

**Amendment No. 387**

Senate Amendment to Senate Bill No. 419 (BDR 38-978)

**Proposed by:** Senate Committee on Health and Human Services

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION |                          |      |                          | Initial and Date | SENATE ACTION |                          |      |                          | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted         | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            | Adopted       | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____            |
| Concurred In    | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Concurred In  | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |
| Receded         | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            | Receded       | <input type="checkbox"/> | Not  | <input type="checkbox"/> | _____            |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DHR/WLK



Date: 4/15/2015

S.B. No. 419—Revises provisions relating to services for persons with disabilities.  
(BDR 38-978)



SENATE BILL NO. 419—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

MARCH 19, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to services for persons with disabilities.  
(BDR 38-978)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to persons with disabilities; creating the Nevada ABLE Savings Program as a qualified ABLE program under the federal Achieving a Better Life Experience Act of 2014; authorizing the creation of a program within the Aging and Disability Services Division of the Department of Health and Human Services to provide services of independent living and assistive technology for persons ~~who have recently become disabled;~~ with disabilities who need independent living services; revising the terms of members of the Nevada Commission on Services for Persons with Disabilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Recently enacted federal law allows for the creation of tax-advantaged savings  
2 accounts for persons who have certain qualifying disabilities. Under the program, any  
3 person, including family members, may make a contribution to the account of a person  
4 with a qualified disability. Any interest or other growth in the value of the account and  
5 distributions taken from the account are tax free. The maximum amount that can be  
6 contributed tax free to the account of a qualified person is \$14,000 per year.  
7 Distributions from the account may only be used to pay expenses related to living a life  
8 with a disability and may include such things as education, housing, transportation and  
9 employment training and support. Money in the account or distributions from the  
10 account do not affect the eligibility of a person for certain public benefits such as Social  
11 Security disability payments, Supplemental Nutrition Assistance Program benefits and  
12 Medicaid. To qualify for these benefits, the savings account into which contributions are  
13 made on behalf of a qualified person must be established and maintained by the  
14 qualified person's state of residence. If a state chooses not to establish its own program,  
15 it may contract with another state that has adopted a qualified program. (Achieving a  
16 Better Life Experience Act of 2014, 26 U.S.C. § 529A) Sections 2-15 of this bill require  
17 the Aging and Disability Services Division of the Department of Health and Human  
18 Services, in cooperation with the State Treasurer, to establish the Nevada ABLE Savings  
19 Program as a qualified program pursuant to 26 U.S.C. § 529A.

20 Existing law creates the Aging and Disability Services Division within the Department of  
21 Health and Human Services and requires the Division to work with persons with disabilities,

persons interested in matters relating to persons with disabilities and state and local governmental agencies to develop and improve policies of this State concerning programs and services for persons with disabilities. (NRS 427A.040) ~~Sections 18 and 19 of this bill~~ ~~create~~ authorize the Division to establish a program ~~within the Division~~ to provide services of independent living and assistive technology for persons ~~who have recently become disabled~~ with a disability who need independent living services.

Existing law creates the Nevada Commission on Services for Persons with Disabilities, which consists of 11 members appointed by the Director of the Department of Health and Human Services. (NRS 427A.1211) ~~Sections 21 and 22 of this bill~~ make revisions to the terms of the members of the Commission to ensure that the terms of the members of the Commission are staggered.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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*Section 1. Title 38 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 15, inclusive, of this act.*

*Sec. 2. As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

*Sec. 3. "Department" means the Department of Health and Human Services.*

*Sec. 4. "Division" means the Aging and Disability Services Division of the Department.*

*Sec. 5. "Nevada ABLE Savings Program" means the program established by the State Treasurer pursuant to section 8 of this act.*

*Sec. 6. "Qualified ABLE program" has the meaning ascribed to it in the Achieving a Better Life Experience Act of 2014, 26 U.S.C. § 529A, as amended.*

*Sec. 7. "Trust Fund" means the Nevada ABLE Savings Program Trust Fund created by section 11 of this act.*

*Sec. 8. 1. The State Treasurer shall adopt regulations to establish and carry out the Nevada ABLE Savings Program which must comply with the requirements of a qualified ABLE program pursuant to 26 U.S.C. § 529A, as amended.*

*2. The regulations must be consistent with the provisions of the Internal Revenue Code set forth in Title 26 of the United States Code, and any regulations adopted pursuant thereto, to ensure that the Nevada ABLE Savings Program meets all criteria for federal tax-deferred or tax-exempt benefits, or both.*

*3. The regulations must provide for the use of savings trust agreements and savings trust accounts to apply distributions toward qualified disability expenses in accordance with 26 U.S.C. § 529A, as amended.*

*4. The regulations may include any other provisions not inconsistent with federal law that the State Treasurer determines are necessary for the efficient and effective administration of the Nevada ABLE Savings Program and the Trust Fund.*

*Sec. 9. The Division may delegate any of its administrative powers and duties specified in sections 2 to 15, inclusive, of this act if the Division determines that such delegation is necessary for the efficient and effective administration of the Nevada ABLE Savings Program and the Trust Fund.*

1        Sec. 10. Savings trust accounts used and savings trust agreements entered  
2 into pursuant to sections 2 to 15, inclusive, of this act are not guaranteed by the  
3 full faith and credit of the State of Nevada.

4        Sec. 11. 1. The Nevada ABLE Savings Program Trust Fund is hereby  
5 created.

6        2. The Trust Fund is an instrumentality of this State, and its property and  
7 income are exempt from all taxation by this State and any political subdivision  
8 thereof.

9        3. The Trust Fund consists of:

10        (a) All money deposited in accordance with savings and trust agreements;  
11 and

12        (b) All earnings on the money in the Trust Fund.

13        4. Money in the Trust Fund:

14        (a) Is not the property of this State, and this State has no claim to or interest  
15 in such money; and

16        (b) Must not be commingled with money of this State.

17        5. A savings trust agreement or any other contract entered into by or on  
18 behalf of the Trust Fund does not constitute a debt or obligation of this State, and  
19 no account owner is entitled to any money in the Trust Fund except for that  
20 money on deposit in or accrued to his or her account.

21        6. The money in the Trust Fund must be preserved, invested and expended  
22 solely pursuant to and for the purposes authorized by sections 2 to 15, inclusive,  
23 of this act and must not be loaned or otherwise transferred or used by this State  
24 for any other purpose.

25        Sec. 12. 1. The Trust Fund and any account established by the State  
26 Treasurer pursuant to this section must be administered by the State Treasurer.

27        2. The State Treasurer shall establish such accounts as he or she  
28 determines necessary to carry out his or her duties pursuant to sections 2 to 15,  
29 inclusive, of this act, including, without limitation:

30        (a) A Program Account in the Trust Fund; and

31        (b) An Administrative Account and an Endowment Account in the State  
32 General Fund.

33        3. The Program Account must be used for the receipt, investment and  
34 disbursement of money pursuant to savings trust agreements.

35        4. The Administrative Account must be used for the deposit and  
36 disbursement of money to administer and market the Nevada ABLE Savings  
37 Program.

38        5. The Endowment Account must be used for the deposit of any money  
39 received by the Nevada ABLE Savings Program that is not received pursuant to a  
40 savings trust agreement and, in the determination of the State Treasurer, is not  
41 necessary for the use of the Administrative Account. The money in the  
42 Endowment Account may be expended for any purpose related to the Nevada  
43 ABLE Savings Program or in any other manner which assists residents of this  
44 state who are eligible individuals as defined in 26 U.S.C. § 529A, as amended.

45        Sec. 13. The State Treasurer may accept and expend on behalf of the Trust  
46 Fund money provided by private entities for direct expenses or marketing. Such  
47 money is not a part of the Trust Fund.

48        Sec. 14. The Division may endorse insurance coverage written exclusively  
49 to protect the Trust Fund, and account owners and beneficiaries of the Trust  
50 Fund, which may be issued in the form of a group life policy. The provisions of  
51 title 57 of NRS are not applicable to the Division in carrying out the provisions of  
52 this section.

1        Sec. 15. 1. The Division shall establish a comprehensive investment plan  
2 for the money in the Trust Fund.

3        2. Notwithstanding the provisions of any specific statute to the contrary, the  
4 Division may invest or cause to be invested any money in the Trust Fund,  
5 including, without limitation, the money in the Program Account described in  
6 paragraph (a) of subsection 2 of section 12 of this act, in any manner reasonable  
7 and appropriate to achieve the objectives of the Nevada ABLE Savings Program,  
8 exercising the discretion and care of a prudent person in similar circumstances  
9 with similar objectives. The Division shall consider the risk, expected rate of  
10 return, term or maturity, diversification of total investments, liquidity and  
11 anticipated investments in and withdrawals from the Trust Fund.

12        3. The Division may establish criteria and select investment managers,  
13 mutual funds or other such entities to act as investment managers for the Nevada  
14 ABLE Savings Program.

15        4. The Division may employ or contract with investment managers,  
16 evaluation services or other services as determined by the Division to be  
17 necessary for the effective and efficient operation of the Nevada ABLE Savings  
18 Program.

19        5. The Division may employ personnel and contract for goods and services  
20 necessary for the effective and efficient operation of the Nevada ABLE Savings  
21 Program.

22        6. The marketing plan and materials for the Nevada ABLE Savings  
23 Program must be approved by the Division.

24        7. The Division may prescribe terms and conditions of savings trust  
25 agreements.

26        8. The Division may contract with one or more qualified entities for the  
27 day-to-day operation of the Nevada ABLE Savings Program as the program  
28 administrator for the management of the marketing of the Nevada ABLE Savings  
29 Program, the administration of the comprehensive investment plan established  
30 pursuant to subsection 1 and the Trust Fund, the selection of investment  
31 managers for the Nevada ABLE Savings Program and the performance of  
32 similar activities.

33        ~~{Section 1.}~~ Sec. 16. Chapter 427A of NRS is hereby amended by adding  
34 thereto the provisions set forth as sections ~~{2, 3 and 4}~~ 17-20, inclusive, of this act.

35        ~~{Sec. 2.}~~ Sec. 17. As used in ~~{this section and}~~ sections {3 and 4} 17 to 20,  
36 inclusive, of this act, unless the context otherwise requires, "person {who has  
37 recently become disabled}" with a disability who needs independent living  
38 services" means a person with a physical disability, as that term is defined in  
39 NRS 427A.791, including, without limitation, a person who is blind, as that term  
40 is defined in NRS 426.082, who ~~has had such a disability for a period of less~~  
41 ~~than 18 months.~~ is in need of independent living services and who does not have  
42 a vocational goal.

43        ~~{Sec. 3.}~~ Sec. 18. 1. The Division ~~{shall}~~ may, pursuant to this section  
44 and section ~~{4}~~ 19 of this act, establish a program to provide services of  
45 independent living and assistive technology for persons ~~{who have recently~~  
46 ~~become disabled.~~ with disabilities who need independent living services.

47        2. ~~{To carry out the program referenced in}~~ If the Division establishes a  
48 program pursuant to subsection 1, the Division shall adopt regulations:

49        (a) Establishing the procedures for a person to apply for services of  
50 independent living and assistive technology;

51        (b) Prescribing the criteria for determining the eligibility of such an  
52 applicant;

(c) Prescribing the nature of the services of independent living and assistive technology which may be provided and the conditions imposed on the provision of such services; and

(d) Setting forth such other provisions as the Division considers necessary to administer the program.

3. The decision of the Division regarding the eligibility of an applicant to participate in the program is a final decision for the purpose of judicial review.

~~Sec. 4.~~ Sec. 19. 1. The services of independent living that the Division may, pursuant to this section and section ~~17~~ 18 of this act, provide to a person ~~who has recently become disabled~~ with a disability who needs independent living services may include, without limitation, assistance and training as to how to perform skills of daily living, including, without limitation:

(a) The preparation and eating of meals;

(b) Home management, including, without limitation, paying bills;

(c) Communication, including, without limitation, the use of services of assistive technology;

(d) Orientation and mobility; and

(e) Any other skills that will allow a person who has recently become disabled to function and live in a more independent manner.

2. The services of assistive technology that the Division may, pursuant to this section and section ~~17~~ 18 of this act, provide to a person ~~who has recently become disabled~~ with a disability who needs independent living services may include, without limitation:

(a) Large-print signs and reading materials;

(b) Voice recognition or Braille technology installed on a computer or handheld device;

(c) Global positioning satellite technology with voice output;

(d) Mechanical lifts or similar mobility enhancing devices;

(e) Telecommunications devices specially designed for persons with impaired vision, speech or hearing; and

(f) Any other technology that provides significant assistance in performing daily tasks to a person ~~who has recently become disabled~~ with a disability who needs independent living services.

Sec. 20. The Division may:

1. Periodically research and determine the cost of providing services in this State for people who are blind or visually impaired and who do not have a vocational goal; and

2. Present a report of the findings of the research to the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211.

~~Sec. 5.~~ Sec. 21. NRS 427A.1211 is hereby amended to read as follows:

427A.1211 1. The Nevada Commission on Services for Persons with Disabilities, consisting of 11 voting members and 2 or more nonvoting members, is hereby created within the Division.

2. The Director shall appoint as voting members of the Commission 11 persons who have experience with or an interest in and knowledge of the problems of and services for persons with disabilities. The majority of the voting members of the Commission must be persons with disabilities or the parents or family members of persons with disabilities.

3. The Director and the Administrator shall serve as nonvoting, ex officio members of the Commission and each may designate an alternate within his or her office to attend any meeting of the Commission in his or her place.

4. The Director may appoint as nonvoting members of the Commission such other representatives of State Government as the Director deems appropriate.

5. After the initial term of an appointed member, the term of an appointed member is 3 years. An appointed member may be reappointed for an additional term of 3 years. An appointed member may not serve more than two terms ~~++~~ *or 6 years, whichever is greater.* A vacancy on the Commission must be filled in the same manner as the original appointment. An appointed member who serves for more than 1 year of a term to which another person was appointed may be appointed to serve only one additional full term as an appointed member ~~++~~ ; *however, at the completion of the additional full-term, the member may be appointed to the remaining term of another member who has resigned or otherwise left the Commission before completing his or her term if the total combined service of the member being appointed, after serving the remaining term of the member who resigned or otherwise left the Commission, will not exceed 6 years.*

6. The Director may remove an appointed member of the Commission for malfeasance in office or neglect of duty. Absence from two consecutive meetings of the Commission constitutes good and sufficient cause for removal of an appointed member by the Director.

~~++Sec. 6++~~ **Sec. 22.** 1. Notwithstanding any provision of subsection 5 of NRS 427A.1211, as amended by section ~~++~~ 21 of this act, to the contrary, the existing terms of the voting members of the Nevada Commission on Services for Persons with Disabilities whose terms have not expired before July 1, 2015, must expire as follows:

(a) The terms of four voting members of the Commission must expire on June 30, 2016;

(b) The terms of four voting members of the Commission must expire on June 30, 2017; and

(c) The terms of three voting members of the Commission must expire on June 30, 2018.

2. The Director shall, at his or her sole discretion, determine the allocation of existing members of the Commission to the particular groupings established for the expiration of terms in subsection 1.

3. The terms of members of the Commission appointed after the expiration of the terms of the existing members of the Commission pursuant to subsection 1 must begin on July 1 of the year in which the member was appointed.

~~++Sec. 7++~~ **Sec. 23.** This act becomes effective on July 1, 2015.