

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Eighty-first Session
April 9, 2021**

The Senate Committee on Education was called to order by Chair Moises Denis at 12:00 p.m. on Friday, April 9, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Moises Denis, Chair
Senator Marilyn Dondero Loop, Vice Chair
Senator Roberta Lange
Senator Fabian Donate
Senator Joseph P. Hardy
Senator Scott Hammond
Senator Carrie A. Buck

GUEST LEGISLATORS PRESENT:

Senator Dallas Harris, Senatorial District No. 11

STAFF MEMBERS PRESENT:

Jen Sturm, Policy Analyst
Asher Killian, Counsel
Ian Gahner, Committee Secretary

OTHERS PRESENT:

Chris Daly, Deputy Director, Nevada State Education Association
Sue Matuska, Associate Attorney, Dyer Lawrence
Jason Gateley, Vice President, Teamsters Local 14
Terri Shuman, Teacher, Clark County School District
Jan Giles, President, Education Support Employees Association of Clark County
Danny Thompson, Clark County Association of School Administrators and Professional-Technical Employees
Steven Augspurger, Executive Director, Clark County Association of School Administrators and Professional-Technical Employees

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Chelsea Capurro, Nevada Association of School Administrators
Bruce Snyder, Commissioner, Government Employee-Management Relations Board
Warren Hardy, Council for a Better Nevada
Maureen Schafer, Executive Director, Council for a Better Nevada
Lily James, Co-Executive Director, The Every Voice Coalition
Sage Carson, Manager, Know Your IX
Tina Russom, Deputy General Counsel, Nevada System of Higher Education

CHAIR DENIS:

I will open the hearing on Senate Bill (S.B.) 224.

SENATE BILL 224: Revises provisions relating to large school districts. (BDR 34-214)

SENATOR DALLAS HARRIS (Senatorial District No. 11):

This bill relates to collective bargaining agreements and the ability for administrators to surplus a certain subgroup of employees.

CHRIS DALY (Deputy Director, Nevada State Education Association):

Senate Bill 224 is a somewhat technical bill, but it is fundamentally about fairness in the employee reassignment process in the Clark County School District (CCSD). I have provided a bill explanation ([Exhibit B](#)).

In 2017, A.B. No. 469 of the 79th Session reorganized the CCSD decentralizing much decision-making authority to individual schools, called local school precincts. Language in this bill, now in *Nevada Revised Statutes* (NRS) 380G, transferred the authority of the superintendents' select staff to work under the direct supervision of the principal to the local school precinct. This language has caused confusion for both the district and the Education Support Employee's Association (ESEA) of Clark County.

We believe it was never the intent of the sponsors of A.B. No. 469 of the 79th Session to override contract language on the issue of employee reassignments. Unfortunately, a 2017 Attorney General opinion disagreed. As negotiated between the CCSD and ESEA in seven pages of contract language, the reassignment process related to surplus situations or a reduction in force allows the CCSD to determine appropriate staffing levels and adjust these levels at any time while providing a fair process for impacted employees. An education

support professional (ESP) with the lowest seniority in the position goes through the surplus process when schools cannot afford or does not need their position. This process has nothing to do with job performance.

Last fall, acting on the 2017 Attorney General opinion, CCSD began requiring ESPs to interview with the school principal as part of the surplus process, impacting over 50 ESPs. Several of these ESPs were rejected for a lateral position, through no fault of their own, at the principal's discretion. This created an untenable situation for these workers who were still technically employed but without a position. Fortunately, a decision by the Government Employee-Management Relations Board (EMRB) in December remedied this situation, but it is now subject to litigation.

Meanwhile, serious questions of racial bias were raised during this new surplus process. As stated by one ESEA member who works as a special education aide:

I was asked to leave through no fault of mine. I am a 15-year employee, looking to be placed in a lateral position. After going through the process, I was required to interview which was extremely uncomfortable. I felt like the principal and the team were discriminating based on my race and dreadlocks. They did not tell me I had the lateral position when I left. I have already passed probation and proved myself in the District, yet because my current site cannot afford me, I have to interview all over again? I got rejected twice. Why should I stay a special education aide if this is how I will be treated?

SUE MATUSKA (Associate Attorney, Dyer Lawrence):

The impetus for S.B. 224 is a disagreement that developed between ESEA, other unions that represent employees of the CCSD and the District itself on the meaning of subsection 2 in NRS 388G.610. This section was created as part of A.B. No. 469 of the 79th Session. That bill designated every school in the district as a local school precinct and gave each one more authority over its budget and choosing staff. However, the District remained the employer in that bill and remains so.

The bill also specified the District remained responsible for all other responsibilities necessary for the operation of the District and the local school

precincts. Specifically, it remained responsible for negotiating on the mandatory subjects of bargaining, set forth in NRS 288.150. Assembly Bill No. 469 of the 79th Session did not amend NRS 288.150 nor did it reference it.

As said, a disagreement has resulted in one matter before the EMRB seeking a declaratory ruling on the interplay between NRS 388G.610 and NRS 288.150. The EMRB did issue an order indicating the sections could be read harmoniously and A.B. No. 469 of the 79th Session did not intend to strip rights from employees. However, the EMRB has indicated that is not a final decision and further orders could be issued. A petition filed in district court in Clark County seeks specific actions be taken or prohibited by CCSD.

The Nevada State Education Association and ESEA believe S.B. 224 will clarify the original intent, particularly for ESPs. Staffing adjustments necessarily occur from time to time, and they historically occur more for ESPs than other employees. It is one of the necessary processes for the operation of the CCSD and the local school precincts. It makes sense the CCSD would be responsible for these surplus shifting of assignments of employees because one particular surplus situation may not affect another local school precinct.

The bill and the proposed amendment ([Exhibit C](#)) add a new subsection 3 to clarify the transfer of authority to select staff. It is not intended to apply to matters already negotiated in collective bargaining agreements for ESPs or the responsibility to comply with those arrangements.

Senate Bill 224 and the amendment defines a surplus situation as any time the services of an employee are no longer needed at a particular location because of changes in pupil enrollment, pupil-staff allocation formulas, reductions in force or layoff situations, or overall changes in academic needs.

SENATOR LANGE:

What was the background information on having to reapply all the time? Was that due to the reorganization from A.B. No. 469 of the 79th Session? Are you looking to remove that language?

MR. DALY:

In a surplus process, I referenced pages of language in the negotiated agreement between ESEA and the CCSD. It is a relatively involved process with a lot of notice and a surplus meeting. Employees who are put into surplus have

vacant positions they can then laterally transfer into. Per the 2017 Attorney General's opinion, the CCSD added the requirement that after you go through the process, you then have to interview with a local school precinct individual, typically a principal. That person then has the individual discretion to hire or not.

We found a number of ESPs who went through this process were unable to be hired even though they had stellar work records. A number of persons were employees of the CCSD, but they did not have a position. In essence, they were "orphaned" within the system because of this requirement. The EMRB decision remedied this problem, but as Ms. Matuska stated, it is not a settled issue. Senate Bill 224 brings clarity to the situation.

SENATOR BUCK:

Senate Bill 120 holds principals accountable. In my previous positions as a principal, I had people given to me who were not aligned with the vision. This was not based on race, and I am disgusted by that allegation when no data supports it. There is pending litigation regarding this issue. When is that hearing scheduled?

MS. MATUSKA:

There are briefings going on in the district court action, and a hearing is scheduled on April 22. Parties are moving to dismiss that. The EMRB has stayed its proceedings for now.

SENATOR BUCK:

My greatest concern is pending litigation on this issue, and there is little to no data supporting the allegations being stated. No one in their right mind would just place people in a building and hope for the best. You must have a mutual agreement.

MR. DALY:

It is fair to have a concern about principals who have responsibility and are being held accountable for the performance of their schools. At the same time, that needs to be balanced with 15-year employees who have no bad marks on their records and through no fault of their own are put into surplus. Those employees then have to reinterview. If you end up not getting a position for whatever reason, you are out of a job.

The language as negotiated between the CCSD and ESEA, which is significant in terms of employee reassignments, has worked well. The amendment tailors the application to ESPs. This is fair legislation to move forward. We believe it is the intent of the authors of A.B. No. 469 of the 79th Session for this to be the case, and there should not be discretion on employee transfers and reassignments.

CHAIR DENIS:

When someone is put into surplus and not picked up by another school, is the person eligible for unemployment benefits?

MR. DALY:

No. They would not become eligible for unemployment until their employment is terminated formally, as they are technically still employees.

CHAIR DENIS:

If surplus employees are not picked up by a school, they are not working and not paid, but they are still employees of the District?

MR. DALY:

That is my understanding.

SENATOR BUCK:

We always talk about how we are focused on our children first. We are also short teachers. It is hard for me to believe that with all the different openings out there somebody is not picked up. If they are not, are they bad for children? We need to put kids first. When somebody is bad for kids and if someone is not being picked up by multiple principals, something could be wrong. Do you help coach and mentor these individuals or find a place for them?

MR. DALY:

The Nevada State Education Association has advocated for professional development programs for ESPs. We do provide professional development. In this situation, a surplus process or a reduction-enforced process happens when the CCSD is moving positions. It does not have to do with the performance of the employees who end up in surplus. They tend to end up there based on seniority and happenstance such as enrollment shifts or budget cuts. Our members do work in the best interest of students. We are also student-focused. Most of our members work in education. A lot of our ESPs are not at the higher

end of the wage scale. Most of our members work in public education because they care about kids.

In this case, the issue is more technical and one that involves some bureaucracy. In the process that occurred last fall, there was an issue of fairness. The negotiated language in the contract is the best process to move forward. We also believe that was the intent of the sponsors of A.B. No. 469 of the 79th Session.

JASON GATELEY (Vice President, Teamsters Local 14):

We support S.B. 224. When the Legislature created NRS 388G, it did not make Nevada's collective bargaining law NRS 288 secondary to the unilateral actions of school principals. Clear language in the contract between CCSD and the ESEA provides a surplus process and placement for unassigned staff. Senate Bill 224 reinforces the requirement within the text of NRS 388G through unilateral actions by administrators. Education support professionals now find themselves exposed to potential age, gender and racial discrimination with staffing decisions made at local schools.

TERRI SHUMAN (Teacher, Clark County School District):

I support S.B. 224. Surplus can be devastating. Many times when the employee cannot get a lateral position it means a loss of pay, months and hours. In my first surplus, I was forced to go from a level 50 down to a level 44. I lost close to \$500 a paycheck. I had very little seniority, so there was nothing I could do. Seniority used to be the key that ESPs wanted in their hands when it came time to surplus. If you had seniority, you could take the positions lateral to your position put into surplus. Without seniority, ESPs in surplus would have to be placed into positions lower in pay that no one else wanted. When A.B. No. 469 of the 79th Session came to be, seniority was replaced with administrators who were interviewing and hiring employees they wanted in their school. This resulted in higher-seniority employees ending up with lower-paying positions. After the EMRD held a hearing, they rejected the idea of principals holding interviews. I am asking you to pass S.B. 224 and restore the benefits granted from seniority.

JAN GILES (President, Education Support Employees Association of Clark County):

We support S.B. 224. In 2017, A.B. No. 469 of the 79th Session reorganized the CCSD transferring much decision-making authority to individual school

precincts. The language stated each local school precinct should have the authority to select staff who worked under the direct supervision of the principal. For the past several years, the language has caused a lot of confusion for both the District and the ESPs with conflicting language on transfers and reassignments in existing contract language. The ESEA has maintained it was never the intent of A.B. No. 469 of the 79th Session to override contract language on this issue. Unfortunately, in 2017, an opinion issued by Attorney General Adam Laxalt disagreed.

Previously, this process in CCSD allowed the CCSD to balance staffing needs with decreased student enrollment. Education support professionals with the lowest seniority in their position went through a surplus process when the school could no longer afford their positions. This process had nothing to do with their job performance. While the surplus process was acceptable for the employees, nearly everyone was placed in a new position.

Last fall, relying on the 2017 opinion, CCSD began requiring ESPs to interview for school positions as part of the surplus process. Over 50 ESPs went through this new process, and several ESPs were rejected for a lateral position through no fault of their own at the principal's discretion. Serious questions of racial bias have been raised in this process, setting CCSD back on its goal of diversity and equality. The issue was heard before the EMRB on December 7, 2020. It issued a decision rejecting the 2017 Attorney General's opinion and various arguments regarding the authority held by the principal in a surplus situation.

DANNY THOMPSON (Clark County Association of School Administrators and Professional-Technical Employees):

We oppose S.B. 224. This bill is directly involved in an ongoing lawsuit. The issue is scheduled to be heard in district court in Las Vegas on April 22. Because this bill will decide the winner of that ongoing lawsuit, the bill should be set aside until the judge has ruled in that case. Historically, the Legislature has avoided issues actively before the court, not due to the separation of powers among the three branches of government but because of the precedent you establish. Once you start settling active lawsuits, everyone will come and expect you to settle their issues before the court does.

The Legislature has broad powers when it comes to writing law. However, this power is called into question when you involve yourself in active suits. With that in mind, there is an inherent problem with this issue. If you pass S.B. 224,

you put yourself as the judge and jury in a separate branch of government. If you decide to proceed with this, each Senator who votes on this issue must ask oneself if he or she has a special interest in the outcome. For example, if a Senator is taking a campaign contribution from either side, you should declare a conflict on the bill and abstain from voting. Otherwise, you are in a position to be challenged with an ethics complaint. After the court has exhausted its processes, the issue can be taken up by the Legislature and changed the way you see fit.

STEVEN AUGSPURGER (Executive Director, Clark County Association of School Administrators and Professional-Technical Employees):

I oppose S.B. 224. In 2017, the Nevada Legislature decentralized the CCSD and transferred critical decision-making to local school precincts in the areas of budgeting, purchasing and staffing. In other words, the 2017 law requires that important decisions which impact the school are to be made at the school site by the principal and school organizational team. Contrary to law, S.B. 224 seeks to greatly restrict the local school precinct's power to select its own staff by making that power subordinate to various collective bargaining agreements. Clearly, S.B. 224 undoes what the Legislature accomplished in 2017. Local school precincts only want to hire the best employees. Senate Bill 224 takes that authority away and gives it back to the CCSD and its teacher and support staff unions. This bill will ensure poor employees are force-placed into schools.

In truth, CCSD has never abided by the law and continues to place poor employees in schools against the wishes of the local school precincts. As a result, school administrators filed a lawsuit against the CCSD in October 2020. This lawsuit will be heard in district court on April 22. Principals ask that education policy favor children and not the CCSD whose primary interest in this matter is looking out for the interest of adults. Principals also ask that because this matter is being litigated, the Legislature honor its long-standing practice of not interfering in pending litigation. Because the reorganization legislation has the ability to greatly improve achievement for children in CCSD, principals ask this legislation remain unchanged and be given the opportunity to achieve its intended results.

CHELSEA CAPURRO (Nevada Association of School Administrators):

We oppose S.B. 224. This bill prioritizes the needs of employees over the needs of Nevada children. Our children deserve more. They deserve to have a great teacher. If passed, this legislation will place poorly performing employees

without the consent of the school principal. The CCSD has taken a position that union contracts must be followed in spite of the staffing autonomy provided to principals and schools in NRS 388G. Because of CCSD actions, school administrators have filed a lawsuit in district court to resolve this matter. The district court judge has scheduled a hearing on April 22. Nevada Legislature has a long history of not getting involved in lawsuits. The content of S.B. 224 is at the heart of the lawsuit. Hearing this legislation could cause the district court to delay court proceedings. We are asking that the needs of Nevada children and what is best for them in the classroom be placed above the needs of poorly performing employees. Please let this be decided in district court, and do not pass this bill.

BRUCE SNYDER (Commissioner, Government Employee-Management Relations Board):

I offer my comments in the neutral position to S.B. 224. About one year ago, the Clark County Education Association filed a complaint with our Board. Subsequent filings involved a counterpetition for declaratory order filed by the CCSD. Motions to intervene were filed by the ESEA and the Clark County Association of School Administrators. Both of the motions were granted.

All four parties to the case agreed that the EMRB should first rule on the counterpetition, which asked the EMRB to provide guidance on how to harmonize the duty to negotiate under NRS 288 and the provisions of the school code creating school precincts in Clark County. The EMRB issued its order on the petition in December 2020, stating it could only speak on NRS 228, as it had no jurisdiction to rule on other chapters of NRS. However, the order states that NRS 288 provides for mandatory subjects of bargaining and that NRS 388G.610 and NRS 288.150 are not in conflict. The statutes can be interpreted to render a harmonious result without infringing on NRS 388G.610 rights.

As I read this bill and the proposed amendment, they both appear to codify the EMRB's interpretation of NRS 288 and the EMRB's harmonization of the two statutes at issue. Our Board has since stayed the case as it learned there is a matter pending in the Eighth Judicial District Court by the same parties seeking the court's interpretation of NRS 388G.610.

SENATOR LANGE:

Can our Counsel respond to the legal questions that have come up regarding if the Legislature can do anything before the lawsuits are resolved? I would be interested in what Counsel has to say.

ASHER KILLIAN (Counsel):

Generally, it has been the past practice of the Legislature not to consider legislation when the subject matter of the legislation is subject to litigation. However, the Legislature has plenary power to consider laws in any respect for the State, especially in a case like this where the question at issue is the Legislature's intent and interpretation of particular statutes. The Legislature is free to act to clarify that intent regardless of whether it would move the litigation at issue or not. The Legislature is always free to act to make clear its intent.

CHAIR DENIS:

I will close the hearing on S.B. 224 and open the work session on S.B. 102.

SENATE BILL 102: Revises the date by which children must be at least a certain age to be admitted to certain grades of school. (BDR 34-479)

JEN STURM (Policy Analyst):

The work session document ([Exhibit D](#)) has been submitted for S.B. 102. This bill was presented to the Committee on March 15 by Senator Hammond.

CHAIR DENIS:

Senator Hammond, could you address the amendments and the issues that were brought up previously?

SENATOR HAMMOND:

There were three overarching concerns, and we addressed two of them. The first was implementation. The worry was implementing S.B. 102 this year would cause issues, especially since lots of registration is done before the timeframe listed. As a result, we changed the effective date to next year.

The second change was suggested by Senator Dondero Loop. Instead of the date being August 1, it will be moved to August 7. This would still be before school begins and is a good suggestion.

The third concern we worked on was finding a way to get fourth graders in if they are ready. The school districts and I had a hard time wrapping ourselves around language to accommodate that request.

SENATOR DONDERO LOOP:

I never suggested August 7. My suggestion is we do not do this legislation at all. As a 30-year teacher, I have watched kids come and go. There will always be a younger and older child. We have a lot of parents who seek daycare that will be affected by S.B. 102. We have children who are older and immature, and we have children who are younger and mature. Some of that is due to family structure; some of that is where you were placed in the family. I cannot support this bill in good conscience. We change the date, then the date for schools will change again, and then we will change this date again. We will just keep on changing the dates and drawing lines in the sand.

If we vote for this bill, will we vote for mandatory kindergarten and pre-K? Where will we fund that? If Senator Hammond will support mandatory kindergarten, pre-K and their funding, then I may discuss supporting this bill.

SENATOR HAMMOND:

My apologies. I was led to believe the August 7 suggestion came from you during my discussion with the Chair when he said there were three possible amendments. I would be happy to have a discussion on the subjects you brought up, but the bill at hand is right here.

SENATOR DONATE:

Do you know how many children may be impacted by this change in date?

SENATOR HAMMOND:

I do not know exactly how many. When I spoke with Clark County, its estimate was around 3,000, but that was before the change from August 1 to August 7. With the change, it would probably be less than that number. I do not know for the other counties.

CHAIR DENIS:

Can you remind us what the main premise of S.B. 102 is?

SENATOR HAMMOND:

When this issue was brought to my attention, it was from a couple principals. Since then, I spoke with kindergarten teachers. They said before this proposed change, we have four-year-olds for about two months. Many of them are not ready for school. When evaluated to see where students are in their development, many are placed on the Read by Grade 3 program where they need extra help until they get to third grade. This puts an increased burden on the school system. By moving the date up and ensuring everyone is five years old, we make sure we have as many students as possible ready for school.

CHAIR DENIS:

There are still issues and questions. I am willing to vote for S.B. 102 today, but I have reservations. Maybe you can work on that as we move forward.

SENATOR BUCK MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 102.

SENATOR LANGE SECONDED THE MOTION.

SENATOR DONATE:

At first glance, the bill did not seem particularly concerning until I realized every time we make a decision that impacts children's education at an early age, we start to have a conversation of students who might be left behind. When we change cutoff dates, that could have ramifications for parents who might not have the ability to pay for early education.

When I hear the talking point "not ready for school," I do not know if it is a conversation of immaturity, or if it is due to a lack of access to early education. We need to focus on funding early childcare and access to pre-K because that is what I think of when we use the term "not ready for school." I want to have this as a conversation.

I will be voting yes on S.B. 102, but reserve my right to change my vote on the floor. We can support working class families who might not afford childcare because we are changing a policy as to when students can be enrolled.

THE MOTION CARRIED. (SENATOR DONDERO LOOP VOTED NO.)

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CHAIR DENIS:

I will close the work session on S.B. 102 and open the work session on S.B. 120.

SENATE BILL 120: Revises provisions relating to school administrators.
(BDR 34-183)

Ms. STURM:

The work session document ([Exhibit E](#)) has been submitted for S.B. 120. This bill was presented to the Committee on April 7 by Senator Denis.

CHAIR DENIS:

Those who opposed this bill brought up valid points. I had discussions with these groups, and that is where these additional amendments came forward. The issue of the administrator being crossed out was reversed, and that term has been put back in. It gives the ability for administrators to negotiate the discipline. In addition, the other changes made were instead of teachers submitting to transfer, they have to transfer. What we have today is a much better bill than what we started out with. It helps administrators and school districts ensure training occurs and is reported on. Pieces in this bill will help administrators be better at their jobs. The incentives to go into at-risk schools is important as well. We do not want to drive applicants away.

SENATOR DONDERO LOOP:

I am concerned because I have not seen these amendments before. We are voting on the fly. Who was involved in these amendments?

CHAIR DENIS:

For the most recent amendments, I worked with Danny Thompson and his association. They voted on these amendments in Washoe County and Clark County.

SENATOR DONERO LOOP:

Can we confirm they were involved in these amendments?

CHAIR DENIS:

I do not know if they are available right now; if you have questions, you can reach out to them. We have been doing this kind of process for the last couple days due to deadlines. Sometimes, it is hard to put everything together.

SENATOR BUCK:

We put more bureaucracy on building leaders and big systems. This legislation is building less autonomy into a system that is overburdened and at our mercy. Do you not trust the process of the system to provide due process to employees?

CHAIR DENIS:

Senate Bill 120 came forward because there are issues when it comes to training for principals. This bill will address that to ensure principals are being trained. In CCSD, we have a 1-to-31 ratio of superintendents to principals. As a result of this bill, the school district will add supervisors because it realizes that needs to happen. Good things have occurred just because this bill was introduced. By working with administrators and teachers, we put in place good pieces that will help them. They have several abilities here. One is you can have an agreement with the school district if you are going into an at-risk school which would bypass these things. Administrators have an ability to negotiate. There is a lot of flexibility in this bill for administrators and districts to do the things we need to provide the best leadership.

MR. THOMPSON:

The Clark County Association of School Administrators and Professional-Technical Employees did meet with Senator Denis and agreed with all the changes outlined in the amendment. This was discussed Statewide.

SENATOR DONDERO LOOP:

I have not had enough time to process these changes. I will probably be a no and reserve my right to change my vote on the floor.

SENATOR DONATE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 120.

SENATOR LANGE SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS BUCK, DONDERO LOOP, HAMMOND
AND HARDY VOTED NO.)

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CHAIR DENIS:

I will close the work session on S.B. 120 and open the work session on S.B. 126.

SENATE BILL 126: Revises provisions relating to library services in public schools. (BDR 34-76)

Ms. STURM:

The work session document ([Exhibit F](#)) has been submitted for S.B. 126. This bill was presented to the Committee on April 5 by Senator Dondero Loop.

SENATOR DONDERO LOOP:

This bill was in partnership with librarians and the Clark County Education Association. The amendments you heard were submitted by the Clark County Education Association.

SENATOR BUCK:

We killed funding for Read by Grade 3 which showed results for once in the past two decades. We are now mandating an archaic system of librarians and libraries. How does S.B. 126 ensure students can read? We have tried this before, and it does not change student achievement.

SENATOR DONDERO LOOP:

I would argue archaic is the wrong definition because libraries still exist in communities. People need access to computers and read online all the time. They go to libraries for assistance with research. That is what librarians teach along with a host of other things. We could suggest schools do not need principals. We can suggest a lot of things.

We did not kill funding for Read by Grade 3 last Session. Senator Denis, Senator Woodhouse and others created a new funding formula that is pupil-centered to replace the old formula, which I would define as archaic. That formula was 50 years old.

We are advocating someone within a school who can assist principals, teachers, staff and whoever else with research, books, computer usage and many other things. Most importantly, libraries are a spot where students can go to learn the previously mentioned skills. Every teacher is not equipped to learn those skills, especially in a middle and high school setting. Even as a librarian 10 years ago, I

was teaching more than just how to check out a book. All students learn differently. Many students need a book. That is why we still have paper newspapers. People like them.

SENATOR DONATE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 126.

SENATOR LANGE SECONDED THE MOTION.

SENATOR DONATE:

Sometimes we lose sight of how important school libraries can be. I think back to my childhood and when I was in elementary school, they would pass around a Scholastic pamphlet that would allow you to purchase books. I remember saving the dollar bill I would find in the laundry, so I could afford the dollar book deal we would have with the Scholastic books. My parents could not afford a printer at our house, so I would go to the school library to print out items. Libraries are helpful for many people. I support S.B. 126.

SENATOR HAMMOND:

I have not forgotten how important libraries are. They are great, and we have them at every school I have been a part of. My concern is the language in this bill prescribing certain areas in which the library needs to be in, or prescribing too many rigid details. That language inhibits the ability of administrators to make decisions on how to deliver the goods. I had the same concern two years ago. You look at something like the medical school of University of Nevada, Las Vegas (UNLV), that recognizes the need for a huge library is not there anymore because many of their students are doing research somewhere else. Students have access. The lack of flexibility concerns me.

CHAIR DENIS:

I know the value of librarians. In this Committee we are talking about policy. I firmly believe we need to have librarians. They are not just there to maintain a roomful of books. They are trained to teach and are a resource for teachers. The Senate Finance Committee will look at the monetary issue.

It was mentioned we took away funding for Read by Grade 3. That is not true. The money is there, still in statutes, and schools can do it. It just happens to be inside the new funding formula. I support the bill.

SENATOR DONDERO LOOP:

Every major university, community college and institution of higher education has a library and a research center. There is a reason for that. The important piece is we educate kids, and we raise them with those skills so when they get into higher education institutions, they have those skills ready.

SENATOR HARDY:

Librarians now are a different breed. They go to school to be a librarian. One of the things S.B. 126 does is perpetuate the feeling only a teacher can become a librarian. That is a fallacy. If we get librarians, we should get librarians who are librarians. Medical schools have medical librarians. They are not physicians. That is a challenge and problem with this bill.

SENATOR DONDERO LOOP:

I did go to school and had to have a master's degree to be a public school librarian in Clark County. Everywhere in the State is not like that, but in Clark County to be a librarian, you have to be a certificated teacher and have a librarian credential.

THE MOTION CARRIED. (SENATORS BUCK, HAMMOND AND HARDY
VOTED NO.)

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CHAIR DENIS:

I will close the work session on S.B. 126 and open the work session for S.B. 172.

SENATE BILL 172: Revises provisions relating to education. (BDR 34-185)

Ms. STURM:

The work session document ([Exhibit G](#)) has been submitted for S.B. 172. This bill was presented to the Committee on March 8 by Senator Denis.

SENATOR HARDY:

I do not see Senator Buck's amendment on the legislative website, but I support this bill. Perhaps she can be a sponsor on this bill.

CHAIR DENIS:

The amendment given by Senator Buck was a verbal one we heard during the hearing. It was not submitted officially. I did give her credit for that suggestion. We can always add her as a sponsor if she desires.

SENATOR HARDY:

That would be wise.

SENATOR BUCK:

Yes, if you could add me, I would appreciate that. This would take the language from S.B. 244 and add it to S.B. 172.

SENATE BILL 244: Revises provisions relating to education. (BDR 34-621)

This would give students a uniform grading scale for dual credit, international, baccalaureate and advanced placement courses.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 172.

SENATOR BUCK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will close the work session on S.B. 172 and open the work session on S.B. 210.

SENATE BILL 210: Revises provisions relating to the education of a child with an emotional disturbance. (BDR 38-561)

Ms. STURM:

The work session document ([Exhibit H](#)) has been submitted for S.B. 210. This bill was presented to the Committee on April 5 by Senator Dondero Loop.

SENATOR DONDERO LOOP:

These are some of our most vulnerable students. We are trying to make sure their schooling is not disrupted.

SENATOR BUCK MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 210.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will close the work session on S.B. 210 and open the work session on S.B. 287.

SENATE BILL 287: Revises provisions relating to higher education. (BDR 34-933)

MS. STURM:

The work session document ([Exhibit I](#)) has been submitted for S.B. 287. This bill was presented to the Committee on March 31 by Senator Harris.

SENATOR HAMMOND:

In 2017, I was a cosponsor with Assemblywoman Olivia Diaz looking at this same issue. My major concern when I got involved was money left on the table in different jurisdictions, especially in Clark County. When we generate money, it has to be spent. Since 2017, a lot of effort has been expended to get the right personnel in the right places and develop these programs. From what I have seen, those changes have been working wonderfully.

I have not had the chance to digest the new language S.B. 287 offers. Can you break down the bill for me? I am looking for the University of Nevada, Reno (UNR), to continue working the cooperative extension and receiving funding from the federal government. I want to make sure established programs will continue to operate; I do not want to see an interruption. I would also like to know if UNLV and Desert Research Institute (DRI) are given land-grant status whether they would receive more money. There were assertions this is not true

and the money would remain the same amount but would be split between UNR, UNLV and DRI.

SENATOR HARRIS:

To your first part regarding UNR operating the cooperative extensions and avoiding a disruption, yes you are correct. The amendment is designed to do exactly that. When it comes to your question about a single pot of money or different grants being available, I would defer to the experts. I can tell you that grants exist which UNLV does not apply for because they are only grants that land-grant institutions can compete for. I see this as an opportunity to allow UNLV and DRI to be eligible for these grants.

WARREN HARDY (Council for a Better Nevada):

I agree with Senator Hammond that pre-2017 southern Nevada did not have enough of a voice on how those dollars were spent. In recent years, people have done a marvelous job in making sure southern Nevada has received its fair share of the cooperative extension. That is the reason we were 100 percent comfortable in this legislation adopting the Nevada Association of Counties (NACO) amendment and NACO's request to hold harmless all matters related to the cooperative extension and direct the Chancellor to develop cooperative agreements between UNR and UNLV. Section 3 of the amendment speaks to the fact those dollars would continue to flow to the current source until such time as UNR and UNLV agree on a different method. I would also point out the Chancellor has spoken in favor of the NACO amendment.

Your final question is the crux of S.B. 287 for us. The reason for this legislation is what I will call a clarification in land-grant status. That is all this is. The general council for the Nevada System of Higher Education (NSHE) stated that the land-grant universities in Nevada are UNR, UNLV and DRI. The reason for that clarification is confusion on the national level because of history and culture as to whether UNLV and DRI are land-grant institutions.

Why is that important? As Senator Harris said, we are not able to apply for some land-grant grants. In most cases, being a land-grant institute gives you a step up. It gives you the ability to move to the head of the line. It also gives us the opportunity to receive federal grants that do not require matching State funds. That is the disadvantage that UNLV is under. It is a competitive disadvantage. We are not looking for that pot of money; that is the confusion. The pot of money is the \$2 million which flows through the system. Our

amendment does not touch that source. The big issue is the ability to access funds as a land-grant university in southern Nevada. This is a significant issue for southern Nevada.

SENATOR DONDERO LOOP:

I appreciate the amendments to S.B. 287.

SENATOR HARDY:

It was interesting that during the testimony UNR, UNLV and DRI are stated to be land-grant institutions as Mr. Hardy said. The University of Nevada, Reno, seems to think there will not be more money. If we do have the Chancellor in charge of the administration of the money and the Board of Regents is in charge of the plan for the administration of the money, then where the population growth will be is in UNLV. The fiscal note on this bill takes money from UNR. We are "ahead of our skis," and we have not fully vetted the impact. The shift in demonstrative representation will come from UNLV, and I worry the small person in northern Nevada who has been doing a good job in the extension program cannot keep up with the programs. I will be a no, with a right to change my mind.

MR. HARDY:

I want to point out the fiscal note Senator Hardy refers to is due to the original bill prior to the amendments. I need to make the distinction. You have a pot of money which comes to Nevada by virtue of the fact we have a land-grant institution. That money goes to UNR to be distributed through the cooperative extension. Under the original bill, that would have been divided into three parts, which is where the fiscal note comes from. Under the amended bill, that money continues to flow to UNR for the cooperative extension.

The real concern, the real money, is on the other side. That pot becomes immeasurably larger for UNLV and DRI; UNR already has access to it. Senate Bill 287 opens it up so UNLV and DRI can also pursue those grants without limitations that occur for institutions without land-grant status.

SENATOR HARDY:

There is a statement of fact that UNLV and DRI are land-grant institutions. I do not see anyone contesting that. When we say we will make them land-grant institutions, they already are. I am open to correction if that is a false statement.

MR. HARDY:

The last Attorney General opinion on this from 1969 states that UNLV, UNR and DRI are the land-grant institutions for Nevada. This is a discussion I had with Senator William J. Raggio many years ago. A narrative comes out of UNR that it is the only land-grant institution in the State: it is the only one who believes that. This narrative has pervaded the Country. It has caused confusion with the federal government. It had caused confusion with granting institutions across the Country which has been a barrier to UNLV. The statute is somewhat confusing on the matter, which is what we are trying to clarify today. We need clarification on the statute once and for all.

SENATOR HAMMOND:

In 2017, this also happened, there was discussion. In the last hearing on this bill, UNLV did state it has received grant money in an application where it was designated as a land-grant college. Has UNLV applied for grant money as a land grant and been denied?

MR. HARDY:

I do not have specific examples of that. In the past, we have on a case-by-case basis had the Chancellor indicate that UNLV is a land-grant status for purposes of this grant. Often UNLV does not pursue grants because of the State matching fund requirement. I am not an expert on this. I have given you the extent of my knowledge, but grants have been given in the past. The University of Nevada, Las Vegas, is part of NSHE, and it should be clear in the law that UNLV has the right and the ability to pursue all of these grants just like UNR and DRI. Nothing in this legislation harms UNR in any way, shape or form once you remove the first pot of money which we have done in the amendment.

MAUREEN SCHAFER (Executive Director, Council for a Better Nevada):

As a former employee of UNLV, when I was helping to found the medical school, it was clearly dictated to us and many of our colleagues throughout the campus that we were not a land grant. If we or any of our colleagues at any of the other schools throughout campus were seeking to pursue any applications through the federal government, we needed to seek permission through the Chancellor's Office. Our former head of research at UNLV expressly said to us we were not a land-grant institution through messages from the Chancellor at the time.

While this may be in statutes, this was and continues to be urban legend passed through the campuses and practiced on a daily basis. This clarification that UNLV and DRI are land-grant institutions is critical. It is invaluable. It will translate into tens of millions of dollars back to these campuses and into the hands of faculty. It is important we reaffirm and clarify this status.

MR. KILLIAN:

The Legal Division's position is consistent with that expressed by Joe Reynolds, the Chief General Counsel at NSHE at our previous meeting, and the Attorney General's Opinion No. 69-556. Article 11, section 4 of the Nevada Constitution empowers the Legislature to establish a single State university. Article 11, section 8 reserves land-grant funds for the support of that State University. The Legislature has chosen to establish that single State University as the University of Nevada, and the University of Nevada happens to have campuses at multiple locations including Reno and Las Vegas. Consistent with NSHE's and the Attorney General's opinion, it is your Legal Division's opinion there is a single University of Nevada with campuses at multiple locations. That single University of Nevada is the State University which is a land-grant institution. None of those campuses hold land-grant status independent from the University of Nevada, but rather the University of Nevada as a whole holds that land-grant status that extends to all its campuses including the campuses at Reno and Las Vegas.

SENATOR DONDERO LOOP:

The whole purpose of S.B. 287 is to state UNLV is a land-grant institution. If someone does not have an issue with that, I would think you would be voting yes. I can tell you 100 percent that UNLV has not received grants solely because of the land-grant designation. If UNLV is not a land-grant institution, then why are we having this discussion? All we are saying is the institutions are all land grant for the purpose of applying for grants.

SENATOR BUCK:

I want to confirm this language guarantees UNR continues to run the extension, but that UNLV is a land-grant institution too.

MR. HARDY:

That is correct. As drafted, S.B. 287 clarifies NRS matches the constitutional opinion of your legal counsel, NSHE and the 1969 Attorney General opinion. It makes no changes relative to the first pot of money that flows in or to the way

the cooperative extension is operated. It does assign the Chancellor a study to determine if that is fair and equitable for all institutions, but it does not prescribe that.

SENATOR HARDY:

I appreciate the clarity and admission that UNR and UNLV are one university system, the Chancellor is over that system, and the Regents are over that system. As I look at S.B. 287, with that admission we are okay and do not need this bill because it is already in effect. It did not take the Attorney General in 1969 to say it is a fact because it has been a fact. Knowing it is a fact and that the Chancellor presides over the whole system as do the Regents, I find it easy to vote for something already established as a fact.

SENATOR LANGE:

There is a cooperative extension in Las Vegas. Where will that location get funding from?

SENATOR HARRIS:

With this amendment, the funding sources will not change but continue as is with UNR running the cooperative extension program.

SENATOR DONDERO LOOP MOVED TO AMEND AND DO PASS AS AMENDED S.B. 287.

SENATOR LANGE SECONDED THE MOTION.

SENATOR LANGE:

Assemblywoman Shannon Bilbray-Axelrod sent me a note this morning. She said her father has been working on this issue for years. This is not something new. It is something people in southern Nevada have been working to happen for a long time.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR DENIS:

I will close the work session on S.B. 287 and open the work session on S.B. 347.

SENATE BILL 347: Revises provisions governing sexual misconduct in institutions of the Nevada System of Higher Education. (BDR 34-237)

Ms. STURM:

The work session document ([Exhibit J](#)) has been submitted for S.B. 347. This bill was presented to the Committee on April 2 by Senator Melanie Schieble.

LILY JAMES (Co-Executive Director, The Every Voice Coalition):

We submitted an amendment prior to our committee hearing last week, and the amendments presented here are slightly revised. We worked closely with representatives from NSHE to get to a place we felt confident with this bill.

SENATOR HARDY:

We heard in testimony that 40 percent of people have been victims of sexual misconduct. Now we will give a percentage of tuition to these people?

SAGE CARSON (Manager, Know Your IX):

Senate Bill 347 is not to provide additional money to those students or provide tuition. Instead this is to recognize that folks who experience sexual violence in education experience large educational impacts because of that violence. For example, we surveyed about 110 student survivors and found all of them experienced negative impacts on their grade point average, and one-third of students asked to take time out of school completely or go down to partial or halftime. Many student survivors who experience these academic impacts and penalties lose access to scholarships and educational opportunities because of the negative impact sexual violence has on their education.

This bill is not to provide them with tuition, this is to make sure that if students experience sexual violence and their grade point averages drop because of it or if they need to go down to part-time so they can focus on their educational success, they do not lose access to educational opportunities.

SENATOR HARDY:

We are mixing words. Are you talking about sexual misconduct or sexual violence?

Ms. CARSON:

I am using sexual misconduct and sexual violence hand in hand as terms. I am happy to continue using sexual misconduct if that is what you would like.

SENATOR HARDY:
The terms are different.

Ms. CARSON:
Sexual misconduct is typically a way that institutions respond to or describe sexual violence. Sexual misconduct includes sexual harassment, sexual assault, stalking, intimate partner violence and domestic violence. We use the term sexual violence to include all those pieces as well. Moving forward, I will be sure to use sexual misconduct.

SENATOR HARDY:
Is sexual violence a crime and sexual misconduct a lesser crime? When I think of sexual violence, I think of violence. Sexual misconduct is a broader umbrella from what I understand from your comments. If sexual misconduct is a crime punishable like rape, then we need to know that.

Ms. JAMES:
In the bill as defined, sexual misconduct is the umbrella term that encompasses a wide range of other sexual violence, sexual assault and sexual harassment type of behaviors. In the bill, we do refer to sexual misconduct; colloquially, we do say sexual misconduct or violence. Senate Bill 347 does not speak to nor address any sort of criminalizing of these pieces. It is more about flipping from anyone who is doing the violence to instead focusing on how we can support survivors of these incidents who often experience long-term and severe impacts on their education. We are focused on primarily those supportive measures for survivors and prevention. We use the term sexual misconduct to refer to all of the behaviors we are working to actively prevent.

SENATOR HARDY:
If we had ten instances of rape, then eight rapes and six rapes successively in UNLV, and we have 40 percent of people who had sexual misconduct, I do not want Nevada to become tarred with the reputation we have more incidents than others. At the same time, if we do not do prevention, we will have more what I would call sexual misconduct, but I would not say sexual violence. Yes, there is violence. Those persons are arrested and prosecuted. We can track those incidents. Trying to track and say we have this many incidents of sexual misconduct and lump that together is a disservice to what we are trying to do in Nevada.

MS. JAMES:

By all means, we are not trying to lump these behaviors together. It is about making sure this is an inclusive definition so survivors who have experienced some sort of violence can feel like they can access support. By making it as broad as possible, we are ensuring anyone who has experienced this violence and misconduct receives the support he or she deserves. To your point, we are not interested in lumping these kinds of behaviors together or making them synonymous. That is not the intent. It is to be inclusive of all survivors.

SENATOR HARDY:

You need to rewrite Senate Bill 347 so it is clear to other people.

SENATOR HAMMOND:

I share the same concerns Senator Hardy has. There are problems on campuses across the Nation, and it is important to get after that issue. However, with the language as broad as you have it you are inviting a host of other problems, most of which is freedom of speech. Once you send out this climate survey and you have these groups that are part of this council talking about what is acceptable, what you are doing has a chilling effect on who can say what in certain areas. A conversation being overheard could cause someone to feel harassed, and now all of a sudden you are reporting more. It will make our campuses look like they are rife with misconduct. This bill has too broad language for me. It is asking for too much with many moving parts and not enough time to work on it.

MS. JAMES:

I hear what you are saying. That is not the scope of this bill. There is no adequate way to know what is happening on our campus. There is no widespread, reliable, consistent amount of data we have on this issue. We do know that only 5 percent of survivors on college campuses are making any sort of formal report. We know from other data that close to 2.3 million current college students across the County have experienced this kind of violence. There is no reliable way to give survivors a way to have their stories accounted for. From these data, schools can better prevent it. This bill is about collecting adequate data that then goes into the prevention piece. Senate Bill 347 is just a first step.

SENATOR HAMMOND:

This goes back to what you just said, the term violence. During your hearing, you gave us the number 12,000 cases. Was that 12,000 cases of violence as

defined by Senator Hardy, or are we talking about harassment and all the other definitions you have used? Is that number in one university or throughout Nevada? Over how many years do these data encompass?

MS. JAMES:

When I was giving testimony before, I was referencing the current Nevada students. The 2.3 million is a national statistic. The 2.3 million and 12,000 statistics are current students. It does not account for former generations. The numbers presented do take into account a broader definition of sexual violence, which is one of the reasons why we need to get more specific data. We need a better sense of what is happening and to define harassment, stalking, violence and domestic violence. We want more specificity.

SENATOR DONDERO LOOP:

I struggle with the fact we are worried more about what it might look like than protecting our daughters or whoever they may be. We need to be cognizant of the data so we can fix, help and assist what is going on.

SENATOR BUCK:

Assemblywoman Selena Torres has been working with NSHE this past year on issues like this. Have you spoken to NSHE leaders? Will NSHE be on board with this bill?

MS. JAMES:

Yes. We had several meetings with NSHE persons to solidify our language on this. This bill is coming from dozens of student survivors across Nevada who have made it clear what they need and what is missing.

TINA RUSSOM (Deputy General Counsel, Nevada System of Higher Education):

To clarify NSHE's position, we are neutral on S.B. 347. We have been engaged in conversations with Senator Schieble since last Friday. We submitted amendments to Senator Schieble. However, without a full friendly amendment, we are not comfortable with the language as it is. We want to make sure any amendments comply with federal law.

SENATOR HARDY:

What is the incidence of sexual violence in NSHE programs, and where did we get the 5 percent number? If we have 5 percent of people who have been victims, then we have a good idea of where to start and prevent. We already

have a good focus group that will help us say what we need to do. Senate Bill 347, with all of its problems, is not a good idea.

CHAIR DENIS:

There are issues with this bill, and they are working on them. Trying to get all this work done, especially during this particular year, has been difficult for everyone. There is merit in what is trying to be accomplished in the bill. This is a complex issue. There is a lot of concern. We have victims, we have persons who are accused. We have all these different issues, and we need to find the best solution. I am comfortable in giving Senate Bill 347 the opportunity to continue on.

SENATOR DONATE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 347.

SENATOR LANGE SECONDED THE MOTION.

SENATOR DONATE:

From the conversations I had with various organizations, there are still kinks that need to be figured out to ensure due process. Regarding the conversation on prevention, we can accomplish a lot of this by supporting comprehensive sex education reform. Based upon my undergraduate experience, too many times have my friends and classmates been devastated from the treatment of student conduct officials when dealing with their sexual assault cases. We need to do more to advocate for the victims who have watched their university stand by with inaction. A bill coming forward from the Assembly helps accomplish this, and there are things we still need to work out, but I am supportive of this bill.

THE MOTION CARRIED. (SENATORS BUCK, HAMMOND AND HARDY VOTED NO.)

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CHAIR DENIS:

I will close the work session on S.B. 347 and open the work session on S.B. 354.

[SENATE BILL 354](#): Revises provisions relating to education. (BDR 34-842)

Ms. STURM:

The work session document ([Exhibit K](#)) has been submitted for S.B. 354. This bill was presented to the Committee on April 5 by Senator Denis.

SENATOR BUCK:

A lot of our underserved communities end up with more discipline issues. The last thing I want to do is publically mark a school as bad. Perhaps we need more training for those schools to implement positive behavior systems. I will be a no on this bill. It does mark our underserved communities in a negative light.

CHAIR DENIS:

The reason I brought Senate Bill 354 is because we have kids who are homeless and treated differently due to their situation. We are trying to work on that issue. They need to be given special consideration because of circumstances they cannot control.

SENATOR LANGE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 354.

SENATOR DONATE SECONDED THE MOTION.

THE MOTION CARRIED (SENATORS BUCK AND HARDY VOTED NO.)

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CHAIR DENIS:

There is much passion in education, and we are all trying to do what is best for kids. With no further items on our agenda, we are adjourned at 2:45 p.m.

RESPECTFULLY SUBMITTED:

Ian Gahner,
Committee Secretary

APPROVED BY:

Senator Moises Denis, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 224	B	1	Chris Daly / Nevada State Education Association	Bill Explanation
S.B. 224	C	1	Sue Matuska / Education Support Employees Association	Proposed Amendment
S.B. 102	D	1	Jen Sturm	Work Session Document
S.B. 120	E	1	Jen Sturm	Work Session Document
S.B. 126	F	1	Jen Sturm	Work Session Document
S.B. 172	G	1	Jen Sturm	Work Session Document
S.B. 210	H	1	Jen Sturm	Work Session Document
S.B. 287	I	1	Jen Sturm	Work Session Document
S.B. 347	J	1	Jen Sturm	Work Session Document
S.B. 354	K	1	Jen Sturm	Work Session Document