

MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR

Seventy-Fifth Session  
March 9, 2009

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:45 p.m. on Monday, March 9, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada, and to the University of Nevada, School of Medicine, Griswold Hall, Room 31, 701 Walnut Street, Elko, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Marcus Conklin, Chairman  
Assemblyman Kelvin Atkinson, Vice Chair  
Assemblyman Bernie Anderson  
Assemblyman Morse Arberry Jr.  
Assemblywoman Barbara E. Buckley  
Assemblyman Chad Christensen  
Assemblywoman Heidi S. Gansert  
Assemblyman Ed A. Goedhart  
Assemblyman William C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Mark A. Manendo  
Assemblywoman Kathy McClain  
Assemblyman John Oceguera  
Assemblyman James A. Settelmeyer

**GUEST LEGISLATORS PRESENT:**

Assemblyman James Ohrenschall, Clark County Assembly District No. 12  
Assemblyman John C. Carpenter, Assembly District No. 33

**STAFF MEMBERS PRESENT:**

David Ziegler, Committee Policy Analyst  
Earlene Miller, Committee Secretary  
Andrew Diss, Committee Manager  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Lorri Unumb, Senior Policy Advisor and Counsel, Government Relations,  
Autism Speaks, Washington D.C.  
Jan Crandy, Chairman, Statewide Accountability Committee for the  
Strategic Plan for People with Disabilities, Las Vegas, Nevada  
Ronald B. Leaf, Co-Director, Autism Partnership, Seal Beach, California  
Megan Crandy, Private Citizen, Las Vegas Nevada  
Bobbie Osborn, Private Citizen, Las Vegas, Nevada  
Patrick M. Ghezzi, Director, Behavior Analysis Program and Director, Early  
Childhood Autism Program, University of Nevada, Reno, Nevada  
Korri Ward, Member, Nevada Governor's Council on Developmental  
Disabilities, Elko, Nevada  
Florence LaRoy, Private Citizen, Las Vegas, Nevada  
Eric Lovaas, Clinic Supervisor, the Lovaas Center for Behavior  
Intervention, Las Vegas, Nevada  
Nicole Kalkowski, Private Citizen, Las Vegas, Nevada  
Ciera Kalkowski, Private Citizen, Las Vegas, Nevada  
Mary Wherry, Deputy Administrator, Health Division, Department of  
Health and Human Services  
Charles Duarte, Administrator, Division of Health Care Financing and  
Policy, Department of Health and Human Services  
Brian Patchett, President and CEO, Easter Seals Southern Nevada,  
Las Vegas, Nevada  
Deborah Meinberg, Director of Autism Services, Easter Seals Southern  
Nevada, Las Vegas, Nevada  
Anne Loring, representing Washoe County School District, Reno, Nevada  
Bart Mangino, representing Clark County School District, Reno, Nevada  
Jack Kim, representing Nevada Association of Health Plans, Las Vegas,  
Nevada

Robert A. Ostrovsky, representing Nevada Association of Health Plans, and Employers Insurance Group, Las Vegas, Nevada  
Dan M. Heffley, Legislative Chairman, Clark County Association of Health Underwriters, Las Vegas, Nevada  
Helen A. Foley, representing Nevadans for Affordable Healthcare, Las Vegas, Nevada  
Valerie Clark, Owner, Clark and Associates Insurance Services, Reno, Nevada  
Ray Bacon, representing Nevada Manufacturers Association, Carson City, Nevada  
Dean Hartwig, Private Citizen, Elko, Nevada  
Cliff King, Director of Group Operations and Group Manager, Pro Group Management, Carson City, Nevada  
Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, Sparks, Nevada  
Nicola Neilon, Certified Public Accountant, Casey, Neilon and Associates, L.L.C., Carson City, Nevada  
Donald E. Jayne, representing Public Agency Compensation Trust, Gardnerville, Nevada  
Terri Chambers, Chief, Self-Insured Section, Division of Insurance, Department of Business and Industry

**Chairman Conklin:**

[Roll called.]

We have a quorum. We will open the hearing on Assembly Bill 162.

**Assembly Bill 162:** Requires certain policies of health insurance and health care plans to provide coverage for screening for and treatment of autism. (BDR 57-44)

**Assemblyman James Ohrenschall, Clark County Assembly District No. 12:**

I would like to thank the Committee for having this hearing on A.B. 162. At the table, I have Professor Lorri Unumb, a parent and Senior Policy Analyst and Counsel for the national organization, Autism Speaks. She authored groundbreaking autism insurance legislation in South Carolina, known as Ryan's Law, over the governor's veto. Also, we have Dr. Ronald Leaf, an expert in the world of autism who recently appeared on CNN and is an author of several recognized books on the treatment of autism. He participated in the landmark research which proved the effectiveness of Applied Behavior Analysis (ABA) for children. He is a licensed psychologist and co-owner of Autism Partnership which serves individuals with autism spectrum disorders around the world, including Nevada. He bills insurance companies for services rendered in other states.

[Read from prepared statement ([Exhibit C](#)).]

I was inspired to introduce this bill after I learned that there are many families struggling to provide for their children without insurance.

[Continued reading prepared statement.]

I met a woman yesterday who spent her child's entire college education fund to provide the treatment, and it has helped.

[Continued reading prepared statement.]

**Chairman Conklin:**

Thank you. Are there questions for Mr. Ohrenschall?

**Assemblyman Christensen:**

What can families do at home to help the autistic child? How does this affect the self-funded insurer?

**Assemblyman Ohrenschall:**

As a member of the task force, I heard a lot of stories about families struggling. One of my colleagues on the task force, Korri Ward from Elko, has a son who went from having to be in an isolated classroom to being in a normal classroom setting after having ABA therapy. Intensive therapy is the most effective, and I believe there is a lot a family can do at home. I believe federal law precluded us from targeting the self-funded insurance plans, but my other witnesses can answer that better.

**Chairman Conklin:**

Our legal counsel has advised us that we do not have access to those insurance plans through the statutes, but I will ask them again.

**Lorri Unumb, Senior Policy Advisor and Counsel, Government Relations, Autism Speaks, Washington D.C.:**

I am an attorney and the parent of a seven-year-old son with autism. I was a litigator for the United States Department of Justice and a law professor at George Washington University Law School. I gave up my legal career to advocate full-time on behalf of children with autism when I saw the inequity in the insurance arena.

[Read from prepared testimony ([Exhibit D](#)).]

The term autism is an imprecise term. In my packet, there is a chart that shows the diagnostic category of Pervasive Developmental Disorder.

[Continued to read prepared testimony]

Autism Speaks contracted with an independent actuarial firm, Oliver Wyman, to conduct a cost analysis specifically for Nevada. They arrived at a figure of less than 1 percent. You have a copy of the actuarial study in the binder which you were given ([Exhibit E](#)). The projected cost is about \$1.80 per month.

[Continued to read prepared testimony]

If you try to handle this just from a Medicaid program, you are creating a program of socialized medicine. In this country, we have decided on private insurance to handle our medical needs, and autism is a medical diagnosis. We want to get coverage for autism through our insurance.

No state law can reach self-funded employers because they are governed by the federal Employee Retirement Income Security Act of 1974 (ERISA) law. We have seen in other states that self-funded plans often follow suit once the state requires other insurers to pay. The last page in the packet is a list of employers who voluntarily offer an autism benefit. I saw this happen in South Carolina. Once the state has this benefit in place, the large employers do not want to lose good employees, so many of them offer the benefit.

I was a law professor for seven years, and I spent much of that time thinking about this dilemma. How should autism be paid for? I knew the burden should not fall on the families alone, but we expect families to pay their part. It cannot fall on the families alone. I came to the determination that everyone has a role to play, but it is the insurance industry that is not at the table now. The insurance industry is not doing its part, and that is why we are asking you to pass this legislation. Thank you for taking the first step to give Nevada children the opportunities to improve like children in other states.

**Chairman Conklin:**

There has been a small group in the Legislature, including the bill's sponsor, Assemblywoman Leslie, several key members of the insurance industry, and myself who have been working on this issue. Are there any questions?

**Assemblyman Christensen:**

Why will the Nevada taxpayers pick up the tab if this benefit is not included?

**Lorri Unumb:**

If children do not get treatment, they will require many years of expensive special education services followed by institutionalization or very expensive supports for housing and jobs.

**Assemblyman Christensen:**

Are you referring to our state mental hospitals?

**Lorri Unumb:**

It may be a mental hospital, other types of housing, institutions, or out-of-state placements.

**Jan Crandy, Chairman, Statewide Accountability Committee for the Strategic Plan for People with Disabilities, Las Vegas, Nevada:**

Nevada has not yet seen the impact because the children have not reached adulthood, but kids who are not getting treatment will have to be taken care of by the state.

**Chairman Conklin:**

Are there any other questions?

**Ronald B. Leaf, Co-Director, Autism Partnership, Seal Beach, California:**

I was entering my junior year at University of California, Los Angeles (UCLA) in 1973, and had to choose whether to take an art history or psychology class. I decided on psychology because it was convenient. I did not know that my career path would be very different, and I did not know the professor, Ivar Lovaas, a pioneer in the treatment of autism. I did not even know what autism was, but I found the children adorable and intriguing. I became an undergraduate therapist on the UCLA Young Autism Project. Eventually I became a graduate student, a research psychologist, and a lecturer. The UCLA Young Autism Project was funded by the National Institute of Mental Health because they wanted to determine the most effective treatment under best practice conditions for children with autistic spectrum disorder ([Exhibit F](#)).

In the 1970s, young children with autism, as well as adolescents and adults, were sentenced to state institutionalization. Their prognosis was bleak at best. Fortunately, the children we treated did not read the research and know that they could not make progress. Their parents did not know that either. The parents and the staff believed that children can make amazing progress if they get the right treatment. With intensive treatment based on ABA, children were learning to talk, play, were gaining social interests, and developing meaningful friendships. Children were emerging from autism, and 17 of the 19 children we treated no longer presented with autism spectrum disorder. This is not due to

maturation or because we employed a variety of interventional strategies. It was because children were receiving intensive and comprehensive intervention with an average of 40 hours per week for two or more years. Intervention was based upon ABA. Applied Behavior Analysis is a psychological approach based upon the premise that children, adolescents, and adults can learn complex skills and achieve a higher quality of life. When you define ABA, it is simply outstanding teaching. It is understanding that children, adolescents, and adults behave in certain ways and analyzes why they do what they do. We break down skills into teachable parts. We break language into small components so we can teach children to express their needs. We break down play skills so they can be occupied in needful and enjoyable ways. We need to look at social interests and help them learn to have those. Outstanding teaching means we have to provide motivation for them. We understand that the children we work with are often not internally motivated, so we need to provide external motivation with the hope and programming that they will become internally motivated. Applied Behavior Analysis is having high expectations for all learners. We believe we can teach anyone skills if we follow good teaching practices. The outcomes are going to be based upon the intensity of the intervention, the time and age intervention begins, and the child himself. We can make outstanding progress.

After 13 years, I left UCLA and worked with adults with autism spectrum disorder. I expected the outcomes to be drastically different but was heartened to find that to be not so. We were able to take adults and teach them meaningful skills so they could live and work semi-independently and often independently. Some of our clients married, and some lived on their own. It is not just doing ABA. Sometimes people liken ABA to working with animals; this is a complex intervention that takes tremendous expertise. It is noting that we have to do things in the correct fashion. It is not only applying ABA; it is also doing it at the correct intensity. In the study I was involved in at UCLA, we had a control group. We had children that received an average of 40 hours per week and we had children who received 10 hours per week. The children who received an average of 10 hours per week did no better than children that received 0 hours per week. Ten hours per week produced no results. The conclusion of the study was that intensity was critical. It also requires understanding what ABA is, that it is for all learners, and it is not in an isolated setting, but is throughout their entire lives. We understand that we are treating the whole child.

We provide treatment throughout the world because the need is throughout the world. We are gratified to be able to provide treatment in the State of Nevada and to see those children, adolescents, and adults making significant progress. We know that without that treatment, their outcomes would not be the same. I

am passionate about what I do because I work in partnerships with parents, professionals, and children. I am able to see the outcomes when children get good quality intervention. I am passionate because every year I see children graduate from high school, have play dates, hangout, and go to universities. I see children have the highest quality of life, and I know that without the treatment, it would not happen. When we had the results 35 years ago, we were met with tremendous skepticism. The thought was that children with autism could not make this kind of progress. We knew it was a serious disorder, but we also knew that it did not need to be lifelong.

Today, there are numerous studies that show that we were not unique in what we produced. There are many studies that show that children have amazing potential as long as they have the right treatment. Unfortunately, the right treatment is based upon funding issues. Without funding, I see children going without the necessary treatment. I go to countries where there is no mechanism for treatments and only the wealthy get them. I see children slip further into their autism, and I know they will not enjoy the life they could enjoy if they received the right treatment.

Parents are vital in the treatment of autism. In our research at UCLA, we worked closely with parents, but it is not parents alone. This is a serious disorder that has tremendous potential and takes collaboration. It needs support at home and professional interventions.

**Chairman Conklin:**

Are there questions from the Committee? Could you explain the two time frames that are critically important to treatment?

**Ronald Leaf:**

I think all ages are critical. Certainly, the earlier the intervention, the better hopes you have. I was in private practice treating normal neurotic people. I learned that if I got someone in his first depressive episode, I would be much more successful than after 20 years of chronic depression. I will still treat all ages and believe they are all critical, but I would rather get them as early as possible.

**Assemblyman Horne:**

What is a definition of autism?

**Ronald Leaf:**

We do not know the cause of autism. We think it is a neurological medical disorder; all the evidence points to that. To define autism, the onset has to be before the age of three and has three diagnostic features on a large spectrum.



We are seeing such a rapid increase in numbers because there has been a widening of the spectrum. The first deficits most parents become alarmed about are language deficits. It ranges from children with no language to children who have problems with syntax and grammar. The second feature is a social deficit with a range of no social contact to not having the tools to have meaningful friendships. The third deficit is a preoccupation with motor movements, such as self-stimulation, like rocking back and forth, which interferes with learning. At the other end are children who have obsessive rituals and problems with transitions. All of those areas are treatable. We can give children meaningful communication skills, social skills, and overcome obsessive behaviors.

**Assemblyman Horne:**

In each of the three deficits, is it safe to assume that the level of treatment varies?

**Ronald Leaf:**

Not necessarily. The common belief is if you have high functioning skills, treatment will be easy, but it is not so. There are nuances that you have to treat, such as social nuances. There is not necessarily less treatment or more treatment. It is all very individualized. Children with autism are like snowflakes. There are commonalities, but there are unique differences which dictate the treatment. Our goal for treatment is to get rid of treatment.

**Chairman Conklin:**

Are there any questions for Dr. Leaf? There are none.

**Jan Crandy:**

[A video was shown.]

I wanted to show you the video to demonstrate what our kids will do without treatment. They are reachable, and they are happy or they are sad in that world.

[Read from prepared testimony ([Exhibit G](#)).]

We included the impact report in the binder ([Exhibit E](#)).

**Chairman Conklin:**

Are there questions? There are none.

**Megan Crandy, Private Citizen, Las Vegas Nevada:**

I am fifteen years old and started high school this year at a magnet school. I was very excited to be selected to go there because one of my dreams is to be a disc jockey, and Desert Pines High School offers a radio broadcasting program. I do not remember doing all the hours of ABA my mom said I did, but I remember what it felt like to be trapped inside autism. It was like being in a cage and scratching to get out. I could not tell my parents when I could not see because autism can get in the way like that, but it will not stop me from doing what I want in life. Besides, my mom says I cannot use autism as an excuse. When I started second grade, I told my teacher that I could not see the board. My mom and teachers thought I was making excuses not to do the work. I needed glasses which make everything clear. I had to do ABA everyday and on Saturdays. I liked my therapists who I still see sometimes. It made me be okay with noises and going to new places. It was a bit hard to make friends, but now I have lots of friends and I talk on the phone a lot. My friend calls me every night; he is a "player." I take private voice lessons and piano lessons. I love to sing and recently sang in a talent competition at school.

I had my ears pierced at Claire's and might get a job there when I turn 16-years-old. I am also thinking of becoming a behaviorist and working with children who have autism. I love the Health Channel and learning about the human body and medicine. I love reading books, have a "MySpace" account, and email my friends. I can ice-skate, snow ski, and ride my bike. I like "YouTube" to find music and funny videos. You can learn a lot on "YouTube." I get to wear makeup now. I do my own laundry and clean my room. At our house a lot of meals are "every man" which means if you want to eat, you cook it yourself, and I do.

There are some things that bother me like boys and bullies at school. I like me and who I am. I like my style and how I dress. I do everything my sisters do, but I want to get my driver's license. I want to say I have unlimited possibilities because of ABA. I want all children with autism to get a chance like me. Please pass A.B. 162.

I am proud to give other families hope because of the opportunities I have had, and I want all kids to have those opportunities.

**Chairman Conklin:**

Ms. Crandy, you are a shining superstar and a representation of what can be done when we all pull together and give people an opportunity. If there was ever a beacon for this issue, you are it, and we are glad you are here. Are there questions from the Committee? There are none.

**Bobbie Osborn, Private Citizen, Las Vegas, Nevada:**

[Read from prepared testimony ([Exhibit H](#)).]

**Chairman Conklin:**

Are there questions from the Committee?

**Assemblyman Christensen:**

How old are your children and do you have other children? Is it rare that there is more than one child in the family with autism?

**Bobbie Osborn:**

I have only two children, and they both have autism. My six-year-old is higher functioning. He is verbal and probably falls into the category of Asperger's Syndrome. My four-year-old is classic autistic. They were diagnosed when they were two and four years old. I found out because they stood out in play groups. I was told it is genetic. We hear there are environmental triggers. We have no one else in our family with autism. I see progress and hope for them, but we need the monetary resources to get them the additional help they need.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Mrs. Osborne, thank you for testifying.

**Patrick M. Ghezzi, Director, Behavior Analysis Program and Director, Early Childhood Autism Program, University of Nevada, Reno, Nevada:**

I am the former director of the Behavior Analysis Graduate Training Program at the University of Nevada, Reno (UNR) and the co-founder and current director of the UNR Early Childhood Autism Program which has been providing services to children and their families for the last 15 years. I am here to describe the mission of the Behavior Analysis Certification Board and the requirements for board certification in behavior analysis. The demand for Applied Behavior Analysis or ABA began roughly 25 years ago. The impetus came from research which showed that a sizable minority of young preschool age children with autism overcame their disability after several years of early intensive ABA intervention. It was not long before parents became aware of the research and the hopes it created for their own children with autism. A dramatic nationwide surge in the demand for ABA services resulted, and specialists were in short supply. The situation was ripe for exploitation and ill-will. Parents desperately wanted services for their children and became easy targets for people who claimed expertise in ABA, but did not have the proper training, experience, and supervision. It was clear something needed to be done to protect parents and their children from unsubstantiated claims and potentially harmful interventions.

The profession needed protection from being cast by the public in an unfavorable light.

A national movement to credential ABA specialists gained momentum culminating in the creation of the Behavior Analysis Certification Board in 2000. The intent of board certification is to provide a process by which people can demonstrate competence in ABA. This gives the public the assurance that the people who offer these services are competent by virtue of being credentialed by the Board. The mission of the Board is to develop, promote, and implement a national and international certification program for Behavior Analysis practitioners. The Board has established uniform content, standards, and criteria for the credentialing process that are designed to meet the legal standards established in state, federal, and case law, and the accepted standards for national certification programs. It provides the best practice and ethical standards of the Behavioral Analysis profession. The Behavior Analysis Certification Board credentials behavior analysis at two levels. The top level is Board Certified Behavior Analyst (BCBA) who must hold a master's degree in behavior analysis, have 225 classroom hours of graduate coursework in behavior analysis, and have 1,500 hours of field experience in behavior analysis under the supervision of a BCBA. They must pass the Behavior Analyst Certification Examination. The second level is Board Certified Associate Behavior Analyst (BCABA). At this level, a person must hold a bachelor's degree, have 155 hours of undergraduate coursework in behavior analysis, have 1,000 hours of field experience in behavior analysis under the supervision of a BCBA, and pass the BCABA examination. People who meet the requirements for the BCBA or BCABA must renew their certification every three years. This requires documented continuing education which may be satisfied by participating in workshops on behavior analysis; by attending state, regional, national, and international conferences; by publishing or teaching behavior analysis; or by completing advanced course work in the philosophical, theoretical basic, and applied dimensions of behavior analysis.

We cannot afford to accept unsubstantiated claims of expertise in behavior analysis nor can we condone practices that have not passed the test of rigorous scientific analysis and behavior. Board certification in behavior analysis exists to combat these claims and practices and ultimately to ensure the children with autism and their families receive the very best that behavior analysis has to offer them.

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblywoman Buckley:**

Are they certified or licensed in Nevada?

**Patrick Ghezzi:**

There are BCBA and BCABA certifications in Nevada.

**Assemblywoman Buckley:**

What licensing board is it under?

**Patrick Ghezzi:**

They are under the Behavior Analysis Certification Board which is a national organization.

**Assemblywoman Buckley:**

Is there any other Nevada board involved?

**Patrick Ghezzi:**

There is none to my knowledge.

**Assemblywoman Buckley:**

How does that work with complaints? Is there anything locally?

**Patrick Ghezzi:**

There is a process at the national level. There is nothing locally.

**Assemblywoman Buckley:**

What happens in other states?

**Patrick Ghezzi:**

There is nothing to my knowledge. The Behavior Analysis Certification Board is a national and international body. They credential, re-credential, and hear complaints from consumers. There is a mechanism to deal with those kinds of issues.

**Assemblywoman Buckley:**

What are most of the professionals' occupations?

**Patrick Ghezzi:**

They would identify themselves as Behavior Analysts or Applied Behavior Analysts, which is a specialized domain within psychology.

**Assemblywoman Buckley:**

Are they psychologists?

**Patrick Ghezzi:**

They would be by the degree they received in psychology, but they would specialize, for example, in applied behavior analysis.

**Assemblywoman Buckley:**

Normally, we do not mandate coverage unless the person is licensed by the state. Is there any other exception to that in the state?

**Patrick Ghezzi:**

Not to my knowledge.

**Assemblywoman Buckley:**

The reason we do that is accountability. Most providers are wonderful, but sometimes they are not, so we like to have the ability to revoke a license or hear a complaint. How are providers in Nevada now licensed?

**Patrick Ghezzi:**

That is how the board certification is set up. You would have to ask those providers. For example, I am licensed as a psychologist.

**Chairman Conklin:**

Are there other questions from the Committee?

**Assemblywoman Kirkpatrick:**

Are any of these children ever medicated?

**Patrick Ghezzi:**

I do not have firm data on that, but my suspicion is that a sizable minority of these children are not receiving any medication.

**Chairman Conklin:**

Thank you for your testimony.

**Korri Ward, Member, Nevada Governor's Council on Developmental Disabilities,  
Elko, Nevada:**

I am the mother of a child with autism and cerebral palsy who is 15 years old. I am the case manager for the Elko Office of Disability Services' autism program. I have 12 children on my caseload. Prior to having evidence-based programming paid for, none of the children were receiving intervention. The parents were living with their child's lack of academic gains, lack of communication, and aggressive and injurious behaviors. Now, they are all making awesome progress. I am here in support of A.B. 162. I serve on the Governor's Council on Developmental Disabilities. We submitted a letter

([Exhibit I](#)) in support of this bill because we believe it will improve the outcome of people and give them a higher quality of life and the ability to access their communities.

I would like to make two points. First, autism treatment works. Three years ago, my son was assessed by a clinical psychologist. The assessment was that my son would never improve and would not make any cognitive gains. At that time, he was put on Risperdone. In Elko, many of our teenagers are medicated on Risperdone to control aggression. It did not work for my son, and we stopped medicating him. After ten months of receiving ABA, my son has had a 20 point Intelligence Quotient gain. These gains are tremendous. For the first time, we were able to provide him with evidence-based intervention. For three years he was segregated at school for being a danger to himself and others as well as screaming in the classroom. Although he was segregated, he hurt other children on the playground. One year ago he was placed in a classroom with 15 other children, and he goes to regular lunch. Ten years ago, he was hurting somebody on a daily basis, and now he has not hurt anyone in the past eight months. The treatment helps in so many ways. We have had to have him sedated—which cost \$7,000—for dental examinations, but he does not need to be now. Academically, he can now read over 200 words. He uses a voice outlet device to communicate.

My second point is that in deciding not to cover autism treatment, insurance companies are just "passing the buck" to public entities, and people like me do not like to go to the government to ask for help. Our insurance will cover anything related to my son's cerebral palsy, but has done nothing for his autism. They are both neurological conditions and can improve with treatment. When health insurance does not treat autism, the rest of us are picking up the tab. Our schools, Medicaid, regional centers, and other state social programs end up providing a lifetime of services which may have been avoided had treatment been received. I ask you to support A.B. 162 so parents like me have access to affordable treatment for our children.

**Chairman Conklin:**

Are there any questions for Ms. Ward?

**Assemblywoman Buckley:**

Who is available for treatment in Elko?

**Korri Ward:**

A year ago in Elko, we had a huge deficit and saw there was no funding. We came together as a community and devised the Elko Building Capacity Program. The Lovaas Center from Las Vegas brings a team of six consultants to Elko

once a month, and we have two consultants who come from Reno. We have built our capacity in Elko and now have someone who is going to sit for the BCBA examination in July 2009 and will be fully ready to treat patients. The way our program operates is whenever a consultant comes in, it is a community effort. We have done wraparound services with the schools involved. For my son, we have three home aids. On a consult day, we have the three home aids, the parents, the consultant, the teacher, and the school aid. We have trained the teachers and aids at the school so they can use the same techniques with other students. Previously, the schools in Elko were not familiar with ABA. There were 12 lucky children who were able to access the help. When others are able to access it, the teachers will be able to help those children as well.

**Assemblywoman Buckley:**

After we appropriated the money to start the program last session, I am sure your task force went through a series of hearings about qualifications and who would be eligible for payment. You probably spent hundreds of hours figuring it out.

**Korri Ward:**

Do you mean the Office of Disability Services program?

**Assemblywoman Buckley:**

Yes.

**Jan Crandy:**

We did have those discussions and determined the provider had to be a BCBA or be part of a company that provided that level of service. There is a hierarchy of delivery of services: a licensed psychologist, a BCBA, a consultant, a supervisor, a senior therapist, and a staff therapist.

**Chairman Conklin:**

Are there any other questions from the Committee? There are none. We have passed the time for support testimony on this bill. If you are in Las Vegas and support this bill, please stand. [Many stood.] Thank you for participating in our process and give yourselves a round of applause. Those in Carson City in support of the bill, please stand. [Many stood.] Give yourselves a round of applause as well. We are being videoconferenced to Elko at the request of Senator Rhoads. I would like to recognize in the audience a former member of this body, former Assemblywoman Dawn Gibbons.



**Florence LaRoy, Private Citizen, Las Vegas, Nevada:**

My son Jeff was born 24 years ago in the dark ages of autism treatment. He went to early intervention and received no intervention. He was later diagnosed with autism. I am here to represent not only my son but other family members as well.

[Read from prepared testimony ([Exhibit J](#)).]

My son who is 24 years old still receives ABA services and will continue to do so. All of the costs have been out-of-pocket.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Eric Lovaas, Clinic Supervisor, the Lovaas Center for Behavior Intervention, Las Vegas, Nevada:**

I am the son of Dr. Ivar Lovaas from UCLA. We are incorporated and licensed to conduct business in Las Vegas. We are contracted with Clark County School District and state agencies. Less than 1 percent of our caseload has received insurance funding. The majority of funding comes from the Clark County School District, the state, or private parties ([Exhibit K](#)). With Dr. Ghezzi, Dr. Leaf, and the Lovaas Center here, you can see that we are prepared to provide services for the state, but there may be some questions about qualifications. There are some very talented people who have presented here today. I think this bill will draw the community together. I have had the honor to work with Korri Ward. There are six of us who drive from Las Vegas to Elko in one car, and we sleep three to a room to save the state money. This is a service we are trying to bring together. If this bill is passed, I see great things happening.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Nicole Kalkowski, Private Citizen, Las Vegas, Nevada:**

I would like to thank you for listening to the moving and emotional testimony today ([Exhibit L](#)). My son is one of the children shown in the video clip. He is the cutie-pie with the blond hair and green shirt who would not respond to his name and continuously flicked his fingers. A year and a half ago, he received a diagnosis of severe autism. At that time, the diagnosis report read that my child continuously flicked his fingers upon his face with no response to his name or others around him. He seemed to not be aware of individuals in the room, and he would scream in protest if anyone tried to interact with him. Our family's life drastically changed. We could no longer go anywhere in public

because he would have violent bursts of temper tantrums. Every characteristic that you have heard today, my son experienced. It was devastating and emotional, but nothing could compare to the feeling we had when we learned that there were research-based therapies that were helping children, but we could not afford those for our child.

Our family made a lot of sacrifices to provide weekly speech and occupational therapy, but we could not afford ABA for our child. He started slipping further into the grip of autism and we were able to apply for the "rage funding" that you were talking about that is scheduled to "sunset" in June 2009. That funding changed our family's life. In one year of therapy, he is a completely different little boy. He is a happy boy who loves to go on outings and no longer flicks his fingers in front of his face. He has replaced many of the characteristics of autistic children with meaningful skills with the help of his ABA therapist. He is a joy to be around, he is learning, and we have high hopes for him. We are very concerned about losing the vital funding that is changing his life because we would no longer be able to provide that treatment for him. We would make any changes in our life to help our children. In the current economy, we do not have the option of getting out of our home. The only houses on our street that are selling are ones in foreclosure. We are upside down in our mortgage and exhausting college funds. We gave up his speech and occupational therapies to pay for ABA. We want to do all we can and are doing the best we can with very limited resources.

**Ciera Kalkowski, Private Citizen, Las Vegas, Nevada:**

I would really like to help all of the kids who have autism because it is not fair and they deserve a second chance like Megan Crandy. It would be great if we could let them have it ([Exhibit M](#)).

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Mary Wherry, Deputy Administrator, Health Division, Department of Health and Human Services:**

Federal law allows for services from Nevada Early Intervention Services to be paid by insurance companies. We are not doing a fiscal note on this bill because we do not know if the parents would give us permission to bill their insurance companies. The estimated cost of autism services for our program last year was close to \$1 million. I have provided you with a copy of our testimony ([Exhibit N](#)).

We spoke with Jan Crandy about the definition in Section 8, subsection 7, paragraph (k) and suggested changing the word "screening" to "diagnosis" so

all evaluations or tests would be to determine whether a person has an autism spectrum disorder.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Assemblywoman Buckley:**

If this coverage was covered by Medicaid and Nevada Check Up, what would the fiscal note be?

**Charles Duarte, Administrator, Division of Health Care Financing and Policy,  
Department of Health and Human Services:**

We have not yet posted a fiscal note because the legislation proposes to exempt Nevada Medicaid and Nevada Check Up. My testimony today was to provide some clarifying language which would clearly exempt us from this bill. We have completed some analysis of that, and we are estimating that the general fund impact for the next biennium for Medicaid, specifically, would be about \$12 million.

**Assemblywoman Buckley:**

What about Check Up?

**Charles Duarte:**

The fiscal note does not include Check Up at this time.

**Assemblywoman Buckley:**

Could you provide me information about what that fiscal note would be? If there is any opportunity with the increased federal matching funds to expand the coverage, I would like to have that information. It is ironic that we make the private insurers cover it and we do not do it ourselves. Please specifically lay out your assumptions of what levels are covered and what providers.

**Charles Duarte:**

I would like to speak to an issue I feel is pertinent. When you are speaking specifically about Medicaid, there are federal rules which limit the availability of federal matching funds for these types of services generally referred to as ABA. You would have to do a home and community-based waiver to provide these. Current federal policy does not categorize ABA-type services as rehabilitative services, and hence, they have to be provided under home and community-based waivers which the Secretary of Health and Human Services would have to approve. There is a time constraint involved in that as well. The other condition that is applied whenever you provide a service under a home and community-based waiver is that the individual must meet a certain level of

care. The level of care would probably be established at something close to what we currently use in our mental retardation and developmental disability waiver. That level of care is called "intermediate care facility for the mentally retarded." It is a very high standard to have to meet in terms of clinical acuity in order to qualify for enrollment in the waiver. We have had these discussions with advocates. A large number of children would not qualify for that level of care criteria and would not be eligible for services through Nevada Medicaid.

**Assemblywoman Buckley:**

In which case, I would anticipate a low fiscal note.

**Charles Duarte:**

The fiscal note was based on an assumption of the number of children that would probably qualify at the level of care in the community. We received information from Mental Health and Developmental Services and applied that to the fiscal analysis we conducted.

**Assemblywoman Buckley:**

If in the end, we would save money, and if you look at the amount we would spend in a Desert Regional Center or other facilities, we should at least look at that cost-benefit analysis. I suspect that the federal government will be updating its standard because this is the wave of the future. It would be nice to have some of that policy work already done in our state.

**Charles Duarte:**

The costs we provide in that analysis do not only include ABA-type services. They include other medical services that the individual would need. All our waivers are inclusive of both the waiver services and the medical services. You are talking about an individual who has to meet a high level of care standard to qualify for Medicaid. Part of the costs which raise the cost for the state are the medical services. Both of those are taken into consideration when we do our fiscal analysis.

**Assemblywoman Buckley:**

Are the medical costs already being borne by Medicaid?

**Charles Duarte:**

In some cases, they are. There may be children who would not otherwise be enrolled in the waiver who would now be enrolled and receive not only ABA services but other state plan medical services.

**Assemblyman Settelmeyer:**

What were you saying about exemptions?

**Charles Duarte:**

This is not a regular Medicaid benefit that could be provided by the state. You have to put a program together which would include a description of the benefits you will provide, the types of providers who would be allowed, and the service levels. All that would have to be submitted to the Secretary of Health and Human Services who would then make a decision to approve the waiver and allow us to provide the services to individuals who qualify.

**Assemblyman Settelmeyer:**

Would the state insurance plans cover this?

**Charles Duarte:**

This applies only to Nevada Medicaid, not to any private insurance plans.

**Assemblywoman Buckley:**

The federal government pays for nursing home care, the most expensive care possible. When we advocate helping people in the community, they say if you submit a waiver and show that it is cost neutral, we will consider the waiver. We have to show cost neutrality and meet other standards for the federal government to get them to approve it. It is a complicated process.

**Chairman Conklin:**

Who would like to speak in support of the bill?

**Brian Patchett, President and CEO, Easter Seals Southern Nevada, Las Vegas, Nevada:**

We are an organization that provides autism services for children and adults. We support A.B. 162. We are part of a national network which is one of the largest networks providing services for individuals with autism. The personal stories you have heard here today are indicative of what I hear on a daily basis. There are so many families desperately seeking these services. If you implement this bill, many families will benefit.

[Gail L. Benton submitted a letter and statement ([Exhibit O](#)).]

**Deborah Meinberg, Director of Autism Services, Easter Seals Southern Nevada, Las Vegas, Nevada:**

I am here to support A.B. 162. We serve children with autism 18 months to 8 years of age and provide ABA services in the home as well as parent training. We will be launching a new screening and diagnostic program in the next

month. Our families are struggling to pay for services. I see families every week that cannot get services because there is not enough funding available. We have families who will leave the state if this bill does not pass because they cannot afford to waste any more time waiting for services for their child. They are working two and three jobs and going bankrupt. The passage of this bill will allow them to stay in the state and continue to contribute to the community, and their children will grow up to contribute to the state as well. We hope you will pass this bill and we thank those in support.

[Michael Harter, CEO, Touro University, submitted a letter of support for the bill ([Exhibit P](#)).]

[Dorinda Cappasola, Private Citizen, North Las Vegas, Nevada, submitted a letter of support ([Exhibit Q](#)).]

[Diane Lombardo, Private Citizen, Las Vegas, Nevada, submitted a letter of support ([Exhibit R](#)).]

[Rachelle Reynolds, Private Citizen, Las Vegas, Nevada, submitted a letter of support ([Exhibit S](#)).]

[Stephanie Hill, Private Citizen, Las Vegas, Nevada submitted a letter of support ([Exhibit T](#)).]

**Chairman Conklin:**

We are going to take neutral testimony at this time.

**Charles Duarte:**

The Division is neutral on this bill ([Exhibit U](#)). We note that the intent in the Legislative Counsel's Digest for A.B. 162 was to exempt the state plan for Medicaid from the requirements of providing these services. We would like to propose an amendment ([Exhibit V](#)) that if it is still the intent of this Committee to exempt Medicaid that we also exempt Nevada Check Up. The amendment proposes to change section 12 and adds a new section 13 that would clearly establish an exemption for Medicaid and Nevada Check Up from the provisions of this bill.

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblyman Settlemeyer:**

So they would still be covered, but not through those two programs?

**Charles Duarte:**

Yes, we are trying to preserve the intent of the bill and suggest that Nevada Medicaid and Nevada Check Up not be included.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone else who wants to speak from the neutral position?

**Anne Loring, representing Washoe County School District, Reno, Nevada:**

We are neutral on A.B. 162. It is clear that early intervention and treatment will help these children and have a positive impact on their education. As educators, our staff supports interventions that will improve the lives of autistic children and help them become effective learners. Washoe County School District is a self-insured employer with over 7,000 employees. Based on this bill, our best estimate as indicated in our fiscal note is that the fiscal impact will be between \$300,000 and \$1.5 million per year. We respectfully request that if this bill is passed that the Ways and Means Committee be asked to provide funding to enable school districts to provide this funding for their insurance.

**Bart Mangino, representing Clark County School District, Reno, Nevada:**

We would like to reiterate the position of Washoe County School District. In the Clark County School District the cost would approach \$5 million.

**Chairman Conklin:**

Are there any questions from the Committee? How did you arrive at that number?

**Bart Mangino:**

It was based on a review of current costs for self-insured plans for Clark County School District through our Chief Financial Officer.

**Chairman Conklin:**

What assumptions did they make?

**Bart Mangino:**

Based on current recommended cuts through the Distributed School Account, the cost would be passed on to the school districts to maintain current funding for the insurance programs with the possibility of being passed on to the employees.

**Chairman Conklin:**

You had to do some actuarial study to understand what that cost would be and make some assumptions to do that. Please provide me in writing the

assumptions you made so if the bill changes, I will know how that will affect the school district.

**Bart Mangino:**

I will provide that information.

**Chairman Conklin:**

Are there any other questions from the Committee? There are none. Is there anyone else to testify in the neutral position? We will move to opposition to the bill.

**Jack Kim, representing Nevada Association of Health Plans, Las Vegas, Nevada:**

Historically, our association has opposed mandates. We have not opposed them because the mandate was not needed, but we oppose them in general because they are a pass that goes to the employers who purchase insurance. Part of our fiduciary duty is to protect our employers so they can afford health care. It was mentioned that this bill and many mandates apply only to the fully insured health plans. It applies only to people who are regulated by both the Department of Labor and the Insurance Department. An ERISA plan or self-funded plan will not be affected. It is up to them to provide autism services. In these economic times, there is policy reason to have this mandate. We have met with the bill sponsor, the Chairman, and others to see if there is anything we can do to this bill that we can support. We want to come up with a bill that is good policy, addresses some of the concerns we have in this bill, and still recognizes there will be a fiscal impact on employers. We do not know how big the impact will be. We are being asked to build the infrastructure especially in the financial aspect. We are willing to work with everyone to do that.

One of our biggest concerns is the scope of this bill and who it applies to. The policy issue is: children who are on Medicaid are the population who need this coverage most. They probably have the least financial ability to get this coverage through a private employer, so why do we exempt them from this coverage? Someone who has insurance has an opportunity through this bill to get treatment. There are some equity issues. The bill requires the individuals to have coverage. If you have an individual policy, you need to have coverage, but if you buy a small group policy, you are not required to have coverage. A large group policy is required to have coverage.

There is a technical issue in the bill. Typically, these types of mandate bills apply to comprehensive healthcare plans such as Health Plan of Nevada, Anthem Blue Cross, or Hometown Health Plans which cover all medical conditions. The way this is written it would also apply to medigap policies, supplemental policies, or policies with very limited benefits. I do not think that



was the intent of this bill, and the language needs to be changed. Another aspect of this bill, is what is covered and should there be any limits. Many other states who have adopted this type of benefit have put some sort of cap on it. We will continue to have discussions on that.

In this bill the providers do not have to be licensed by anyone in the state. Someone in the state should regulate providers. That is an issue for us. We would all feel more comfortable if someone from the state had some authority over those providers. A concern is the costs of the school services are not off-loaded onto the employers. Certain services are provided in schools. We see this as a partnership between the school and other providers so the child can receive as much treatment as possible, but should the cost be passed to the employers? We think that is not good public policy. The effective date also gives us some concerns. Under this bill, we would have to develop networks, credential providers, and have our policies re-filed and approved by the Division of Insurance. An October 2009 effective date would be problematic for us.

I am here on behalf of all of the health plans to indicate that we are willing to work with everyone to come up with a bill that we can all support. I think it is appropriate to support this mandate.

**Chairman Conklin:**

This bill has issues and needs work. It is my intent to work on it with the bill sponsor and Assemblywoman Leslie to find a reasonable package that can be successful. We all recognize that is a tall order. We appreciate representatives from the insurance industry being sincerely willing to work on this with us.

Are there any questions from the Committee? There are none.

**Robert A. Ostrovsky, representing Nevada Association of Health Plans,  
Las Vegas, Nevada:**

I would like to reinforce what Mr. Kim said. We would like to find some language that works for all of the parties. We think the bill as written is very expensive. With the numbers given, it would cost hundreds of millions of dollars. We are trying to get that down to servicing the largest number of children without being in the situation of driving people away from being able to purchase insurance or employers being unable to provide insurance. It is really the employer's premiums that provide the benefits we administer. It is very important that the providers be licensed in this state, hopefully through an existing licensing board. I hope the Committee will take this into consideration when they see a mock-up which will look substantially different.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. It is important to note that there is an exponential factor in terms of affordability that takes place with insurance. The more affordable this policy becomes in terms of the applicability from an insurance standpoint, the more people we can apply it to and the more affordable it becomes because you are spreading out the risk pool associated with it. It is important that we recognize that in terms of finding the correct blend we can put into statute.

Is there anyone to testify in opposition to the bill?

**Dan M. Heffley, Legislative Chairman, Clark County Association of Health Underwriters, Las Vegas, Nevada:**

I have a nine-year-old nephew with autism, and his family is struggling to pay the bills. However, there is a misconception that all of the payments come from the insurance company. The people who pay the insurance companies have faces. The way this bill is written will disproportionately affect small business owners. Small business owners constitute 2 to 50 employees under small group reform. They are rated by an "experience rating." Premiums will definitely go up. That is just a small part of this story whether it is 1 percent as suggested by Autism Speaks, or 19 percent as a recent study in Oklahoma suggested. The 2 to 50 employee group also has an experience rating, and if you have a group of ten employees and one has an autistic child, the rate will be reflected in their next renewal. The rates can be as high as 86 percent in Nevada. I am seeing more small business owners drop their policies because they cannot afford them. It may be a small flower shop with three employees or a business that put a health plan into place October 1 of last year and dropped it because he could not afford it, leaving a pregnant employee with no options. I have also seen a slightly larger resale company with 15 employees where the premium is well over \$100,000 per year with a \$2,000 deductible.

This is a community problem, not an insurance problem. Because federal law exempts ERISA employers, the Taft-Hartley Act exempts unions, most of this is going to fall on the small employers who are already struggling. It could become a choice between health insurance and payroll. The bill should be amended to spread the risk.

**Chairman Conklin:**

I agree it is a community problem, but I think insurance is a community issue. Why do we have separate risk pools for small insurers? If this is one in a hundred and we spread it out over three million, the cost is minimal. Is there a statute that requires this; is it standard practice for insurers? What practical sense does it make to have smaller risk pools when we know the purpose of

insurance is about sharing the risk? By sharing the risk, the frequency and severity would spread over more people which would lower the rate.

**Dan Heffley:**

It works that way with individual insurance. With employer sponsored healthcare, each employer stands on its own. That is why they have experience ratings.

**Chairman Conklin:**

But, why and who sets that up?

**Dan Heffley:**

I do not know; that is the way it has always been.

**Chairman Conklin:**

I will ask Research.

**Assemblyman Goedhart:**

I am an employer with a small group of employees. Even with Workers' Compensation, they give a moderating rating and the same thing is so with the business' car insurance. If you have an employee who increases the payout, that is going to be assessed over the insurance pool.

**Dan Heffley:**

That is correct.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Helen A. Foley, representing Nevadans for Affordable Healthcare, Las Vegas, Nevada:**

I strongly believe that people with autistic children should have health insurance coverage. I am representing small employers who are desperately trying to cover their employees with health insurance. Many employers are trying to save their employee's jobs and health coverage. The original bill had unlimited coverage for an unlimited period of time. It appeared that it would eliminate many groups from coverage. The first year of coverage may not be affected, but after the second or third year, the coverage might be extremely high without considering other medical claims. All of a sudden, the employer is faced with the situation of not affording the health insurance. They cannot exclude the one employee, but they will give their employees a payment and tell their employees that they need to find their own insurance. It is a sad and scary situation. I am pleased to hear that the Chairman, some of your

members, and the insurers are trying to narrow this legislation. Everyone should be able to take care of their children with this. The poor in our state should be covered for autism. All of the self-insured should cover autism. It seems to be the type of disorder in which there have been remarkable advancements, but to place this on the backs of the thirty percent who are fully insured in the state is wrong. We need to find the most equitable solutions.

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblyman Settelmeyer:**

What percentage of the population would this affect?

**Chairman Conklin:**

We will ask staff to find that information for us.

**Valerie Clark, Owner, Clark and Associates Insurance Services, Reno, Nevada:**

My company provides health insurance to hundreds of businesses throughout the State of Nevada. I have been working in the industry for the past 16 years. I am a registered nurse with certification in public health nursing. I am a credentialed school nurse in California with three years experience. I am also the immediate past chair of the Reno-Sparks Chamber of Commerce and am in my second year as the Chamber's health care committee chair.

I am here to oppose A.B. 162 in its current form. As a mother and a nurse, I understand the emotions and the pain that can go along with having a child with autism; however, this bill is being introduced at a very difficult time. It is a very worthy cause, but it is very poor timing. In the past 16 years, I have personally witnessed the cost of health insurance more than triple. I have seen my clients who are business owners struggle to keep up and adjust for these costs. I have seen deductibles increase from \$150 to \$200 to between \$1,000 and \$2,500. I see my clients do everything in their power to take care of their employees and their employees' families in terms of health insurance. Over the years, we have seen dependent coverage contributions virtually disappear with most employers. Now we are lucky if the employer can maintain coverage for the employee alone. I am doing everything in my power to creatively help my clients maintain their coverage, but it is truly an uphill battle. With this economic downturn, things have gotten considerably worse. Employers are moving to insurance plans with deductibles as high as \$5,000. Group plans are being dropped altogether. Employees are scared they will not have coverage, let alone jobs. The new Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requirements which are part of the federal stimulus bill, have added an additional and substantial burden for all size

businesses to a system that is already in crisis. Businesses and anyone who pays for health insurance cannot take much more.

Conservative estimates say this mandate will add approximately 12 percent to the cost of a plan. I am currently delivering rate renewals of up to 70 percent. The average group health plan renewal currently is about 30 percent. When you are dealing with rates which are an average of \$400 plus per employee per month, this type of percentage increase is outrageous. Where will it come from? The truth is that it will not. Plans will be terminated, and employees will be left to fend for themselves if they are lucky enough to have jobs. Many people will not qualify for individual plans due to the very strict underwriting that is required for policy approval. We must not let that happen. There must be a more creative way to obtain help for the group of people affected by autism who are so worthy of our attention.

I would like to outline examples of the amount of increase an average business would face with the addition of this mandate. These are actual clients whom I have handled in the past two weeks and are examples of what we are dealing with on a daily basis. The first employer owns a small engineering firm in Reno, has five employees, and provides a good benefits package for his employees including a Health Maintenance Organization (HMO) with \$500 hospital co-pay and \$15 doctor visit co-pay. The plan costs him approximately \$42,000 annually. He just received a 27 percent increase to his plan which will make the cost over \$53,000 annually. He is considering \$2,500 and \$5,000 deductibles. The employees are in a panic because they need care and have health issues. The employer will probably drop the small contribution he makes to the dependent premium. If we add a conservative cost for this mandate of 12 percent to this renewal, the cost would be close to \$59,000 annually and it would break him.

Another employer owns a manufacturing firm in Reno with 44 employees for whom he provides benefits. He pays 100 percent of the employee cost and close to 50 percent of the dependent premium for approximately \$266,000 annually. He just received a 68 percent rate increase which equates to roughly \$447,000 annually, an increase of almost \$182,000 in one year. Options are difficult to find due to medical conditions that exist in this group. They are considering going from a \$750 to \$3,000 deductible Preferred Provider Organization (PPO) plan. They are also going to cancel all contributions toward dependent coverage, which will create more uninsured. Another 12 percent on top of that would be close to \$480,000 annually, which equates to an increase of over \$213,000. It would break them and leave all of them uninsured. This is what my clients and I deal with on a daily basis. It is very real and very scary.

It is a very worthy bill, but it is bad timing. Please consider other options for this group of people. I will offer any assistance that I can provide in regards to the effects of the bill on the premium payers.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Assembly Bill 167:** Requires certain policies of health insurance and health care plans to provide coverage for acupuncture treatments in certain circumstances. (BDR 57-49)

Assemblyman Atkinson has spoken with the bill sponsor for Assembly Bill 167. We are going to move the bill and it will be the first bill heard on Wednesday, March 11, 2009 at 1:30 p.m.

I am looking only for testimony on A.B. 162 that we have not heard at this point.

**Ray Bacon, representing Nevada Manufacturers Association, Carson City, Nevada:**

I provided written testimony ([Exhibit W](#)), and I will reiterate it. Colorado has a bill which is fundamentally the same as this bill. Part of the discussion there was, to quote Dr. Lee, what this program needs is outstanding teaching, and two years of intensive care. They are considering allowing school districts to team with medical providers and potential non-profits to create a law that allows charter schools to help autistic children. The reason to go to charter schools instead of making it part of the school district is that the school is required under the Individuals with Disabilities Education Act to have the least restrictive environment. If a charter school is an option the parents choose, the funding would go to those schools. Intensive ABA in a charter school may help those children return to a regular school environment. Thus, it would clearly be on the taxpayer's bill. It takes that 35 percent base we are asking for in this bill and spreads it across the entire state. It may be a better and more realistic solution. You should consider this option because it may be viable or, in combination with health insurance, could reduce the size of the health insurance burden on the limited group of people we are looking at.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone wishing to get on the record for the opposition? We will close the hearing on A.B. 162.

[Committee recessed at 4:13 p.m.]

[Committee resumed at 4:24 p.m. as a Subcommittee.]

We will open the hearing on Assembly Bill 118.

**Assembly Bill 118:** Revises provisions governing associations of self-insured employers. (BDR 53-695)

**Assemblyman John C. Carpenter, Assembly District No. 33:**

I am here to introduce Assembly Bill 118. The change I bring to you in this bill is on page 2, line 39. We want to change "reviewed" to a "compiled" financial statement. I am under the impression the change would not change the criteria needed to belong to a self-insured group. A compiled statement will have to be prepared by a Certified Public Accountant (CPA). This change would involve farmers and ranchers who are in the process of organizing a self-insured group. I am in favor of agricultural producers offering their employees Workers' Compensation. I believe A.B. 118 does that without lessening any of the financial requirements for the formation of a self-insured group. According to the Commissioner of Insurance, self-insured Workers' Compensation programs have been very successful. The Division notes that there has never been an insolvent self-insured group.

**Chairman Conklin:**

Are there any questions from the Committee?

**Assemblyman Goedhart:**

Was this bill in response to something which occurred in the past and someone decided that "compiled" would be preferable to "reviewed?"

**Assemblyman Carpenter:**

The people with me are qualified to answer that question.

**Chairman Conklin:**

Are there any questions from the Committee for Mr. Carpenter? There are none.

**Dean Hartwig, Private Citizen, Elko, Nevada:**

I was asked by farmers and ranchers to see if we could get this changed. Several farmers and ranchers want to join the Nevada agricultural self-insured group authorized October 1, 2008. *Nevada Revised Statutes* (NRS) 616B.350 requires that each prospective member provide "reviewed" finances to verify that he has at least a \$500,000 tangible net worth. This is a one time event that must be performed when the prospect joins a new group. Once he is in the group, he no longer needs to produce the "reviewed" financial statement.

Reviewed financial statements cost between \$3,000 and \$10,000 and must be produced by an independent CPA. Nevada's definition of tangible net worth is based on the fair market value of assets and is found in NRS 616A.330. A farmer or rancher's principal asset is usually his land. Since many of the farms in Nevada have been family owned for many years, it becomes necessary to hire a real estate appraiser at a cost between \$3,000 and \$5,000. This appraisal is used to determine the fair market value of the land. This bill changes the statute requirement from "reviewed" to "compiled" finances. Compiled finances can be produced by an independent CPA at a fraction of the cost, yet they provide what we believe to be adequate verification of the minimum tangible net worth for each prospective member. This will reduce a barrier to join a self-insured group, but not eliminate the requirement to have \$500,000 net worth.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

[There is a quorum.]

**Cliff King, Director of Group Operations and Group Manager, Pro Group Management, Carson City, Nevada:**

We have a Nevada agricultural self-insured group that was authorized on October 1, 2008. Most of the farmers have financials that are adequate to meet their needs. In order to join a self-insured group, they have to have "reviewed" financials. The NRS 616A.330, which is part of the Industrial Insurance Act, specifically defines tangible net worth as assets minus liabilities with the assets limited to their fair market value. All financials are going to be completed in Generally Accepted Accounting Principles (GAAP) which is usually based upon the cost. Farm and ranch land is usually way undervalued if you go on the basis of cost. There is a ranch near Wells, Nevada, which was homesteaded about 140 years ago, so the cost is zero. We know the land is worth much more than that. They get an appraisal which becomes the basis of the major asset.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone else to testify in support of this bill?

**Doug Busselman, Executive Vice President, Nevada Farm Bureau Federation, Sparks, Nevada:**

We are in support of A.B. 118. Our organization is affiliated with Pro Group Management which provides this type of insurance for our members. Our members are interested in becoming involved in the program, but do not



have the necessary level of financial reports that have been reviewed. That is why they are looking for the change, and we support it.

**Chairman Conklin:**

Can you explain in very precise terms the difference between "compiled" and "reviewed?"

**Doug Busselman:**

It is my understanding that there is a standard by the auditors.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Nicola Neilon, Certified Public Accountant, Casey, Neilon and Associates, L.L.C., Carson City, Nevada:**

I have been a CPA since 1999 and have worked with self-insured employers since 1997. The difference between a "compilation" and a "review" is a technical one that accountants live every day. The objective of a "compilation agreement" is to present, in the form of financial statements, information that is the representation of management without undertaking to express any assurance on the financial statements. This means the accountant is not required to make any inquiries or perform other procedures to verify, corroborate, or review information supplied by the entity. Should anything come to the attention of the CPA so that he believes the information is not correct, he is required to follow up on it or withdraw from the engagement. A "review," however—the objective of which is to express limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with GAAP—requires us to make analytical procedures to the financial statements, make inquiries of management, and, when deemed appropriate, other company personnel, and obtain representations from management for all financial statements and periods covered by the accounts review report.

In a compilation, there is no verification of the underlying source information. In a review, we make inquiries and we make analytical procedures to determine whether we believe there are material modifications to the financial statements. I am neutral on this bill.

**Chairman Conklin:**

Thank you, very well done, Ms. Neilon. Are there any questions from the Committee? Is anyone wishing to testify in support of A.B. 118? There are none. Is there anyone to testify in opposition?

**Robert A. Ostrovsky, representing Employers Insurance Group, Las Vegas, Nevada:**

We are opposed to this bill. The number one responsibility of this Legislature is to make sure that injured workers' claims are paid promptly and appropriately. There are protections in the law for all self-insured groups and insured groups. When you join a self-insured group, you take on the responsibility of the group members. If one of the group members fails, the claims will come to the remainder of the group members. If the group fails, those claims will go to all other groups. We originally used the "reviewed standard" and not the "fully audited" standard which is even more expensive. The purpose of which is to assure the other members of the group and the Legislature that these claims are going to be paid and there are substantial funds available behind these groups. We think lowering the standard in this economic time is the opposite direction from where you want to go. I could argue that you might want to raise the standard. From a policy point of view, you have a real responsibility to make sure these groups are financially stable. If they cannot afford the extra \$2,000 to get the review, I do not know why they would want to self-insure their Workers' Compensation claims. We oppose any change in the standard. We are not opposed to their creating self-insured groups, but if someone wants to be in the insurance business, he needs to meet the reserve and quality standards of other insurance companies.

**Chairman Conklin:**

Are there any questions from the Committee? There are none.

**Donald E. Jayne, representing Public Agency Compensation Trust, Gardnerville, Nevada:**

I am neutral on this bill from a public policy standpoint. The entities in the Public Agency Compensation Trust (PACT) are already held to a higher accounting standard. We use an audited financial standard because they are public entities. We are concerned about the change from "reviewed" to "compiled" because if a self-insured group fails, it defaults into an insolvency fund of all self-insured groups to which the PACT contributes. We have public agency contributions to the insolvency fund, and those funds would be used to bail-out the claims payments for a self-insurers group.

The change from "reviewed" to "compiled" is not just for the farming and ranching industries, but it would be a permanent change in the statute for all future self-insured groups. We have not had any bankruptcies because the regulators have done a good job in holding up that standard.

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone to testify in a neutral position?

**Terri Chambers, Chief, Self-Insured Section, Division of Insurance, Department of Business and Industry:**

[Read from prepared testimony ([Exhibit X](#)).]

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Ms. Neilon, will you please come to the table.

**Nicola Neilon:**

I will answer questions for the Committee.

**Assemblywoman Gansert:**

Do you believe "compiled" versus "reviewed" is enough for these purposes?

**Nicola Neilon:**

They are different standards. The standard for "compiled" means that we as accountants can take management's information without any kind of corroboration. We are required to have an understanding of the company, the nature of their business, and the entity. We are under a standard of due care that if anything should come to our attention, it would be reported to management. It does not require us to get corroborating information. Mr. King had indicated that in the situation they had with the agricultural self-insured group, all of the members had their land appraised. That is actually something that you would not see on either a "compiled" or "reviewed" set of financial statements because those are normally reported on GAAP and not on fair market values. That is an exception but is allowed by statute. There are different standards of performance. What is sufficient is a policy issue, not necessarily an accounting issue, for this Committee and the Division.

**Chairman Conklin:**

In the self-insured's fund, people are admitted based on this information. If somebody falls out of business and there is a claim, the rest of the people in the fund pick up the claim. You want everyone in the group to have some standard of assurance that they can afford anything that they cost the group.

**Assemblywoman Gansert:**

What is the difference of cost between "reviewed" and "compiled?"

**Nicola Neilon:**

In the groups, there are levels of resources that are available to pay claims. The tangible net worth piece is the very last resource that a group would tap into if there was a problem with the group. The first is premiums. If a group is doing a good job of assessing their premiums, then the premiums are there to cover claims. The second is that, typically, these groups have what is considered excess insurance. The excess insurance comes in at a certain point if there is a large number of claims or a large dollar amount of claims. A third party insurer pays those claims. So, first you have reserves from premium money and reserves. If somebody leaves the group, their claims stay with the group. If the group is doing an adequate job of reserving, for which they are required to get an actuarial study, the reserves should be on the books. Then there is the possibility of going back to the insured for additional assessments. If all that fails, then the group goes to the members. The tangible net worth piece is the very last piece that would ever be touched. Since 1997, I have never seen anyone I worked with ask for additional premium assessments.

With regard to "compiled" versus "reviewed," in our practice a set of full disclosure compiled financial statements costs around \$3,000. Under accounting standards, you can do full disclosure and nondisclosure. A full disclosure means that there is a full set of financial statements with footnotes. A nondisclosure is a balance sheet and an income statement. A set of reviewed financial statements costs from \$7,500 to \$12,500. There is a significant difference in cost.

**Assemblywoman Gansert:**

We could potentially do compiled with full disclosure. When there is a claim, the issue is if there are enough premiums, not the assets of the members.

**Nicola Neilon:**

That is correct. A well run group will collect sufficient assessments to cover their claims' costs and have an excess carrier to cover any additional large dollar claims.

**Assemblywoman Gansert:**

Does the size of the group matter?

**Chairman Conklin:**

Are there any questions from the Committee? There are none. Is there anyone else to testify in opposition to the bill? I will close the hearing on A.B. 118.

Is there anything to come before the Committee?

The meeting is adjourned [at 4:54 p.m.]

RESPECTFULLY SUBMITTED:

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Earlene Miller  
Committee Secretary

APPROVED BY:

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Assemblyman Marcus Conklin, Chairman

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Commerce and Labor

**Date:** March 9, 2009

**Time of Meeting:** 1:45 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 162	C	Assemblyman James Ohrenschall	Prepared Testimony
A.B. 162	D	Lorri Unumb	Prepared Testimony and Informational Packet
A.B. 162	E	Lorri Unumb	Facts and Information
A.B. 162	F	Ronald Leaf	Written Statement
A.B. 162	G	Jan Crandy	Prepared Testimony
A.B. 162	H	Bobbie Osborn	Prepared Testimony
A.B. 162	I	Korri Ward	Letter
A.B. 162	J	Florence LaRoy	Prepared Testimony
A.B. 162	K	Erik Lovaas	Statement
A.B. 162	L	Nicole Kalkowski	Statement
A.B. 162	M	Ciera Kalkowski	Letter
A.B. 162	N	Mary Wherry	Prepared Testimony
A.B. 162	O	Gail Benton	Letter and Statement
A.B. 162	P	Michael Harter	Statement
A.B. 162	Q	Dorinda Cappasola	Letter
A.B. 162	R	Diane Lombardo	Letter
A.B. 162	S	Rachelle Reynolds	Statement
A.B. 162	T	Stephanie Hill	Letter
A.B. 162	U	Charles Duarte	Prepared Testimony
A.B. 162	V	Charles Duarte	Proposed Amendment
A.B. 162	W	Ray Bacon	Memo
A.B. 118	X	Terri Chambers	Prepared Testimony