

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-ninth Session
March 15, 2017**

The Senate Committee on Health and Human Services was called to order by Chair Pat Spearman at 3:37 p.m. on Wednesday, March 15, 2017, in Room 2149 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 Pat Spearman, Chair
Senator Julia Ratti, Vice Chair
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator Scott Hammond

GUEST LEGISLATORS PRESENT:

Senator Patricia Farley, Senatorial District No. 8
Senator Becky Harris, Senatorial District No. 9

STAFF MEMBERS PRESENT:

Megan Comlossy, Policy Analyst
Eric Robbins, Counsel
Debbie Carmichael, Committee Secretary

OTHERS PRESENT:

Chris Ferrari, Consumer Healthcare Products Association
Brandi M. Planet, Consumer Healthcare Products Association
Liz MacMenamin, Retail Association of Nevada
A.J. Delapp, Las Vegas Metropolitan Police Department
Denise Tanata, Children's Advocacy Alliance
Alison Caliendo, Foster Kinship
Amber Howell, Director, Department of Social Services, Washoe County

Senate Committee on Health and Human Services
March 15, 2017
Page 2

Danette Kluever, Deputy Administrator, Division of Child and Family Services,
Department of Health and Human Services

Kelly Wooldridge, Administrator, Division of Child and Family Services,
Department of Health and Human Services

Algie Elzy

Nancy M. Saitta, Associate Justice (Retired), Nevada Supreme Court

Janice Wolf, Directing Attorney, Legal Aid Center of Southern Nevada,
Children's Attorneys Project

Paula Hammack, Acting Director, Department of Family Services, Clark County

Eboni Washington, Acting Assistant Director, Department of Family Services,
Clark County

J.D. John

Valerie Hicks, Nevada Youth Care Providers; Foster Family-based Treatment
Association

Myesha J. Wilson, Executive Director, St. Jude's Ranch for Children

Denise Biben, Executive Director, Boys Town Nevada

John Jones, Nevada District Attorneys Association

Brigid Duffy, Chief Deputy District Attorney, Director, Juvenile Division, Office
of the District Attorney, Clark County

CHAIR SPEARMAN:

I will open the hearing on Senate Bill (S.B.) 159.

SENATE BILL 159: Provides for the regulation of the sale of dextromethorphan.
(BDR 40-543)

SENATOR PATRICIA FARLEY (Senatorial District No. 8):

Senate Bill 159 prohibits the sale of over-the-counter products that contain dextromethorphan, also known as DXM, to anyone under the age of 18. I will now show a short video titled Robotripping Experiences from Jason – DXM Stories <<https://www.youtube.com/watch?v=QO74NpdUPQ8>>. I have provided my written remarks ([Exhibit C](#)) to the Committee. On behalf of all children, families and communities throughout Nevada, I urge your support of this legislation.

CHRIS FERRARI (Consumer Healthcare Products Association):

The Consumer Healthcare Products Association supports S.B. 159. Most large retailers already have a policy like this in place. Senate Bill 159 intends to create best practices among anybody that may be selling this product to ensure it is

not getting into hands of young people for an unintended use, like for getting high. Any product containing DXM is not going behind the counter. This bill makes sure it is getting into the hands of those who want to use it in the right way. Highlights of S.B. 159 are shown on ([Exhibit D](#)).

My presentation ([Exhibit E](#)) page 2 explains who the Consumer Healthcare Products Association (CHPA) is and who it serves. Dextromethorphan is explained on page 3. The abuse challenge has been going on for some time, but it has been stifled by efforts from CHPA, manufacturers and community organizations. When DXM is consumed in excess, it can create effects like what we saw in the video at the beginning of the hearing. Page 4 of [Exhibit E](#) explains some of the side effects of overusing DXM. The 2009 Monitoring the Future survey found approximately 6 percent of teens had abused cough medicine to get high in the previous year. In researching this matter and speaking to substance abuse professionals, such as law enforcement and others, it is an issue. It is not sexy, and you do not hear about it because there is no money to study it, do sting operations and to figure out what is going on. Page 5 shows a warning label on cough medicine containing the drug that has been in place for some time. The warning label essentially says, "parents take a look at this before your teen comes home and might abuse it." The stopmedicineabuse.org Website has an extensive on-line presence where there is open dialog with parents, consumer advocates, children and others. The Website is educating and engaging parents with others as shown on pages 6 and 7, using an evidence-based approach as shown on page 8. There are 12 states that have passed laws similar to S.B. 159 and page 9 shows those states that have restricted minors' access to over-the-counter DXM. Many of these states face challenges, as Nevada does, with opiate abuse, and many have had significant increases in opiate-related deaths over the 2014-2015 period. Senate Bill 159 is a broad overview for ensuring Nevada does not tolerate substance abuse. Dextromethorphan has age restriction partners as shown on page 10 of [Exhibit E](#). Annual abuse rates have decreased by 35 percent as shown on page 11.

Letters from Partnership for Drug-Free Kids ([Exhibit F](#)) and Community Anti-Drug Coalitions of America ([Exhibit G](#)) support S.B. 159.

BRANDI M. PLANET (Consumer Healthcare Products Association):

The purpose of the amendment ([Exhibit H](#)) to S.B. 159 is to ensure access to the necessary medication is not unreasonably restricted, and to prevent

unintentional liability to parents or caretakers who are properly dispensing the medication as recommended. This would include deleting the following words: distribution, bartering, dispensing, receiving and acquiring in section 1 of the bill. The word "knowingly" will be added to subsection 1, paragraph (a), which will ensure a retail establishment's potential liability is not overly broad. With the removal of the words distribution, bartering, dispensing, receiving and acquiring, subsection 3 of S.B. 159 is no longer necessary as there will be no restrictions that will prevent an employee from handling medications containing dextromethorphan. Adding clarifying language to subsection 4 will make it clear that a retail establishment is required to check identification only if the purchaser appears to be under the age of 25. Subsection 6 of the proposed amendment is a provision that will ensure uniformity in the application of the law throughout the State. Subsection 8 of the proposed amendment adds a definition of what would be considered valid identification to be checked at the time of purchase. That would be something that is government issued, which includes a driver's license, identification card, passport or military identification. The phrase, "written or other documentary evidence as a form of identification," has been removed to prevent any confusion about what identification actually means.

SENATOR HARDY:

Will the pharmacist accept a prescription for medicine that does not require a prescription?

MS. PLANET:

Yes, that is correct. The minor would not be required to show identification along with a valid prescription.

SENATOR HARDY:

Would the medicines containing DXM be behind the counter, just as Sudafed is behind the counter?

MR. FERRARI:

No, it will not be behind the counter. The amendment for S.B. 159 is strictly requiring identification for purchase, and it does not mandate the seller of this product to put it behind the counter.

SENATOR HARDY:

Is it the clerk that would check the identification?

Senate Committee on Health and Human Services
March 15, 2017
Page 5

MR. FERRARI:
Yes, that is correct.

SENATOR FARLEY:
I am a big Target shopper with two small children, and the clerk asks me for identification every time the cough medicine or medication is purchased.

SENATOR HARDY:
Does the clerk instead of the pharmacist take the prescription?

MR. FERRARI:
If a prescription that is written by a doctor goes to Walgreens, the underage person would go to the pharmacy and pay for it there. The doctor's prescription would transmit to the pharmacy just like any prescription would.

CHAIR SPEARMAN:
Would a sales clerk handle someone buying DXM like how it is done for alcohol or tobacco?

MR. FERRARI:
Yes, that is correct.

LIZ MACMENAMIN (Retail Association of Nevada):
The Retail Association of Nevada (RAN) has worked closely with the Consumer Healthcare Products Association on language so RAN can be neutral on S.B. 159.

SENATOR HARDY:
Is the parent in trouble if he or she buys the medicine for the minor child?

MS. MACMENAMIN:
No, the parents will not be in violation of any law if they are buying it for medicinal use for the child.

A.J. DELAPP (Las Vegas Metropolitan Police Department):
The Las Vegas Metropolitan Police Department (LVMPD) is neutral leaning to the side of support on S.B. 159. The LVMPD is supportive of anything that will prevent a gateway drug from being abused. The infraction would be a civil issue.

Senate Committee on Health and Human Services
March 15, 2017
Page 6

CHAIR SPEARMAN:

The Committee received a letter from the Libertarian Party of Nevada ([Exhibit I](#)) in opposition to S.B. 159.

I close the hearing on S.B. 159 and open the hearing on S.B. 257.

SENATE BILL 257: Revises provisions relating to the welfare of children.
(BDR 38-662)

SENATOR FARLEY:

Senate Bill 257 makes several changes to various aspects of the child welfare system in Nevada to improve the health, safety and well-being of youth in out-of-home placement.

Senate Bill 257 aims to better enable fictive kin to care for a child when no blood relatives are willing or able to do so. The Department of Health and Human Services would be required to revise the State Plan for Temporary Assistance for Needy Families (TANF) in order to provide financial assistance to a fictive kin caregiver on behalf of the child. The bill enables a child to be placed with a person with whom the child has a significant emotional and positive relationship. For many fictive kin, having a child placed in the home can become financially burdensome. This bill aims to reduce the burden so that children can be placed with fictive kin caregivers whenever possible.

Senate Bill 257 also provides that a child placed in a foster care home has the right to participate in extracurricular, enrichment, cultural and social activities. It is important that we clarify in law that children in foster care have the right to participate in positive out-of-school activities. Research shows that, on average, foster youth perform worse academically, have more behavioral problems, and are more likely to drop out of high school. Extracurricular activities provide structure like voluntary after-school activities in which foster youth can engage and build relationships with peers, teachers and other positive adult figures. There is no reason that youth in foster care should not have the same extracurricular experiences their peers are afforded—especially given that participation has positive effects on things like attendance, academic achievement, behavior and motivation.

It is important that we clarify in law that children in foster care have the right to participate in positive out-of-school activities. The bill does not stop there. In

order to help youth in foster care participate in extracurricular activities, S.B. 257 establishes the Normalcy for Foster Youth Account in the State General Fund and appropriates funds to support foster youths' participation in these activities.

Senate Bill 257 also addresses two extremely important, big-picture issues with the child welfare system. It appropriates funding to the Division of Child and Family Services (DCFS) to replace the Division's outdated case management system. In a recent meeting with DCFS, I asked how many children were in their care on any given day and where the children were placed. They could not tell me because the existing case management system is incapable of providing such basic information. I was floored when the care providers told me it was a 50/50 chance whether the system was accurate on any given day where a child was. It was also shared with me that the boys' home would receive girls. You cannot have boys and girls together. It is important to know where the children are.

The other much-needed piece of this bill appropriates funding to conduct a study of the current funding mechanism for child welfare in the State. We need to ensure that we are using available funding as efficiently and effectively as possible to best serve youth in out-of-home placement. For example, if additional federal funds are available to match State funds, we need to know and take advantage of it.

Thank you for considering S.B. 257 and for your interest in improving the child welfare system, which cares for some of Nevada's most vulnerable youth.

DENISE TANATA (Children's Advocacy Alliance):

Senate Bill 257 is a culmination of several years of meetings and conversations with Senator Farley. Section 1 of S.B. 257 revises *Nevada Revised Statute* (NRS) 422A to authorize fictive kin providers to receive child-only TANF for the care they provide. Because fictive kin providers are generally not licensed foster care providers, they are not eligible for federal Title IV-E funding through the child welfare agency. They are not eligible for the TANF funding because they are not blood relatives. Other states have opened up this option for fictive kin providers. I have provided the policy briefs on TANF for Fictive Kin Providers ([Exhibit J](#)) and Child Welfare Funding ([Exhibit K](#)) to the Committee. I have provided my written testimony ([Exhibit L](#)) explaining S.B. 257.

I will walk the Committee through the proposed conceptual amendment ([Exhibit M](#)). Section 2 will be deleted. Language will be added to NRS 432.535. This is the foster youth bill of right's section of the NRS. This goes into the prudent parenting provisions and normalcy for foster youth. The proposed amendment would add language that allows children to participate in normalcy activities. Adding reasonable participation in extracurricular, cultural and personal enrichment activities which are consistent with the age and development of the child is also a request of the Clark County Department of Family Services. A parent makes decisions about what activities their children can participate in, not only based on what the child wants to do, but also the ability of the parent or foster parent to pay for it.

Section 4 creates the Normalcy for Foster Youth Account. This account is set up to ensure there would be funding available for youth in foster care who want to participate in activities like a soccer league or music lessons. Oftentimes one of the largest barriers to youth in foster care is not being able to participate because of funding. Sometimes it is not an option for the foster parents to cover the costs.

The proposed amendment revises language in section 5, subsection 1 from "careful and sensible parent" to "reasonable and prudent parent." This is creating immunity from liability for following the prudent parenting standards, and establishing immunity from liability for foster parents who allow youth in their care to participate in these normalcy activities. This will help to alleviate fears that foster parents might have in regards to making prudent parenting decisions for youth in their care. For example, a foster parent who allows a youth to participate in soccer would not have the fear of being sued by a natural parent or family member if the youth is injured in the course of the activity. While that is unfortunate, it is very typical or normal for many youth who participate in sports or other related activities. This is only as long as the foster parent uses the prudent parent standards to make that decision. The foster parent would have to take into consideration the appropriateness of the activity based on the circumstances of the individual child. The amended language will align with the federal Preventing Sex Trafficking and Strengthening Families Act around prudent parenting.

Section 6, subsection 1 in the proposed amendment revises the appropriation from the State General Fund to the DCFS from \$53,000,000 to \$28,250,000 to replace the child welfare case management system known as Unified Nevada

Information Technology for Youth (UNITY). The initial bill language included a request for \$53 million that was based on a presentation obtained by the DCFS that was given to the Interim Legislative Committee on Child Welfare and Juvenile Justice. The Division attempted to secure a 90/10 match from the federal government and was denied. There is other match funding available for this project. We are happy to report we are able to lower the request from \$53,000,000 to \$28,250,000, to be spent over 5 years. Section 6, subsection 2 provides that any remaining balance of the appropriation must not be committed for expenditure after June 30, 2022.

Section 7, subsection 1 proposes an increased appropriation from \$200,000 to \$500,000. This is not the full amount required to cover the potential costs of every child in foster care, but it gives a start to the account. This will authorize DCFS and the agencies to accept grants, donations and other funds into the account.

Section 8 provides an appropriation of \$200,000 for a child welfare funding study. This will allow the Administrator of DCFS to enter into a contract with a qualified independent consultant to conduct a study of the funding of the child welfare system in the State. It outlines certain provisions that need to be included in the study specifically looking at the current block grant model of funding of agencies that provide child welfare services. The study would make a determination if such block grant funding is appropriate and sufficient to meet the needs of agencies which provide child welfare services, and it would determine what other funding models exist and what would be the appropriate mechanism of funding for child welfare in our State. Potential sources of funding would be looked at. It is recognized that child welfare agencies rely very heavily on community-based programs and other programs outside of the actual child welfare agency, for example, substance abuse, mental health services and child care services. The intent would be to look at a broader scope of not only the child welfare agencies, but the other systems which are relied on to support their children and families in order to see if the funding is sufficient.

ALISON CALIENDO (Foster Kinship):

Foster Kinship is nonprofit and works with individuals who are parenting their relatives' children which is known as kinship care. When a child enters foster care, efforts are made to identify family who can provide care for that child. That family can include a blood relative like a grandparent, aunt or uncle, but it can also include fictive kin. These are individuals with preexisting relationships

to the children, such as godparents, neighbors and teachers. These family members step up to care for vulnerable children in foster care. They have to go through a licensing process before they can receive reimbursement through Title IV-E. That is what traditional foster care parents receive when they first receive placement of children. While kinship families are going through the licensing process, blood relatives have access to something known as child-only TANF. This is a form of financial support through the Division of Welfare and Supportive Services. The individuals who are identified as being like family, the fictive kin, by the Child Welfare agency are not eligible to receive child-only TANF because they are not blood-related. This puts them without financial support while they are going through the licensing process and at higher risk for placement disruption. There is less chance they will be able to support the children until they can receive the Title IV-E reimbursement. All the love in the world does not pay the bills, and we know these kids come with a lot of need. These families deserve to be supported. Senate Bill 257 will provide the fictive caregivers of children in foster care some financial support while they complete the licensing process. Whenever possible, children in foster care should get to stay with those who know and love them, and this will ensure more stability for the children.

SENATOR HARDY:

How would the fictive kin caregiver apply for TANF if this bill is passed?

MS. TANATA:

The process for how the funds would be allocated has not been 100 percent established. The thought is that the funding would go to the DCFS and then would be allocated to the local child welfare agencies, keeping an allocation for the youth DCFS cares for. At that point, it would be up to the individual local agencies to determine how to allocate the funds out to families.

SENATOR HARDY:

How will the \$28,250,0000 be spent over five years' work? The Legislature does a biennial budget, and I am not sure how to make one Legislative Session subservient to the one before.

MS. TANATA:

It is typical for developing information technology projects to be spread over five years. There was discussion about requesting only the funds needed for the next biennium or the whole amount for five years.

SENATOR HARDY:

So, you are asking for the whole amount now but will spread it over the five years. Is that correct?

MS. TANATA:

Yes, that is correct. If we only requested two years of funding, then we would have to come back and request the additional funds. If, for some reason, the next Legislative body decides not to fund it, we would be midway into a project we cannot complete.

SENATOR HARDY:

Is it in the Governor's budget?

MS. TANATA:

No, it is not.

SENATOR HARDY:

Will there be a fiscal note on S.B. 257?

MS. TANATA:

Yes, there will be.

AMBER HOWELL (Director, Department of Social Services, Washoe County):

When the UNITY system was originally bought and implemented from the State of Arizona, its primary purpose was to assist the State in meeting specific reporting requirements to the federal government. The State knows now that the child welfare system and its children deserve far more attention than just reporting basic numbers. There have been a number of reviews done over the years on the UNITY system, and many consultants provided ideas for improvement. The Nevada Institute for Children's Research and Policy and the federal government have done reviews on the UNITY system, and more importantly a private consultant, Integrating Factors, did an analysis in 2009. Integrating Factors followed staff for two weeks, from beginning to end, to understand how much time it took for the data entry process. The consultant looked at time spent for data entry, UNITY's ability to have case documentation and if significant data was able to be extracted from the database. Based on the findings, DCFS submitted a Technology Investment Request (TIR) during the 76th Legislative Session. The Legislature approved \$3.6 million for UNITY enhancements. The money has been used to design and implement a new

presentation layer using Web portals, which are better tailored to meet our needs, and a new implementation data warehouse for use by management to extract data. The money was very useful and helped out quite a bit. For the last five years, the UNITY staff has worked diligently and tirelessly to implement and utilize the funds that were approved during the 76th Legislative Session. We now have data that is more readily available, duplication has been decreased and intake and the safety model have been enhanced. The money was well spent on those efforts and we could not have successfully done that without the funds. The UNITY enhancements continue to be a priority for the child welfare system. We have worked diligently to apply for federal grants, to no avail, for assistance with replacing or enhancing the system. The UNITY system is not just a computer database for entries and reports, it is far more than that. It accesses safety, provides information about placement options, capacity, educational and mental health needs and child well-being. A sound, modernized computer system helps child welfare and that helps kids. It allows us an opportunity to move forward because we must, and can, do better for our children in Nevada.

SENATOR HARDY:

The funding does not exist now, and we have to come up with it. Is that correct?

DANETTE KLUEVER (Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services):

Yes, that is correct. The funding is not part of the Governor's recommended budget at this time. I have provided the cost summary for the replacement of the child welfare case management system ([Exhibit N](#)) to the Committee.

SENATOR HARDY:

Are you proposing a fee or tax to cover the funds?

MS. KLUEVER:

The TIR as it was presented is about a \$51 million project over a 5-year period. The money requested in S.B. 257 is the General Fund share. There is federal participation which is 5 percent from Medicaid and 44 percent from Title IV-E. That funding currently exists for our Statewide Automated Child Welfare Information System that is compliant with the federal government. The funding will continue when we convert over to the Comprehensive Child Welfare Information System. The funding will be available if we convert to a new

system as long as we stay compliant with the Title IV-E regulations. We would have federal participation of almost 50 percent, which would be matched by the General Fund share that we are asking for.

SENATOR HARDY:
Is it the 50 percent of the \$28 million?

MS. KLUEVER:
The total project is \$51 million over the 5-year period, and the \$28 million is the General Fund share.

SENATOR HARDY:
Is that our share that we have to come up with in this budget cycle?

MS. KLUEVER:
There is a breakdown over three bienniums to cover the five-year period. I can give you a breakdown for the 2018-2019 biennium.

SENATOR HARDY:
Yes, we would like the breakdown to know what we have to come up with.

MS. KLUEVER:
For this Session, the total funding would be \$23,765,924, and of that, \$13,085,000 is the General Fund share.

SENATOR HARDY:
Is that what we have to come up with?

MS. KLUEVER:
Yes.

SENATOR HARDY:
Do we have to come up with similar amounts over the next two Sessions?

MS. KLUEVER:
Yes.

SENATOR HARDY:
Would this be outside of the Governor's budget?

MS. KLUEVER:
YES.

SENATOR HARDY:
Is there any tax proposal?

MS. KLUEVER:
No, there is no tax included in this. There is the federal participation from both Medicaid and federal Title IV-E.

SENATOR HARDY:
Do we have to figure out how to get the other \$14 million?

MS. KLUEVER:
Yes.

KELLY WOOLDRIDGE (Administrator, Division of Child and Family Services,
Department of Health and Human Services):
The DCFS requested from the federal government 90/10 funding, which meant the government would pay 90 percent of the costs, but it was denied. The 90/10 funding is for eligibility. The DCFS pulled the TIR request when the 90/10 funding was denied.

CHAIR SPEARMAN:
We heard earlier from Senator Farley that the UNITY system has reporting issues with geographic location and gender of the child. Will the funding mitigate or eliminate those issues?

MS. WOOLDRIDGE:
Those problems were created because of licensing issues with UNITY. The counties purchased the Placement Referral Intelligent Matching Engine, which is another computer program that assists matching children to placements and is a licensed functioning part of UNITY. The problems are no longer an issue, but UNITY is still a work in progress. The DCFS has purchased a program called Cognos which is an IBM analytic program that assists with getting the reports out in a timely manner.

CHAIR SPEARMAN:
Will UNITY replace it, or is it designed to work with it?

Ms. WOOLDRIDGE:

It is designed to work with it.

SENATOR HARDY:

Will the funding help the system find a child at any given time?

Ms. WOOLDRIDGE:

Yes.

ALGIE ELZY:

I am a fictive kin caregiver and was recently granted care of four young girls. My husband and I are school teachers. Out of the love in our hearts and sense of community, we took them in. We applied for food assistance and were denied. It has been quite difficult providing for four children, two of whom have health concerns. The two with health concerns have a strict diet. We were given resources from the Kinship organization to go to food banks. Most of the food banks were open only during our work hours, but we were given two resources for the weekend. Our weekends are spent doing hair and other activities, but we had to stop to find food. It has been quite difficult. I support S.B. 257 as a kinship caregiver who is going through the licensing process. I ask that you support people like myself, my husband and other families who, out of love and sense of community, are trying to feed and provide basic needs for these children.

NANCY M. SAITTA (Associate Justice (Retired), Nevada Supreme Court):

I support S.B. 257 largely due to the reality of the state of our children and families in Nevada. I had the privilege of being Chair of the Blue Ribbon for Kids Commission in Clark County. One of our highest priorities that came from the Commission, after a conglomerate of stakeholders identified some of the problems in Clark County, is not a lack of willingness of our agencies, our workers or our community partners to do the right thing for our kids and families, but an inability to know what needs to be done for our kids and families. I ask you to look at this bill not in isolation of the frightening fiscal note. We are not ignoring the fiscal note. I ask you to consider this bill in a way that would allow our foster children and our families to have normalcy, equality and serious evidence-based attention to what happens to our kids when they come into care.

Senator Farley mentioned that the ability of our current systems do not provide the ability to know where kids are. I want to step back. The current system does not allow us to find appropriate placements for our kids in the first place. It is not just that once they get to placement we cannot tell where they are, who they are with, or whether or not they are with their siblings. The fact of the matter is, we have kids who sit in a congregant care environment, or who are separated from their siblings after being removed from their family, because we do not have a system that can tell us where the resources are so we can put these kids together or to put them in a foster care placement that would be appropriate for them. This is about starting the process on the right foot. These kids get lost in the system for reasons largely related to the inability of a computer system to put them where they need to be, and because the system does not tell our hardworking agency heads and our workers on the street what and how they can provide services for these kids.

When you consider S.B. 257 do not look at it as just a huge computer system that needs to be updated. This is about children and family and normalcy for these kids so they can come out the end of the system better than there were when they came into it.

JANICE WOLF (Directing Attorney, Legal Aid Center of Southern Nevada, Children's Attorneys Project):

The Children's Attorneys Project (CAP) represents approximately 85 percent of the roughly 3,200 children in foster care in Clark County. It is a collaboration of volunteer attorneys through the Pro Bono Project of the Legal Aid Center of Southern Nevada. I strongly echo the words of Justice Saitta and all the people who spoke before me in favor of S.B. 257 as it has the potential to do so much good for our clients. About 30 years ago, when I got into the business of representing children in the foster care system, the conventional wisdom of the time was that the child welfare system rescued children from abusive and neglectful homes and families, and the children would be ever so grateful for having been rescued. I came to realize over the years that foster care is not the land of unicorns and rainbows for our foster kids and rather than being grateful, many of the kids see the system as bureaucratic, punitive and retraumatizing. I have a client who was so traumatized, just by the process of being removed, he vomited in the lap of the child protective services worker removing him. This is an example of what kids go through when coming into the system. Over the years, being foster children in the system meant having to go to respite care when the foster family went to Disneyland. Foster care meant not being able to

go on an overnight scouting trip unless the scoutmaster submitted to background checks and fingerprints. Foster care meant not being able to participate in a slumber party for a classmate or friend because the host did not participate in a background check or fingerprints. The same goes for dance lessons, gymnastic classes, football and soccer. These activities were all subject to the approval of a committee of talking heads after a long-debated child and family team meeting about whether it was really good for the child to participate. That was life in the foster care system. That was then; this is now.

Fast forward to 2014, and the passage of what was one of the kindest, gentlest and smartest pieces of federal child welfare legislation to come down the pike since the enactment of the Adoptions and Safe Families Act of 1997. The Preventing Sex Trafficking and Strengthening Families Act passed with overwhelming bipartisan support in 2014. The Preventing Sex Trafficking and Strengthening Families Act required all states to develop policies and procedures that ensure children in foster care enjoyed the same growing-up experiences as their peers who were not in foster care. It cleared the way for children to participate in school and social activities by taking the decision making away from the bureaucrats and placing it in the hands of the foster parents. I look at the bill as being the golden rule of foster care. It is basically: do unto foster children as you would do unto your own children.

While federal and State laws understand that sports and dance keep kids off the street, busy, out of trouble and connect them with socially acceptable and desirable peers and activities, the barrier was, and continues to be, implementation. That is where we are now and that is why CAP supports S.B. 257. The families who take in foster children get foster board payments. However, the foster board payments are not designed to pay for cleats, cheerleading uniforms or, in the case of one of my clients, a \$10 school pride t-shirt. More importantly many of our children, consistent with best practices, are being placed with grandma and grandpa, or aunts and uncles, or fictive kin who open their homes out of the goodness of their hearts. These people barely have enough money to support themselves let alone pay for a field trip to Los Angeles with classmates.

Nine years ago, I was approached at the CAP by the then president of Toyota Bank. He came to me with a request from the Toyota Charitable Foundation. They wanted to do something to help foster children, to do something special for them. They did not know what to do. From that initial meeting nine years

ago, the CAP Sunny Day Fund was created. The Sunny Day Fund with Toyota's support, and now the help of other banks, was designed to provide special things for foster children that the child welfare system and other agencies could not provide. We also wanted a quick turnaround time. In the nine years the fund has existed, we have paid for a \$400 letterman jacket for a client who made the varsity football team but whose family told him he would not amount to anything; provided backyard play equipment for a sibling group of severely disabled children who were being adopted; provided Rosetta Stone learning tapes for an immigrant child who wanted to learn English; barber shop equipment for a youth who was going to barber school after he graduated from high school; laptops; iPods; iPads; Kindle Fire tablets; basketball shoes; Greyhound Bus tickets; and summer camp for a sibling group. In 2016, CAP answered 50 requests for Sunny Day Fund needs. There are approximately 1,200 school-age children in Clark County in foster care. The Sunny Day Fund cannot begin to meet the needs of all these children. The CAP sees the appropriation as set forth in S.B. 257 as part of a private-public partnership. The appropriation request is designed not to supplant the Sunny Day Fund or the Costa Foundation funds, but to work with them as a partner so all the needs of all the children can be met through the various funds available. We are all stakeholders in the future of this population. By working together, we can really take much of the sting out of foster placement and foster care for these children.

The UNITY system, as it works now, is broken, and in CAP's opinion it is doing harm to children in the foster care system. This is particularly true with regards to placement. I have a client who is going to be 17 years old in May. She is not going home, and she is not going to be reunified. She has been sitting in a shelter for three and a half months because the Department has not been able, through its existing system, to match her up with a placement that would meet her particular needs. Her needs are pretty simple. She wants to stay at her current high school so she can continue to participate in Reserve Officers' Training Corps, and she wants to be with a family who can teach her to be an adult. She is looking for a mentor and community support. The placement unit is working with one hand tied behind its back. The placement workers do not want this fate for our kids. It does not have to be this way. Please look at the system and come up with a better way to meet the needs of our kids, so they do not have to sit in shelters and wonder what their futures will be.

PAULA HAMMACK (Acting Director, Department of Family Services, Clark County):
The Clark County Department of Family Services is in support of the proposed conceptual amendment submitted by the Children's Advocacy Alliance. We will pull the Clark County proposed amendment submitted earlier ([Exhibit O](#)). The inclusion of fictive kin and the appropriations outlined in S.B. 257 all work in favor and in support of the safety, permanency and well-being of our children. I cannot say enough about ensuring that our kids get the best services they need, and the opportunities they should get despite the facts that put them in the system.

EBONI WASHINGTON (Acting Assistant Director, Department of Family Services, Clark County):
The UNITY system is extremely antiquated, as it was built in 2004. Traditionally, changes take a very long time to implement. The user interface is extremely cumbersome for our case managers. The proposed changes in terms of replacing UNITY, would provide case workers with a system they can use more readily to make informed decisions. The way that UNITY works now is as an information repository. Information goes in but it is extremely challenging for case managers to get information out so that they can use the information to manage their caseloads. Clark County Department of Family Services supports S.B. 257 and the proposed amendments.

J.D. JOHN:

I support S.B. 257. I was in foster care for 18 years and 21 days. There are federal laws under the McKinney-Vento Homeless Assistance Act in place to cover youth who are in shelter and unable to attend their schools. The Adoption and Foster Care Analysis and Reporting System provides data and statistics on youth that are in care in each state. The system shows what kind of placement they are in, how many are adoptable, how many have been adopted and how many have had their rights terminated within a fiscal year. I have spoken with a representative of the Nevada Youth Football League in Clark County, and he has committed to me that the league will work with the foster care parents, stakeholders, and the youth in care to sponsor youth so they can have normalcy in their lives. Sponsorships cost over \$700, but the league will reduce it to \$300 just for foster youth, and the league will cover most of that cost.

When I interviewed a foster caregiver last year, the caregiver said:

For us as parents, I don't think it was much of a transition just because we have always viewed our foster kids as our kids. I mean, one thing that always blew me away is the county would always be surprised that we would always take our kids on vacations to like Disneyland or go back to Boston and stuff like that. I could not imagine you couldn't come because you are not officially ours yet. You have to stay just because you are a foster child. I couldn't tell my kid that. It's—they're my kid. I am going to take them. So to me, it wasn't much of a transition. There was the perspective of "our kids." I know there was tremendous change and just knowing the cost I officially legally now have a home. These are my parents.

That was a direct quote from an interview I did with a same sex foster caregiver that is no longer a caregiver. I do support normalcy. There are several organizations out there, such as Pop Warner, that have several leagues in northern Nevada as well as a league in southern Nevada. The American Youth Football and Cheer has a goal to make football and cheer all-inclusive by not excluding participants based on superficial factors such as weight, finances or athletic abilities.

VALERIE HICKS (Nevada Youth Care Providers; Foster Family-based Treatment Association):

I am the Executive Director of Specialized Alternatives for Families and Youth of Nevada, which is one of the largest therapeutic foster care providers in Nevada. I am also the chair person for Nevada Youth Care Providers (NYCP) and a founding member of Foster Family-based Treatment Association (FFTA). I am representing NYCP and FFTA and most importantly, I am here as a citizen of our great Silver State who wants what is right, what is just and what is good for our children and families. Senate Bill 257 is right, and it is just and it is good for our families. Maya Angelou says, "when people know better, they do better." We know better. Statistics have shown what is good for children; research has shown we have the evidence-based programs. We have the wherewithal to make things better for our children. The NYCP and FFTA support S.B. 257.

MYESHA J. WILSON (Executive Director, St. Jude's Ranch for Children):

Our children at St. Jude's Ranch for Children live in a small close-knit community in Boulder City. They are already labeled as "those foster children up on the hill." Being able to provide them with a normalized lifestyle

will help to ease the trauma they have experienced in their young lives. Our children deserve to experience the highest levels of normalcy possible while in foster care. They deserve to have the ability to participate and engage in extracurricular activities with their school and residential communities. We also agree that the data system, UNITY, should be updated and upgraded so we can provide the best possible care, have the best match and give the best services for our children at St. Jude's Ranch for Children. St. Jude's Ranch for Children supports S.B. 257.

DENISE BIBEN (Executive Director, Boys Town Nevada):
Boys Town Nevada supports S.B. 257. I have provided my written testimony ([Exhibit P](#)).

CHAIR SPEARMAN:

It is always very frustrating for me when we talk about what we need to do for kids to keep them out of trouble, but we do not have these extensive discussions when we are talking about prison.

SENATOR FARLEY:

Over the last 14 months, I have been able to see caregivers in action, whether in their homes or in the congregated living facilities. I have worked with Barbara Buckley, Justice Saitta, Janice Wolf, Denise Tanata and Paula Hammack. These people are dedicated and work hard to do the right thing. It is our job as Legislators and members of this community to help them execute their jobs. I applaud them for what they do every day in service of these children who desperately need our attention. I urge your support of S.B. 257.

CHAIR SPEARMAN:

I will close the hearing on S.B. 257 and start the work session with S.B. 27.

SENATE BILL 27: Revises the definition of the term "mental illness" for purposes of provisions relating to criminal procedure, mental health and intellectual disabilities. (BDR 39-133)

MEGAN COMLOSSY (Policy Analyst):

I will read the summary of the bill and the proposed amendment from DPBH from the work session document ([Exhibit Q](#)). The amendment clarifies that mental illness does not include certain disorders.

Senate Committee on Health and Human Services
March 15, 2017
Page 22

CHAIR SPEARMAN:
The close the work session on S.B. 27.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 27 WITH PROPOSED AMENDMENT 3001.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:
I open the work session on S.B. 46.

SENATE BILL 46: Revises provisions governing background checks of operators, employees and certain adult residents of a child care facility. (BDR 38-131)

MEGAN COMLOSSY:
I will read the summary of the bill and the proposed amendment from the Children's Advocacy Alliance from the work session document ([Exhibit R](#)). The proposed amendment would align the background check time frame for controlled substance convictions with federal law.

CHAIR SPEARMAN:
I close the work session on S.B. 46.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 46 WITH PROPOSED AMENDMENT FROM THE CHILDREN'S
ADVOCACY ALLIANCE REMOVING THE LIFETIME BAN FOR
INDIVIDUALS WITH DRUG OFFENSES FROM WORKING IN A CHILD
CARE FACILITY.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Senate Committee on Health and Human Services
March 15, 2017
Page 23

CHAIR SPEARMAN:
I open the work session on S.B. 97.

SENATE BILL 97: Expands the authority of the Office of the State Long-Term Care Ombudsman. (BDR 38-371)

MEGAN COMLOSSY:
I will read the summary of the bill and the proposed amendment from the Aging and Disability Services Division of the DHHS from the work session document ([Exhibit S](#)). The proposed amendment limits the expanded authority of the State Long-Term Care Ombudsman.

CHAIR SPEARMAN:
I close the work session on S.B. 97.

SENATOR RATTI MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 97 WITH THE PROPOSED AMENDMENT FROM THE AGING AND
DISABILITY SERVICES DIVISION.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:
I open the work session on S.B. 101.

SENATE BILL 101: Restricts the authority to administer botulinum toxin to certain medical professionals. (BDR 40-677)

MEGAN COMLOSSY:
I will read the summary of the bill and the proposed amendments from Senators Hardy, Spearman and Ratti from the work session document ([Exhibit T](#)). The proposed amendments identify medical personnel authorized to administer botulinum toxin (BTX), training requirements for said personnel and facilities where BTX may be administered.

Senate Committee on Health and Human Services
March 15, 2017
Page 24

CHAIR SPEARMAN:

I close the work session on S.B. 101.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 101 WITH THE THREE PROPOSED AMENDMENTS FROM
SENATORS HARDY, SPEARMAN AND RATTI.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

I open the work session on S.B. 122.

SENATE BILL 122: Establishes a program to provide grants for family planning
services. (BDR 40-630)

MEGAN COMLOSSY:

I will read the summary of the bill from the work session document ([Exhibit U](#)).

CHAIR SPEARMAN:

I close the work session on S.B. 122.

SENATOR WOODHOUSE MOVED TO DO PASS S.B. 122.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION PASSED (SENATORS HARDY AND HAMMOND VOTED
NO.)

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CHAIR SPEARMAN:

I open the work session on S.B. 165.

Senate Committee on Health and Human Services
March 15, 2017
Page 25

SENATE BILL 165: Makes various changes concerning the prevention and treatment of obesity. (BDR 40-791)

MEGAN COMLOSSY:

I will read the summary of the bill and the proposed amendment from the Clark County School District from the work session document ([Exhibit V](#)). The proposed amendment would require the DPBH to provide the ensuing report to certain school district superintendents.

CHAIR SPEARMAN:

I close the work session on S.B. 165.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 165 WITH THE PROPOSED AMENDMENT FROM THE CLARK COUNTY SCHOOL DISTRICT.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR SPEARMAN:

The work session on S.B. 189 will be rescheduled.

SENATE BILL 189: Revises provisions relating to child care facilities. (BDR 38-61)

CHAIR SPEARMAN:

I close the work session on S.B. 189 and open the hearing on S.B. 237.

SENATE BILL 237: Revises provisions concerning the placement of a child into protective custody. (BDR 38-469)

SENATOR BECKY HARRIS (Senatorial District No. 9):

Senate Bill 237 provides safety to children who are at risk within the State. Existing law provides that after a child is placed in protective custody, the child and parent or other person responsible for the child's welfare must be given a hearing to determine whether the child should remain in protective custody. At

that hearing, the court is required to determine whether there is reasonable cause to believe it would be in the best interest of the child for the child to go back to his or her home, or in the best interest of the child to place the child outside of his or her home. Senate Bill 237 will further allow for an in-home safety plan and a determination to be made whether or not it is sufficient, feasible and sustainable to complete such a plan. In section 1, subsection 5 of S.B. 237, an in-home safety plan is defined as a plan to address the safety of the child in his or her home, to manage any threats of danger to the child, the vulnerability of the child to those threats, and the capacity of the person who is responsible for the child's welfare to protect the child from those threats.

There is a proposed amendment ([Exhibit W](#)) from the Nevada District Attorneys Association. The amendment proposes locating the exact bill concept to section 432B.393 of *Nevada Revised Statutes* (NRS) to allow the court to consider the safety plan as a reasonable effort of the child welfare agency to prevent removal and to reunify a family. I have asked the District Attorney's Offices from Washoe and Clark Counties to determine into which section of the statute we should place the particular language, should the Committee decide to pass the bill.

JOHN JONES (Nevada District Attorneys Association):

The Nevada District Attorneys Association supports S.B. 237. After speaking to some of our partners, we submitted an amendment in the belief it would be more prudent to put S.B. 237 language in NRS 432B.393. Our proposed amendment has similar language, but is not worded exactly as the bill's wording.

BRIGID DUFFY (Chief Deputy District Attorney, Director, Juvenile Division, Office of the District Attorney, Clark County):

In Nevada, the child welfare agencies have implemented a safety model to drive decision making around when a child is safe or unsafe in his or her home, when a child should be removed or whether a child can remain in the home. In Clark County, the implementation of the safety model began in April 2013, and the model became fully implemented in November 2016. Part of the statewide safety model is the process called safety planning. All the terminology you heard Senator Harris testify to are really terms of art that come out of the Statewide model. Those terms are also used by the American Bar Association (ABA) as best practice in child safety decision making. When the Nevada District Attorneys Association came forward with the proposed

amendment, I thought it would be better placed within NRS 432B.393, because the ABA recommends that the decision making and safety planning is best placed as a reasonable effort to prevent removal and to reunify children. It is really difficult to educate the Committee on what all the terms mean. It has taken the State years to understand what constitutes sustainability and feasibility to protect children. As child welfare agencies, when we go into homes, we determine whether or not a child is safe or unsafe and if there is a threat of danger.

To give you an understanding of the decision-making process, consider a family who potentially has an alcohol abuse problem. A child who is two or three years old is living in a home with a mother who has an alcohol abuse problem. There is the threat of danger because mom drinks to the point that she is not cognizant and she is not caring for the toddler's needs. The mom's alcoholism is the threat of danger. The child is vulnerable because of his or her age. Vulnerability can mean isolation from a community and/or a physical or developmental disability of the child. In my scenario, I am looking at a toddler of a certain age level. We then determine whether the parent or parents lack the capacity to protect the child from the threat of danger. Let us say that the mom realizes that at 5:00 p.m. after work, she wants to drink a bottle of wine until she passes out, but before doing so calls a neighbor to come over and hang out and watch the child. We may see that she has a little protective capacity. Unfortunately, a lot of our families do not have the insight into what their issues are. When the Department goes into the home, the Department will determine if there is a threat to the vulnerable child and if there is a parent who can protect. The first thought should be, and we are asking for this in the proposed amendment to S.B. 237, to place this within a reasonable effort section. Can the Department put something in place to keep the child in the home? We call that safety planning.

As you heard from my friend and colleague Janice Wolf from Legal Aid testify on S.B. 257, there is a lot of trauma that goes with removing children. We used to be an agency that would remove first and ask questions later. Studies came out which said that is not the best practice. Assessing the situation and determining if it can be made safe for the child to stay in the home is the best way. Safety plans are a support in keeping children in the home. For the mother with the alcohol abuse problem, information gathering is key to finding out if getting someone into the home to make it safe is possible. In Clark County, there is a Title IV-E waiver project where, as of January 2017, there are 282

families that have in-home safety plans in place for a total of 792 children. The 792 children are able to stay in their homes. The reason we are asking for it to go into statute, rather than being a process that the Department follows, is we do not have the guidance. We need best practices. When there are court hearings about whether or not a safety plan can be implemented, our statutes are silent. To have the terms we can address in court for the best interest of the children is best practice.

CHAIR SPEARMAN:

Would the safety plan that is established in the home extend to outside, shopping, library or church? The example you gave of the mother who has an alcohol problem would normally be inside the home. What if there is a sexual predator that is not in the home, but the normal routine would put the child in the sexual predator's presence. Would the safety plan cover that also?

MS. HAMMACK:

The term in-home means that the child is in his or her biological home. A safety plan will ensure the sexual predator access to the child is controlled. If the biological parent knows the sexual predator is at the library, we would ensure the parent has sufficient resources to not bring the child to the library. That is what the safety plan would manage. The threat of having access to the child is controlled. If the parent has to go to the library to do work on the computer, someone else can come into the home to watch the child, or the child is taken to the Boys and Girls Club, so the child is not in contact with the predator.

SENATOR HARDY:

Can the term biological parent be interchangeable with the terms fictive kin, foster parent or other person responsible for the child's welfare?

MS. HAMMACK:

Safety plans are only created for the home where the child primarily resides. If the child is placed with fictive kin, the safety plan is considered an out-of-home safety plan because the fictive kin becomes the safety resource. We would do a safety plan with fictive kin; potentially one would be done with a legal guardian if that is where the child primarily resides if there were concerns that the legal guardian had deficiencies or was unable to protect against safety threats. The safety plan would not be done if a fictive kin steps up and says I am going to take on the role of the parent while the parent goes and takes care of other

things because that parent is not able to enter into a safety plan with the Department.

SENATOR HARDY:

I am not sure you understand my question. Let us pretend the parent lost custody of the child and the child was officially awarded by the courts to someone else, like a fictive kin. He or she now lives at the fictive kin's home. The new mother gets drunk and does something. Now there is an issue of the kid's safety. Is the in-home plan now incorporated into the new home, so the child does not have to be taken out of that home?

MS. HAMMACK:

Yes.

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Senate Committee on Health and Human Services
March 15, 2017
Page 30

CHAIR SPEARMAN:

I close the hearing on S.B. 237. I adjourn the meeting at 5:34 p.m.

RESPECTFULLY SUBMITTED:

Debbie Carmichael,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	2		Agenda
	B	11		Attendance Roster
S.B. 159	C	3	Senator Patricia Farley	Written Testimony
S.B. 159	D	1	Chris Ferrari / Consumer Healthcare Products Association	Restrict teen access to DXM
S.B. 159	E	12	Chris Ferrari / Consumer Healthcare Products Association	DXM Presentation
S.B. 159	F	2	Chris Ferrari / Partnership for Drug-Free Kids	Letter of Support
S.B. 159	G	1	Chris Ferrari / Community Anti-Drug Coalitions of America	Letter of Support
S.B. 159	H	3	Brandi M. Planet / Consumer Healthcare Products	Proposed Amendment
S.B. 159	I	1	Libertarian Party of Nevada	Letter of Opposition
S.B. 257	J	2	Denise Tanata / Children's Advocacy Alliance	Policy Brief – TANF for Fictive Kin Providers
S.B. 257	K	2	Denise Tanata / Children's Advocacy Alliance	Policy Brief – Child Welfare Funding
S.B. 257	L	5	Denise Tanata / Children's Advocacy Alliance	Written Testimony
S.B. 257	M	1	Denise Tanata / Children's Advocacy Alliance	Proposed Amendment
S.B. 257	N	1	Danette Kluever / Division of Child and Family Services	Cost Summary
S.B. 257	O	7	Paula Hammack / Department of Family Services	Proposed Amendment
S.B. 257	P	1	Denise Biben / Boys Town Nevada	Written Testimony
S.B. 27	Q	3	Megan Comlossy	Work Session Document

S.B. 46	R	5	Megan Comlossy	Work Session Document
S.B. 97	S	2	Megan Comlossy	Work Session Document
S.B. 101	T	2	Megan Comlossy	Work Session Document
S.B. 122	U	1	Megan Comlossy	Work Session Document
S.B. 165	V	2	Megan Comlossy	Work Session Document
S.B. 237	W	2	Senator Becky Harris	Proposed Amendment