

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Eighty-first Session
May 18, 2021**

The Senate Committee on Finance was called to order by Chair Chris Brooks at 8:15 a.m. on Tuesday, May 18, 2021, Online and in Room 1214 of the Legislative Building, Carson City, Nevada. [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 Chris Brooks, Chair
Senator Moises Denis, Vice Chair
Senator Julia Ratti
Senator Nicole J. Cannizzaro
Senator Marilyn Dondero Loop
Senator Ben Kieckhefer
Senator Pete Goicoechea
Senator Scott Hammond
Senator Heidi Seevers Gansert

GUEST LEGISLATORS PRESENT:

Senator Fabian Donate, Senatorial District No. 10
Senator Dallas Harris, Senatorial District No. 11
Senator James Ohrenschall, Senatorial District No. 21
Senator Melanie Scheible, Senatorial District No. 9
Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27
Assemblyman Edgar Flores, Assembly District No. 28
Assemblywoman Selena Torres, Assembly District No. 3

STAFF MEMBERS PRESENT:

Wayne Thorley, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Olivia Whiteley, Western States Advocacy Officer, Refugee Advocacy Lab
Steven Cohen
Felicia Gonzales, Deputy Superintendent of Educator Effectiveness and Family Engagement, Department of Education
Lindsay Anderson, Washoe County School District
Laura Freed, Director, Department of Administration
Margaret McLetchie, Nevada Open Government Coalition
Bailey Bortolin, Legal Aid Center of Southern Nevada
DuAne Young, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Rique Robb, Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services
Matthew Franton
Janelle Saunders, Board Certified Behavior Analyst
Kerri Milyko, Ph.D, Co-Owner, The Learning Consultants
Marisa Wiseman
Lenise Kryk, The Lovaas Center
John Paul Saunders, Licensed Clinician
Dora Martinez, National Disability Peer Action Coalition
Adam Harris, Chief Operating Officer, Las Vegas Autism Center
Joanna Brown
Katrina Taylor, Board Certified Assistant Behavior Analyst
Kassi Christensen, Registered Behavior Technician
Patricia
Michele Tombari
Molly Halligan
Michelle Canning
Hayley Huver
Julie Ostrovsky, Nevada Commission on Autism Spectrum Disorders
Dylan Keith, Vegas Chamber
Mary Pierczynski, Nevada Association of School Superintendents
Chris Daly, Nevada State Education Association
Warren Hardy, Council for a Better Nevada
Sabra S. Newby, University of Nevada, Las Vegas
Paul Moradkhan, Vegas Chamber
Arielle Edwards, City of North Las Vegas
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation

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Amy Pason, Faculty Senate Chair, University of Nevada, Reno
Tracy Shane
Kanani Espinoza, Nevada System of Higher Education
Dagney Stapleton, Executive Director, Nevada Association of Counties
Michael Flores, University of Nevada, Reno
Tracy Bower, Desert Research Institute
Britany Hernandez, Nevada System of Higher Education
Bruno Landivar
Syeda Jamshed
Kent Ervin, Nevada Faculty Alliance
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence
Anthony Ruiz, Nevada State College

CHAIR BROOKS:

The hearing is open on Senate Bill (S.B.) 318.

SENATE BILL 318 (1st Reprint): Makes various changes relating to improving access to governmental services for persons with limited English proficiency. (BDR 40-955)

WAYNE THORLEY (Senate Fiscal Analyst):

Senate Bill 318 requires each agency in the Executive Branch of State Government to develop a biennially revised language access plan that includes information related to existing services available to individuals with limited English proficiency and recommendations for meeting the need for such services among those served by the agency.

Several State agencies submitted a fiscal note on the bill, including the Division of Child and Family Services, Department of Health and Human Services (DHHS); Department of Motor Vehicles; Aging and Disability Services Division (ADSD), DHHS; Departments of Agriculture, Corrections, Education, Taxation, Transportation, State Public Charter School Authority, Department of Employment, Training and Rehabilitation and various boards and commissions. The majority of the fiscal notes indicate a new full-time position would be needed to comply with the requirements of the bill related to the language access plan. Fiscal staff sent questions to the agencies ([Exhibit B](#)) regarding their fiscal notes. The Aging and Disability Services Division did reach out to Fiscal staff late last night and indicated that alternate funding has been

identified to comply with the provisions of the bill and therefore is now indicating no fiscal impact on the Division.

CHAIR BROOKS:

Did the amendment and the first reprint change any of the fiscal impacts for any of the other fiscal notes submitted beyond those submitted by the ADSD?

MR. THORLEY:

The Department of Agriculture submitted an unsolicited fiscal note after the amendment indicating the fiscal impact on the Department of Agriculture has been removed. Fiscal staff is not aware of any other changes to the fiscal notes related to the amendment.

CHAIR BROOKS:

Senator Donate, could you briefly describe S.B. 318 as amended, with an eye on how it would impact State agencies and therefore create a fiscal impact?

SENATOR FABIAN DONATE (Senatorial District No. 10):

Senate Bill 318 deals with language access and addresses some of the disparities we have seen with the Covid-19 pandemic. I will turn this over to Olivia Whiteley from the Refugee Advocacy Lab to discuss the fiscal impact.

OLIVIA WHITELEY (Western States Advocacy Officer, Refugee Advocacy Lab):

Sections 2 through 4 of S.B. 318 address language access in Nevada's response to Coronavirus. These sections require the Division of Public and Behavioral Health (DPBH), DHHS, and each health district or department to record the preferred language of every individual that receives Covid-19 services and to provide limited English proficient (LEP) individuals with interpretation services, either in person or remotely. They must also translate vital documents such as applications and governmental orders or notices related to Covid-19 and collaborate with community-based organizations to ensure all local languages are represented. The requirements for language services are proportionate to the number and language of LEP individuals served by the division, health district or department. This ensures smaller health districts do not have to provide services at the same frequency or breadth as larger health districts. If a health district serves only individuals who speak Spanish, Arabic and Hindi, that district only has to provide services in those languages. The DPBH has submitted a zero dollar fiscal note for S.B. 318, as they have the requisite federal funds to implement the provisions of section 2.

Sections 3 and 4, which apply to district health divisions and departments, are required to provide these services "to the extent that money is available for these purposes," and is intended to guide the appropriation of American Rescue Plan dollars.

Section 7 addresses what happens beyond the pandemic by requiring each agency of the Executive Branch to be responsible for developing and biennially revising a language access plan. It should be noted that S.B. 318 does not require agencies to implement the recommendations within the language access plan. The bill does not require staff capacity for programmatic implementation or additional procurement of interpretation and translation services outside of what is necessary to gather basic demographic information from existing LEP clients.

Section 7.4 of S.B. 318 requires agencies to "include any funding necessary to carry out the language access plan including, without limitation, any additional funding necessary to meet the needs of persons with limited English proficiency served by the agency as identified ... in the proposed budget for the agency." Senate Bill 318 allows agencies to understand language access needs, existing resources and gaps, while preparing implementation funding requests for review and consideration in the 2023 Legislative Session.

The policy issues involving the Assessment and Planning Tool can be found in my full testimony ([Exhibit C](#)).

Agency fiscal notes for S.B. 318 that are greater than \$40,000, which includes the Departments of Taxation, Corrections, Motor Vehicles and Education, reflect requests for additional staff to accomplish section 7 data gathering and evaluation of their components for language access plans. Three agencies which applied fiscal notes—the Department of Transportation, ADSD and the Division of Child and Family Services—have zeroed out their requests following an explanation of the bill, identification of grant money and restoration of staff positions. Further, several agencies are able to accomplish the provisions of section 7 using existing staff such as all divisions of the Departments of Business and Industry; Employment, Training and Rehabilitation; Public Safety and the Division of Welfare and Supportive Services, DHHS. The State Public Charter School Authority can comply with section 7 provisions with only 40 hours of overtime annually.

To assist you in your evaluation of requests for additional staff, I suggest the Department of Justice (DOJ) assessment and planning tool, which can provide information on the scope of the duties of the additional staff as requested by the agencies.

Additional policy issues and analysis involving the Language Access Assessment and Planning Tool can be found in [Exhibit C](#).

CHAIR BROOKS:

Are these staff we are talking about in the plan potentially based on DOJ guidance and what the plan would come up with in the future, or are they included in this bill? It does not appear they are, because the fiscal notes do not reflect that.

MS. WHITELEY:

Senate Bill 318 asks that an agency designate an individual to create the plan, and it is similarly recommended in the DOJ guidance.

CHAIR BROOKS:

That is all we need. You explained the impact of the bill in as much detail as we need. The fiscal notes have been removed. You explained the extent to which money is available, but did not tell us exactly where to get it. The plan could be expensive, but this bill is not. That summarizes it.

STEVEN COHEN:

I am speaking in support of S.B. 318. I like that it is inclusive of people with disabilities. Our community will be able to find alternative funding services that will not impact the General Fund.

CHAIR BROOKS:

I will now close the hearing on S.B. 318 and open the hearing on S.B. 27.

SENATE BILL 27 (1st Reprint): Revises various provisions relating to education.
(BDR 34-326)

MR. THORLEY:

While making a moderate impact to the budget, S.B. 27 as amended creates the account for teacher incentives. The bill as amended also seeks to revive the teachers' school supply assistance account, which was abolished by Senate Bill

No. 543 of the 80th Session. Fiscal staff notes the bill's sponsor does have an amendment to eliminate language related to the creation of the account for teacher incentives and to remove all references in the bill related to the teachers' school supplies assistance account. The Washoe County School District also submitted a fiscal note indicating the bill would have a fiscal impact as introduced. Fiscal staff was recently notified that the School District now believes S.B. 27 as amended will not have a fiscal impact on the District.

FELICIA GONZALES (Deputy Superintendent of Educator Effectiveness and Family Engagement, Department of Education):

I am presenting S.B. 27 and the amendment from the Department of Education (DOE). The amendment presented today ([Exhibit D](#)) will align with the Pupil-Centered Funding Plan as it removes the administrative oversight of additional accounts, including the account for teacher incentives; removes references to the school supply assistance account; and removes references to the Nevada Institute on Teacher and Educator Preparation. There is an additional amendment that adds FBI recommended language to make S.B. 27 compliant with federal regulations.

CHAIR BROOKS:

It does not appear that your amendment has been posted. Is this an amendment that you are proposing at this hearing to this bill today, or is it the amendment that was adopted?

MS. GONZALES:

That is an additional amendment that we are proposing.

CHAIR BROOKS:

Please explain to me again what the amendment does and why it removes the fiscal note.

MS. GONZALES:

Mr. Thorley requested this, so I will refer that to him for a response.

MR. THORLEY:

As introduced and with the amendment that came out of the Senate Committee on Education, S.B. 27 had some language that conflicted with Senate Bill No. 543 of the 80th Session and the implementation of the Pupil-Centered Funding formula. My understanding of the amendment in [Exhibit D](#) is that it

removes some of the conflicting language to bring the bill into alignment with the Pupil-Centered Funding formula. There is conforming language with language recommended by the FBI. This language governs acceptable use by State noncriminal justice agencies for FBI criminal history reports for teacher licensure and does not have a fiscal impact. The fiscal impact is related to the creation of new accounts and the elimination or sunset of other accounts that had an impact on the implementation of the Pupil-Centered Funding Plan.

SENATOR RATTI:

Now that I am seeing the amendment, it looks like the critical part of this amendment in terms of the Pupil-Centered Funding formula is items 1 through 3, which removes the creation of the account for teacher incentives and the teachers' school supply assistance account, and it also removes references to the Nevada Institute on Teaching and Educator Preparation. These are things that will no longer live outside the Pupil-Centered Funding Plan and therefore should not be referenced in statute. The last piece is the cleanup language needed to be in compliance with the FBI rules. Is that correct?

MS. GONZALES:

That is correct. Thank you.

CHAIR BROOKS:

The amendment preserves the FBI investigations, is that correct?

MS. GONZALES:

Yes. The amendment includes the language recommended by the FBI to make S.B. 27 compliant with federal regulation. This part of the amendment is at their request.

CHAIR BROOKS:

Ms. Anderson, is it your understanding that the amendment in [Exhibit D](#) achieves the goal of removing the fiscal impact to Washoe County School District?

LINDSAY ANDERSON (Washoe County School District):

Our fiscal note can be removed based on the amendments that were made in the Senate Committee on Education.

CHAIR BROOKS:

I do not feel comfortable moving forward with this bill until the amendment is posted for the public and the members of this Committee. I will close the hearing on S.B. 27 for now and return to it when [Exhibit D](#) has been posted.

I will open the hearing on S.B. 51.

SENATE BILL 51 (1st Reprint): Revises provisions relating to sex- or gender-based harassment in the Executive Department of the State Government. (BDR 23-243)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

This bill came out of the Senate Committee on Legislative Operations and Elections. It updates gender and sexual harassment policies in State agencies.

LAURA FREED (Director, Department of Administration):

This is a policy bill that implements certain recommendations of the Task Force on Sexual Harassment and Discrimination Law and Policy, which was created by Governor Steve Sisolak in his first Executive Order. Section 2 establishes the policy of the State is to ensure that its employees do not engage in sex- or gender-based harassment and that it is an unlawful form of discrimination. Section 3 mandates that the Administrator of the Division of Human Resource Management shall adopt and maintain a policy concerning sex- or gender-based harassment containing a definition of the term, training requirements for State employees including supervisors and managers and a procedure for filing a complaint. Section 5 formally creates the Sex- or Gender-Based Harassment and Discrimination Investigation Unit.

It is important to note that this bill does not have a fiscal impact because it codifies things that the Department of Administration's Division of Human Resources Management (DHRM) was already doing. We have a sexual harassment policy available on the DHRM website. Reviewing and acknowledging the harassment policy is a normal part of any State employee's hiring process. Every Executive Branch employee is required to take the sexual harassment prevention course every two years. We already have a unit dedicated to investigating harassment claims filed under Title VII of the Civil Rights Act, and this bill simply rebrands that unit and codifies its presence in the *Nevada Revised Statutes* (NRS) so it is protected from possible elimination.

This bill was heard on March 11 and was amended and passed out of the Senate Committee on Legislative Operations and Elections on April 6. The first reprint changed Sections 6 and 7 to add language that affects elected officers in the Executive Branch who may have filed a complaint, been accused of harassment or have witnessed harassment.

CHAIR BROOKS:

There is a conceptual amendment by Senator Seevers Gansert ([Exhibit E](#)).

SENATOR SEEVERS GANSERT:

During the hearing, there were some concerns about sections 5 and 6 of the bill regarding confidentiality and the broad discretion the Administrator was given to release confidential information. The first item in [Exhibit E](#) says that the Administrator or designee may disclose confidential information, though first the person whose identity may be disclosed must be told of the chance to appeal that decision. [Exhibit E](#) also provides if the matter is appealed to the Personnel Commission, the matter must be reviewed in a closed hearing. If the Commission determines the information may not be disclosed, it has a duty to keep that information confidential.

The second item in [Exhibit E](#) says the party named in the complaint is not prohibited from disclosing the identity of another party named in the complaint, if the disclosure is necessary to file a claim authorized by laws such as civil actions or reports to the Nevada Equal Rights Commission or the Equal Employment Opportunity Commission.

The third item in [Exhibit E](#) provides that if the identity of a person who filed a complaint is disclosed, the applicable appointing authority must take ongoing steps to protect the person from retaliation for filing the complaint.

Essentially, we are concerned that S.B. 51 could have a chilling effect on those who want to report instances of alleged discrimination. We want to make sure those people are protected, and if that information is released, to give them an opportunity to keep their identities confidential.

SENATOR KIECKHEFER:

Director Freed, under what scenarios do you think the Administrator would disclose this information? When could a victim be identified?

MS. FREED:

The scenarios are probably very limited. This could become a discussion if we received a public records request.

SENATOR KIECKHEFER:

In those scenarios, would you have difficulty implementing the amendment in [Exhibit E](#)?

MS. FREED:

Just to make the intent clear, Section 6 of S.B. 51 reflects the desire to retain confidentiality, except as otherwise provided, of information obtained in the course of the investigation and contained in the written report or resolution. The amendment in [Exhibit E](#) would allow the administrator or designee to disclose the identity of a person who filed a complaint. The Administrator must notify the person whose identity may be disclosed and that person may appeal the decision to the Personnel Commission.

To answer your question, yes, I think we could implement that. This is a fairly limited occurrence.

SENATOR OHRENSCHALL:

The language in Amendment No. 229 mirrored recent caselaw on these issues that occurred in *Clark County School District v. Las Vegas Review Journal*, 134 Nev.700, P.3d 313 (2018). Ms. McLetchie litigated that.

MARGARET MCLETCHIE, (Nevada Open Government Coalition):

I represent sexual harassment victims. The language we added to the bill in the Senate Committee on Legislative Operations and Elections properly balanced the need for confidentiality with the interest in transparency. The issues raised in [Exhibit E](#) do not pose a significant problem, except for the second item that says it should be amended to make clear that a party named in a complaint or a victim is not prohibited from using the information to file a claim. That is already law. However, the proposed amendment improperly assumes that a victim can be silenced from speaking out about what happened to the victim and implies they are subject to secrecy. My understanding of the bill as originally drafted and amended is that the confidentiality provision applied to governmental entities and not to the victim. The bill as amended did provide for disclosure only in certain circumstances at the end of an investigation and only where the interest of exposure outweighed the interest in confidentiality.

MR. COHEN:

I submitted a proposed amendment to this bill late yesterday and would like a chance to work with the sponsor.

CHAIR BROOKS:

I will now close the hearing on S.B. 51 and open the hearing on S.B. 96

SENATE BILL 96 (1st Reprint): Makes various changes relating to services provided to persons with autism spectrum disorders. (BDR 38-89)

MR. THORLEY:

The ADSD submitted a fiscal note to the bill as introduced, indicating an estimated fiscal impact of \$742,000 over the upcoming biennium related to a proposed increase in the hourly rate for registered behavior technicians. After Amendment No. 177 was adopted by Senate Committee on Health and Human Services, the ADSD submitted an unsolicited fiscal note indicating the fiscal impact on the agency "cannot be determined" because of uncertainty about the established provider rate. The Division of Health Care Financing and Policy (DHCFP), DHHS, also submitted a fiscal note on the bill after Amendment No. 177 was adopted, indicating the amendment changes the agency's estimated fiscal impact to \$8.1 million over the upcoming biennium, of which the General Fund portion would be \$2.8 million.

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

During the interim, we had an audit of services provided to children on the autism spectrum. Many positive outcomes are coming from that audit. One of the things we learned is many children who are on Medicaid are not getting the help they need. A big part of that is our rate system and how it compares to private payers and to other states. Senate Bill 96 aims to fix that.

Assemblywoman Benitez-Thompson, Legal Aid, the Commission on Autism Spectrum Disorders and I worked together on a proposed amendment ([Exhibit F](#)). I hope this Committee will consider this bill, which will help more children have positive outcomes and save money in the long run.

ASSEMBLYWOMAN TERESA BENITEZ-THOMPSON (Assembly District No. 27):

Senate Bill No. 174 of the 80th Session required an audit of the Commission to help us do some fact-finding. The audit was asked to do three things. First, determine if revenues and expenditures related to autism therapy were sufficient

and appropriate. Second, evaluate and review whether children wait for services and if enough providers exist to serve Nevada's population of children with autism spectrum disorder. Third, identify and assess factors that inhibit access to and delivery of autism treatment services.

The audit findings specific to this fiscal note are threefold. First, one of the key findings was that State agencies did not spend all funds budgeted for autism treatment. In the 78th Legislative Session, the State estimated the cost to provide autism treatment to be \$35.7 million annually. The amount was projected to cover an estimated 2,500 children needing autism treatment services. However, since fiscal year (FY) 2016-2017, only about \$15 million per year on average has been spent on autism therapy services. We have, in fact, been over-estimating how much we are going to spend and have only been spending about half that amount.

Secondly, we need to work with the providers. Within this bill you will see a lot of policy language to help clean up the billing procedures and the billing site because our audit found "claims, some of which may overlap between providers and children, total about \$6 million since [FY 2015-2016] for excessive service hours for both providers and children." We have an excessive billing issue here. Any concerns that the Legislative Counsel Bureau's Audit Division found have been given to the Office of the Attorney General for proper Medicaid fraud considerations, but it is also true that the billing system is complicated and set providers up for these kind of errors. There is language in the bill to address the Medicaid system, which does not catch overbilling of hours or multiple billing of hours.

Third, there are different levels of provider types. Within autism behavior services, there are three different types of treatment that we provide to families and children. Our audit findings were that two of these types are market rate, and children are able to receive the services comparable to fee for services versus managed care or private insurance. The audit also found that our registered behavior technicians (RBT) rate is low. This is one of the most popular types of treatment in the State, and it is not being utilized in the way it should be. We have a good package of policy in S.B. 96 that is going to help us spend the money better. It is going to help address the provider issue as well. The fiscal note would be \$2.8 million from the General Fund.

There are pieces of this we can address within the explanation of the fiscal note. We do not have any concerns with paragraph 1. The second to last sentence says that if we increase the rate, providers will take more children. This is the policy goal we have been striving for. In the second paragraph of the explanation of the policy note, the only thing we need to know from the Division is whether they need another management analyst position to do this. There are lots of pieces we need to address, including the data we collect from managed care organizations. If they can accomplish the mission with that position and it serves our purposes with the autism treatment programs, that will be better for the system overall.

When we talk about the maintenance and engineering hours needed to update the rates, which looks like a 75 percent federal to 25 percent State share, I assume that cost is already happening because ideally we are examining and adjusting these rates. I do not know if there is a lot more work in terms of that. Regarding the third paragraph in the explanation of the fiscal note on actuarial costs, that might be addressed by changing the effective date of the bill, because we do not want a midyear actuarial cost of \$30,000. If changing the effective date to a more organic date that the Division is working on is going to help, we would be fine with changing the date.

CHAIR BROOKS:

Does your amendment change the effective date to line up their program from an actuarial standpoint?

BAILEY BORTOLIN (Legal Aid Center of Southern Nevada):

What was lost in the first reprint was an actual rate number for the RBTs, so we put that in at \$62, the comparable rate for private insurance that was found in the Nevada State audit. It clarifies what we are seeking in terms of the rate study. By October, we are asking that we would put in the federal rate, which takes a few months to be approved. We will only use a rate approved by the federal Centers for Medicare & Medicaid Services (CMS). That rate would take effect in January 2022, and then the comparability study will be done to find out what our rate should be to ensure that our providers are willing to take our rates. Only 37 percent of our providers are willing to serve Medicaid under our current rate, which is causing children to go without services. This is costing our State so much money because the later children access services, the more intensity, hours and State support they need, and the less likely they are to

reach success with fewer services. The study would ultimately take effect next biennium with a rate change in 2024.

CHAIR BROOKS:

The proposed amendment we are speaking about is [Exhibit F](#).

SENATOR SEEVERS GANSERT:

Is the fiscal note updated?

DUANE L. YOUNG (Deputy Administrator, Division of Health Care Financing and Policy):

That is correct. This is now the third amendment on this bill. You will see our original fiscal note, the fiscal note for the printed amendment. We spoke with the sponsor yesterday afternoon. We do not have the calculations finalized. I can give the Committee some insight that the new fiscal note would remove the actuarial cost and would have some changes in the position, but there will be a growth in cost to the medical budget account 101-3243 now that a specific figure has been updated. The fiscal note for the original bill was an increase to \$48. This increase proposes \$62, so it will be higher.

HUMAN SERVICES

HEALTH CARE FINANCING AND POLICY

HHS-HCF&P - Nevada Medicaid Title XIX — Budget Page DHHS-DHCFP-36
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Budget Account 101-3243

SENATOR SEEVERS GANSERT:

I look forward to getting the update. I have done some work in this realm too and believe that early intervention is critical. While the \$62 rate seems high, the RBTs do on-the-ground work with kids that makes a huge difference. In the long run, we will save money.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Please note that this bill includes correction of overbilling. When you get to the audit, you will find some impressive fact finding. There were more than 3,189 total days in which 15 hours or more were billed or paid, and 998 instances where the total hours billed in one day was 24 hours or more.

Watching the providers, changing policies to ensure our system is not billing excessive hours and educating the providers will become effective. By the time the rate goes up, we are not going to have a new higher rate. We will see a leveling out, and we will be watching it.

CHAIR BROOKS:

The overbilling was alarming to the Audit Subcommittee, to say the least.

SENATOR DONDERO LOOP:

With kids earlier is always better, whether we are talking about illness, autism or reading. Am I right that for every dollar the State spends, we get \$3 from the federal government?

ASSEMBLYWOMAN BENITEZ-THOMPSON:

If you look at the fiscal note, the Division has done a good job of showing what the State's share is on these. These are Medicaid dollars, so there is always the federal piece in there, and you can see the percentage of match. The cost will be from the General Fund, but it is augmented by federal funds, so it is a wise way to spend General Fund money.

SENATOR DONDERO LOOP:

We have so many of these children waiting, and it would be prudent for us to be able to serve them.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

I appreciate Senator Dondero Loop's comments because I do not think there is a Legislator in this building who, by serving on either the Senate Committee on Health and Human Services or the Senate Committee on Finance, has not tried to solve this problem. We have all had a hand in setting this up and have tried to get it right. The audit findings take us forward in an effective way, so this may be the last time we have this before us.

MS. BORTOLIN:

Early intervention is critical, but that also affects the budget. We have a State autism treatment assistance program and because our kids are on Medicaid, they cannot access services and they languish on the waitlists. They often end up accessing our General Fund programs in the meantime because we cannot get them Medicaid services they need. That is costing us a lot of money. The sooner we provide services, the more money we save because the children need

fewer hours of service. When the kids come in as middle school age or teenagers, the intensive services can be in excess of 40 hours a week. It can be a financial burden that the parents have to take on because they are correcting for the fact that they could not access services earlier. This is a huge gap in our State services that is leading to other intensive costs.

In Clark County, there is an Autism Treatment Court in the Juvenile Justice System. We are spending so many government dollars to hold Juvenile Justice charges over the heads of these children because we can only access services for them through the court system. If we can get them connected to Medicaid earlier, it will save money and change their lives.

SENATOR KIECKHEFER:

The ADSD provides the Autism Treatment Assistance Program (ATAP). This program covers kids who are Medicaid eligible and those who are not Medicaid eligible. The Division submitted a fiscal note on the original bill that increased the RBT rate to \$48; they currently pay \$31. If it goes to \$62, they would have to update their fiscal note as well.

RIQUE ROBB (Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services):

There would be a slight increase, but with the changes in the start date noted in [Exhibit F](#), it would look different. The calculations that we had yesterday based on the \$62 would be \$1.3 million for the 2021-2023 biennium. With the date changed to January 1, we would be able to recalculate that and give an updated amount.

SENATOR KIECKHEFER:

Mr. Young, are there any other Medicaid rates that we put into statute?

MR. YOUNG:

No, we do not put any other rates in statute. The Medicaid program has always asked for the flexibility to be able to determine the rates. Assembly Bill No. 108 of the 78th Legislative Session causes us to examine every rate every four years, so those rates are being looked at. We do that by getting the actual cost analysis of the providers to know what their current costs are so we can weigh that against the market. It is easy to compare rates to other states, but when you look across the global perspective of all the providers within the State, it is more difficult. Are we paying all providers according to that scale,

and where do certain providers stand in that line? We do not have any rates outlined within NRS 442.

ASSEMBLYWOMAN BENITEZ-THOMAS:

We are putting this rate into statute because we have been banging our heads against a wall for a long time trying to solve this problem. It is not because the Legislature does not appropriate the money. We put the money out there, and the reversions come back and the dollars do not get spent. We have to mandate a rate. We were nervous coming out of the hearing with the original bill because the fiscal note seemed too low. We thought they were not planning this at the market rate as the legislative findings tell us. We are still not close to what that rate is being paid within this State. For that reason, we decided to be more clear and specific about our intent. Otherwise, we will end up back here in two years having this same conversation, as we have been doing for quite a few sessions now.

CHAIR BROOKS:

If we put the rate in statute, we will be having a whole different conversation in 2023 about putting rates for every provider in statute.

MS. BORTOLIN:

We are putting the rate in because of the immediacy of the problem. We have the audit now, and this is the comparable rate. We are requesting a comparability study. Putting the rate into statute is a Band-Aid to get us through the comparability study. This puts the power back into the hands of Medicaid to determine what the appropriate rate is. It requires that it be a comparable rate that Medicaid providers will take so the children do not have a barrier that does not exist for privately insured children.

MR. COHEN:

I support S.B. 96, but putting the rate into the statute may pigeonhole us at the \$48 to \$50 level instead of the \$62 level.

MATTHEW FRANTON:

I agree with the previous comments and am in support of S.B. 96.

JANELLE SAUNDERS (Board Certified Behavior Analyst):

I am in support of S.B. 96.

DR. KERRI MILYKO, PH.D. (Co-Owner, The Learning Consultants):

I am in support of this bill. I say bravo to these powerful women giving testimony this morning. Just to add, a change in the rate would add quality of service. A change in the rate would rectify the change in the Current Procedural Terminology code made in 2019. A change in the rate would attract more quality providers to Nevada which would bring greater access to the services that are lacking.

MARISA WISEMAN:

I second Dr. Milyko's comment about a change in rates resulting in more access to higher quality services within the State. I support S.B. 96.

LENISE KRYK (The Lovaas Center):

I am calling today to support S.B. 96. As a provider in Nevada, we are unable to serve children with Medicaid at this time due to the RBT rates. Numerous children who we have served in the past who are now accessing Medicaid have had to leave and be on a waitlist for providers for more than a year. During that time they have received barely any services, less than 25 percent of what would be medically necessary. The current rate that has been requested would allow a fighting chance for children with Medicaid. I hope the Committee is able to look at everything and make a decision.

JOHN PAUL SAUNDERS (Licensed Clinician):

My younger sister was diagnosed with autism. She received a highly specialized therapy called Applied Behavior Analysis (ABA) to learn life and social skills. This medically necessary treatment changed her life. She is now 27 years old and thriving. She is a ride attendant at the Adventure Dome at Circus-Circus, and she lives with her boyfriend who recently became her fiancé. We are so proud of her, and we owe it all to ABA therapy. If my sister had not received this medically necessary treatment, she could have been institutionalized or living in a group home. Instead, she is a fully independent member of society who works, pays taxes and votes.

Unfortunately, not all children in Nevada have access to ABA therapy because there are not enough Medicaid providers in our State. That is because the reimbursement rate for the RBT is among the lowest in the Nation, which has caused shortages of specialized providers, created barriers to treatment, and failed to keep up with the number of children diagnosed with autism. Senate Bill 96 will increase access for Medicaid recipients to medically necessary

treatment so they can have the same opportunity my sister was afforded to reach her full potential.

DORA MARTINEZ (National Disability Peer Action Coalition):
We are in support of this bill and echo the sentiments of previous callers.

ADAM HARRIS (Chief Operating Officer, Las Vegas Autism Center):
After looking at all the costs of providing an RBT, including the hourly rate, taxes and benefits, administrative staff, and so on, the full expense divided by the number of billable hours comes to a total cost of \$62.96 per hour. This is negative \$31.68 per RBT when working with a Medicaid recipient.

JOANNA BROWN:
I am the mother of two children with autism. My youngest son is 11 years old and attends daily ABA therapy. He was on a waitlist for over 18 months because services were not available, and in that time he required more help than we were able to get him. He missed opportunities. We are so grateful for ABA because the RBTs that work with him daily changed his life and our lives too. I think of the things that he could have done if the RBTs had been properly compensated and providing services in maybe a couple of months instead of 18 months. That ripple effect throughout our entire State would be massive.

Things that people take for granted are something we celebrate. An RBT specifically is the person that connects with our child, and they deserve to be compensated fairly as soon as possible, not in 2024, so they can continue to make changes in our lives and the lives of our children.

KATRINA TAYLOR (Board Certified Assistant Behavior Analyst):
I work with kids who have been diagnosed with autism spectrum disorder. I have the best team working with me, and the kids we provide service to are important to us. I wake up each day going to a job I love because I know that every day I am going to see progress and growth in my clients. I cannot think of a better experience than watching one of my kids grasp a concept that they had been working hard to achieve. This is only made possible by RBTs working with them each day. They are truly the backbone of our company.

Unfortunately, their pay does not reflect the importance of the work they do and the differences they make in our clients' lives. Eventually, they take all the knowledge and training they have received and apply it another creative job

where they will be compensated accordingly. This directly affects our clients as we are required to pair another RBT with them and we are set back, not just days but weeks, as the RBT becomes certified and the child becomes comfortable. Consistency is important and produces the most meaningful outcome for our kids.

We need this reimbursement rate increase so we can make the RBT not just a job but a career. We want nothing more than to keep the amazing staff that we have and provide the best quality of care to our kids. I have witnessed miracles with our clients. A couple of weeks ago I was working with a 7-year-old nonverbal boy. We had recently been able to increase his therapy hours and as a result he has begun to speak. The RBT, his mother and I were all in tears because we did not know this would be a possibility. His language has flourished in just a few weeks.

We make differences in people's lives. Nevada should not have the lowest reimbursement rate in the Country. We are better than that.

KASSI CHRISTENSEN (Registered Behavior Technician):

I have an older sister on the spectrum. I have been an RBT for about a year. It has made a big difference in my life and her life, seeing the things she can do. Working as an RBT, I worked with a five-year-old girl. Watching her say "Hi" and "Bye" was one of the best things I have ever experienced. I want to give the kids we have the best we can so they can succeed in life.

PATRICIA:

I am the office administrator for a small ABA Clinic in Elko. I am going to read a letter from a 17-year-old client.

During staff changes, I can start to feel my anxiety welling up in my chest. Why? Because I worry about the person that I have bonded with. I already dislike change, and removing my therapist is awful. I am feeling abandoned, but I never blame the RBT because they cannot help it; it is not their fault. Then I have to bond with someone new, and I end up rolling back some of my progress in the process. It takes me a long time to build trust, so I am always skeptical. I know change is inevitable, but I cannot keep stressing out about a new therapist every five months. It is not change if it is reoccurring.

This is just her experience with the staff rollover caused by the RBTs not being paid enough.

MICHELE TOMBARI:

I support S.B. 96. As a parent of a recovered child, I know this life-changing ABA therapy for autism needs to be accessible to all children in Nevada, not just the ones in wealthy families or families with good health insurance.

I have submitted my son's story ([Exhibit G](#)) as testimony. His recovery and normal life happened because of the early and intensive health care that S.B. 96 can now help other children receive. The money spent at an early age will reduce or eliminate the millions of dollars necessary for each child's long term care and reward the State with a successful, tax-paying citizen. It is morally and fiscally the right thing to do. Please approve S.B. 96.

MOLLY HALLIGAN:

I support S.B. 96 and echo the comments that came before me. I have been a resident of Nevada for 22 years and a practitioner for 20 of those years. I am a Board Certified Behavior Analyst (BCBA). I also own an ABA Clinic in Las Vegas. I have been able to watch the services gain Legislative support in the last two decades, and I appreciate that.

We have been able to help many children. It has not been enough. Julie Ostrovsky said in one of our Commission meetings recently that an entire generation of children have lost access to services, and it is directly related to this low RBT reimbursement rate. I believe this Legislative Session and the Legislators here today are going to make the right decision to improve access to those services and remove the financial burden that the State has received because of that lack of access and changed the lives of thousands of families who are currently waiting for services to happen for their children.

MICHELLE CANNING:

I am a BCBA and owner of Crossroads Behavior Consultation. Unfortunately, the current RBT rate does not allow us to reimburse the RBTs at a rate that is commensurate with the work that these phenomenal individuals do and the education and experience that they must possess.

Today, I am here to express the sentiment of one of my RBTs who works for us as a second job. Cynthia states: "Michele, I am at work at the school right now,

but could you pass along how much I love providing RBT services and that it means a lot to me, and that I wish I could afford to do it full-time." I urge you to please support S.B. 96.

HAYLEY HUVER:

I am the parent of a 13-year-old son who has been receiving autism services in Nevada for 11 years. We have done everything from early intervention all the way through in-home and clinical services.

I want to reiterate what everyone is saying. I support S.B. 96. Throughout the time my son has been receiving treatments, we have had difficulty retaining staff for more than two to four months. Beyond that, it is lucky if they are still working with us. As it takes a couple months to train the staff, it has not been a great situation. We have only had 2 staff members in 11 years that were with our son for over a year.

Regarding early intervention, my older son also has autism, and he received services for two years straight when he was a child and has not needed them since. Early intervention was a huge benefit to him. He had horrible behavioral issues and now is basically okay. He fits in with his peers and can do grade-level work. He is an amazing kid with manners, skills and abilities. For my younger son, we have not hit a stride with retaining staff. We lose a lot of staff to the school districts because they pay \$5 an hour more than we can pay.

JULIE OSTROVSKY (Nevada Commission on Autism Spectrum Disorders):

It is our responsibility to monitor ATAP and Medicaid programs and reimbursements and service for people with autism. The RBT rate is well below the average rate paid by private insurance. The RBTs who serve Medicaid clients are paid 50 percent of the rate of private insurance. The \$62 requested in Exhibit F is less than California and New Mexico pay, and Alaska and Wyoming are even higher.

The Commission submitted a letter in support (Exhibit H) and national Medicaid rates for comparison (Exhibit I). The rate increase is meant to kick-start services. We need to bring in providers. The amendment requires the rate comparison for future investment. We need to make this happen. We have been trying for three Sessions to get a rate increase. Please keep in mind for budgeting that rates will not go into effect until at least January 2022. We need providers for our kids. As of last July, 37 percent of ABA providers served

Medicaid, and 25 percent of those providers limit the hours and the children they serve. Hopefully, by supporting S.B. 96, we can change the world for children with autism and their families throughout our State. I have submitted a written copy of my full testimony ([Exhibit J](#)).

SENATOR OHRENSCHALL:

Ms. Bortolin mentioned the Autism Court in Clark County. The kids I have seen there often end up there by getting arrested. Usually it is the first time they have been diagnosed. They see a practitioner to get a neuropsychiatric evaluation, and the judge finds out the reason for this behavior is that they never had treatment. If we are able to help kids who are on Medicaid get treatment, this bill will go miles to making sure those kids do not get arrested or get into the penal system, and they will get the help they need.

MS. BORTOLIN:

We have been through this a lot of times, and that is why we are still asking, even though it is a hard Session to be asking. If you are uncomfortable with a \$62 rate, we could talk about putting this comparable to private insurance for a temporary fix. If we wait to do the comparability study, we will be right back where we are every session, and the answers are in the audit. We have done the legwork to identify the problem, and we know the solution.

CHAIR BROOKS:

We will close the hearing on S.B. 96 and re-open the hearing on S.B. 27.

SENATOR DONDERO LOOP:

I would be remiss if I did not put on the record how incredibly disappointed I am that we are taking school supply money out again for the teachers who work so hard and use their own money to enhance their classrooms.

DYLAN KEITH (Vegas Chamber):

Along with the Vegas Chamber, this is a Southern Nevada Forum bill that we put forth through the Senate Committee on Education. We believe that it is good policy, well worth the funds, as it has also been reduced significantly. It will be a step in the right direction to solving the teacher shortage in Nevada.

MARY PIERCZYNSKI (Nevada Association of School Superintendents):

No bill is perfect, and I certainly appreciate Senator Dondero Loop's comments. We are in support of S.B. 27, which has several good things in it.

CHRIS DALY (Nevada State Education Association):

The Nevada State Education Association spoke in support of S.B. 27 at the hearing in the Senate Committee on Education. We appreciated the work on the bill regarding removing language related to licensure of paraprofessionals.

We also spoke in support of the changes that were proposed to the teachers' supply reimbursement account. Over the course of many sessions, the issue of teacher supplies has been one of much discussion. It received a significant restoration in the budget in the last Legislative Session, and it is well known that most teachers spend hundreds of dollars on supplies for their classrooms. A 2016 questionnaire from the National Center for Education statistics found that 94 percent of teachers spent their own money on classrooms, with an overall average of \$479 spent. Teachers at public schools spent more than teachers at charter or private schools, and teachers at schools with the highest percentage of students receiving free and reduced-cost lunches, schools in lower income communities, spent the most out of pocket.

This bill is developing and changing, but we are hopeful that the teacher supply reimbursement program can be salvaged in this bill.

CHAIR BROOKS:

I will close the hearing on S.B. 27 and open the hearing on S.B. 287.

SENATE BILL 287 (1st Reprint): Revises provisions relating to higher education.
(BDR 34-933)

MR. THORLEY:

The Nevada System of Higher Education (NSHE) submitted a fiscal note on S.B. 287 as introduced indicating the bill would cause a revenue reduction of \$856,000 per year for the University of Nevada, Reno (UNR). If land grant status were extended to three institutions, the bill as introduced would create costs for the agency including \$920,000 per year for personnel costs related to establishing administrative and communications unit in the southern unit and \$119,000 per year in operating costs.

The Senate Committee on Education adopted Amendment No. 435 to S.B. 287 on April 19. After a review of the bill as amended, NSHE has recently communicated to Fiscal staff that it no longer has a fiscal impact on the agency.

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SENATOR DALLAS HARRIS (Senatorial District No. 11):

I have Proposed Amendment No. 3400 ([Exhibit K](#)) to submit. My remarks today will focus on that version of the bill.

Over the past few weeks, we have worked with stakeholders to bring you a measure that accomplishes the most important part of this proposed legislation and removes the fiscal note. With the amendment in [Exhibit K](#), S.B. 287 clarifies that the land grant status of UNR applies to the campuses of the University, which includes the Desert Research Institute (DRI), the University of Nevada, Las Vegas (UNLV), and UNR. With the amendment, the bill no longer makes any changes with the Cooperative Extension Service.

In 1862, the U.S. Congress passed the Morrill Land Grant Act. This Act helped fund universities and colleges by granting federally controlled land to the states to create land grant status. The states could either develop the land or sell it to raise funding for the colleges. The focus of these institutions was to teach agriculture and mechanical arts. The University of Nevada was established in 1874 under this Act to provide agricultural and mechanical arts education in the State. In 1914, President Woodrow Wilson expanded the scope of the land grant universities charge when he signed the Smith-Lever Act, which established the cooperative extension system. This was a way for the public to interact with and gain value from universities fostering the sharing of ideas from university research to solve problems, mainly in the areas of agriculture, energy and home economics.

While many Americans no longer farm or pursue cooperative extension or home economics for a living, the research shared within the cooperative extension system still benefits communities. The service focuses on areas like disaster recovery and mitigation, energy independence, food supply, public health and workforce training. The amended bill provides clarification that the land grant status applies to all three research institution campuses of the University of Nevada, allowing them to become eligible to receive federal funds.

WARREN HARDY (Council for a Better Nevada):

This legislation is important because it paves the way for UNLV and DRI to be able to access federal dollars that are available uniquely to land grant institutions. It was the intent of the founders for the land grant to be the University of Nevada, which is clearly UNLV, DRI and UNR.

I spent the last several weeks working with the Nevada Association of Counties (NACO) and President Brian Sandoval at UNR. The portion of the bill that we are most concerned about is section 6. The remainder of the language in the amendment is to accommodate the desire of NACO and UNR to make sure that during this process the Cooperative Extension Program as it currently exists remains untouched and held harmless. We have tried to do that, and I would like to state for the record that is our intent.

It has not always been the case that southern Nevada and UNLV have felt good about the direction of cooperative extension in Nevada. That is not the case today. While there is work to be done to make sure UNLV realizes its full potential with regard to the Cooperative Extension Program, we are agnostic on where that is administered. They are headed in the right direction. We continue to look forward to working with all of them to help UNLV.

CHAIR BROOKS:

Just to be clear, does the amendment remove the fiscal note?

SENATOR HARRIS:

That is correct.

SABRA S. NEWBY (University of Nevada, Las Vegas):

I urge your support of this bill.

PAUL MORADKHAN (Vegas Chamber):

The Chamber supports the policy and the amendment that removes the fiscal note.

ARIELLE EDWARDS (City of North Las Vegas):

We are in support of S.B. 287 as amended, which would clarify the land grant status for all three higher education research institutions in the State. Passing this legislation will reaffirm in the State statutes the 1969 legal opinion by the Office of the Attorney General and eliminate any confusion that all three institutions have land grant status. As recently as 2017, legislation was vetoed on the premise that only UNR had land grant status. Senate Bill 287 would clarify the matter once and for all and allow UNLV and DRI the ability to pursue all federal grants. As Nevada continues its ongoing efforts to diversify its economy and emerge from the pandemic, providing each institution with equal access to compete for federal research dollars is critical to meeting the needs of

Southern Nevada. Any additional federal resources that can bolster the standing of all three higher education research institutions makes it easier to attract new businesses and grow existing ones.

DOUG BUSSELMAN (Executive Vice President, Nevada Farm Bureau):

We are testifying in opposition to S.B. 287. It is my understanding the focus of our testimony should be on the financial aspects for this bill and not on the policy. The Nevada Farm Bureau is concerned over the ramifications that S.B. 287 could have on the College of Agriculture Bio-Technology and Natural Resources (CABNR), the entity that in our opinion forms the cornerstone to Nevada's land grant university. From our experience, CABNR is already pressed to meet the necessary needs of a full-fledged college of agriculture. If federal land grant university funding is going to be split with UNLV and DRI, we are troubled by how that will impact CABNR. We also are not certain whether either UNLV or DRI have in their plans to meet the necessary educational obligations for an agricultural education program.

We appreciate the amendment to hold cooperative extension and agricultural research from being financially harmed by the provisions of the legislation, but we are not clear that the same protection will cover CABNR. We are clear on what we believe a land grant university is supposed to do within the land grant university college system established under the Morrill Act of 1862 and 1890. We respectfully request details on the types of programs and activities that UNLV and DRI will be doing to earn the designation that S.B. 287 considers applying to them. We encourage the Committee to not move this legislation forward.

AMY PASON (Faculty Senate Chair, University of Nevada, Reno):

We are generally in support of Proposed Amendment No. 3400 to S.B. 287, as it puts the management of our land grant program under the Director of Agriculture Extension.

However, we are still opposed to this measure because some of the statements in support are in error, as stated in my letter ([Exhibit L](#)). We do not believe institutions that do not offer the same agriculture or extension programs should be designated as land grant colleges. We do not agree that this bill would clarify the status. In fact, it would change the status. Currently, UNLV and DRI are not recognized by entities such as the National Institute of Food and Agriculture (NIFA) or the U.S. Department of Agriculture (USDA) as land grant colleges, so

this would be a change. Moreover, we disagree with the statement this would allow more federal grant dollars to come to our State. There would not be an increase in federal capacity funds for the State. At this time, UNLV and DRI apply for NIFA grants, and we know that UNLV has been successful in obtaining USDA grants. In [Exhibit L](#), I have linked the website for NIFA so you can see for yourself that all institutions are eligible for these grants as long as faculty do the research required to apply for them.

Therefore, we do not see any utility or necessity of this bill, or positive financial gain for the State. The faculty at UNR remain opposed.

TRACY SHANE:

I am a Ph.D. student at UNR studying Animal Rangeland Sciences. I am calling in opposition to section 6 of S.B. 287 as it is currently amended. My main concern is that diluting and spreading these funds across three different institutions is likely to have a future fiscal impact on UNR even though there is not a fiscal note at this time. Any splitting of the land grant status could affect future funding for UNR, which would most likely limit graduate programs like the one in which I am currently enrolled. It has taken UNR since the recession in 2009 to rebuild the Ph.D. Program. I am opposed to this bill and the effects it would have on future graduate education, especially for nontraditional students like myself.

KANANI ESPINOZA (Nevada System of Higher Education):

We are testifying in neutral today on S.B. 287. We look forward to working with the stakeholders in the Interim.

DAGNEY STAPLETON (Executive Director, Nevada Association of Counties):

We are neutral on the bill with the proposed amendment. We thank the sponsor and proponents for working with us on the amendment. Part of that amendment ensures that the Cooperative Extension Agricultural Experimentation Program, including the federal, State and local funding sources relied upon by those programs and the structure of the programs, will not be affected going forward as a result of the passage of S.B. 287. We are neutral on the question of land grant designation.

The concern of county governments is regarding the extension program, which is highly valued by all counties. It includes programming in areas such as community development, mental health, economic development, horticulture,

natural resources, agriculture and some programs for Nevada's youth. As a reflection of the value that counties place on the program, it is important to share with the Senate Committee on Finance that counties are the largest funders of the extension. Every county contributes to the extension, most through one penny of property tax, and more than half of the funding for this program comes from counties. For these reasons, we appreciate the amendment to hold extension harmless in the proposal.

MICHAEL FLORES (University of Nevada, Reno):

I will say ditto to a lot of what has been said. We are working on some of the language in this that we will talk about in the Assembly, but we have removed our fiscal note and are neutral on this bill as amended.

TRACY BOWER (Desert Research Institute):

The DRI remains neutral on the finance side of this bill. We appreciate the opportunity to work with the Chancellor and our colleagues at NSHE should this bill be approved.

SENATOR SEEVERS GANSERT

I want a clarification on section 11.7 of the amendment. It looks like it is a hold-harmless provision regarding funding.

MR. HARDY:

The intent of that language is to hold harmless the current appropriations for Cooperative Extension. We had more aggressive language, but we were reminded by your counsel that we cannot bind future Legislatures, and we cannot bind federal funds. This is the best language we could come up with to make sure the current programs are held harmless under this bill. From our perspective, section 6 is most important part of the bill.

SENATOR SEEVERS GANSERT:

There was a statement that it is clear the land grant pertains to all the institutions, but we also know that there has been varying opinions all the way back to 1969 from the Office of the Attorney General (AG). This bill will probably move forward, but there have been varying opinions over the years.

MR. HARDY:

That is an important point, and you are exactly right. We need the Legislation to clarify this issue once and for all. A question came up from one of the

opponents about what kind of programs UNLV is interested in. In 2015, UNLV got a grant through the USDA for a program called Healthy Homes. It is not an agricultural program, but it is administered through the land grant. In that case, UNLV got special permission from the chancellor to declare UNLV a land grant for purposes of that grant. I submit that is not appropriate, since UNLV should be able to independently pursue those grants. The agriculture programs at UNR are among the best in the Country, and we are all proud of them, but there are many other programs to which we do not have access. That part of the pie will ultimately grow.

SENATOR RATTI:

Why hold harmless on Cooperative Extension piece and not on CABNR?

MR. HARDY:

That is over my pay-grade. Our intent is to entirely hold that program harmless under this. The original fiscal note resulted from the original bill contemplating dividing up the money that comes from the federal government, which I think is \$2.2 million dollars, for administration of the program. The initial amendment removes that fiscal note. I have no objection to making it clear that the only part of this bill my clients care about is section 6.

CHAIR BROOKS:

The hearing on S.B. 287 is closed. We will now open the hearing on S.B. 347.

[SENATE BILL 347 \(1st Reprint\)](#): Revises provisions governing sexual misconduct in institutions of the Nevada System of Higher Education. (BDR 34-237)

MR. THORLEY:

Both the AG's Office and NSHE submitted fiscal notes on S.B. 347 as introduced indicating that the fiscal impact could not be determined because of uncertainty over which agency would be required to do a climate survey and other uncertainties. In particular, while NSHE indicated the fiscal impact could not be determined, its fiscal note indicates NSHE anticipates the fiscal impact to be significant with multiple additional staff at all institutions. Representatives from both NSHE and the Office of the Attorney General are available to provide testimony on the fiscal notes if needed.

CHAIR BROOKS:

I see NSHE submitted a proposed amendment ([Exhibit M](#)) this morning.

SENATOR SCHEIBLE:

There are many amendments to this bill, one of which adds Assemblywoman Selena Torres, Assembly District No. 3, as a primary cosponsor because we have worked together to write this policy. We are borrowing language from another bill that Assemblywoman Torres originally sponsored, Assembly Bill (A.B.) 384.

ASSEMBLY BILL 384 (1st Reprint): Revises provisions governing sexual misconduct in institutions of the Nevada System of Higher Education. (BDR 34-939).

At the top of [Exhibit M](#), there is a link to the first reprint of A.B. 384. We wanted to develop a single document that could be read with the first reprint of S.B. 347. We will be working with the Legal Division to develop a more complete amendment. The most important thing to know is that those amendments remove all fiscal impact from any of the stakeholders or agencies. So if you accept the amendment in [Exhibit M](#), there will be no fiscal impact from S.B. 347.

I can walk you through the amended bill. Very generally, it helps protect students on campus from sexual assault and misconduct.

CHAIR BROOKS:

Does that align S.B. 347 with A.B. 384, or would you be amending a piece of A.B. 384 into S.B. 347?

SENATOR SCHEIBLE:

The amendment puts A.B. 384 into S.B. 347 in its entirety. The only reason that it is not simply a strike and replace is that a lot of the language was the same to begin with. We are talking about an extensive line-by-line amendment that would alter 20 percent of the bill and leave 80 percent of it intact. All the parties have agreed to replace the language of S.B. 347 with the language of A.B. 384, and the amendments from NSHE are added. This reflects the stakeholders' consensus.

CHAIR BROOKS:

Assemblywoman Torres, does your bill A.B. 384 have a fiscal impact?

ASSEMBLYWOMAN SELENA TORRES (Assembly District No. 3):

No. The language of A.B. 384 allowed us to remove the fiscal note with significant changes. The exciting thing is the climate survey portion, which also enables NSHE to collect grants and donations so they can complete the climate surveys.

CHAIR BROOKS:

Does the NSHE amendment address that climate survey piece?

ASSEMBLYWOMAN TORRES:

Yes, recognizing that S.B. 347 also had a task force. We amended the task force so that it is under NSHE. The task force will evaluate the responses from the climate survey so the task force can make recommendations to the Legislature and to NSHE, which can then make policy changes regarding sexual misconduct on college campuses.

SENATOR SEEVERS GANSERT:

The fiscal note has not been updated yet. I appreciate you working together on this because this is an extremely important topic.

MS. ESPINOZA:

Tina Russom, the Deputy General Counsel for NSHE, and Maria Doucett Perry, UNR's Title IX Coordinator, are available if you have any questions on [Exhibit M](#). They stand in strong support of the amended version of S.B. 347. The safety of our students is of utmost importance to us.

BRITANY HERNANDEZ (Nevada System of Higher Education):

I am a student at UNLV, and I am in support of S.B. 347 because all students deserve to be safe on campus.

BRUNO LANDIVAR:

I am a student of UNR, and I support S.B. 347 because all students deserve to feel safe on campus.

SYEDA JAMSHED:

I am a student at UNLV, and I support S.B. 347 because all students deserve to feel safe on campus.

MS. NEWBY:

I represent UNLV, and I am supporting S.B. 347 as amended because all students deserve to feel safe on campus.

MR. FLORES:

I am here in strong support of S.B. 347. I echo what everyone has said so far and thank the sponsors of the bill. This is important for all of our students.

KENT ERVIN (Nevada Faculty Alliance):

We support the bill as amended. We were neutral at the policy hearing because we had questions about a late amendment regarding the grievance process, but we have resolved those questions without the need for changes.

MR. COHEN:

I am in support of S.B. 347 as amended and say ditto to the above comments.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):

Campus sexual assault is a huge epidemic that plagues many students in Nevada. It is time that Nevada and NSHE create safe campuses for all students. Not only in my professional capacity, but also as a victim-survivor of campus sexual assault in Nevada, I know the impact this bill will have on campuses. We are here in support of this bill.

ANTHONY RUIZ (Nevada State College):

We are in support of S.B. 347 and the proposed NSHE amendment.

MS. MARTINEZ:

We are people with disabilities. Sometimes we are not always visible in the community, but we are here, and we appreciate and support this bill.

CHAIR BROOKS:

We will close the hearing on S.B. 347. I am now opening the work session on S.B. 51.

ALEX HAARTZ (Principal Deputy Fiscal Analyst):

Senate Bill 51 was heard this morning. There was testimony that there is no fiscal impact to the bill. There was one conceptual amendment provided by Senator Seevers Gansert, and that was [Exhibit E](#). The Department of

Administration indicated that based upon their understanding of the intent and language of the amendment, they do not interpret that as adding fiscal impact.

CHAIR BROOKS:

Director Freed, do you support the amendment, having confirmed that there is no fiscal note and the amendment will not create a fiscal note?

MS. FREED:

Yes, we do. I communicated my understanding of the amendment to Senator Seevers Gansert and the Fiscal staff. It seems section 5, subsection 6 and 7 would be replaced with the amendment. Given the relative rarity of someone asking that details of a harassment investigation be released, and due to the fact that we have confidentiality and discrimination provisions in the *Nevada Administrative Code*, there will be no fiscal impact.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 51.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR BROOKS:

That takes us to S.B. 100.

SENATE BILL 100 (1st Reprint): Enacts provisions governing the interstate practice of physical therapy. (BDR 54-153)

MR. THORLEY:

Senate Bill 100 was heard yesterday and was presented by Senator Seevers Gansert. This would allow physical therapists from states that are also part of the compact to practice physical therapy in Nevada. Senator Seevers Gansert testified there is no fiscal impact to the bill as introduced, nor is there a fiscal impact with the amendment that has been adopted by the Senate. There was testimony in support from the American Physical Therapy Association and the Vegas Chamber. There was no testimony in opposition or neutral.

SENATOR DENIS MOVED TO DO PASS S.B. 100.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

We can go to S.B. 165 when you are ready.

SENATE BILL 165 (1st Reprint): Establishes provisions relating to Esports.
(BDR 41-562)

MR. HAARTZ:

Senate Bill 165 was also heard yesterday. Senator Kieckhefer presented the bill along with Proposed Amendment No. 3362 to the first reprint. The main actions of the proposed amendment are to move this from the Department of Business and Industry to the Nevada Gaming Control Board, and to establish a committee to make recommendations to the Board regarding guidelines and parameters for Esports. There was testimony in support from the Vegas Chamber, there was no opposition and there was testimony in neutral from a representative from the Software Publishers Association. The Gaming Control Board has provided Staff with an email indicating that the proposed amendment would incur only a nominal cost for the Gaming Control Board, and they would be able to absorb the cost of the technical advisory committee that would be established.

SENATOR BEN KIECKHEFER (Senatorial District No. 16):

In addition to Proposed Amendment No. 3362, I would also like to suggest the amendment I mentioned yesterday: that in section 10.5, subsection 2, paragraph (a) of the second amendment, we strike out everything after game publishers.

CHAIR BROOKS:

To clarify, that is in addition to the amendment that is posted right now?

SENATOR KIECKHEFER:

That is correct.

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SENATOR DENIS:

It was originally a two-thirds vote bill. Does that change with all these amendments?

SENATOR KIECKHEFER:

I had not thought of that, but I assume so since there are no fees attached any more.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED S.B. 165 INCLUDING PROPOSED AMENDMENT NO. 3362 AND THE LANGUAGE SUGGESTED BY SENATOR KIECKHEFER REGARDING SECTION 10.5, SUBSECTION 2, PARAGRAPH (a) OF THE SECOND REPRINT.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

We are ready for S.B. 205.

SENATE BILL 205 (1st Reprint): Provides regulatory exemptions for certain types of residential and commercial boilers. (BDR 40-839)

MR. THORLEY:

Senate Bill 205 was heard in the Senate Committee on Finance on May 3. Senator Denis presented the bill and testified that the bill fixes an oversight from regulations adopted by the Division of Industrial Relations (DIR) in the Department of Business and Industry. Mr. Hardy also provided testimony regarding the fiscal impact. The DIR provided testimony and confirmed that the fiscal impact is in lost fee revenue to the workers compensation and safety fund, so it will not be a direct impact on the budget for DIR. The agency also testified that they collect the fees, but there is no work impact associated with that; they collect the fees and the work is done by another entity. There were no proposed amendments to the bill. One person testified in support, and there was no testimony in opposition or neutral.

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SENATOR DONDERO LOOP MOVED TO DO PASS S.B. 205.

SENATOR RATTI SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

I support the motion, but I found the testimony very confusing, so I am going to reserve my right to change my vote on the Floor.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR BROOKS:

We can move on to S.B. 291.

SENATE BILL 291 (1st Reprint): Authorizes the State Board of Cosmetology to adopt regulations to provide for classifications of licensing as an esthetician. (BDR 54-997)

MR. HAARTZ:

Senate Bill 291 was heard by the Committee on April 28. As amended, the bill authorizes the State Board of Cosmetology to adopt regulations to provide for classifications of licensing as an aesthetician. An updated fiscal note from the Board had not been received at the time of the hearing, but there was testimony from Gary Landry, Executive Director of the State Board of Cosmetology. He indicated that as a result of the amendment, it was anticipated there would be a net fiscal impact of approximately \$500 in increased licensing fee revenue. There was no other testimony.

SENATOR KIECKHEFER:

Are we processing this bill as it was presented three weeks ago? I had some people in my office shopping an amendment.

CHAIR BROOKS:

It is my intention to pass this version, since there was no other proposed amendment in this Committee hearing.

SENATOR DENIS MOVED TO DO PASS S.B. 291.

SENATOR RATTI SECONDED THE MOTION.

SENATOR SEEVERS GANSERT:

I am going to reserve my right to change my vote on the Floor because I also had people in my office shopping an amendment, so this may not be the final bill.

SENATOR KIECKHEFER:

I will be voting no and reserve my right to change my vote on the Floor.

SENATOR GOICOECHEA:

I will do the same.

SENATOR HAMMOND:

I will also reserve my right to change my vote on the Floor.

SENATOR RATTI:

There is an amendment that looks like it should have come to this Committee.

MR. THORLEY:

During the hearing on S.B. 291, there was a discussion about a possible floor amendment. No details were provided during the hearing, and no details have been sent to the staff subsequent to the hearing. Proposed Amendment No. 411 was adopted by the Senate Committee on Commerce and Labor, and there was talk about a subsequent amendment, but no details were provided.

CHAIR BROOKS:

That is my recollection as well. I want to take action based on the bill as it was presented to us.

THE MOTION PASSED. (SENATORS KIECKHEFER AND GOICOECHEA VOTED NO.)

* * * * *

CHAIR BROOKS:

We will now move on to S.B. 27.

MR. THORLEY:

Felicia Gonzales presented the bill with an amendment, [Exhibit D](#), and discussed the intent behind the amendment. The removed language would have created an account for teacher incentives. The amendment would also eliminate all references in the bill to the teachers' school supply assistance account, which is scheduled to sunset in anticipation of the Pupil-Centered Funding Plan. The amendment also removes references to the Nevada Institute on Teaching and Educator Preparation. The DOE testified that the amendment includes language recommended by the FBI to bring it into conformity with federal regulation.

Testimony was given in support by Dylan Keith of the Vegas Chamber and Mary Pierczynski with the Nevada Association of School Superintendents. Chris Daly with Nevada State Education Association provided testimony in opposition, and there was no testimony in neutral.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 27.

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

We can move on to S.B. 278.

SENATE BILL 278 (1st Reprint): Revises provisions relating to taxation of cannabis. (BDR 32-660)

MR. THORLEY:

Senate Bill 278 was sponsored and presented in Committee by Senator Settelmeyer on April 28. There was a fiscal note on the bill as introduced from the Department of Taxation indicating anticipated revenue loss related to the wholesale marijuana tax and a small increase in expenses. The Senate adopted Proposed Amendment No. 233. After the amendment was adopted by the Senate, the Department of Taxation submitted an unsolicited fiscal note indicating that with the amendment, there would no longer be a fiscal impact on the agency, neither revenue loss or increased expenses.

SENATOR DENIS MOVED TO DO PASS S.B. 278.

SENATOR DONDERO LOOP SECONDED THE MOTION

MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

We will move on to S.B. 287.

MR. HAARTZ:

Senate Bill 287 was heard this morning. This is the bill that revises provisions relating to the designation as land grant university status and expands it from UNR to include UNLV and DRI. Proposed Amendment No. 3400 was presented during the hearing this morning. It was presented by Senator Harris and Warren Hardy. There was testimony in support by various individuals. There was testimony in opposition and in neutral including from NACO, UNR and DRI. The Fiscal staff received an email from NSHE indicating that they would like to withdraw their fiscal note to the first reprint of S.B. 287, but that does not cover Proposed Amendment No. 3400. Nobody from NSHE reported that the proposed amendment would create a fiscal impact based on the language.

CHAIR BROOKS:

Proposed Amendment No. 3400 is the one Mr. Hardy stated has all of the cleanup language for NACO and NSHE. If we amend and do pass, will it incorporate that amendment?

MR. HAARTZ:

That is staff's understanding.

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

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

We will move on to S.B. 347.

MR. THORLEY:

Senate Bill 347 was heard earlier this morning. Senator Scheible presented the bill and discussed a proposed amendment from NSHE, [Exhibit M](#). Senator Scheible also indicated that the proposed amendment from NSHE would roll language from A.B. 384 into S.B. 347. Senator Scheible testified that the amendment removes all fiscal impacts. A consensus has been reached by all the stakeholders. Numerous individuals testified in support of the bill, including a representative from NSHE, several students from UNR and UNLV, representatives from UNLV, UNR, Nevada Faculty Alliance, Nevada Coalition to End Sexual and Domestic Violence and Nevada State College. There was no testimony in opposition or neutral.

SENATOR HAMMOND:

I want to make sure I go through the bill one more time, so I am going to say yes today with reservation.

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

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

I will open the work session on S.B. 69.

SENATE BILL 69 (1st Reprint): Revises provisions relating to behavioral health.
(BDR 39-431)

MR. THORLEY:

The bill is sponsored by the Senate Committee on Health and Human Services on behalf of the Washoe Regional Behavioral Policy Board. There is a fiscal note on the bill, but the Division of Public and Behavioral Health (DPBH) has

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confirmed to Fiscal staff that Proposed Amendment No. 3392 would remove the fiscal impact of the bill on the agency.

SENATOR DENIS MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 69.

SENATOR DONDERO LOOP SECONDED THE MOTION.

SENATOR GOICOECHEA:

I will support it but I want to reserve my right until I see it all put together.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR BROOKS:

The next bill for work session is S.B. 318.

MR. HAARTZ:

The first reprint of this bill requires each agency in the Executive Branch to develop and biennially revise a language access plan that includes information related to existing services available to individuals with limited English proficiency. The bill also requires the agencies to prepare recommendations for meeting the needs for such services among those served by the agency. There were many fiscal notes submitted on the bill ,including the Division of Child and Family Services, the Department of Motor Vehicles, ADSD, Departments of Agriculture, Corrections, Education, the Department of Employment, Training and Rehabilitation, Taxation, Transportation and State Public School Authority, as well various boards and commissions.

The majority of the fiscal notes indicated that a new full-time position would be needed to comply with the requirements of the bill related to preparing a language access plan. Fiscal staff received email communication from the ADSD in which they indicated they had identified an alternative funding source and would be able to remove their fiscal note. The Department of Transportation also submitted an unsolicited fiscal note on the 1st reprint indicating a zero dollar impact. Staff has not received any information or seen other unsolicited fiscal notes removing fiscal impacts. The bill was presented by Senator Donate, and Ms. Whiteley provided an explanation of the bill and walked the Committee

through it. There is no amendment on the bill. If the Committee is interested in passing the bill, it would be to do pass.

SENATOR DENIS MOVED TO DO PASS S.B. 318.

SENATOR DONDERO LOOP SECONDED THE MOTION.

MOTION PASSED UNANIMOUSLY.

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CHAIR BROOKS:

We will move on to S.B. 380.

SENATE BILL 380 (1st Reprint): Revises provisions governing the reporting of data concerning the prices of prescription drugs. (BDR 40-445)

MR. THORLEY:

Senate Bill 380 was heard by the Committee on May 12. The bill is sponsored by the Senate Committee on Health and Human Services on behalf of the Committee to Conduct an Interim Study concerning the costs of prescription drugs. An amendment was adopted by the Senate. After the amendment was adopted, the DHHS submitted an unsolicited fiscal note estimating total costs associated with the bill to be \$367,000 in FY 2021-2022 and \$389,000 in FY 2022-2023. These costs are associated with a transfer of the current SEQUEL database that the Department uses to the Enterprise Information Technology Division. It would cover contract workers which the Department estimates to be an advanced pharmacist position and a management analyst position.

The bill as amended identifies a pharmacy reporting failure penalties account and revises the authorized the uses of the money in that account to cover the costs associated with this bill. There is \$1.1 million in that account, which is enough to cover the cost of the contract positions and the SEQUEL database transfer and the other costs identified by the Department for the upcoming biennium. The Department did indicate that the money in this account is not a long-term solution, and sustainable funding would need to be identified in the future.

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CHAIR BROOKS:

That encapsulates how I recall the hearing and the outcome.

SENATOR DENIS MOVED TO DO PASS S.B. 380

SENATOR DONDERO LOOP SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS KIECKHEFER, HAMMOND,
GOICOECHEA AND SEEVERS GANSERT VOTED NO.)

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CHAIR BROOKS:

Is there any public comment? Hearing none, we are adjourned at 12:19 p.m.

RESPECTFULLY SUBMITTED:

Sally Ramm,
Committee Secretary

APPROVED BY:

Senator Chris Brooks, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 318	B	1	Wayne Thorley	Questions on Fiscal Notes
S.B. 318	C	1	Olivia Whiteley / Refugee Advocacy Lab	Bill Presentation
S.B. 27	D	1	Felicia Gonzales / Department of Education	Proposed Amendment
S.B. 51	E	1	Senator Seevers Gansert	Conceptual Amendment
S.B. 96	F	1	Assemblywoman Teresa Benitez-Thompson	Proposed Amendment
S.B. 96	G	1	Michele Tombari	Support Testimony
S.B. 96	H	1	Julie Ostrovsky / Nevada Commission on Autism Spectrum Disorders	Support Testimony from Trish Lozares
S.B. 96	I	1	Julie Ostrovsky / Nevada Commission on Autism Spectrum Disorders	Behavior Technician 2021 Medicaid Reimbursement Rates
S.B. 96	J	1	Julie Ostrovsky / Nevada Commission on Autism Spectrum Disorders	Support Testimony
S.B. 287	K	1	Senator Dallas Harris	Proposed Amendment
S.B. 287	L	1	Amy Pason, UNR Faculty Senate	Opposition Testimony
S.B. 347	M	1	Senator Melanie Scheible / Nevada System of Higher Education	Proposed Amendment

