

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-ninth Session
March 13, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:06 a.m. on Monday, March 13, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Kelvin Atkinson, Chair
Senator Pat Spearman, Vice Chair
Senator Nicole J. Cannizzaro
Senator Yvanna D. Cancela
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Heidi S. Gansert

GUEST LEGISLATORS PRESENT:

Senator Moises Denis, Senatorial District No. 2
Senator David R. Parks, Senatorial District No. 7

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Daniel Putney, Committee Secretary

OTHERS PRESENT:

Stacy James, Executive Director, Dazzle Africa
Catherine Smith, Dazzle Africa
Elaine Carrick
Anne Macquarie, Sierra Club, Toiyabe Chapter
Lesley Pittman, Nevada Wildlife Alliance
Heather Carpenter, The Humane Society of the United States

Senate Committee on Commerce, Labor and Energy
March 13, 2017
Page 2

Sherrie Scaffidi, Director, Transgender Allies Group
Shirley Van Damme
Stacey Shinn, Progressive Leadership Alliance of Nevada
Jeanette Belz, Nevada Psychiatric Association
Richard Dalton
Blue Montana, Transgender Program Manager, The Gay and Lesbian Community
Center of Southern Nevada
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates, Inc.
Holly Welborn, ACLU of Nevada
Michael Hillerby, Gender Justice Nevada
Chelsea Capurro, Nevada Advanced Practice Nurses Association
Justine Johnston, Transgender Allies Group
Sarah Collins, Nevada Psychological Association
Janine Hansen, President, Nevada Families for Freedom; Nevada Affiliate,
National Eagle Forum
Lynn Chapman, Vice President, Nevada Families for Freedom; Nevada Affiliate,
National Eagle Forum
John Wagner, Independent American Party
Don Alt
Janna Smith
William P. Tarbell

CHAIR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 194.

SENATE BILL 194: Prohibits the sale of products derived from or containing certain animal species under certain circumstances. (BDR 52-664)

SENATOR MOISES DENIS (Senatorial District No. 2):

Those of you here two years ago saw this bill as S.B. No. 398 of the 78th Session. It has gone through many different changes over the Interim, but the intent is the same. Senate Bill 194 targets the most highly trafficked species around the world. Such trafficking results in unsustainable declines in population. The illegal wildlife trade has become the world's fourth largest transnational organized crime, behind only drugs, arms and human trafficking. The ivory trade alone is worth \$3 billion annually. Wildlife trafficking has mutated into a highly profitable and relatively low-risk business for criminal organizations and terrorist groups. Profits are used to fund these criminal

networks, which then fuel corruption and insecurity that threaten the stability of individual communities and entire nations.

Nevada has a long tradition of conservation. Senate Bill 194 will give authorities better tools to help combat the intrastate illegal wildlife trade. According to a report from TRAFFIC, the wildlife trade monitoring network, state bans seem to have reduced the availability of elephant ivory. However, the report suggests that trafficking may move to new locations where laws have not been enacted or are lax. Laws have been passed along the entire Pacific Coast and Hawaii. Nevada may be targeted, further increasing our State's illegal wildlife trade.

Wildlife populations continue to decrease, and trafficking continues to increase. It is time for Nevada to take the responsible step to decrease demand of these animal products. The 2017 Legislators have an opportunity to protect these species and leave a legacy of environmental stewardship. For example, in the last two weeks in Africa, one of the oldest elephants with the largest tusks was killed. The ivory was not taken, and the animal was left dead. We continue to see these sorts of things happen. We have an opportunity to do something in Nevada that will help protect these species and others.

STACY JAMES (Executive Director, Dazzle Africa):

I have seen the effects of both poaching and our consumption of wildlife products in the U.S.

CATHERINE SMITH (Dazzle Africa):

I will read from Ms. James' and my presentation ([Exhibit C](#)).

Approximately 2,190 rhinoceroses have been killed since we testified last Session.

Sea turtles are listed under Appendix I by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Appendix I signifies the species is threatened with extinction.

Eleven states have passed legislation prohibiting shark fin soup. The practice of shark finning is illegal in U.S. waters.

Ms. JAMES:

The Great Elephant Census was conducted by the Paul G. Allen Family Foundation. The Census took two years to count the elephant populations in Africa. This was the first pan-African census ever done. The population numbers were lower than anyone expected. Individuals involved with the Census predicted 400,000 to 600,000 elephants; however, only 352,271 elephants were found across 18 countries.

I will continue reading from [Exhibit C](#).

Ivory is mostly used in things like luxury items, trinkets, hair clips, wall hangings and carvings shaped like elephants. We have a choice between elephants and ivory.

Sometimes ivory is found with other forms of trafficking, such as drugs and human trafficking. Terrorist groups are not concerned about what the product is as long as they can make money to fund their terrorist activities.

Should ivory be legal or not? When there is a thriving legal ivory trade, elephant populations plummet. For example, from 1979 to 1989, our world's elephant population decreased from 1.2 million to 600,000, a decline of about 50 percent. There was then a ban from CITES on ivory in 1989. After the ban, there was a small recovery, trade resumed and different countries were allowed to sell their ivory. Since 2008, however, when there were two major sales to Japan and China, elephant populations have declined at an unprecedented rate. According to our facts and history regarding elephant populations, population numbers have only increased when there were bans in place.

Most people think ivory is illegal no matter what in the U.S., but these people do not understand the various loopholes for intrastate sales. The U.S. Fish and Wildlife Service recommends a two-tiered system, including both state and federal levels, to be able to close loopholes.

Las Vegas has easy access to wildlife trafficking considering all other Western states have laws limiting such trafficking.

According to the TRAFFIC report Senator Denis mentioned, state bans seem to have had a significant impact on reducing the open availability of elephant ivory

in formerly significant markets, proving state bans are moving in the right direction and creating expected results.

We have talked to multiple organizations about S.B. 194 and have found great support. The Asian Chamber of Commerce had no concerns about this bill. Wildlife organizations support this bill. I have had conversations with sportsmen so that we minimize any unintended consequences for them. We have tried to make as many common sense exemptions in S.B. 194 as possible while still retaining the intent of the bill.

SENATOR DENIS:

Section 2, subsection 1 discusses the specific animals and their products that cannot be sold. Subsections 2 and 3 discuss penalties. Subsection 4 defines sale and sell.

Section 3 goes through exceptions. Subsection 1, paragraph (a) discusses law enforcement. Paragraph (b) discusses and defines antiques. Paragraph (c) discusses musical instruments. Paragraph (d) discusses weapons. Paragraph (e) discusses scientific and educational institutions that use these products for specific purposes. Paragraph (f) discusses another exception. Subsection 2 defines de minimis quantity as less than 20 percent of the fair market value.

There are people who have had ivory antiques in their families for years. This bill is not trying to prohibit such uses of ivory. We are trying to stop the ivory trade going on today.

SENATOR SETTELMAYER:

I agree with the overall concept of this bill. How is law enforcement going to be able to determine the difference between elk ivory teeth, which are legal, and elephant ivory? I am glad you exempted knives and firearms because those were the primary topics of discussion in the past. However, S.B. 194 states such uses of ivory are exempted if the ivory is "a fixed part of the knife or firearm." Are removable grips considered fixed? Grips are removable.

SENATOR DENIS:

The word is fixed or affixed.

Ms. JAMES:

We can discuss this issue, but the exception for knives and firearms could be worded more clearly in the bill to ensure there is no unintended consequence regarding the removable grip.

Ms. SMITH:

I do not think determining the difference between elk ivory teeth and elephant ivory is much of an issue. There is documentation, such as on a tag or by a sportsman, that states the product comes from elk ivory. Elk ivory is entirely exempted.

SENATOR SETTELMAYER:

This bill is more expansive than S.B. No. 398 of the 78th Session. I see sharks included in S.B. 194. Sometimes sharks lose teeth, and some people sell them. This bill would create a problem regarding shark teeth sales.

I will follow up with Senator Denis about some of the issues I have.

SENATOR SPEARMAN:

There is a different type of forensic detail used now called reduced-scale magnetic powders, which are used to identify prints and DNA.

ELAINE CARRICK:

I support S.B. 194. Some people may ask why we are talking about Africa because it is thousands of miles away. These people may think we have no control over what goes on there. How can Nevadans stop the poaching of elephants and rhinoceroses? Perhaps 20 years ago, we might not have been talking about this. Today, however, we live in a global economy. Nevada can have an effect on the slaughter occurring in Africa. This bill would plug the holes in U.S. and international laws that still allow ivory and other illegal products to come into our State to be sold. Nevada would join other states that have already passed similar legislation. We can make a difference to stop the illegal trade of wildlife. When it is not lucrative to kill elephants, rhinoceroses and other wildlife, the wildlife trade will dry up. This bill is important because it will prevent buyers from contributing to the illegal wildlife trade.

ANNE MACQUARIE (Sierra Club, Toiyabe Chapter):

We support S.B. 194. This bill addresses the \$20 billion illegal wildlife trade decimating wildlife in all parts of the world. This illegal trade is kept afloat by

consumer demand for products containing animal parts from species like African elephants, sea turtles, sharks and whales. Senate Bill 194, with its civil and criminal penalties, will help cut off this trade in Nevada.

LESLEY PITTMAN (Nevada Wildlife Alliance):

We support S.B. 194. This topic has been debated during multiple sessions of the Legislature. Based on the information presented, however, time is of the essence for some of these species. It is important to get legislation as perfect as it can be, but the clock is ticking.

HEATHER CARPENTER (The Humane Society of the United States):

On behalf of our Nevada-based supporters and our global affiliate, Humane Society International, I urge you to support S.B. 194. We submitted testimony in support of this bill ([Exhibit D](#)).

We have an opportunity to protect imperiled species by passing this bill. The global poaching and wildlife trafficking crisis is at a tipping point. Last week, poachers broke into a French zoo and killed Vince, a four-year-old rhinoceros, for his horn. Elephant populations are plummeting to provide the raw material for ivory trinkets. Other wild animal populations are exploited nearly to the point of no return. In moments like these, we must enact an all-of-the-above approach to ensure these animals' survival. This approach requires government entities, even those far removed from where these animals live, to do whatever they can to ensure the poaching and wildlife trafficking epidemics come to an end. Federal laws and regulations are in place to deal with the problem, but there are limitations in enforcement efforts and in the reach of federal statutes and regulations. State-level action is needed to complement these laws and regulations. As states take action to combat the wildlife trafficking problem within their own borders, the markets for these products inevitably move to states with weaker laws and regulations. The market for parts of endangered wild animals such as ivory, even the sale of otherwise legal items, can exacerbate poaching problems because illegal products filter into the marketplace. There have been numerous high-profile and large-scale seizures during the last few years that show the U.S. market is fertile ground for smuggled ivory and rhinoceros horns. Any demand for wildlife products, whether in Nevada or elsewhere, stimulates the supply.

This bill has reasonable and narrow exemptions, similar to the exemptions in federal law and the laws passed in other states. The owners of these legal items

can continue to possess them, pass them down to their heirs or transfer them as long as no commercial transaction is involved. The items that meet the exemption requirements can still be sold.

Senate Bill 194 aligns with national and international conservation measures. We urge you to support this bill to protect wild animals from cruel poaching, wildlife trafficking and the threat of extinction.

CHAIR ATKINSON:

James Rhodes, on behalf of the Stillwater Firearms Association, submitted a letter in opposition to this bill ([Exhibit E](#)).

SENATOR DENIS:

Finding shark teeth is different than specifically killing sharks to sell their teeth or fins.

Sometimes we think we cannot make a difference here in Nevada, but we can and need to make a difference. These animals are not only being killed in the wild. Because of the value placed on items with these animal products, we need to do something to help.

We are going to work on amendments to address some of the issues.

CHAIR ATKINSON:

The Committee will wait to hear from you regarding those amendments.

I will close the hearing on S.B. 194 and open the hearing on S.B. 201.

SENATE BILL 201: Enacts provisions relating to conversion therapies. (BDR 54-301)

SENATOR DAVID R. PARKS (Senatorial District No. 7):

I will read from my prepared testimony ([Exhibit F](#)).

SHERRIE SCAFFIDI (Director, Transgender Allies Group):

Brooke Maylath, the president of the Transgender Allies Group in Reno, submitted testimony in support of this bill ([Exhibit G](#)).

As a transgender woman, I knew at an early age I was different. Fortunately, my parents, although Catholic, were accepting of everyone. They never tried to change me in any way. I always had a wonderful relationship with my parents and siblings. Because of that relationship, I am one of the lucky people in the lesbian, gay, bisexual, transgender and questioning (LGBTQ) community. I was never greatly depressed. I never considered suicide or was harmed by my family.

Conversion therapy is a range of dangerous and discredited practices that falsely claim to change a person's sexual orientation or gender identity or expression. These practices have been rejected by every major medical and mental health organization for decades, but due to continuing discrimination and societal bias against LGBTQ people, some practitioners continue to conduct conversion therapy. Minors are especially vulnerable. Conversion therapy can lead to depression, anxiety, drug use, homelessness and suicide. The American Psychological Association (APA) encourages mental health professionals to avoid misrepresenting the efficacy of sexual orientation change efforts. These professionals should avoid promoting or promising change in sexual orientation when providing assistance to individuals distressed by their own or others' sexual orientations. Lesbian, gay, bisexual, transgender and questioning youth often begin to experience self-identification during their preadolescent or adolescent years, as do heterosexual youth. These developmental processes are essential cognitive, emotional and social activities.

In February 2016, the Human Rights Campaign, the National Center for Lesbian Rights and the Southern Poverty Law Center filed a consumer fraud complaint with the Federal Trade Commission (FTC) against People Can Change, a major provider of conversion therapy. The complaint alleges People Can Change's advertisements and business practices—which claim they can change a person's sexual orientation or gender identity—constitute deceptive, false and misleading practices and can cause serious harm to consumers, all in direct violation of section 5 of the Federal Trade Commission Act. The complaint urges the FTC to take enforcement action to stop these deceptive practices and investigate all practitioners making similar claims.

I urge you to add Nevada to the list of states that have banned conversion therapy.

SHIRLEY VAN DAMME:

I am a hospice minister. I want to talk about a patient I will call John.

When I met John, he was in his early 50s. He had served in Vietnam and had grown up in the middle of Kansas. His family had disowned him years ago, and he had learned to live without his family. When I met John, he was living in a motel room. Everything in the motel room was neat and organized. He would say it was a leftover from his military days. He spoke to me about the horrors he experienced in conversion therapy. As he spoke, his eyes would glaze over like he was reliving the experience. He was immersed in a culture foreign to him. He said that for everything he thought he was, the conversion therapy practitioners presented something different. Part of the conversion therapy involved shocks given to the boys on their thumbs as they were watching movies that had homosexual sex scenes in them. Part of the conversion therapy was also sitting in a circle, reading the Bible and using passages to focus on hating homosexuals and homosexual acts. For John, this experience solidified the idea the Bible was against homosexuality. Another part of the conversion therapy was going out into the woods, chopping wood and working to exhaustion. It involved the boys fighting with each other to see who was toughest and who was most manlike. In addition, during the boys' down time, one of the counselors sexually abused John.

John was not able to reconcile his faith with his being a gay man before he died. I did my best, but the homophobia was too deeply ingrained. His conversion therapy was part of the trauma he experienced. He said that on some days, the conversion therapy was worse than what he experienced in Vietnam.

Many people end up in hospice care, but John's story stays with me. I am a lesbian minister. I have ministered in our community for 27 years. My own story includes falling in love at the age of 22 with a woman I named the love of my life. We were together and in the closet for seven years. After seven years, we could not take the tension between our religious beliefs and being lesbians. We split and went our own ways, trying to conform to what society wanted—be heterosexual. Twenty-three years later, we are back together.

In the long run, I urge that conversion therapy be abolished. In the short run, I urge the Committee to support S.B. 201.

SENATOR SETTELMAYER:

This bill, as S.B. No. 353 of the 78th Session, discussed sexual orientation conversion therapy. Senate Bill 201 includes gender identity conversion therapy. Do other states combine the two and call it conversion therapy to simplify it? Why is there new terminology?

SENATOR PARKS:

It was assumed S.B. No. 353 of the 78th Session included gender identity and expression. Senate Bill 201 includes the full definition. This language is the standard used across the U.S.

SENATOR SPEARMAN:

Have there been any legal challenges in the states that have enacted this law?

SENATOR PARKS:

There have been challenges. California passed its statute in 2012. Since then, there has been an August 2013 challenge and an August 2016 challenge. The challenges were heard at the U.S. Court of Appeals for the Ninth Circuit. The Court held that the legislation in California was legal. The U.S. Supreme Court declined to hear a challenge on this case last year. In New Jersey in 2015, the Supreme Court left intact the state's ban on counseling intended to change LGBTQ minors' sexual orientations.

STACEY SHINN (Progressive Leadership Alliance of Nevada):

In 1992, the National Association of Social Workers' National Committee on Lesbian, Gay, Bisexual and Transgender Issues recognized the emergence of misleading therapies and released the following statement for its members:

The increase in media campaigns, often coupled with coercive messages from family and community members, has created an environment in which LGBT individuals seek conversion therapies, which cannot and will not change sexual orientation.

Aligned with the APA's 1997 position, we believe such treatment could lead to severe emotional damage. No data demonstrate any conversion therapy is effective. Conversion therapies are potentially harmful. Literature also indicates conversion therapies that attempt to alter sexual orientation have succeeded only in reducing sexual behavior and self-esteem rather than actually shaping attraction for the opposite gender.

Practicing discriminatory therapies like conversion therapy is against our national code of ethics. We nurture and support the LGBTQ community. We would like to see S.B. 201 become policy in Nevada.

JEANETTE BELZ (Nevada Psychiatric Association):

Lesley Dickson of the Nevada Psychiatric Association submitted testimony in support of this bill ([Exhibit H](#)).

We support S.B. 201 and have a suggestion for an amendment. Section 1, subsection 3, paragraph (b), subparagraph (1) specifically mentions "A psychiatrist licensed to practice medicine in this State pursuant to chapter 630 and certified by the American Board of Psychiatry and Neurology, Inc." About one-third of Nevada's psychiatrists are not certified by the Board. We wanted to make sure this bill would reach those psychiatrists as well. I would also like legal staff to look at subparagraph (2) regarding chapter 633. I am not familiar with certification by the American Osteopathic Board of Neurology and Psychiatry, but the same situation as with subparagraph (1) may exist here.

RICHARD DALTON:

I am a gay man and have ministered in the lesbian and gay community for many years. When I was at the Foursquare Church, I was a youth counselor. There were many gay and lesbian youth in our youth group. These individuals were not treated well. The Church did not know what to do with them. The senior youth pastor was working with one particular individual who was thrown away by his family. I went to Montana for five months, but when I came back, I found out this young man had killed himself because people were trying to change him from being the young gay man he was.

I know two of the founders, Gary Cooper and Michael Bussee, of the ex-gay ministry Exodus International, which has been closed since 2013. These two men ended up falling in love, divorcing their wives and living a life together until one of the them passed away a few years ago. Everyone I have known who has gone through ex-gay ministries has all said the same thing. These individuals have been in nothing but pain, their experiences have caused them trauma and their family lives have been fractured. There is nothing healthy about these conversion therapies.

My youngest sister would probably be a man today if she were not 56 years old. She dresses as a man. She is often harassed by women in women's

restrooms every week. She wears men's suits with dress shirts and ties. If today's realities were different, and if we had allowed same-sex marriage 40 or 50 years ago, we would have a different society and world today where people our age would have learned to live in a way where my sister could be a man.

This bill will make a difference in the lives of young people. Conversion therapy is destructive to our teenagers.

BLUE MONTANA (Transgender Program Manager, The Gay and Lesbian Community Center of Southern Nevada):

The inclusion of the transgender and gender nonconforming communities in S.B. 201 is not only essential and critical but also life-saving. I was seven years old when I was sent to a conversion camp run by Exodus International. My experience there still haunts me, as it was not only terrifying but also detrimental to my mental and physical health. My first suicide attempt came at eight years old due to the brainwashing I had received at the conversion camp that led me to believe I had some form of serious mental inadequacy. My parents sent me again when I was 11. When I realized where they were dropping me off, I hatched my plan of escape and again attempted suicide.

Conversion therapy is not only barbaric and cruel but also unnecessary. Transgender people are not broken, and we do not need fixing. We need people to understand we are human beings who were born the way we were, as were those who identify as lesbian, gay or bisexual. Conversion therapy is one of the cruelest and most antiquated forms of nonphysical violence one can endure. The results are disastrous for the individual being tortured by this form of therapy.

As a 41-year-old man, I stand before you with long-lasting mental effects from everything I experienced when I was younger. Although Exodus International no longer exists, the memories of the barbaric mental and physical abuse I received there will never go away.

ELISA CAFFERATA (Nevada Advocates for Planned Parenthood Affiliates, Inc.):

Over the last five years, we have greatly expanded our services to the LGBTQ community with an emphasis on transgender services. Our mission is to provide compassionate, nonjudgmental care. It is astounding to think there are some practitioners providing our friends, families and patients with care that is purely judgmental and the opposite of compassionate. We want to ensure young people are treated with dignity and care.

HOLLY WELBORN (ACLU of Nevada):

Although considered constitutionally protected speech, doctor-patient communications may be reasonably regulated when these communications are consistent with norms of medical practice. Over 40 years ago, the American Psychiatric Association removed homosexuality from its *Diagnostic and Statistical Manual of Mental Disorders*. Therapies to change a person's sexual orientation are based on the long-discredited notion that being lesbian, gay, bisexual or transgender is a mental disorder in need of a cure. Historically, these therapies have perpetuated and legitimized state-sanctioned discrimination against gay men, lesbians and bisexual individuals. Senate Bill 201 will codify widespread consensus in the mental health profession that therapy to change a person's sexual orientation is ineffective, poses a risk of serious harm and is unethical. Imposition of a medical therapy on any person—particularly children, who are still developing emotionally and mentally—violates a liberty interest of that individual. This bill is in line with well-established constitutional standards.

MICHAEL HILLERBY (Gender Justice Nevada):

We support S.B. 201. We appreciate the inclusion of gender identity in the definition. We have proposed an amendment regarding some of the language and submitted it to Senator Parks ([Exhibit I](#)).

SENATOR SPEARMAN:

As of January 1, 2017, the American Psychiatric Association has taken a clear stance against conversion therapy or any other therapy aimed at changing sexual orientation. The American Psychiatric Association opposes any psychiatric treatment, such as conversion therapy, that is based upon the assumption homosexuality is a mental disorder or the assumption the patient should change.

SENATOR HARDY:

I appreciate Gender Justice Nevada's proposed amendment. The amendment addresses one of the things I am concerned about, which is the perception of where therapy starts and ends and where conversion therapy starts and ends. I am concerned about the word "any" in the bill because in therapy, perception may be different than reality. Perception is in the mind of the receiver. As a person who offers medical treatments and mental health treatments, it would be hard for me to decide what is perceived. What would be considered conversion therapy versus a rational exploration of how the patient feels? Perception is an issue for me.

Section 1, subsection 3, paragraph (c) uses the language “altering the sexual or romantic attraction, desire or conduct.” What does this mean in relation to children? What is a child? How does one deal with children expressing attraction toward other children?

I also challenge the word aimed. Again, what is the perception?

MR. HILLERBY:

We would be happy to work with you regarding your issues with this bill. We can look at where children may be defined in statute if we need to clarify that language.

SENATOR SPEARMAN:

According to the clinical and psychiatric standpoint of a certain 2017 study, physicians and other clinicians are positioned to make important contributions to mitigate the psychiatric vulnerabilities of LGBTQ patients. Patients require clinicians who are not only clinically competent in screening, diagnosing and treatment planning but are also mindful in managing any countertransference they may have toward LGBTQ patients. For any type of counseling, the counselor is always supposed to be mindful of his or her prejudices and make sure there is no transference with respect to treating the patient.

CHELSEA CAPURRO (Nevada Advanced Practice Nurses Association):
We support S.B. 201.

JUSTINE JOHNSTON:

I am a 65-year-old transgender woman.

We live in an information age. Our children seem to be the early adopters. I am amazed at the variety of devices that can connect to the Internet and provide varied kinds of information. Our children can read all about their world and discover more questions than I ever knew existed, such as why do they feel different than other kids they know? This knowledge is coming to them earlier.

Parents, by definition, want the best for their children. There is the cliché about the parent who has his or her child’s career planned out. The only problem is that the child should get to have a vote in the matter. If the child does not wish to be a doctor because he or she wants to fly airplanes, there will be one more pilot and one less doctor.

Gender identity is not a condition like having a cold or a broken leg. Gender identity is a characteristic like being left-handed or having blue eyes. When I think about conversion therapy, it reminds me of the old joke about teaching a pig to sing—it cannot be done, and it annoys the pig.

I ask you to consider what it would be like if someone were trying to convince you that you needed to be the opposite gender. It is the classic case of the round peg being jammed into the square hole. Once the pressure is removed, the peg simply falls out.

Transgender children are under a lot of pressure, so much so that they have a suicide rate 400 percent greater than the rest of the population. Conversion therapy has not worked, and the documented results have been tragic. Like home-brewed cancer cures, conversion therapy should be banned.

Another therapy that does work is to allow transgender people to transition. My surgeon has a three-year waiting list for gender-confirmation surgery and a less than 1 percent regret rate.

I saw a quote from a loving parent that read, “I’d rather have a happy, live son than a dead daughter.” It is my hope we are raising the first generation of transgender kids where we as parents will not live in terror about whether they will become suicide statistics.

Jerry Brown, the Governor of California, said, “These practices have no basis in science or medicine, and they will now be relegated to the dustbin of quackery.” Let us protect our children from the unethical practice of conversion therapy.

SARAH COLLINS (Nevada Psychological Association):
We support S.B. 201.

CHAIR ATKINSON:

Wendy Stolyarov of the Libertarian Party of Nevada submitted testimony in support of this bill ([Exhibit J](#)). Melyn McHenry, a student at the University of Nevada, Reno, also submitted testimony in support of this bill ([Exhibit K](#)).

JANINE HANSEN (President, Nevada Families for Freedom; Nevada Affiliate, National Eagle Forum):

I am not here to defend conversion therapy. I am here to voice my concerns. This bill violates the Establishment Clause of the U.S. Constitution, which the Supreme Court has applied to all State action. This bill says people who do not believe the same as the LGBTQ agenda cannot act upon their beliefs because the official religion of this State will become, through this bill, the belief system of the LGBTQ community. When our State establishes a belief system to the exclusion of other beliefs and then makes it illegal for people who believe otherwise to practice their beliefs, that is an establishment of religion. The Ordinance of the Nevada Constitution states that "perfect toleration of religious sentiment shall be secured." There is no toleration in this bill for the belief systems of others. Article 1, section 4 of the Nevada Constitution states that "the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed in this State." The Supreme Court has repeatedly stated that parents' rights are fundamental. This bill not only prohibits psychotherapists from being involved but also prohibits parents and restricts their and their children's rights.

The *Troxel v. Granville* Supreme Court case of 2000 ruled in favor of parents, determining the Washington statute in question unconstitutionally interfered with the fundamental right of parents to raise their children. In *Parham v. J.R.* from 1979, the Supreme Court said that "there will normally be no reason for the state to inject itself into the private realm of family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children." In *Washington v. Glucksberg*, the Supreme Court said that under the Due Process Clause of the Fourteenth Amendment, there is a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." The liberty interest is at issue with this bill. In *Meyer v. Nebraska*, the Supreme Court held that liberty protected by the Due Process Clause includes the right of parents "to establish a home and bring up their children" and "to control the education of their own."

This bill significantly undermines the rights of parents, as secured by the Supreme Court, to determine the upbringing of their own children.

LYNN CHAPMAN (Vice President, Nevada Families for Freedom; Nevada Affiliate, National Eagle Forum):

Psychiatrists, psychologists, social workers with master's degrees, registered nurses with master's degrees in psychiatric nursing, and marriage and family therapists are all licensed therapists. We are often encouraged to seek counseling or therapy. This bill, however, prohibits such things. If a therapist is trained and licensed, we should be able to go to that person and trust him or her to help us. Parents are included in this prohibition. They are prohibited from being parents and taking care of their children. As a parent, I am going to do whatever it takes to take care of my child in whatever way my child needs. Mathew Staver, the founder and chair of Liberty Counsel, said, "Clients have the right to self-determination. They have the right to pursue their own counseling goals and to align their conflicts with their prioritized religious and moral values. We represent clients who have counseled many people who have received benefit, and we represent minors and their parents who testify they have greatly benefited from such counsel." If our youth need help, why would they be prohibited from obtaining it?

JOHN WAGNER (Independent American Party):

I do not agree with therapy that uses drugs, medicines or coercion. There are, however, Christian-oriented family counselors who work within some of the churches. These counselors would not be able to speak freely. There might be a free speech issue here. If the parents cannot speak to the child, then who can? The child is living at the house. Parents should have some rights to be able to speak to their own children.

CHAIR ATKINSON:

Where in this bill does it say parents are prohibited?

MS. CHAPMAN:

Section 1, subsection 1 states, "A psychotherapist shall not provide any sexual orientation or gender identity conversion therapy to a person who is under 18 years of age regardless of the willingness of the person or his or her parent or legal guardian to authorize such therapy."

CHAIR ATKINSON:

This bill does not use the word prohibit.

SENATOR SPEARMAN:

How does expanding religious freedom for one group that has been marginalized limit religious freedom for another?

MS. HANSEN:

This bill enforces the beliefs of LGBTQ people by the law. Individuals are prohibited from participating in their own religions because if they do, there are legal consequences. Section 1, subsection 2 states, "Any violation of subsection 1 is a ground for disciplinary action by a state board that licenses a psychotherapist." Psychotherapists are prohibited from practicing their beliefs by law. That is the basis of an establishment of religion—when someone is prohibited from practicing his or her religion and there is not a perfect toleration of his or her beliefs.

SENATOR SPEARMAN:

My minor in seminary was in personal family counseling. When I was ordained, I was given the ability to offer pastoral counseling, which is different from being licensed as a clinician or a clinical counselor. People can say what they want regarding religion. This bill refers to licensed clinicians and what the APA has said regarding conversion therapy, which is that the practice has no use and does more harm. This bill does not place pastoral counseling and clinical counseling in the same category. There is a separation. What you have described falls under pastoral counseling. When an individual is a licensed clinician, there are certain policies and procedures the individual is required to follow.

MS. HANSEN:

There are churches that have licensed professionals who would be affected by this bill. Also, S.B. 201 is another step toward interfering with religion. Religious practice is not confined to one building. In a religion, beliefs need to be expressed in a public way to proselytize. That is part of religious liberty. One has to be able to practice religion in one's entire life. Freedom of religion is not confined to the church; it goes far beyond the church building. Freedom of religion extends to participating in the community, free speech and advocating for one's beliefs. This bill would interfere with that. Others would lose their religious liberties as well.

SENATOR HARDY:

If a lay minister is also a psychologist and counsels his or her parishioner regarding feelings that may be construed as conversion therapy, then he or she may be overstepping the bounds of the law even though he or she is maintaining a lay ministerial role. It is about the perception of what conversion therapy is. None of us wants to condone the egregious things shared with us today, but a lay minister may be in conflict with his or her otherwise paid role as a psychologist.

CHAIR ATKINSON:

There are plenty of perceptions, but we are talking about reality and the harm conversion therapy does to a young person. We can try to turn this into a religious bill, but I see it differently.

DON ALT:

The Faith Baptist Church in Silver Springs and the Independent Baptist churches in the State oppose S.B. 201.

JANNA SMITH:

This bill does not use the word prohibit everywhere, but the first page mentions "prohibiting certain practitioners." Section 1, subsection 1 states, "A psychotherapist shall not provide." Does this subsection mean prohibition? Will there be court cases if certain practitioners are reprimanded for the services they provide?

I am here about parental rights. I want to see my children be parents and do what they see best for their children.

Could conversion therapy be described more specifically in this bill? I do not want anything harmful to happen to my grandchildren or any children. However, I may want somebody to counsel my grandchildren or other children. This bill prohibits a child from obtaining counseling even if the child wants it.

WILLIAM P. TARBELL:

My experience with young people goes back 50 years. I have been a scout leader and a substitute teacher at all grade levels. I was also physically, mentally and sexually abused as a child, so I understand the aftereffects of mistreatment. The conversion therapy experiences discussed today were not therapy; they were abuse.

It sounded as if previous testifiers had stated everything was settled regarding sexual orientation or gender identity. These things are far from settled. There is science contrary to the assertions made today. I could fill this room with experts speaking to such science.

The change that is possible is motivated by the person seeking counseling, not the counselor. Reparative therapy is an insulting term. Nobody can repair another person. Doors can be opened, but people have to choose to walk through them on their own.

At age 15, I had already decided I wanted to be an ordained minister. My freshman English literature teacher told me I was wasting my time, but I stuck with my decision. Young people are fully capable of making conscientious decisions about their lives. If a young person is experiencing issues regarding same-sex attraction or being transgender, that person should be allowed to seek counseling.

Senator Spearman, are you sure about the difference between pastoral counselors and clinical counselors? Is there an exception for pastoral counselors in this bill? Is this bill only intended to apply to licensed clinicians? If this bill expands to pastoral counselors, that is a major issue.

Treatment in a clinical setting is often fuzzy and uneven. There are many examples wherein it would be difficult to distinguish between counseling and what may be considered conversion therapy.

CHAIR ATKINSON:

We are talking about conversion therapy. Everything you are talking about can apply to any human being. I am trying to stay on topic.

SENATOR CANCELA:

There is a clear contradiction in your testimony. Either it is true young people know themselves so well that they do not need any assistance in making decisions about their lives, or they do not know themselves well, in which case some sort of therapy is mandated. Which is it?

MR. TARBELL:

Young people have the capacity to understand a great deal, including the essentials about their lives as they begin to plan them. In terms of their desires, they have to sort them out.

SENATOR CANCELA:

You believe young people know what they should be doing for the rest of their lives, but they are not able to identify who they are and how they feel.

MR. TARBELL:

They certainly could be aware of their same-sex and transgender desires.

SENATOR CANCELA:

Sexual orientation and gender identity are not desires; they are characteristics like blue eyes or brown hair.

MR. TARBELL:

No fixed orientation exists in human beings. There is much evidence to the contrary. Conversion therapy should not happen, but if a young person wants help from a pastoral counselor regarding sexual orientation or gender identity, such help should be allowed.

SENATOR CANCELA:

There is no scientific evidence or organization that says conversion therapy is a viable means of psychiatric help. We have a bill in front of us that would ban such therapy from being used. This is no different than finding a drug or treatment that is ineffective or even harmful to children and banning it from medical practice.

MR. TARBELL:

If you see that assumption as a scientific fact, then there is nothing I can say to change your view. However, there is science to the contrary. There are thousands of people who have made changes in their sexual orientations across the U.S.

SENATOR CANCELA:

I invite you to bring ten science-based, not religion-based, sources that could attest to what you are saying.

CHAIR ATKINSON:

I would also like to meet the individuals who have been converted.

SENATOR CANNIZZARO:

There was a California case discussed by the U.S. Court of Appeals for the Ninth Circuit, and I have not been able to find anything that says the Court's decision has been overturned or otherwise limited. This case is *Pickup v. Brown*, and it addressed a lot of the same issues the opposition has brought forth today with this particular type of ban. One of these issues, of course, is the possible violation of free speech. The panel in this case indicated the ban on conversion therapy did not violate free speech because the state's legislature was not limiting speech; it was limiting and regulating professional conduct. A state, under its police powers, can certainly limit and regulate conduct when it is dangerous. Conversion therapy is not actually therapy, does more harm than good, is not in the *Diagnostic and Statistical Manual of Mental Disorders*, creates a lot of mental health issues for children who are forced to undergo such therapy and increases the suicide rate. This bill is not based on violating free speech.

The Court noted counselors are licensed by the state. California's ban on conversion therapy was found to be an acceptable exercise of the legislature's ability to regulate—and use its police powers to regulate—what it deems harmful behavior. I do not disagree with the Court's decision.

The Court addressed whether the ban violated the freedom of association or infringed upon parents' rights. The Court said that when the legislature is regulating what it deems to be harmful behavior, parents do not have a right to subject their children to such behavior. The Court's argument equally applies to S.B. 201.

The Court also addressed whether clergy would be included, even if they had a professional mental health license. When acting in the capacity of a clergy member, speech is protected as a pastor-parishioner communication. That speech is not affected by this bill. Senate Bill 201 seeks to regulate mental health professionals.

There is legal precedent with this particular type of legislation. Senate Bill 201 does not violate the things the opposition has mentioned. There is a big difference between someone practicing conversion therapy and someone

counseling an adolescent and asking that person questions about how he or she feels about life. Having a conversation about sexual orientation or gender identity or expression does not cross the line of practicing conversion therapy. Such a conversation would be proper counseling and not conversion therapy, which is a very specific thing.

CHAIR ATKINSON:

There is a stark difference between an individual seeking help and parents dropping their children off to have somebody convert them. I do not know what Mr. Tarbell even meant by people being converted. There is a difference between what S.B. 201 seeks to do and somebody seeking his or her own counseling.

SENATOR SPEARMAN:

I want to address Mr. Tarbell's question from earlier. One of the significant differences between clinical counselors and pastoral counselors relates to the basic philosophy of the counseling process. Clinical counselors have only one contact structure for interacting with their clients—the professional setting of the office. Clinical counselors are strongly discouraged from access and interaction beyond the professional counseling relationship. Pastoral counselors, however, may have access to and relationships with their clients outside the formal counseling setting. Clinical counselors such as clinical psychologists, psychiatrists, social workers, and marriage and family therapists are licensed and regulated by various governmental boards and professional associations. Pastoral counselors such as pastors, ministerial counselors, lay ministers, chaplains and church counselors are credentialed and regulated by various ecclesiastical governing structures and may be influenced by professional associations. Pastoral counseling, which I was accredited to do upon ordination, is very different from clinical counseling. As a clinician, one is supposed to deal specifically with medicine and science. As a pastoral counselor, one can bring in all types of dogmatic inferences, and that is all right. Sometimes the difference between clinical counseling and pastoral counseling goes unnoticed and brings us into discussions of religion when we are actually talking about law.

SENATOR PARKS:

As mentioned by Senator Cannizzaro, the decision on the California case indicated the law in question only regulated the conduct of state-licensed mental health providers. The conduct of all other people, such as religious leaders not acting as state-licensed mental health providers, would not be

affected. The law leaves open many alternative paths for minors who wish to seek a change in sexual orientation for either religious or secular reasons.

I am working with Gender Justice Nevada on the proposed amendment Mr. Hillerby mentioned earlier. The proposed amendment would create one definition rather than two regarding sexual orientation conversion therapy and gender identity conversion therapy.

I also have a model set of recommended language from the Human Rights Campaign that has been provided to you.

Conversion therapy is nothing more than getting LGBTQ youth to hate themselves.

CHAIR ATKINSON:

I will close the hearing on S.B. 201.

We have Bill Draft Request (BDR) 54-973 to introduce.

BILL DRAFT REQUEST 54-973: Establishes requirements for engaging in the collaborative practice of pharmacy. (Later introduced as [Senate Bill 260](#).)

SENATOR CANCELA MOVED TO INTRODUCE BDR 54-973.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR ATKINSON:

I will open the work session on S.B. 118.

SENATE BILL 118: Creates the interim Nevada Task Force on Financial Security.
(BDR S-23)

MARJI PASLOV THOMAS (Policy Analyst):

I will read the summary of the bill and proposed amendment from the work session document ([Exhibit L](#)).

SENATOR CANCELA MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 118.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR ATKINSON:

I will open the work session on S.B. 135.

SENATE BILL 135: Requires that an applicant for certain insurance-related licenses have the option to take an examination in Spanish. (BDR 57-684)

Ms. PASLOV THOMAS:

I will read the summary of the bill and proposed amendment from the work session document ([Exhibit M](#)).

SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 135.

SENATOR CANNIZZARO SECONDED THE MOTION.

SENATOR SETTELMAYER:

I want to meet with Senator Hardy about the possibility of following the Voting Rights Acts, which says that if more than 5 percent of any language is spoken, there should be inclusion of that language. For now, I am going to vote no.

THE MOTION PASSED. (SENATOR SETTELMAYER VOTED NO.)

* * * * *

CHAIR ATKINSON:

I will open the work session on S.B. 171.

SENATE BILL 171: Requires certain pharmacies to provide a means for persons to dispose of unused drugs. (BDR 54-634)

Senate Committee on Commerce, Labor and Energy
March 13, 2017
Page 27

Ms. PASLOV THOMAS:

I will read the summary of the bill and proposed amendments from the work session document ([Exhibit N](#)).

SENATOR SETTELMAYER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 171.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Senate Committee on Commerce, Labor and Energy
March 13, 2017
Page 28

CHAIR ATKINSON:
I adjourn the meeting at 10:03 a.m.

RESPECTFULLY SUBMITTED:

Daniel Putney,
Committee Secretary

APPROVED BY:

Senator Kelvin Atkinson, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 194	C	18	Stacy James and Catherine Smith / Dazzle Africa	Presentation
S.B. 194	D	6	Heather Carpenter / The Humane Society of the United States	Testimony
S.B. 194	E	1	Senator Kelvin Atkinson	Letter from James Rhodes of the Stillwater Firearms Association
S.B. 201	F	2	Senator David R. Parks	Testimony
S.B. 201	G	3	Sherrie Scaffidi / Transgender Allies Group	Testimony of Brooke Maylath
S.B. 201	H	1	Jeanette Belz / Nevada Psychiatric Association	Testimony of Lesley Dickson
S.B. 201	I	4	Michael Hillerby / Gender Justice Nevada	Proposed Amendment
S.B. 201	J	1	Senator Kelvin Atkinson	Testimony of Wendy Stolyarov of the Libertarian Party of Nevada
S.B. 201	K	1	Senator Kelvin Atkinson	Testimony of Melyn McHenry
S.B. 118	L	1	Marji Paslov Thomas	Work Session Document
S.B. 135	M	3	Marji Paslov Thomas	Work Session Document
S.B. 171	N	3	Marji Paslov Thomas	Work Session Document