appreciate the amendment to October, if you are not willing to go to January.

Assemblywoman Neal:

We are still working on some amendments on section 6. We are looking in the liability provisions. There are still stakeholders who feel like there is inequity in giving a three-year window. There was a conversation about six months and everyone starts on January 1, 2020, then everyone is on an equal playing field. There was also conversation around what if it is just one year and a 3 percent margin of error.

We are trying to find a balance, and the provision in section 6 was the attempt to find that balance. Not to throw anybody under the bus by making this statement, but eBay was asking for more than three years. That was a nonstarter for us. Three years seemed to be the number to try to fit several stakeholders.

My goal is to find out what is in the best interest of everyone, and not just one party. You always have to try to find balance in legislation because someone is always going to be unhappy. If you can at least strike the balance of what is good for the majority, then we can move forward. The inequity that people were debating is when brick and mortar started, they did not get their margin of error or leeway. I do not know what they received in 1955 when the Sales and Use Tax Act came onboard. I do not know what the wiggle room was.

When we implemented the commerce tax, we did give a window. It was a small window, but we gave a window. We knew that it was a new tax and people needed time to get it together. In this instance what is being stated by the stakeholders is if they have a billion new products—in theory—coming on to the marketplace, how do we manage that and how much time do we have to ensure all those taxes are remitted on those projects. I think that is a legitimate argument because you do not know. You do know there are third-party sellers who will be picked up. The question is how much time you need to ensure you get your mechanism straight and there are no errors, everything is clear, and you remit taxes to the state without liability.

Assemblyman Hafen:

A clarification of where I was coming from with the January 1, 2020, date: that is for the smaller businesses that do not have the accounting crews as the eBays of the world. It would be simpler for them to start out the new tax year. I totally agree with you on being fair and equitable in this.

Assemblywoman Neal:

We will take it all under consideration. We wanted to present the bill as is because there was a lot of confusion about, Am I in or am I out, trying to understand how section 3 worked, and whether provisions one and two worked together to capture individuals. We will still have some conversations and amendments coming forward, and hopefully we can satisfy you. You make a good point.

Assemblyman Edwards:

Is the State prepared to handle this? Over the years I keep hearing about EITS, EITS, EITS [Division of Enterprise Information Technology Services, Department of Administration], and how they are not ready to do anything. Are we going to be in a position to handle the load?

Assemblywoman Neal:

That is a good question. I think that we are in a much stronger position only because we had Amazon.com voluntarily submitting and remitting taxes to us so we were seeing some of their sales anyway. I think we are a little bit ahead of the curve just because we had a voluntary agreement to start looking at what an online retailer was producing. That is probably a better conversation for the Department of Taxation to answer, but from our opinion we felt we were in a position to handle it only because of what was already going on in our state voluntarily with Amazon.com.

Vice Chair Spiegel:

Would you like the Department of Taxation to come up?

Assemblywoman Neal:

Yes.

Melanie Young, Executive Director, Department of Taxation:

To answer your question, Assemblyman Edwards, the Department of Taxation does not utilize EITS. We have our own internal IT [information technology] department that handles most of our items. As Assemblywoman Neal said, Amazon.com is already a taxpayer and we have had several marketplace facilitators come forward that have voluntarily started to do this process. So it is something we are working towards now.

Assemblyman Edwards:

They and you have compatible software that will speak to each other?

Melanie Young:

It is not the software. We are working with these marketplace facilitators, and when they submit a tax return is when we would enter the information into our tax system.

Assemblywoman Neal:

I do want to add something I failed to mention. Nevada has been part of SSUTA for a really long time. Being a part of SSUTA, there are software and things we have taken on as a state that actually put us in a really good position. One of the things that happened when *Wayfair* moved is there was a national conversation about how quickly states could come up to speed. What was understood is states that are already part of SSUTA were in a much better position to move faster and to absorb *Wayfair* because we were already doing a lot of the items and things that were required. This has been a longstanding issue around trying to get online sales, and I think SSUTA is what has helped us.

Vice Chair Spiegel:

Committee, do we have additional questions? [There were none.] I will now open the hearing for testimony in support of A.B. 445.

Michael Pelham, Director of Government and Community Affairs, Nevada Taxpayers Association:

We are in full support of this bill and we want to thank Assemblywoman Neal for bringing it forward. We are happy to work with the stakeholders to get this passed.

Vice Chair Spiegel:

Do we have anyone else here to testify in support of A.B. 445? [There was no one.] Do we have anyone here to testify in opposition to A.B. 445?

Bryan Wachter, Senior Vice President, Retail Association of Nevada:

First, I would be remiss if I did not thank Assemblywoman Neal for bringing forward this bill. This is a capstone that has been there for a 27-year process. We started looking at this in 1992. In fact, just to age it, then-Assemblyman Goldwater was the first one to introduce this, so it has been a long time coming. Senators Woodhouse and Smith, Assemblywoman Kirkpatrick, we also want to thank them.

Unfortunately we find ourselves in a place where we have to oppose something that we vitally support. We oppose section 6, subsection 3, and I would like the opportunity to talk about the special liability relief that is found in section 6, subsection 3.

To put this into context, 19 states have already implemented this language into their platform. You have an example of two of them. Only 2 states out of those 19 have included what is in that special liability relief, or in section 6, subsection 3—Iowa and Utah. Washington is an interesting example. When they first passed their law in 2017, they included a three-year grace period. When they came back into session in 2018, they removed that portion from law which required everyone to implement right away. Of those 19 states that have already implemented this, 11 of them are already seeing tax returns—tax collections—so we feel this is something that Nevada, unfortunately in this instance, is catching up on.

In October of last year the Nevada Tax Commission passed regulations that implemented a portion of the *Wayfair* decision, so when you have been hearing that sellers are on the hook for taxation after they hit that \$100,000 or 200 threshold, that is current law. It is not voluntary anymore. If you hit those thresholds, under current law you are required to do that. What this bill attempts to do is organize all of those sellers, if they choose, because Assemblywoman Neal did put in the option; if they choose to join that facilitator and allow that facilitator to collect that tax, depending on where they are. This happens now. Most companies have a third-party company that does this. They are called CSPs [certified service providers]. These are third-party companies that are typically hired by marketplaces to facilitate that program. They provide the software that will allow them to geo-locate where a delivery address is, ensure all the taxes are being formulated properly, that everyone is in compliance, and then they send that tax on to the Nevada Department of Taxation. Those products are currently available.

To give you an example, there is a company called Avalara. They are a CSP—a very large one. They currently sell Nevada products today that would allow a seller or a marketplace to be able to come into Nevada and be able to require and certify all of this process. The products are already there. Eleven other states are already collecting it without a grace period. Of the 19 that have already passed this, only 2 have this special liability relief.

Assemblywoman Neal was very nice to start my equity argument. We do feel that there is an equity issue when it comes to this. Every time a local business opens their location inside one of your districts, they are required on Day One to get it right regardless of what kind of inventory they have, what size they are, whether they have an accountant on staff, or whether they are doing it themselves as a mom-and-pop shop. They are required to act on all that and are required to get it right. There is no wiggle room. There is no ability to say this is the first time I have ever interacted with the Department of Taxation; this is the first time I have had that opportunity; or I was off a little bit, can I have that liability? Those liability shields that are built in—the 10 percent the first year, the 10 percent the second year, and the 5 percent the third year—are not an option or any sort of leeway that our brick and mortars have when they open their doors. We feel that is an inequity issue.

We would say that if Nevada chooses to leave section 6, subsection 3, in the bill, it will be joining a very small group of states that have decided there should be one set of rules for Internet companies and one set of rules for the companies that are in your communities. We feel that is antithetical to good tax policy.

Assemblywoman Backus:

With respect to the 17 other states that do not have this grace period, do any of them pertain to a facilitator or a referrer platform as we have defined in our proposed bill?

Bryan Wachter:

Yes, in fact Assemblywoman Neal provided you a copy of an example ([Exhibit Q](#)). The Oklahoma language you have in front of you does not include the special liability relief documents and does apply to marketplace facilitators. Again, you are going to find most states that have passed this do not have the special relief in them, so we would ask you to follow that example.

Vice Chair Spiegel:

Are there any additional questions for Mr. Wachter? [There were none.] Is there anyone else to testify in opposition of A.B. 445? [There was no one.] Do we have anyone who wishes to testify as neutral on A.B. 445?

Chelsea Capurro, representing Amazon.com Services, Inc.:

We want to thank Assemblywoman Neal. She has worked extremely hard on this and has spent a lot of hours with us on this. We are here as neutral because there are a few areas we are still just working on and a few possible amendments that should be coming.

Edith Duarte, representing eBay Inc.:

I also want to thank Assemblywoman Neal for working with us this whole time and for putting the working groups together and listening to our concerns. Because there are still potential amendments out there, we are in the neutral position. We are very grateful for the October 1 change in the amendment for the effective date.

I also want to clarify that it is not only two states that have this liability language. California, Maryland, Arizona, Washington, and Iowa also have it at varying percentages. We are neutral on this bill at this point, but we hope to be in support later on.

Vice Chair Spiegel:

As far as eBay goes, I recognize that we could have different tax rates in each of our different counties, so we are dealing with 17 possible tax rates. How much work would it take for eBay to have someone sit down with a ZIP Code chart and plug in data for 17 counties in Nevada?

Edith Duarte:

I think this is a software question and as Mr. Wachter mentioned, Avalara is one of those software programs that would be able to do that. I am not sure how long it would take. The problem with the effective date is not on that end but more on educating the sellers now that they are going to have to fall into this, or where they do or do not fall into this, and also identifying how to tax items. The items on eBay, many of them do not have a UPC [Universal Product Code] or a barcode, so being able to map them out for a tax code is the part that is going to take more time.

Omar Saucedo, representing AT&T Nevada:

First, I want to thank Assemblywoman Neal for meeting with us to discuss this bill and some of our concerns. We are testifying here neutral today because we are still working with Assemblywoman Neal on a proposed amendment to section 3 and other similar sections which relate to the definition of marketplace facilitator to address some of the concerns to our platforms and services.

As Assemblywoman Neal testified, we understand the intent to codify the *Wayfair* decision and we certainly also appreciate the attempt to level the playing field for the collection and remittance of sales tax. As the bill moves along, we would appreciate the opportunity to continue to work with her on any proposed amendments.

Vice Chair Spiegel:

Is there anyone else to testify as neutral on A.B. 445? [There was no one.] Chair Neal, do you want to come forward and wrap up?

Assemblywoman Neal:

Thank you for hearing this bill. I was appreciative of what eBay put on the record regarding the states that do have liability provisions because we looked at everything. We looked at implementation dates, and what you will find out is in some of the implementation dates, even if they did not give a staggered period of liability they just extended the date out. They gave 12 months—they might have passed the bill but then they gave 12 months to start remitting. The argument could be made that even a 12-month extension for the implementation of the law was some form of inequity. You can say states such as Connecticut or Alabama, and some of the other states, they basically just extended the threshold.

I want this Committee to understand a lot of work and time went into studying what the working groups did nationally, what SSUTA and the Commission had thought about. I went to several national tax meetings, listened, and studied this issue. This is where we arrived. It is not perfect. No bill that has left this building is perfect. We will try to get there and ensure all the stakeholders come to a balanced approach that represents all of the parties and what they need.

[([Exhibit V](#))] was submitted but not discussed, and is included as an exhibit of the meeting.]

Vice Chair Spiegel:

I will close the hearing on A.B. 445 and open the hearing on Assembly Bill 447.

**Assembly Bill 447: Imposes a tax on the retail sale of certain digital products.
(BDR 32-1101)**

Assemblywoman Dina Neal, Assembly District No. 7:

Assembly Bill 447 is a digital-goods bill. If you look at the digital bill we provided for you from Iowa ([Exhibit T](#)), part of the impetus of the digital-goods bill is because we were trying

to ensure we included what were in other states, in terms of digital goods, and ensuring we can move to the future without Nevada being left behind in how the Internet market is growing.

Assembly Bill 447 is interesting. The reason we gave you the pages from Streamlined Sales and Use Tax Agreement (SSUTA) ([Exhibit W](#)) is we wanted you to understand where we got the definitions that are in sections 3 through 8. The provisions came from SSUTA. We tried to align ourselves with what SSUTA was doing so we could build a digital-goods bill for the state of Nevada. I will try to give you some simple examples for individuals who may not understand what these provisions are trying to go after.

It is clear what a business is, but in section 4, when we talk about "digital audio works" as works that result from music, the best example I can give you is iTunes. In "digital audio-visual works" [section 5], the best example I can give you is when you download a movie. The best example of "digital books" [section 6] would be eBooks or Kindle.

If you go to section 7, we had a lot of conversation around what "electronically transferred" is and how we are engaging with the use of this word. It is hard to explain this. In my mind I kept thinking Redbox, but it is not. It is not a disc, CD, or DVD. It is when you actually download something electronically. Once you get the tangible piece in your hand, it then becomes tangible storage media. The reason why the definition matters is because it is being obtained by the purchaser by means other than tangible storage media. That, in and of itself, sets it apart and says you must have received it via your laptop, your phone—it is electronically transferred to you. I need everyone to be clear on this. It is the electronic movement of a product.

"End user" [section 8] is pretty self-explanatory. We pulled that from SSUTA. In section 7, I was asked if this includes the cloud, so there was debate around the cloud. Stakeholders want clarity around ensuring we are not trying to go after the cloud. The cloud is a service and we are not taxing the service of the cloud. "End user" basically tells you who is on the other end—who receives the transmission, the broadcast, the re-transmission, the licensing, or the re-licensing. We tried to help you understand this by giving you the SSUTA outline ([Exhibit W](#)). We just pulled the requisite parts rather than supplying 255 pages.

The definition of "gross receipts" in section 9 has the same definition as is already in statute under *Nevada Revised Statutes* (NRS) 372.025 for the purposes of sales and use tax. Section 10—"in this State"—is similar to the definitions provided in NRS 372.030 for the purposes of sales and use tax.

Section 11 is where we get into occasional sales and how that is defined. "Occasional sale" is similar to existing law which is now in NRS 372.035. Section 12 includes "other digital products." This is not SSUTA. We thought it was SSUTA, it is mentioned in SSUTA, but

truly we got this language from Iowa and Minnesota. Does Iowa have this definition in their SSUTA? Yes, they do. "Other digital products" is causing some concern. We were asked, Are we picking up Microsoft 365; Are we taxing news now, and the answer is no, but we do need to clarify this section and make everyone comfortable.

Section 13 is simple. It is the definition of what a "purchase" is. Section 14 defines "retail sale" or "sale at retail." Section 15 is the definition of a "retailer," which is already in law, which mimics NRS 372.055. Section 16 defines "ringtones." We got that definition from SSUTA. It is not new. We did not suddenly decide we were going to redefine ringtones in the state of Nevada.

Section 17 is the definition of "sale." It is similar to the definition in NRS 372.060. If you are picking up the pattern, when we crafted this piece of legislation, we looked at what was already in Nevada law and tried to match what the existing definitions are. We were not being creative—not trying to create some new version of the law, even though digital goods is new to us—but aligning the provisions to what we already have in statute.

Section 18, "sales price," is similar to the definition in NRS 372.065. The definition of "seller" in section 19 is also similar to the definition already provided in law under NRS 372.070. Section 20 defines "specified digital products" as the following types:

- Digital audio works;
- Digital audio-visual works;
- Digital books;
- Digital code; and
- Other digital products.

Section 21 simply defines what a "subscription" is. I think everyone in here has a subscription to something. You may have subscribed to Amazon Prime or have subscribed to iTunes or Pandora. I do not want to get into a deep conversation around what subscription means.

Section 22 is similar to the provisions already in NRS 360B.360, relating to the administration of the sales and use tax—retail sale of tangible personal property generally. The provisions of sections 23 to 31 relate to excise tax upon the retail sale of specified digital products.

Section 23 lays out what is going to be imposed as an excise tax upon the retail sale of specified digital products to an end user in this state, in an amount equal to the sum of all sales and use tax rates imposed in the county. You heard briefly, in the Assembly Bill 445 hearing, we all have varying tax rates. Under current law, Clark County has 8.25 percent, Carson City has 7.6 percent, et cetera. That provision allows that to apply to the varying tax rates. The provisions of section 24 are similar to the provisions of NRS 372.110, relating to the sales tax—method of collection. The retailer is supposed to collect from the end user. That is simply laying out the method of collection.

The provisions of section 25 are similar to the provisions of NRS 372.115, relating to the sales tax—advertisement of assumption or absorption of tax by retailer, whether it is unlawful, and there is a penalty. The provisions of section 26 are similar to the provisions of NRS 372.125, relating to the sales tax—registration or permit required to engage in or conduct business as seller; your application for the permit.

Section 27 is similar to the provisions of NRS 372.145, relating to the sales tax. If you get into a situation where the Department of Taxation needs to revoke or suspend your permit, this is the provision that allows them to do it. A company or individual may apply for reinstatement, but this is the provision in our law that deals with the revocation or suspension of a permit.

Section 28 is similar to the provisions of NRS 372.155, relating to the sales tax. This particular provision deals with the presumption of taxability; the purchase for resale; and sale by drop shipment. Section 29 is similar to the provisions of NRS 372.165, relating to the sales tax. This is simply the form and contents that must be on the resale certificate. Section 30 is similar to the provisions of NRS 372.170, relating to the sales tax, and this deals with the liability of a purchaser who gives and a seller who takes a resale certificate. The provisions of section 31 are similar to the provisions of NRS 372.175, relating to the sales tax—improper use of resale certificate.

Sections 32 through 42 are inclusive and relate to an excise tax. This is the use side of the law. These are a repeat of the existing provisions we have, but it points to the use tax. For example, sections 34 through 38 simply point you back to those provisions and say if you violate any of our sales tax laws or use tax laws, it is a misdemeanor. The rest of the bill literally lays out the use tax provisions.

Section 45 came under debate about whether this was an exemption or whether we were capturing electronic textbooks. Specified digital textbooks are exempt. We are not going to tax textbooks that students are downloading because they cannot afford the hard copy.

Section 46 is similar to the provisions of NRS 372.315 relating to exemptions provided from the sales and use tax, which happen to be newspapers. Section 47 is similar to the provisions of NRS 372.320, which deals with our occasional sales. Section 48 is similar to the provisions of NRS 372.325, relating to exemptions provided from the sales and use tax of political subdivisions in the United States. The provisions in section 49 relate to the exemptions provided from the sales and use tax of personal property sold by or to nonprofit organization created for religious, charitable, or educational purposes. Section 50 is similar to the provisions of NRS 372.3261, relating to exemptions of an organization that is created for religious, charitable, or educational purposes.

I will stop here for questions. This is a thick bill, but the way it was constructed was to align with existing sales tax provisions in the state, and it gave us cause for concern when folks did not understand what this is—when it is existing sales tax law. It is a new bill and I understand every time we see something new, it is a panic. There are some issues we need to clear up and clarify.

Assemblyman Kramer:

I have a question regarding section 12, under digital products. There are many forms you can fill out on the Internet. It is a PDF form you can fill in the blanks and they will charge you some nominal amount. Is that your definition of "other digital products"? You can also fill out a trust online without an attorney. They are selling you an outline and you fill in the blanks. If you were to go to an attorney for it, there would be no sales tax because it is a service they are performing. It just stands to reason that would be an Internet intangible you are filling out on your computer.

Assemblywoman Neal:

No, that is not envisioned. In section 12 when you see news, information products, and computer software applications, it gives angst. There is probably going to be a serious amendment to remove those out because we are not trying to capture those. I am glad you asked.

Assemblyman Kramer:

In section 26, subsection 1 of the bill, I can see where it says, "A person shall not engage in or conduct business as a seller in this State unless the person has" done certain things. How will consumers know if they have done those things when they are trying to buy something online?

Assemblywoman Neal:

That is a really good question. I actually thought about that too. How do you know? Honestly, the only thing I can say is that it is going to have to be the same way our laws happen now. It is through education. It was the same thing I worried about with the application of the use tax, when we get into the other side. Typically we do not even collect use tax. People do not automatically go and submit that information.

If you download from iTunes, how do you know you are supposed to remit? I honestly think it is an education curve that we will have to deal with in the state of Nevada. I understand what you are saying, but that is pretty much how it is now.

Assemblyman Kramer:

Now you pay sales tax whenever it is a physical product. In this case, your first 200 sales for a company would be exempt perhaps, or their first \$100,000, and as a customer we have no idea where we fall into that category. There would really be no way you could tell. Maybe clarification is needed. In section 46 of the bill, you exempted newspapers. I presume that newspaper subscriptions are also exempt.

Assemblywoman Neal:

Yes.

Assemblyman Kramer:

I wonder about section 49. I could conceive of a really neat business where if you wanted to buy something and avoid the sales tax, come through me. I am a nonprofit. I will go buy it for you, then sell it to you, and avoid sales tax both ways, and I only charge 1 percent. Nonprofits are not in the business of selling Internet intangibles, but perhaps there might be a way to close that little bit of a loophole.

Assemblywoman Neal:

Thank you, and we will consider that. I suppose your example could happen in a normal situation. Thank you for your input.

Assemblyman Hafen:

In section 21, when you talk about subscriptions, are we currently taxing subscriptions to stores such as Costco? Do we know?

Assemblywoman Neal:

I do not know the answer to that. It is not tangible.

Assemblyman Hafen:

If we are not taxing the membership to Costco, why would we tax the membership to Amazon Prime?

Assemblywoman Neal:

I think the difference is with Costco you are getting a card in order to enter the store to buy goods. With Amazon Prime you are getting a subscription to download electronic media or download music, which you will then use in an electronic format.

Assemblyman Hafen:

Not necessarily.

Assemblywoman Neal:

If you get a subscription and buy a video, a DVD, or CD that is in your hands, you have now entered into tangible personal property. We are only dealing with the electronic digital goods.

Assemblyman Hafen:

That is where my concern is. The Amazon Prime membership includes free shipping for the goods.

Vice Chair Spiegel:

Mr. Guindon, could you weigh in?

Russell Guindon, Principal Deputy Fiscal Analyst:

A membership to Costco is not tangible personal property; thus, it is not subject to our sales tax. When you look at the definition of subscription, you have to read what it is saying. It is about specified digital products. It is a subscription to be able to get or receive specified digital products. I would have to check with our legal counsel, but when I look at this, you have a subscription to Amazon Prime, like a Costco membership. The tax will attach to, I am actually using Amazon Prime to get specified digital products, and then it is taxable. That is no different than if you have a Costco membership, you walk into Costco and buy tangible personal property. That is what is taxable, the tangible personal property, not the membership that allows you to be in that store. That is how I read this. It is not the subscription to be in a place, it is you are using that place to obtain specified digital products, then that is what will be taxable, as long as you meet the threshold to be a taxable event under the bill. I hope that helps.

Assemblyman Hafen:

Thank you for that clarification.

Vice Chair Spiegel:

I want to weigh in with another hybrid situation. I am not expecting you to have an answer, but I would like it to be considered and thought about. I did my taxes last week using TurboTax. I signed in online. I paid to use the service. I then had an option when I was done to download and print a physical tax return, which is tangible personal property I could then mail to the Internal Revenue Service (IRS), or I could choose to file it electronically. I can see if I chose the printing options, where I wanted the physical paper to mail to the IRS, that could create a taxable situation, but if everything were done online, it might not. Again, I am not asking you for an answer, but I think we should be considering and trying to think it through.

Assemblywoman Neal:

I would like to answer that. A tax return is not the intent, envisioned, or considered to be a digital good. In what we have looked at under SSUTA, I have not seen where that would be considered a digital good that has been nationally looked at as something we could tax. We will go back through the 255 pages and see if we missed it. That has never been an issue or a discussion, but we will go back and look.

Vice Chair Spiegel:

It just might not have been contemplated yet.

Assemblyman Edwards:

For things like educational courses that you take online, would those be exempt?

Assemblywoman Neal:

Yes.

Vice Chair Spiegel:

Do we have any additional questions? [There were none.] I will open the hearing for testimony in support of A.B. 447.

Bryan Wachter, Senior Vice President, Retail Association of Nevada:

I want to thank Assemblywoman Neal again for bringing in this bill. One of the great things about representing retail is that our industry reinvents itself every time a group of consumers decides that we should, which is fun. One of the things that the regulatory legislative process has to do is catch up to that technology. We view this as the next step in that realm. We are very proud that Nevada is a member of SSUTA; in fact, we were one of the early ones. We need to be able to bring these definitions in and bring them under control. With the caveat that section 12 has some issues that Assemblywoman Neal is working through, we believe this is a good step. I would go so far as to say I would not consider it a new tax increase, even though it is written that way and under the law because these are products that are already taxed under their physical counterparts. Because the retail landscape is changing so much, these digital products really need to come. We appreciate that Assemblywoman Neal has used the current national language on definitions to bring us into compliance and bring us into the twenty-first century. We urge your passage.

Vice Chair Spiegel:

Is there anyone else who wishes to testify in support of A.B. 447? [There was no one]. Is there anyone who wishes to testify in opposition to A.B. 447?

Elisa Cafferata, representing Nevada Technology Association, Inc.:

I am a little bit unclear on how finally we are dicing the rolls because my understanding was if we had concerns with a specific section of a bill as written, we would come up in opposition. We have been working with Assemblywoman Neal on the definition of digital products to ensure it does not sweep in products far beyond what were envisioned, so this is testimony in support and opposition.

Vice Chair Spiegel:

Is there anyone else who wishes to testify in opposition to A.B. 447? [There was no one.] Is there anyone who wishes to testify neutral on A.B. 447?

Chelsea Capurro, representing Amazon.com Services, Inc.:

As mentioned, there are still quite a few areas in this that were unclear on our side, the impact, and we are still taking a look at this but are here in neutral because we want to continue to work with Assemblywoman Neal and continue to look at possible amendments to this.

Michael Pelham, Director of Government and Community Affairs, Nevada Taxpayers Association:

I am here today to testify as neutral on A.B. 447, although I do want to thank Assemblywoman Neal for bringing this bill forward. We believe that applying sales and use tax to products that have become digitized is a no-brainer. There is no reason why I should

not pay sales tax on an eBook. If I were to go to the store and buy that exact same book in paperback, I would pay sales tax on that product. I use the eBook analogy because it is an important place to start with this legislation. I think it is a simple concept.

The intent of this legislation is to capture sales tax revenue that has been lost on tangible products that have become digitized. Before the digitization, we would frequent different brick-and-mortar retailers and this is how we would consume certain media products. Since that has changed and we do not tax digital products, the sales tax revenue has been lost to that. Nevada schools and other government services are hurting for that money.

Having supported the intent of the legislation, I want to explain why we are neutral and fully supportive of the bill. When we start talking about subscriptions and subscription services, things can get a little complicated. I know Assemblywoman Neal talked a little bit about those. Magazine subscriptions immediately come to mind. For example, if I purchase a magazine subscription to ESPN the magazine, I receive a tangible magazine in the mail once a month. This also comes with a digital code that I could access bonus content that is behind a pay wall. Currently my tangible subscription is taxable, so if the invoice says that the total is \$60 and it does not separate the digital version from the tangible version, then that is taxable. If it is separated on the invoice, then it would not be taxable. If the total was \$60 and it includes the digital version, all \$60 is taxable. If the invoice says \$50 for the magazines and \$10 for the digital subscription, then the \$10 is not subject to sales tax.

Part of my job allows me the illustrious job of attending tax seminars for days on end so you do not have to. The term "subscription" causes a lot of headaches in some of these other jurisdictions. I have seen subscriptions be applied to things such as payroll software, so companies have had to pay sales tax on their payroll software monthly in some jurisdictions, and some have even applied it to online dating subscriptions. We want to continue to work with all stakeholders to ensure this bill does not leave us with questions as to what is taxable and what is not, after it is passed. I also want to mention section 20, subsection 1, paragraph (e), "Other digital products," which we have talked about today being a catch-all. We do have some fear with the catch-all, just for the unintended consequences we could be left with should the Department of Taxation determine the taxability of anything digital.

The Nevada Taxpayers Association is looking forward to working with stakeholders and everyone interested in this bill. I am happy to answer any questions.

Assemblywoman Benitez-Thompson:

When you say dating goods, when we are talking about the Internet, does that mean all dating goods? I am asking because Awakened.com has done a very great report about activity and digital goods being sold by legal brothels in the state.

Michael Pelham:

The specific dating services that I have seen it apply to are sites like Match.com or OKCupid.com. I may be completely missing your question.

Assemblywoman Benitez-Thompson:

In March 2018, Awakened.com took a look at the online digital goods being sold in the trafficking market, but also looked at how legalized brothels are moving into digital goods. I was asking if that had been contemplated philosophically.

Michael Pelham:

Considering that Nevada is the only state with prostitution, I have not had that conversation with any other jurisdictions. I am still kind of lost on what kind of digital products would be a taxable transaction.

Assemblyman Kramer:

You talked about the \$50 versus \$10 parts of a subscription. Are you suggesting, under the way we are doing it here, the \$10 subscription would not be taxable?

Michael Pelham:

I am suggesting that there is no difference between the \$10 subscription and the magazine subscription.

Assemblyman Kramer:

This may be for Assemblywoman Neal. Are we considering this to apply to computer software that someone pays for on a regular basis that is a subscription and not a purchase? Would that become subject to sales tax?

Michael Pelham:

When it comes to software, certain types of software are taxable and certain types are not. I believe custom software is not taxable. As for what this bill is attempting to collect, that would have to be Assemblywoman Neal's question to answer.

Vice Chair Spiegel:

Do we have any additional questions? [There were none.] Do we have anyone else who wishes to testify as neutral on A.B. 447? [There was no one.] Assemblywoman Neal, would you like to wrap up?

Assemblywoman Neal:

The Committee got off the rails with Assemblywoman Benitez-Thompson's question. To answer Assemblyman Kramer's question, we did look that up and I believe under SSUTA, computer software was excluded but I will find that page. We had that question and we were trying to ensure there was an exclusion and we were not picking that up, but I will find it.

We gave you the Iowa bill language ([Exhibit T](#)) and I stated that section 12 came from Iowa. I want to make it clear that we got the Iowa language for A.B. 447 from Amazon.com. At first I was not going to take that language, and then we looked around at all the different states. We landed on Iowa's language because it seemed to be the most comprehensive. I debated on whether we wanted to have a bill that brought us into the future because most

other states can have digital goods written into their existing legislation—which is the *Wayfair* decision [*South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080 (2018)]—but we could not do that because of our 1955 Sales and Use Tax Act. We had to create a new bill and a new chapter in order to deal with it. This caused some concern. We felt if this has been active in Iowa since January 1, 2019—other digital goods—how were they performing and how were things going with the existing bill. We did reach out to the Iowa Department of Revenue to talk to them and find out what was going on in regard to the implementation and the remission. What we found out were very minor things, and this was not one of them.

We will continue to work with the stakeholders, but I want everyone to be clear that the Iowa language that is in section 12 was language that was given to us from Amazon.com. We need to work through the concerns the stakeholders have. We need to try to be clear on what they are doing in Iowa versus here, or what they would intend to do here. We will find clarity. We looked at this language for a really long time and have had lots of conversations. We want to understand how it is working in Iowa. We will get back on the phone with the Iowa Department of Revenue and figure it out. Thank you for hearing this bill.

[([Exhibit X](#)) was submitted but not discussed, and is included as an exhibit of the meeting.]

Vice Chair Spiegel:

I will now close the hearing on A.B. 447 and open the hearing for public comment. Is there anyone in Carson City or Las Vegas wishing to make public comment? [There was no one.] We are adjourned [at 7:21 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblywoman Dina Neal, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a letter to the Assembly Committee on Taxation, dated April 2, 2019, submitted by Alex Marks, Political Coordinator, Nevada State Education Association, in support of Assembly Bill 458.

[Exhibit D](#) is written testimony dated April 4, 2019, submitted by Amanda Morgan, Legal Director, Educate Nevada Now, in support of Assembly Bill 458.

[Exhibit E](#) is written testimony dated April 2, 2019, submitted by Daniel Honchariw, Senior Policy Analyst, Government Affairs, Nevada Policy Research Institute, in opposition to Assembly Bill 458.

[Exhibit F](#) is written testimony submitted by Lisa Friend, Private Citizen, Dayton, Nevada, in opposition to Assembly Bill 458.

[Exhibit G](#) is a document titled "AB 458 - Opportunity Tax Credit Scholarship - Eliminates the Annual 10% Increase," submitted by Denise H. Lasher, representing AAA Scholarship Foundation.

[Exhibit H](#) is a document titled "AAA Scholarship Foundation, Nevada Income Based Scholarship - Waitlisted Students, Demographics for Q2 SY2018_2019," submitted by Denise H. Lasher, representing AAA Scholarship Foundation.

[Exhibit I](#) is a document titled "AAA Scholarship Households by Districts, Addresses matched to Legislative District," submitted by Denise H. Lasher, representing AAA Scholarship Foundation.

[Exhibit J](#) is written testimony submitted by Jaden Hairr, Private Citizen, Henderson, Nevada, in opposition to Assembly Bill 458.

[Exhibit K](#) is written testimony submitted by Aimee Hairr, Private Citizen, Henderson, Nevada, in opposition to Assembly Bill 458.

[Exhibit L](#) is written testimony submitted by Landon Hairr, Private Citizen, Henderson, Nevada, in opposition to Assembly Bill 458.

[Exhibit M](#) is written testimony submitted by Alicia Manzano, Private Citizen, Las Vegas, Nevada, in opposition to Assembly Bill 458.

[Exhibit N](#) is written testimony submitted by Valeria Gurr, Nevada State Director, Nevada School Choice Coalition, in opposition to [Assembly Bill 458](#).

[Exhibit O](#) is written testimony submitted by Karen Zeh, Tuition and Accounts Manager, Calvary Chapel Christian School, Las Vegas, Nevada, in opposition to [Assembly Bill 458](#).

[Exhibit P](#) is testimony submitted by Raymond A. LeBoeuf, Jr., Executive Principal, Mountain View Christian Schools, Las Vegas, Nevada, in opposition to [Assembly Bill 458](#).

[Exhibit Q](#) is a document titled "An Act," consisting of Oklahoma bill language, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit R](#) is Iowa Code 2019, Chapter 423, Streamlined Sales and Use Tax Act, dated December 7, 2018, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit S](#) is a copyrighted article published by Sales Tax Institute titled "Iowa Expands Tax Base to Include Specified Digital Products," dated June 25, 2018, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit T](#) is section 203 and section 24 of Senate File 2417 from the 2018 Iowa Legislature, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit U](#) is proposed amendments to [Assembly Bill 445](#), dated April 3, 2019, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit V](#) is a document regarding the Wayfair Implementation and Marketplace Facilitator Work Group, Final White Paper, dated November 20, 2018, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit W](#) is pages 57 through 60 and page 108 of the Streamlined Sales and Use Tax Agreement, dated December 14, 2018, submitted by Assemblywoman Dina Neal, Assembly District No. 7.

[Exhibit X](#) is a copyrighted article published by Quaderno titled, "Sales Tax for Digital Products in the U.S.," dated December 5, 2018, submitted by Assemblywoman Dina Neal, Assembly District No. 7.