

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Eighth Session
May 6, 2015**

The Committee on Health and Human Services was called to order by Chair James Oscarson at 1:42 p.m. on Wednesday, May 6, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), 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/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman James Oscarson, Chair
Assemblywoman Robin L. Titus, Vice Chair
Assemblyman Nelson Araujo
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Jill Dickman
Assemblyman David M. Gardner
Assemblyman John Hambrick
Assemblywoman Amber Joiner
Assemblyman Brent A. Jones
Assemblyman John Moore
Assemblywoman Ellen B. Spiegel
Assemblyman Michael C. Sprinkle
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Senator Joseph (Joe) P. Hardy, Senate District No. 12
Senator Joyce Woodhouse, Senate District No. 5
Senator Patricia Spearman, Senate District No. 1

STAFF MEMBERS PRESENT:

Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Karen Buck, Committee Secretary
Norma Mallett, Committee Assistant

OTHERS PRESENT:

Brian Patchett, M.P.A., MS, CRC, President, Chief Executive Officer,
Easter Seals Nevada; Chairman, Nevada Commission on
Services for Persons with Disabilities
Grant A. Hewitt, Chief of Staff, Office of the State Treasurer
Linda J. English, Deputy Treasurer, College Savings, Office of the
State Treasurer
Jane Gruner, Administrator, Aging and Disability Services Division,
Department of Health and Human Services
Sherry Manning, Executive Director, Nevada Governor's Council on
Developmental Disabilities
Lisa Foster, representing State of Nevada Association of Providers
Sam Lieberman, Regent, District 5, Easter Seals Nevada
Marcia O'Malley, Private Citizen, Reno, Nevada
Ian Zehner, Private Citizen, Reno, Nevada
Santa Perez, Statewide President, People First of Nevada
David S. Sorenson, Member, Nevada Governor's Council on
Developmental Disabilities
Regina Daniel, Private Citizen, Las Vegas, Nevada
Mark L. Olson, Private Citizen, Henderson, Nevada
Judith Koller, Private Citizen, Las Vegas, Nevada
Katherine Ryder, Private Citizen, Las Vegas, Nevada
Denise Tanata Ashby, J.D., Executive Director, Children's Advocacy
Alliance
Carol Levins, Chief Executive Officer, Creative Kids Learning Center
Theresa DeGraffenreid, Director, St. Gall Preschool
Julie Mathews, Director, Creative Kids Learning Center
David Walton, Executive Region Director, Challenger Schools
Michael Thompson, Owner, Kids 'R' Kids

Joan Hall, President, Nevada Rural Hospital Partners Foundation
Laura Hale, Manager, Primary Care Office, Division of Public and Behavioral Health, Department of Health and Human Services
Bill Welch, representing Nevada Hospital Association
Warren Hardy II, representing the City of Mesquite

Chair Oscarson:

[Roll was taken. Committee rules and protocol were explained.] We will now begin our work session with Senate Bill 172 (1st Reprint).

Senate Bill 172 (1st Reprint): Makes various changes relating to the authorized activities of medical students. (BDR 40-797)

Kirsten Coulombe, Committee Policy Analyst:

Senate Bill 172 (1st Reprint) is sponsored by Senator Farley and was presented by Dr. Andy Eisen. [Referred to work session document ([Exhibit C](#)).] It was heard on April 27, 2015. Senate Bill 172 (1st Reprint) prohibits a medical facility or a physician from allowing a person to perform or participate in activities for credit towards a medical degree unless the person is enrolled in good standing at an accredited medical school. The bill authorizes the Division of Public and Behavioral Health, Department of Health and Human Services, the Board of Medical Examiners, the State Board of Osteopathic Medicine, and the Board of Examiners for Long-Term Care Administrators to enforce this prohibition with respect to their licensees. Also, a medical student who attends an accredited medical school is authorized to possess and administer a controlled substance or dangerous drug at the direction of a physician. There are no proposed amendments for this bill.

Chair Oscarson:

Do we have a motion?

ASSEMBLYMAN GARDNER MOVED TO DO PASS
SENATE BILL 172 (1ST REPRINT).

ASSEMBLYMAN MOORE SECONDED THE MOTION.

Assemblywoman Titus:

I will be voting against S.B. 172 (R1). It limits what I, as a physician, can make a decision on. If I have a student that contacts me from a foreign medical school that I may or may not want to bring over and work with me, the bill is limiting and exclusionary in a time when we are trying to increase Nevada's exposure for potential medical professionals.

Assemblyman Jones:

I will also be voting no. One reason is that during the testimony it was referenced that there have been no problems yet in this area, so I think it is a law in search of a problem, which I have a concern about. I do not want to just keep adding more and more regulations. Secondly, I think it is restrictive and may cast too big of a net, and there probably are some very good foreign students that are going to universities that are not yet accredited here. It should be decided at the hospital and physician levels whether those students have the qualifications to participate in a program.

Assemblyman Trowbridge:

I also oppose this bill because it should be up to the school to decide whether it wants to award credits to the medical student. If physicians want to take a foreign student under their wing and indoctrinate or educate them in how we do things here in the United States, it is all for the better.

Chair Oscarson:

From my perspective, this bill is purely a public safety issue. We are looking at students who come from accredited schools where we know what the training is. There are great students in medical schools across the country, but this gives us one more layer of protection, which I think is important.

THE MOTION PASSED. (ASSEMBLYMEN DICKMAN, JONES, TITUS, AND TROWBRIDGE VOTED NO.)

Assemblyman Gardner will have the floor assignment. We will now hear Senate Bill 303 (2nd Reprint).

Senate Bill 303 (2nd Reprint): Revises provisions relating to the protection of children. (BDR 38-1036)

Kirsten Coulombe, Committee Policy Analyst:

Senate Bill 303 (2nd Reprint) is sponsored by Senator Hammond and was heard on April 29, 2015. [Referred to work session document ([Exhibit D](#)).] It provides that a child is, rather than may be, in need of protection if the child is in the care of a person responsible for the welfare of the child and another child has been subjected to abuse by that person, unless the person has successfully completed a plan for services as recommended by a child welfare agency to address the abuse of the other child.

When making a determination to terminate parental rights, a court must consider certain factors if the child has been out of the care of a parent or guardian for at least 12 consecutive months. The bill also revises the conditions

under which a court is required to consider in determining neglect by, or unfitness of, a parent for the purpose of proceedings regarding the termination of parental rights. Lastly, the bill adds for review and proposal of legislation by the Legislative Committee on Child Welfare and Juvenile Justice to include issues related to reunification and adoption of foster children.

Subsequent to the posting of the work session document, there has been a proposed amendment in section 3, subsection 2 of the bill. I will read the proposed amendment:

It is to remove two of the provisions under the certain factors that the court makes when determining if the child has been in consecutive care. The provision would be to remove paragraph (d), which is whether the child has formed a strong, positive attachment or bond with the substitute caregiver. The second provision is to remove paragraph (e), which is whether the removal of the child from the care of the substitute caregiver is likely to result in psychological harm to the child.

The proposed amendment is to remove paragraphs (d) and (e) from section 3, subsection 2. The sponsor is here if you have any further questions.

Chair Oscarson:

Is there a motion?

ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO PASS
SENATE BILL 303 (2ND REPRINT).

ASSEMBLYMAN GARDNER SECONDED THE MOTION.

Assemblywoman Dickman:

Are the sponsors of the bill okay with the amendment?

Kirsten Coulombe:

Yes, the sponsor is the one who presented the proposed amendment. It is friendly because it is from him.

Assemblywoman Benitez-Thompson:

I had a great conversation with Senator Hammond about this bill. I am very much appreciative of the spirit in which he introduced it and where it is coming from. I am very hopeful that this Legislature, over the interim, and in the next session, will take the opportunity to consider information that has been made available to us. We just recently had the Blue Ribbon for Kids Commission

task force release a report calling for urgent changes needed to the child welfare system: a strong focus on the judiciary problems, the fact that parents are not given case plans in a timely manner, and the fact that parent's and children's rights are not being protected in our current judicial process. I hope we take an opportunity to tackle those and address real problems that exist within child welfare because no child deserves to languish for years at a time. Also, the Supreme Court case decision that was released right after the hearing on May 1 in the matter of the parental rights as to: V.H.W., A Minor, Docket No. 65293, May 1, 2015, is very telling about problems in practice within child welfare. We may have good statutes, but if departments and caseworkers are not holding to those and to the time frames that are mandated by state and federal law, then they mean nothing. As the Supreme Court says, to go in and remove a child from a family, you need to have a very high level of scrutiny over the agency making that decision. The Judicial Branch is supposed to be the checks and balances. If that is broken, too, then we are setting children up for potential removal and termination from their family. However, had it been a different worker or a different time, perhaps that child would never have been removed. The last thing we ever want associated with our child welfare system is that it is capricious, serving and working for some children and not others. I know that all of us have the goal of a system that protects children but does not unfairly remove them from homes from which they do not need to be removed. The goal is to diligently try to return kids to their parents, as in that Supreme Court case. The parents did everything that was asked of them, and the child was still not returned. I hope that there is lots of good work to come on fixing a system that is not serving our kids very well right now.

Assemblywoman Joiner:

I was not part of the group negotiating the amendment, but I appreciate the work that was done on it. I definitely had concerns with those two provisions, and I am glad to see that they were worked on. Unfortunately, today I will be a no vote on this bill. I still have serious concerns about section 3, subsection 2, paragraph (a) relating to the placement options for the child being mixed in with the faults of the parents. I still think that is inappropriate, but more importantly, I have serious concerns with section 1. It basically says that any fault that you have with the first child carries with you for the rest of your life and to your other children, regardless of any changes that you have made to your life or reparations that you have made. That would overload the system, and it is an inappropriate assumption to make against parents when we are really saying that in every other realm we want to unify parents with their children and help them become better parents. Those are my concerns, and that is why I will be voting no.

Assemblyman Jones:

Of all the bills I have seen so far in this session, this is one of the hardest because we are not only dealing with the best interest of the child, but we are dealing with parental rights. It is a very difficult decision either way. It is my hope that with the amendments that came about we can do better for our children and also, I hope we will look at and keep track of what happens if things need to get fixed again, that we keep our finger on the pulse of this so we really see what happens. I will be voting yes now with the amendments.

Assemblyman Sprinkle:

In regard to the hearing, these amendments are dealing with the major concerns that I had. I want to thank the sponsor of this bill and others for the work that was done to get us to a place where we are even able to vote today. In the end, as Assemblywoman Benitez-Thompson has already stated, there are still many concerns. I recognize some of them, even with this bill, specifically in section 1, and have made a promise to dedicate myself, in conjunction with Senator Hammond, to continue working during the interim on what is certainly an important issue to all of us. With my knowledge and expertise, I am happy to do that. I am going to vote yes today, but I want the Committee and anybody listening to understand this is about the policy written in the bill and should not be about personal interest or gains. That will be of real consideration when I look at what we are doing in the future.

Assemblyman Thompson:

I want to say that this is really difficult. I have the utmost respect for Senator Hammond, but I also have to reflect on my community—my district that I represent—thinking about those families. Having volunteer experience in the child welfare system and as Assemblywoman Joiner mentioned, I also have strong concerns about section 1. The bottom line is we need to be focused in our state on reunification. This bill seems like it is a hurried process. Sometimes when working with families that have barriers, we have to take the time. They are in caring foster homes so, unfortunately, I will be voting no on this bill.

Assemblywoman Spiegel:

This is probably the most difficult bill that I have been asked to vote on during this session. The lives of our children are so important. I really appreciate Senator Hammond's efforts in this regard, as well as Clark County Deputy District Attorney Brigid Duffy's, and everybody who worked so hard to do the right thing by the kids in this state. I am very appreciative of the amendments. They are the only reason I am able to vote to move this forward, but I am not there 100 percent. I do want to reserve my right to change my vote on the floor as I do not see a comfortable path either way.

Assemblyman Araujo:

I also want to say thank you to the bill's sponsor and everyone that worked on it, and to acknowledge all the hard work and effort in trying to get everyone to a place where we are all comfortable. I still have pending concerns that I could not overlook, so today I will be voting no.

Chair Oscarson:

I want to add my thanks to the sponsor and I understand both sides of the issue. I have spent a lot of time in my office visiting with people, including Ms. Duffy, Mr. Sasser, Mr. Schiller, and all of you who have really worked hard on both sides of this. I know your interests are for the children, and that is what is most important. I truly believe that. Senator Hammond, I appreciate your thoughts and passion. With that, we will take a vote.

THE MOTION PASSED. (ASSEMBLYMEN ARAUJO, BENITEZ-THOMPSON, JOINER, AND THOMPSON VOTED NO.)

I do concur that during the interim, we need to continue to have these discussions. I encourage you, Senator Hammond, if you can, to meet with folks and move forward with good policies for these children. I will give the floor statement to Assemblywoman Dickman. I will now open the hearing on Senate Bill 419 1st Reprint).

Senate Bill 419 (1st Reprint): Revises provisions relating to services for persons with disabilities. (BDR 38-978)

Senator Joseph (Joe) P. Hardy, Senate District No. 12:

I would like to introduce Brian Patchett, who will present the bill.

Brian Patchett, M.P.A., MS, CRC, President, Chief Executive Officer, Easter Seals Nevada; Chairman, Nevada Commission on Services for Persons with Disabilities:

There are three major sections to this bill. As I go through them, it is important to understand that there are a couple of different types of things we are looking at. The first section deals with services for persons with visual disabilities, specifically independent living services. As many of you know, I am a person with a visual disability, so I have a personal understanding of this. Over the last several years, we have seen a significant increase to 28 percent in the percentage of individuals with visual disabilities. Most of these are adults, with the majority of them being over the age of 35. As we age, our vision tends to get worse. We are also seeing folks who are acquiring low vision and those coming back from military service who have lost their vision. That combination

has created a situation in Nevada where we need to take a closer look at what we do with independent living.

I have been visually impaired since I was seven years old. When you first become visually impaired, you have to learn how to be blind. You have to learn how to get around the house, access the things you use within your home, learn to leave your house, access transportation, and negotiate the community. That is called independent living—being able to live on your own and learning how to use technology.

Assistive technology is a wonderful thing. It is devices that help people with disabilities to do things that they perhaps could not do otherwise. For example, my iPhone talks as people email and text me. That helps me be independent as I walk around this building to find out what is going on. For the person who is visually impaired, it is critical. What we want to do in this section of the bill is simply ask the Aging and Disability Services Division (ADSD) to take research that has been done, do some further research, and come back and report to us on what we can do to provide more independent living services for our growing population. It is a simple process to gather data.

The second part of the bill is about the Commission on Services for Persons with Disabilities. I am the chair of that Commission. We have a lot of great people but, unfortunately, the way the Commission has been structured, the majority of all of us are going to leave in September. We do not have the ability to rapidly add new members and make sure they receive training for being on the Commission. There are some proposed changes so that in the future we can better stagger the membership and not have the current crisis we are in.

The last section is referred to as the Achieving Better Life Experiences (ABLE) Act. I will speak on that, but there are others who will be speaking on it too. The ABLE Act is a piece of federal legislation that came about last year. All of our delegation from Nevada voted for it. What it does is allow for families of people with disabilities to be able to put some money away. Currently, if persons with a disability have any money in any type of account, it needs to be spent down before they access Medicaid services, Supplemental Security Income (SSI), or Social Security Disability Insurance. Quite frankly, as we know, there is such a need for funding for the services people with disabilities need. If we can provide this vehicle, the ABLE Act accounts would allow persons or families of disabled children to set aside money. Then they can receive the services they need as they get older without impacting the other things they need, such as Medicaid and SSI. The ABLE Act is fairly new, and this bill would set up these accounts and enable the legislation to happen within

Nevada. There is an amendment related to this bill that you should have, and it clarifies that both the United States Department of the Treasury and ADSD will be responsible for the accounts. It also gives them some latitude in making decisions. It does not say "shall." It says "may" in several places, enabling legislation. I will entertain any questions.

Assemblyman Gardner:

In section 9 of the bill regarding the ABLE Act, it says "The Division may delegate any of its administrative powers and duties..." to someone else. Who can they delegate those to? Could it be a private business or other departments of government?

Brian Patchett:

What is being contemplated nationally is states potentially coming together to set up these accounts, but I will have our chief of staff from the Office of the State Treasurer answer that question more thoroughly.

Assemblyman Sprinkle:

In section 12, subsection 2, paragraph (b), it talks about "An Administrative Account and an Endowment Account in the State General Fund." However, referring back to a previous section that talked about not comingling funds and being completely separate, is this not, in a sense, comingling funds since it is now being embedded within the General Fund? I know that the accounts are not accessible, but they are still embedded with potential for comingling. Also, if these funds are to be invested, what kind of protection is there for the money being put in there initially? Are these investments insured? Who is going to be responsible for any losses that may occur because of the investments?

Grant A. Hewitt, Chief of Staff, Office of the State Treasurer:

These ABLE accounts are set up very similarly to college savings money accounts that are already in existence from Section 529 of the Internal Revenue Code. I am going to ask Linda English in Las Vegas, who is in charge of our 529 program, to speak. These accounts would fall under how the college savings accounts are set up. As has been mentioned with the ABLE Act, it is very early, and we are still watching what other states are doing and how these programs are being set up. Federal legislation was recently put in place to create such accounts that are administered by the states. As we learn more, we will obviously be able to answer a lot more questions. Ms. English can speak to how our 529s are set up. They are in a trust account as well. This is a good time for her to talk about the proposed conceptual amendment that will clarify a number of these sections specifically dealing with the ABLE Act ([Exhibit E](#)).

Chair Oscarson:

The amendment is still presenting what the bill is about, so we will go ahead and do that.

Linda J. English, Deputy Treasurer, College Savings, Office of the State Treasurer:

The mock-up changes to the bill bring the ABLE program into alignment with the 529 college program. The language about comingling in section 12, subsection 2, paragraphs (a) and (b), reference the statutes that the 529 college plan does. To back up, these changes allow the ABLE program to be established and administered by the Office of the State Treasurer, who has been running the Section 529 college accounts for many years. It allows the Treasurer to set up a program to contract with an investment manager, as we do on the college side, to develop a list of investment options that families could choose from in order to invest their funds.

The proposed language also allows the state, if it so chooses, to contract with another state. This is brand new legislation. States are scrambling right now to figure out how they want to structure the accounts. Since federal regulations state that you must go through the program that is offered by your state of residence or contracting state, some states are choosing to wait and see what other states are doing since there may be efficiencies in combining with another state. Our legislation that we are looking at today allows for the flexibility to establish our own contract with another state or to have another state contract with us if it would help with efficiencies.

There are other changes: it protects these assets from creditors, exempts them from state and student aid, and allows the program to accept funds from private donations and/or federal appropriations if available. It also creates a partnership between the Aging and Disability Services Division and the Office of the State Treasurer. The Office of the State Treasurer would handle the administration of the accounts and the investments, but the Division has the expertise and case management to actually reach out to the families to help and encourage them to save in these accounts.

Assemblyman Gardner:

In section 9, who would we be delegating the power to? I saw that it was not changed in the amendment.

Linda English:

I believe the intent in section 9 is to allow latitude to hire investment managers and other folks who would help us administer the program. Section 9 also includes the language about partnering with another state.

Assemblyman Sprinkle:

Not being that familiar with the college savings program and focusing on this bill, the monies are not supposed to be comingled at all, and yet the account is going to be embedded in the State General Fund. Does that constitute comingling or not? Secondly, I understood you to say private people that are putting money into this will be given investment options. Does that mean they are also taking on the liability of losses?

Linda English:

The language in this bill is exactly the way the 529 college accounts are set up. There is a trust that is created. The money—while it is record-kept in the General Fund—is not comingled and subject to use for any other purpose. Yes, the industry is talking about setting it up very similarly to 529 college savings accounts. The family chooses an investment option based on their risk tolerance, their goal, and whether they are saving for a short amount of time or for a long-time horizon. Based on the performance of that investment option, the family would be subject to market gains or losses. However, in the end, the Office of the Treasurer decides which ones to set up. They could be anything from a money market fund to other investments as the college savings statutes allow.

Assemblywoman Benitez-Thompson:

I am glad to see the Office of the State Treasurer is in support of this bill. From section 16 on in the bill, support services for persons with unique independent living services needs is absolutely something we should contemplate as a state to help folks stay independent as long as possible. I learned how to write language about technology from my work on Assembly Bill 200. When you talk about the assistive technologies in section 19, subsection 2, is the intent to be able to access contemporary technologies as they become available to the community? I hope we are not codifying into statute current technologies, but rather technology as it emerges so that the next super cool thing three years down the road does not require an amendment to the *Nevada Revised Statutes*. We should be giving ourselves enough broadness and scope for what we have now and what will be available in the future.

Brian Patchett:

That is absolutely correct. I started my career in the field of assistive technology at Easter Seals Washington. I also taught graduate courses on

assistive technology, so it has been a big part of my life both personally and professionally. That is exactly what is contemplated here. When we talk about assistive technology, we are talking about anything that will help a person become more independent with what exists now and 20 years from now. I first found out about assistive technology when I got out of high school. There were some interesting things, but we certainly did not have these wonderful phone devices that we have now.

Chair Oscarson:

Is there any testimony in support of S.B. 419 (R1)?

Jane Gruner, Administrator, Aging and Disability Services Division, Department of Health and Human Services:

I am here in strong support of this bill. It will enable Nevada families to save for the future of their disabled children and to help break the cycle of poverty that happens for adults with disabilities. We have a very large gap in our service system, and the second part of the bill will begin to address that for people with visual impairments. It will allow us to set regulation and develop a program with the criteria of how it will be implemented. Then our Nevada Commission on Services for Persons with Disabilities can vet it to make sure it is exactly what is needed in this state so it will be ready for the next session.

Sherry Manning, Executive Director, Nevada Governor's Council on Developmental Disabilities:

I would like to thank you for the opportunity to offer support on behalf of the Nevada Governor's Council on Developmental Disabilities for S.B. 419 (R1) and, in particular, the Achieving a Better Life Experience (ABLE) Act portion of this bill. [Continued reading testimony ([Exhibit F](#)).]

Right now, we are waiting for the Internal Revenue Service to come out with their regulations so that we have a true understanding of how the accounts will be set up, as Jane Gruner mentioned earlier. [Continued reading testimony ([Exhibit F](#)).]

Lisa Foster, representing State of Nevada Association of Providers:

I am here today on behalf of the State of Nevada Association of Providers, whose members provide an array of services to individuals with intellectual disabilities. This bill would be very helpful to those individuals who may need services above and beyond what the state is providing. It gives families the freedom to receive those services without fear of penalty. We would encourage your support.

Sam Lieberman, Regent, District 5, Easter Seals Nevada:

I have now been in Las Vegas for almost 35 years and have been able to do some incredible things in spite of my disability. I have a very supportive family and always have. However, the challenge for me has been the expenses related to my disability, including transportation, physical therapy, and legitimately licensed massage therapy. It is vital that this legislation not be an all or nothing situation. We must have family fiscal input and eligibility for people with disabilities for the federal programs, such as Medicaid and SSI. The entire bill is a step in the right direction, but the ABLE Act is paramount to that whole process. [Submitted but not mentioned is ([Exhibit G](#)).]

Chair Oscarson:

Is there any other testimony in support here or in Las Vegas?

Marcia O'Malley, Private Citizen, Reno, Nevada:

I am a small business owner in Reno and also a parent to this young man, Ian Zehner, sitting next to me. We had the opportunity to meet some of you at a Committee meeting in March when you were first addressing the ABLE Act. We are here again today to reiterate our support and to say that this bill is even more fitting than the bill we tried to get through previously. We are so pleased that this is moving forward. Ian and I both had the opportunity to work in Washington, D.C., when the ABLE Act was going through Congress and to speak with our Nevada delegation there to get their support to move it forward. We really hope our voices will help move it forward here as well. Ian wants to speak to you today.

Ian Zehner, Private Citizen, Reno, Nevada:

I am Ian Zehner, and I have Down syndrome. I spoke to you in March when you were meeting about Assembly Bill 5. I am 17 years old, and I am a junior at McQueen High School in Reno. [Continued reading testimony ([Exhibit H](#)).]

Santa Perez, Statewide President, People First of Nevada:

I am the statewide president of People First of Nevada. People First is a statewide advocacy organization for people with developmental and intellectual disabilities (ID/DD). Senate Bill 419 (1st Reprint) is a bill that is very important to those of us who have disabilities. [Continued reading ([Exhibit I](#)).]

David S. Sorenson, Member, Nevada Governor's Council on Developmental Disabilities:

I was homeless until 1998. I have a developmental disability, and the ABLE Act would have helped me out a long time ago. I am now working full time for Intuit. I have been there 14 years. People with disabilities need to have the option to put aside some of their earnings into a savings account. This bill

would enable them to go back to school where books cost money, be independent, and be able to have a car. With transportation, they will be able to find work like I did.

Regina Daniel, Private Citizen, Las Vegas, Nevada:

I am a parent of an individual who will benefit from the passage of this bill. We have heard all of the statistics and a lot of facts. I want to talk about the practical side. It is bad enough that an individual has to face a lifelong challenge of being a special-needs person with intellectual disabilities, but then you get the double whammy of being relegated to be poor and helpless the rest of your life because you have no assets or your benefits from Medicaid and SSI will be impacted. I think this bill will help people with disabilities help themselves. I would like for the Committee to imagine what it would be like if folks could always tell you what to do, but you yourself could never choose what you wanted to do. This bill will help those individuals be self-sufficient. What will that do? It will help them be productive individuals. Now imagine if you could not wash your own face or dress yourself, or if you had to go somewhere right now but had to wait for somebody to take you. Bills like this allow disabled people to be in charge of their own lives. Just because they cannot walk, they can still talk; they can be inspirations. If they cannot talk, maybe they can draw, paint a picture, or inspire you with a smile. However, they cannot do any of this if they do not have the benefits and services to help them be self-sufficient. I ask that you look at and consider these things and change their lives. If you were not able to do any of those things, imagine how grateful you would be to have those changes. This project will make people able. Nevada ABLE Savings Program will provide independence to individuals who need it.

Mark L. Olson, Private Citizen, Henderson, Nevada:

I have submitted written testimony that is posted on the Nevada Electronic Legislative Information System ([Exhibit J](#)). There are two points I would like to make. I am here representing myself as the only parent and legal guardian of my 19-year-old daughter, Lindsay Olson. For her, the ABLE Act is incredibly important legislation. I was thrilled to see that it passed with such amazing support in Washington, D.C., and I hope will pass with similar support here in the state of Nevada. We got hit hard in the recession, and we survived. We persevered through that. The ABLE Act account will give me one more important financial tool to set aside the kinds of funds she will need to be able to live as independently and fruitfully as possible after I am no longer around.

I would like to mention and reinforce for any members who might have concerns about how these accounts will actually take shape in the state where we have some wonderful resources. I want to thank Sherry Manning for her

incredibly hard work in driving this bill through, Brian Patchett for opening up his bill, and Senator Hardy for finding a way to make the ABLE Act language germane to that bill. Besides a number of other people who have also worked very hard on this, there is a collaboration of 23 of the largest national disability organizations who have come together under the ABLE National Resource Center. The amount of technical expertise and guidance available to put these accounts together and make them successful is tremendous. I think we will have the benefit of that too. I would very much like you to pass this through.

Judith Koller, Private Citizen, Las Vegas, Nevada:

I have two adult sons who are here with me. This bill will help them to be more independent and self-sufficient. Once again, as Mr. Olson said, when I am gone, they will be able to have the help they need. Please support Senate Bill 419 (1st Reprint).

Chair Oscarson:

Is there any other testimony in support?

Katherine Ryder, Private Citizen, Las Vegas, Nevada:

I am here as the sister of Janine Klein and a member of the A Team Nevada. We support choice and independence for people with disabilities. The ABLE Act helps to increase independence and choice. Janine and I support S.B. 419 (R1).

Chair Oscarson:

Is there any testimony in opposition in Las Vegas or Carson City? [There was none.] Is there any testimony in neutral? [There was none.]

Senator Hardy:

I think we have a new name: Ian's Billion Dollar Bill.

Chair Oscarson:

Before we close the hearing, Ms. Gruner, could you speak to the fiscal note?

Jane Gruner:

The fiscal note has been eliminated. With the language change from "shall" to "may," we were able to take the note off.

Chair Oscarson:

We will close the hearing on Senate Bill 419 (1st Reprint).

ASSEMBLYWOMAN TITUS MOVED TO SUSPEND ASSEMBLY
RULE NO. 57 TO VOTE ON SENATE BILL 419 (1ST REPRINT).

ASSEMBLYMAN MOORE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS
ABSENT FOR THE VOTE.)

Chair Oscarson:

Do I have a motion?

ASSEMBLYWOMAN TITUS MOVED TO AMEND AND DO PASS
SENATE BILL 419 (1ST REPRINT).

ASSEMBLYWOMAN JOINER SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN THOMPSON WAS
ABSENT FOR THE VOTE.)

Chair Oscarson:

I will give the floor statement to Assemblywoman Benitez-Thompson.
[Submitted but not mentioned was [Exhibit K](#).] I will now open the hearing on
Senate Bill 257 (1st Reprint) presented by Senator Woodhouse.

**Senate Bill 257 (1st Reprint): Revises provisions relating to child care facilities.
(BDR 38-97)**

Senator Joyce Woodhouse, Senate District No. 5:

I am here today to introduce Senate Bill 257 (1st Reprint) to you.
Senate Bill 257 (1st Reprint) relates to training requirements for employees and
periodic background checks for certain employees, residents, and participants of
child care facilities.

Based on a 2012 report from Childcare Aware of America, 22 percent of the
child care workforce does not hold a high school degree, compared to
18 percent of the general population. [Continued reading written testimony
([Exhibit L](#)).]

We want to make sure that those individuals who had the background checks
and the training are always observing what is going on with the child in
the facility.

In conclusion, Senate Bill 257 (1st Reprint) takes another step forward in ensuring that children who are being cared for in a child care facility have well trained and qualified individuals who are providing care. [Continued reading written testimony ([Exhibit L](#)).]

Assemblyman Moore:

I am here to propose Amendment No. 6861 to S.B. 257 (R1) for your consideration ([Exhibit M](#)). This amendment requires a child care facility to admit, before granting admission to any other child, a child who has a parent or guardian currently serving on active duty in the Armed Forces of the United States, a parent killed or who died as a direct result of injuries received while serving honorably on active duty in the Armed Forces, or a parent who currently is or was recently missing in action or is a prisoner of war. [Continued reading testimony ([Exhibit N](#)).]

Senator Patricia Spearman, Senate District No. 1:

I would like to add to the remarks that my colleagues have previously made. This amendment is an outgrowth of a bill that was passed in Tennessee, Senate Bill 2093. It was jointly sponsored by a Democrat and a Republican, passing unanimously. One of the things that I know, as a former commander, is 40 percent of the military members have children. Child care is always a challenge, especially if both parents are in the military. That challenge is exacerbated if one of the parents goes to war and does not come back.

I am a strong supporter of adding this amendment to Senate Bill 257 (1st Reprint) because, as Assemblyman Moore said, it is the least that we can do to show our support for our men and women in uniform. Every National Guard unit and United States Army Reserve unit in Nevada was deployed at least once during the Iraq War and the war in Afghanistan. I believe this amendment is but one step for our citizens—our sons and daughters—who place their lives on the line. Those who have a chaplain show up at their door, get the folded flag, and sit at the graveside for the rifle volley, have to put their lives back together once all of that is over.

I have said previously, and I will say it again, that it is very easy to put a placard on a car or tie a yellow ribbon around the tree, but this amendment is one of the ways that we walk our talk and say that we appreciate their service.

Assemblyman Jones:

I appreciate this amendment because we should honor those who serve. However, Senator Woodhouse, if we are concerned about not having enough day care and are bringing this amendment, do you have any statistics that show there is a problem with the amount of education and background checks that

are occurring? Are there abuses occurring in day care right now with people who are either uneducated or do not have proper background checks?

Senator Woodhouse:

We need to realize the people taking care of children in our child care facilities are very important. My goal with this bill is to make sure, first of all, that the workers in child care facilities caring for 5 to 12 children are brought up to the level of the workers in those facilities who have 12 or more children. As I said in my testimony, every child—no matter what the size of the facility—needs individuals caring for them who have as much training as possible. I indicated the four or five levels of training, one of which is administration, but the others are all directed at the child. Unfortunately, we occasionally read in the newspapers or hear in the media about a situation where something terrible has happened at a child care facility. That is one of the things we are trying to prevent. We want to ensure the individuals caring for children are the very best and most trained people, which is why we are changing the background check to be done every two years instead of every five years. We want to make sure that we keep on top of things. I know the people at the facilities want their coworkers to be the best they can be too.

Assemblyman Jones:

The question was, do you have any studies or statistics that show that our existing requirements are a problem? The concern I have is, if the current education and background checks are not shown to be a problem in our system, and we encourage more requirements, that could have an adverse effect. We will have fewer people who can provide day care, and the costs will go up, which is exactly why we have this amendment so that our armed services people get preference. If we had plenty of day care available at a reasonable rate, the armed services people would already be getting adequate day care provisions.

Senator Woodhouse:

I cannot quote any direct statistics regarding your question. I have to go back to the fact that we want to make sure our children are safe when they are dropped off at a child care facility, especially as Nevada continues to grow. This will be an area needing growth and more trained individuals. Owners will be opening more facilities. It is incumbent upon those who set the ground rules to do the best possible so that our children are safe.

Senator Spearman:

I would like to echo Senator Woodhouse's statements and to answer Assemblyman Jones' question. One of the reasons this amendment is necessary is that military child care facilities all have waiting lists. Giving more

training would not limit access to child care facilities. This amendment would help families who have either suffered the death of a loved one or have a geographical single parent. They would not want to place their children in facilities where another tragedy could occur without the necessary training and completed background checks.

Assemblyman Jones:

I can appreciate that the military should have more availability. However, the argument is, why not require all people who work at child care facilities to have at least an associate degree in social services? If we keep raising the bar, we could say that all people in child care must have a doctorate degree in child development. Why are we creating a solution until we know a problem exists? Whenever we put more requirements on our private industry, we get less of what we are trying to improve, especially when it does not even need improvement. If families cannot find enough people who have this education, there will be fewer child care facilities. If we had children who were being abused or neglected because the caregivers did not have proper training, absolutely, we would need to require more training. However, if we are not having any problems, why increase the requirements?

Senator Woodhouse:

For individuals who are working in child care facilities that have more than 12 children, they need 24 hours of training. This bill calls for three additional hours of training for the recognition and reporting of child abuse and neglect. They are the largest group. The groups having between 5 and 12 children at their facilities need more training to bring them to the higher level. We need to make sure that anyone taking care of our children is well trained.

Assemblywoman Titus:

Do you have any statistics on how long it takes and the cost of background checks? If we change this from every five years to every two years, what would be the delay in hiring folks? Do you have information on anyone who has had a background check and then has committed a criminal act? What kind of problem has this been in child care facilities?

Senator Woodhouse:

You will see that there is a very small fiscal note on this bill. Because we are increasing the requirement from every five years to every two years, it will provide for an additional part-time administrative assistant to assist with the additional background checks. For fiscal year (FY) 2015/2016, it is \$22,200. In FY 2016/2017, it is \$28,279. If we can ensure there are no situations of child abuse or neglect by doing these background checks, it is money

well-spent. I cannot give you any further statistics on how long it takes to do them. There are individuals here who may be able to answer that.

Assemblywoman Titus:

There are a lot of things we do that later we ask ourselves why we are doing it and what are the benefits. Is there proof that what we do here really makes a difference there? I am curious, statistically, about the background checks for these people who work in child care facilities. I would obviously be appalled if there was abuse in a child care setting; however, do the background checks really pick up the chance of potential abuse? Do they make a difference? Also, by changing the frequency, will that really make a difference?

Senator Woodhouse:

I believe it will make a difference. I know people do slip up, and if we do our background checks more often, we can catch them so that our children in these facilities do not experience any difficulties and we avoid problems with parents. It is a preventive measure.

Assemblyman Trowbridge:

I noticed in the newspaper this morning that there is a teacher currently working in the Clark County School District who was convicted of being a child molester only a few years ago. His record was sealed when he completed appropriate training. A topic for another day may be to examine how background checks are conducted and what can be sealed. However, my questions for today are regarding the training. Would it be conducted by the child care facility? Would it be treated as continuing education offered through high school or community college classes? Or would it be a program offered by the Department of Health and Human Services?

Senator Woodhouse:

There are individuals here who can address your questions. It is my understanding that there are various ways in which these individuals can receive training, both in the classroom and online. The child abuse and neglect training is often taken online.

Chair Oscarson:

Is there anyone in support for S.B. 257 (R1)?

Denise Tanata Ashby, J.D., Executive Director, Children's Advocacy Alliance:

We are here to testify in support of S.B. 257 (R1). We worked on a piece of legislation last session which actually increased the training for the larger facilities to 24 hours. It had originally included a provision for all facilities

to have 24 hours of training, so we definitely support that provision. I will provide some insight on a couple of the questions that were asked.

To what Assemblyman Jones brought up regarding the need for more training, there is research behind this. Basically, 90 percent of brain development occurs before age five. What we are seeing, not only here in the state of Nevada, but across the country and internationally, is a movement from the concept of child care babysitting to early childhood education. The more we can do to train early childhood providers on appropriate developmental and teaching skills, the higher the outcomes will be academically, as well as socially and emotionally for the children. We are trying to get to a higher quality of early childhood education for all of the children in our state.

Going back to the need for the proposed amendment for military children, it is my understanding that a lot of military families may receive some type of child care assistance which can only be used for accredited facilities. In the state of Nevada, we have a relatively small number of centers that are accredited, and those tend to have waiting lists in place. We have a lot of other centers and home care providers who have spaces available. It is those accredited, higher-quality facilities that tend to have the waiting lists in place where the military families would benefit the most.

To Assemblyman Trowbridge's question regarding the training and how it is provided, all training in the state of Nevada for early childhood providers is done through The Nevada Registry. Trainers have to meet certain requirements, and all training programs are approved and offered through The Nevada Registry. The classes vary from one hour to multiday levels of training on a variety of topics. Some are no cost and others have a cost. They are offered both in person and online throughout the state of Nevada.

Chair Oscarson:

Is there other testimony in support of S.B. 257 (R1) either here or in Las Vegas? [There was none.] Is there any testimony in opposition?

Carol Levins, Chief Executive Officer, Creative Kids Learning Centers:

As the founder, I started my company 35 years ago, and I currently operate nine centers in southern Nevada. We serve about 2,000 children, and we have about 200 employees. There are three parts to this bill that I would like to address. I have absolutely no opposition to the training component because I want to provide quality child care. Our centers have successfully sought national accreditation, so training is an important part of having a quality child care center.

Some statistics and "in the trenches" results are that we have hired thousands—maybe even tens of thousands—of people over the last 35 years. They get their preliminary background check and are able to come to work, but it takes 90 days to get the full background screening back. I might have had one person in all those thousands of people whose card was not issued because of an infraction. The statistics on the frequency of this, in my opinion, are very low.

Another logistical problem is that it would be almost impossible if you have to wait 90 days to put people in to teach classes. When you need somebody in a classroom full of children, you need somebody in a classroom full of children. You cannot take someone from another class to be with that person because then you need someone in that classroom, which is then detrimental to the children because they do not have their regular teacher. If we had to wait 90 days to hire someone, we would literally have to call parents and tell them they could not bring their children to school because we do not have the staff to support them. As an owner who hires lots of people, it would be extremely difficult and, in fact, would shut us down to some extent if we had to wait the full 90 days.

Every year when we get our license renewed, a child abuse and neglect screening is done on every current employee. To increase the regular Sheriff's Card to the frequency of every two years is redundant and costly. It costs about \$100 for an employee to get a Sheriff's Card. They have to pay that before they can work, along with some other financial obligations, such as getting a health card. The background checks would be a huge logistical and financial burden for both employees and child care centers.

We employ independent contractors from a company called Happy Feet, who teach soccer skills to children. They have Sheriff's Card background checks. We do not feel the need to have another staff member with that person who has the same clearances as our staff. We hope as long as the independent contractors have those clearances we would not need to have someone with them and double up the staffing on that program. I have been doing this for a really long time, so I probably have answers to some of the questions.

Assemblyman Jones:

It is pretty clear that the additional requirements in this bill would make it even harder to provide quality day care. Would the costs then go up? If so, can you give us a ballpark percentage on what the results would be for child day care facilities?

Carol Levins:

The worst case scenario—which would not be that odd—is we would have a classroom with no teacher. If we have no teacher and cannot maintain proper ratios and safety for the children, we cannot accept those children. You would have to call parents who either could not go to work or who would go to work and put their children in substandard care. Perhaps an older child is watching that child, or the child is in unlicensed care, which is very prevalent. An example is unlicensed neighbors who have no qualifications whatsoever for watching the children.

One other thing that I wanted to address was the amendment regarding military families. We, as a company, give a discount to military families. I do honor the service they provide to our country and to us as individuals. However, to maintain openings just in case a military family should want to put their child in our day care would require us to have vacancies we could otherwise fill. If our centers are not full, of course we would take anybody on a first-come, first-serve basis.

Assemblyman Jones:

I understand the theory of it, but I am asking you for an educated guess of what percentage would result in not being able to supply kids with child care adults. Would it be a 10 percent hardship where we would lose 10 percent capacity? Or, would it be 20 percent or more, really hurting the potential capacity of day care availability?

Carol Levins:

I believe it would really hurt because we have teachers coming and going. When they leave, you have to replace them the very next day. We try to maintain qualified substitutes, and we hire people who have had their preliminary background checks. However, to wait 90 days would be devastating. You could lose 50 percent because you have this constant effect going on. Across all of my facilities, I have 75 classrooms. You have to maintain the teacher/child ratios at all times, depending upon the age group of the children. If you do not have the ratio, you cannot accept new children.

Chair Oscarson:

Is there any testimony in opposition here in Carson City?

Theresa DeGraffenreid, Director, St. Gall Preschool:

I am the director and head teacher at St. Gall Preschool in Gardnerville, Nevada. I have an associate degree and 30 years of experience in early childhood education. Thank you for letting me speak in opposition to S.B. 257 (R1).

The reason I am really upset is that I feel completely blindsided by the amendment being wrapped into this bill. Of course, all of us want to support our military, and this gives you an opportunity to go ahead and vote the bill through because how can you vote against something that will help our military? However, this bill is so bad for child care.

I oppose this bill for several reasons. First, in the last legislative session in 2013, the Legislature passed and the Governor signed into law Assembly Bill No. 546 of the 77th Session to mandate preschool/day care providers to complete 24 hours a year in continuing education, an increase from 18 hours in 2011. [Read from testimony ([Exhibit O](#)).]

Just today, I called every day care center that was listed in the phone book from Reno to Gardnerville. Not one day care provider said that the Federal Bureau of Investigation background checks have ever found any abuse by their employees and have never brought anything new that would mandate them to fire that person. The people are weeded out when they are first hired, not after they have had the job for a long time.

The fiscal note on this bill indicates that the state will need to hire another employee, and incur total costs of \$50,000 per biennium to handle the extra paperwork for two year checks instead of five. [Continued reading from testimony ([Exhibit O](#)).]

Assemblyman Jones:

I am very, very sympathetic to your plight. I make this argument all day long. I am a business owner as well, and it is death by a thousand cuts. We in the Legislature keep passing regulation after regulation, thinking that we are doing good, but we are actually driving people out of business, which ends up hurting the very people we are trying to help, such as low income families having access to day care. I am completely sympathetic with your testimony, and I agree 1,000 percent. What type of impact do you think this type of additional regulation will have? Can you imagine a percentage of capacity that will be reduced? Just as you said that you feel like giving up every once in a while because this is too much, I feel like that too. I have 40 or 50 employees. I see all these government guys coming in, acting like gods in their own universes, and telling you what to do as if you were the enemy because you are creating jobs. I feel like giving up at times and saying, "I am just going to go on welfare. Why not go on unemployment and live for two or three years without doing a damn thing?" It is just so hard. Can you estimate what percentage you think this would affect the day care industry in terms of having people say, "I do not want this anymore; I do not need it; I am going to quit"?

Theresa DeGraffenreid:

Unfortunately, we are not paid a whole lot. To be honest with you, they are entry-level jobs. I would say about 20 to 25 percent would probably go work at McDonald's even though they love working with children. They would just decide to ask people if they want fries with that. For me, with this bill and other things coming through, I will not be here next year.

Assemblyman Jones:

You will be one of the statistics if they pass all this overregulation? You are going to just finally say, "I have had enough; I am out"? This is after how many years you have been in the business?

Theresa DeGraffenreid:

It has been 30 years.

Assemblyman Jones:

Now, because of all these do-gooder policies, you are going to say, "Enough; I am done."

Theresa DeGraffenreid

Yes, that is correct.

Chair Oscarson:

Are there any other comments or testimony in opposition either here or in Las Vegas?

Julie Mathews, Director, Creative Kids Learning Center:

I have been working in the field of early childhood for 21 years and have been a director for 7 years. A couple of things in this bill that I am against have been already talked about. I agree with Ms. Levins about the contractors that we use for our classes. They have the same background checks that my teachers do, so it would be redundant to put somebody with them.

The other thing that I am against is the more frequent background checks because employees already have to pay about \$100 for a Sheriff's Card, \$30 for a tuberculosis test and, in addition to that, they need to have 15 mandated training hours in different areas within the first 90 days. On top of that, they have another 24 hours of mandated training within the next year to comply with licensing requirements that are already there. In the first 90 days, the out-of-pocket expenses for someone in this field—not the highest paying field—is roughly \$230, which is a lot. To add in additional background checks and training throughout the year would be very detrimental to some of the

employees that I have. When we reapply every year for renewal of licensing, they do the background checks again.

Another thing that would be a big issue is where the bill states the new employees need to be supervised until the background check is complete. That would be 90 days plus whatever amount of time it would take licensing to mail the results. We would need additional teachers. For instance, if I had a teacher give her notice today and she works in a single teacher classroom, which six out of seven are, I could not let a new employee work independently in that classroom for any of the 90 days. Therefore, I would have to put another teacher in that classroom, which would be an added expense to the center. Having two staff members doing the job that one could do would be a detriment to the children in their care. [Submitted testimony ([Exhibit P](#)).]

Assemblyman Jones:

I would like to ask you the same question. What percentage of capacity would you expect to be lost in the day care facilities if this bill goes through? Can you give an educated estimate?

Julie Mathews:

In my center right now, I have 15 full-time employees, 4 of whom are on the temporary Sheriff's Card list, including one person who has worked with me for six years who just got her Sheriff's Card renewed and is in another 90-day waiting period to get her permanent card. Four out of 15 people that are working for me would not be allowed to be alone with the children.

Assemblyman Jones:

That would reduce your capacity by about 30 percent?

Julie Mathews:

That is correct.

Assemblywoman Spiegel:

During your testimony, I thought you said that they do additional background checks when you renew your license every year. Could you explain that process a little and what goes into it?

Julie Mathews:

Every time we renew our license, we have to fill out a form that has all of the teachers' names, social security numbers, and expiration dates of their Sheriff's Cards and clearance letters. My understanding is that licensing actually conducts a quick check on them at that time as well.

Chair Oscarson:

Are there any other people in opposition in Las Vegas?

David Walton, Executive Region Director, Challenger Schools:

I come to you as an educator. I have been with Challenger School in early childhood education going on ten years this summer. In those ten years, I have had no one come back during the 90-day check as not qualifying for the permanent Sheriff's Card. I can also attest to the annual consent and release form that needs to be completed by each teacher and staff member in the preschool or day care in order to qualify to continue working. Also, coming as a commissioned officer of the military, I have sworn an oath to protect and defend the *Constitution of the United States*, a document written to protect inalienable rights of individuals. Therefore, I find it very ironic that we are talking about forcing people in business to hold spots for children. I am opposed to that amendment as a veteran and a military officer. Principles are important.

Economically, if we look at coming regulations, *Nevada Administrative Code* Chapter 432A is up for its ten-year review. A work group is already being formed. We are looking at a lot of potential regulation on top of what we are already facing in the industry, including lowering child/teacher ratios and group size. All of this has the effect of increasing costs for providing child care. It does have negative impact on the consumer, the tax-paying public, and the voters because they are not able to go to work if they do not have the needed child care. If they choose to go to work to support their families, they will use unlicensed care. Economically, this does not make sense to continue placing restrictions on an industry that is designed to provide care for children. That is important to note—we do care for children. I wanted to express my opposition to some parts of the bill. As far as the training, I would lump that in to additional regulations, which have a prohibitive impact on our ability to provide care.

Assemblyman Jones:

If this bill goes through, can you make an educated guess on what percentage of capacity would be reduced?

David Walton:

For the preschools in our region in Nevada, we have approximately 50 to 55 preschool teachers, and of those, I have approximately 15 to 20 that are on temporary Sheriff's Cards. That is a best guess without that information in front of me, based on the typical reviews. The cards expire every five years, plus we hire a number of people on an ongoing basis. I would guess it is around 30 to 35 percent.

Assemblyman Trowbridge:

In the past, I worked in an area where I had, at any given time, 1,500 part-time employees a year for over 25 years who were working with children. A great percentage of those employees were required to have background checks. I cannot remember a single one that came back with something that disqualified him from working. As far as this bill goes, the background checks are probably something that we need to address at another time. I would challenge the Department of Health and Human Services to look at that and determine the value of these background checks. In particular, the 90 days seem unreasonable. With today's computerized technology, the average patrol car can type in your social security number and get an answer very quickly as to what kind of person you are. To require 90 days seems excessive.

Secondly, it is borderline unnecessary to have someone who has passed the background check, paid the fees, and has been continuously employed to have to go through additional background checks. It does not seem right. These people are, in general, making just about minimum wage, and to have them shell out \$230 up front is a bit excessive. We need to look at the cost versus the benefit. This is one element of my speech.

Another element is the necessity for training. I am all for training. It can be conducted after hours and online. I do not see that being overly burdensome for someone who wants to work. They should be trying to improve themselves.

The fourth element is about the priority admission for veterans. Nowhere in the bill or the testimony provided by either of our well-qualified speakers did they mention holding vacancies for someone to get in. It is just when a child care center does have a vacancy, if there are military families with someone on active duty, disabled, or was killed in the line of duty, they be given priority. There is no cost associated with that part of the bill.

I understand everyone is pleading about the overregulation but, in the big picture, we are addressing years of it, not just the overregulation presented by this bill today. Licensing and background checks need to be addressed. I do not know if S.B. 257 (R1) is the appropriate vehicle to look at those things or just a plea to the Department of Health and Human Services. If some statutes need to be modified, we need to get after that.

Chair Oscarson:

Is there any more testimony in opposition?

Michael Thompson, Owner, Kids 'R' Kids:

My wife and I are owners of Kids 'R' Kids in the Silverado Ranch area. We are part of the Kids 'R' Kids International franchise, a nationally accredited school system and the largest in America, and now in Beijing, China, and Malaysia. We are certainly delivering high-quality child care services and have in our school for the past 15 years. In that time, we have never had one applicant be denied after the permanent background check was done. I am in sync with the others who have spoken to that.

We are in complete agreement regarding the training component. We believe in high-quality child care and early childhood learning, and we would support that piece of this bill. However, the complicating factor of the bill is how all the components are bundled together. I would agree with the gentleman who just spoke that we are not in opposition to the entire bill, but there are language provisions in the bill, particularly the background check component, which would be onerous, and others have spoken to that as well.

Not only are we a very highly-regulated industry, we are also going to be addressing our additional ten-year review this coming year, which is not only going to be an arduous process of having to evaluate what we currently do, but there is a strong push for additional regulations that are going to be piled on top of what we are currently doing. Because of that, the provisions of this bill that I spoke to are onerous and should not be supported.

Chair Oscarson:

Seeing no further testimony in opposition either here or in Las Vegas, is there any testimony in neutral? [There was none.]

Assemblyman Araujo:

I want to thank Senator Woodhouse and Senator Spearman for bringing this bill forward. I have heard a lot of comments in the Committee, but I work in the field every day outside of the Legislature, and I know how important it is to ensure that our kids are set up for success at an early age and to make sure they are safe. It is difficult work, and I commend you for taking the lead on this, applaud you for your efforts, and hope that this bill makes it through.

Senator Woodhouse:

Thank you very much for taking the time to listen to this bill. I would especially like to thank my colleagues, Senator Spearman and Assemblyman Moore, for joining me on the bill. The bottom line is we want to make sure that our child care facilities are providing the best and highest quality service for our children. We applaud all of those business owners and workers in those facilities who are

doing that today. We want to continue that great work and make it even better.

Senator Spearman:

I want to address what Assemblyman Trowbridge discussed. I, too, served my country 29.5 years in the United States Army as a military police officer. I have served all around the world. When Fidel Castro was doing some chain-rattling, I was a company commander. I grabbed folks together, and we were on alert status with wheels up in about six hours. So, when I talk about the importance of providing child care for service members, I took that oath, too, sir:

I, Patricia A. Spearman, do solemnly affirm that I will support and defend the *Constitution of the United States* against all enemies, foreign and domestic, and obey the orders of the officers over me. So help me God.

So, I get that. Nowhere in this bill does it require anyone to set aside "a space" for children of military members who have been killed or missing in action. Nowhere does it require that. We are all quick to talk about protecting and upholding the *Constitution*. For everyone who has ever served in the military, we put our lives on the line with no questions asked. I fully believe when someone does not come home, the very least we can do is to say to that surviving spouse, "We care about the sacrifice that your service member gave, but we are also here to support you as you pick up the pieces of your now destroyed life because your loved one went to war and did not come back or is now missing in action." As I said before, every Guard unit in Nevada was deployed at least once. Forgive me if I go pedestrian and it sounds like I am being pejorative, but in this past war, two-thirds of the fighting force were Guardsmen and Reservists. What that means is they are activated to be trained, go to war, and come back to be deactivated. If there is ever an instance where one of those people do not come back, especially if they are from rural communities, the families have no support. What the amendment says is "Before a child care facility admits a child, the child care facility shall, to the extent authorized by federal law, admit another child if the application submitted for the admission of that child includes official documentation from the Federal Government" that does all of those things. If it sounds like I am emotional, you are right; I am. I am a strong advocate for veterans, and I am unapologetic for that advocacy. The very least we can do for those people who have said, "Yes, I will go," is to make sure that they are taken care of when they come back, and if they do not come back, it is abominable to say we do not care about their surviving spouses. Perhaps that is too strong, but as I said before, I am a strong advocate for veterans, and I will never apologize for that advocacy.

Chair Oscarson:

I will close the hearing on S.B. 257 (R1). I will now open the hearing on Senate Bill 247 (1st Reprint).

Senate Bill 247 (1st Reprint): Revises provisions governing new construction by or on behalf of health facilities. (BDR 40-981)

Joan Hall, President, Nevada Rural Hospital Partners Foundation:

I am filling in for Senator Hardy. Senate Bill 247 (1st Reprint) is his bill. It is a proposal to change existing law, which mandates that if you are an entity or person proposing to build a health care facility that costs greater than \$2 million in a county of less than 100,000 people—in counties other than Clark County and Washoe County—you have to obtain prior approval. You have to go through a Certificate of Need (CON) process through the Division of Public and Behavioral Health. The proposed change was to include the three critical access hospitals that are excluded from that process—Incline Village Community Hospital in Washoe County, Mesa View Regional Hospital in Mesquite, and Boulder City Hospital in Boulder City.

The amendment that first started this turned into other amendments, and now Senator Hardy has a friendly amendment ([Exhibit Q](#)) to his own bill reverting the language of section 2, subsections 1 and 2, to the language as was originally introduced. [Continued reading ([Exhibit Q](#)).] He also added another simple amendment to the last page of the bill, line 1, to add a period after "nursing," deleting the word "pools."

The intent of Senator Hardy's proposed friendly amendment to his bill was to bring in those critical access hospitals currently not included in the Certificate of Need process. On the Nevada Electronic Legislative Information System is the map ([Exhibit R](#)) of the Nevada Rural Hospital Partners (NRHP). It is important to look at that and see what hospitals we are proposing to be involved in this. It would include all of Nevada's rural hospitals. My membership represents 14 of them. There is also one in Elko that is not a member of ours. The mission of NRHP is to support the viability of rural health care. We believe that this bill assists us in doing that. When you look at the map, the 14 hospitals provide services to only 10 percent of Nevada's population. However, they cover 87 percent of the land mass. They are few and far between, and they are very small hospitals. Eleven of those 14 are critical access. Two are in the process of converting to critical access. Sadly, one, Nye Regional Medical Center, is currently in the process of emerging from bankruptcy. Some of these hospitals are district hospitals, meaning that they have an elected public board and receive tax support. Seven of these hospitals provide the only long-term care beds in their communities. Seven provide the only clinic or provider

services within their communities. These hospitals are in the top three employers in their communities and, therefore, have a huge economic impact on the communities they serve. In any given year, eight or nine of them unfortunately operate at a loss because of the types of patients they have. We have an increased percentage of uninsured patients, even with the Affordable Care Act, and an increased number of Medicare patients, people from Indian Health Services, and veterans. Those payer categories do not cover the cost of providing the service.

We see this bill as a protection for rural health care. Nationally, rural hospitals are very fragile, and the rural hospitals in Nevada are no different. The CON process does not disallow another hospital or kind of health care service from coming to a rural area. It just mandates that they go through a process, and we look at the effect that it would have on current health care, perhaps even augmenting it. That is up to the Division of Public and Behavioral Health, not us. We think this bill is protective. We believe that many of the rural markets are not large enough to support more than one hospital nor have health care facilities that are only open from 9 a.m. to 5 p.m. come in and compete for certain services with those rural hospitals. Our hospitals provide 24/7 access to emergency care for patients. We provide care to all patients without regard to payment. We are often the only source of health care in that community because district hospitals employ the providers. Often, there are no other providers in those communities. These rural hospitals are the only ones providing long-term care and watching out for the elderly. That is why we think this a good bill. Laura Hale can talk to you about any of the Certificate of Need processes that are involved in this.

Assemblywoman Titus:

You started by saying the intent of this bill was to bring critical access hospitals into the Certificate of Need process. Could you explain to the Committee members how important that is? Is it about reimbursement?

Joan Hall:

Are you talking about the critical access hospitals or about including those three that are not in yet?

Assemblywoman Titus:

I am asking about both.

Joan Hall:

For the second part of your question, we worry about those three critical access hospitals whose communities are currently not included in the Certificate of Need process. Those are Incline Village Community Hospital,

a 4-bed, critical-access hospital in Washoe County; Mesa View Regional Hospital, a 25-bed, critical-access hospital in Mesquite; and Boulder City Hospital, a 25-bed, critical-access hospital in Boulder City, which just added on some geropsychiatric and rehabilitation services. Critical access is a federal designation that came about when the Centers for Medicare and Medicaid Services recognized that there were a huge number of closures for rural hospitals because of reimbursement issues. They decided that in order to salvage rural hospitals, they would reimburse for Medicare and Medicaid patients based on a cost-based reimbursement. There is other criteria that those hospitals do not have to meet that a large tertiary facility would have to meet, such as staffing requirements.

Assemblywoman Titus:

Are you saying that this bill ensures that before a hospital can build, it has to get a Certificate of Need for that area? For example, it cannot come in next door to a for-fee or for-profit hospital. It will have to show that it is needed in that community based on the population data before the Department of Health and Human Services will give it a Certificate of Need.

Joan Hall:

Yes, those three hospitals currently are at risk. The Certificate of Need process is protective for rural health care. Right now, if an ambulatory surgery center, for instance, wanted to build in Mesquite, it sounds like something that would be good. Usually ambulatory surgery centers provide care at a lesser cost than a hospital does because it costs them less to provide that care. Taking away the service the hospital was able to provide because the patients are going to an ambulatory outpatient center takes a lot of revenue away from the hospital. However, the hospital does not have fewer costs because it still has to provide such things as 24/7 emergency room service and laboratory and diagnostic services. It could actually hurt the hospital. If the new health care facility was a dialysis center and the hospital is unable to provide that or does not have the means to do it, that service would augment the hospital. That is where Ms. Hale's group measures and decides if a new center would harm the existing facility or if it is going to augment the health care.

Assemblyman Jones:

Assemblywoman Titus's recap brought this together for me. Does this bill want to limit competition because it would put certain hospitals out of business?

Joan Hall:

That is correct. What could happen if an ambulatory surgery center was allowed to come into an area is that it might actually cause the hospital to close because it could not remain in business and, therefore, lessen the level of care

for that community. You would not have the 24/7 emergency room, diagnostics, and those types of services. You might only have ambulatory surgery.

Assemblyman Jones:

In theory that makes sense, but what happens if that hospital is not doing very well because it is not effective, efficient, or run very well? If people get poor service, they do not go to it if they have a chance to go elsewhere. For example, I lived in Boulder City before I moved to Las Vegas. Boulder City has that little hospital you have been talking about. However, if I do not like going to the Boulder City Hospital, I could drive into Green Valley. What happens in those cases?

Joan Hall:

Typically, when you look at the map again, you are not going to find people who want to build a hospital in Battle Mountain if there is already one there. If people were going elsewhere because of poor quality, that is when the Department of Health and Human Services would look at the concerns and recognize the problem. If somebody wanted to compete with a rural hospital because it was not providing good services, that would be an interesting conundrum.

Assemblyman Sprinkle:

Is there any current language in statute that protects all other hospitals in the same way?

Joan Hall:

Are you talking about the larger hospitals?

Assemblyman Sprinkle:

Yes, I am referring to the ones besides those three.

Joan Hall:

Yes, all the other rural hospitals are currently under the Certificate of Need process. That is why we wanted to include them. Certificate of Need used to include all hospitals in Nevada. I believe it was in the 1990s that the law was changed. The large hospitals recognized that they, as Assemblyman Jones suggested, liked competition. It kept them nimble, lean, and mean, and they provided the services that were needed and required in their communities. They actually wanted out.

Assemblyman Sprinkle:

Is this simply bringing these three hospitals into what already exists for all other rural hospitals in the state of Nevada?

Joan Hall:

Yes, that is correct.

Assemblywoman Spiegel:

As I read through the bill, there was not a definition for health care facility. After listening to the testimony, it is clear that it includes hospitals and might include ambulatory surgery centers, but what else does it include? Does it include facilities like urgent care or is it limited?

Laura Hale, Manager, Primary Care Office, Division of Public and Behavioral Health, Department of Health and Human Services:

I administer the Certificate of Need program. A health care facility is defined as any facility other than a private practice that is providing a medical service such as skilled nursing facilities.

Assemblyman Thompson:

Beginning in section 2, subsection 3, what is the process for the Certificate of Need? Is it saying that if a builder comes in with a project, it is submitted to the director and he makes the decision? How transparent is this process? In government, there are always things such as requests for proposals. Is there any public process to that? Secondly, how is it weighted? I see that you look at about seven factors. It seems like we are honing in on the financial aspect, but I want to know how much of the actual health need is taken into account, as in paragraph (b), subparagraph (4), subsubparagraph (III), "The impact of the project on disparate health outcomes for different populations in the area...."

Laura Hale:

There is a public process. Each Certificate of Need requires that we conduct a public hearing for which we do a public notice. We send that notice to the Nevada Rural Hospital Partners, and for anyone else who is interested, we put it in the newspapers. We provide legal notice and post it on our website. As far as the weighting, there is not anything currently that weights different elements. We do look at what the need is in the community, so they have to project out over time what the demand is going to be for that service in comparison to what is currently the capacity for meeting that service with existing facilities. They have to tell us whether they can sustain their financial stability and what the impact will be on other providers in the community. These new measures that you are seeing under subparagraph (4) are what

we consider high-level standards for public health to ensure whatever public health issues we can if there is going to be a new facility in a community.

Assemblyman Thompson:

I appreciate your putting them in there because it helps make that balance.

Assemblywoman Titus:

Many of the rural areas have mining companies that might like to have their own hospitals or clinics like the one in Elko that one of the mines built. Would this bill prohibit a private company from providing health care services for their own employees?

Laura Hale:

It is not a prohibition, but rather a process the company has to go through. It has to demonstrate there is a need for that service and what the impact will be on other facilities in that service area.

Assemblywoman Titus:

If this private company can show that its health care costs of doing business for its employees would go down, would that allow it to proceed? I am concerned about the protection happening here and this not being a free market. I understand that rural hospitals have difficulties staying open, but as Assemblyman Jones asked, if the rural hospitals such as in Tonopah are not supplying the need, at what point does the Certificate of Need process decide to keep the hospital open as opposed to a new for-profit company coming in and saying, "Hey, we can do a better job and do it cheaper for the employers in the area and for the community?" I am concerned about that balance.

Laura Hale:

We do look at the costs to the consumer. That is one of the factors weighed in the process. We look at the quality of care. The onus is on the applicant for that Certificate of Need to build a new facility that demonstrates there is a need, positively influences costs to the consumer, and introduces quality care. All of those things are not given specific weight but all are considered. I provide an analysis to our director, who then makes a determination.

Assemblywoman Titus:

Is it your one-person director that makes the decision in the end about yes or no on a private business going forward?

Laura Hale:

Yes, along with the application, all of the information provided through the public hearing is also presented to the director. An example is that recently

we did a Certificate of Need application for a new skilled nursing facility in Carson City. We had about 40 people come to the public hearing. All of that testimony and all of the materials they introduced, both in written form and verbally, were presented to the director as part of the analysis.

Assemblywoman Titus:

The reason I am asking all of these questions is for the Committee to understand it is extremely hard to stay in business in the health care industry today. There is so much regulation. Reimbursement is rarely, if ever, actually our real costs. We see that we need a free market but, unfortunately, it is not a free market anymore. Government regulations and reimbursement prohibit us from being a true, free-market society when it comes to health care. Assemblyman Jones always brings up that we need to let free market happen, and I agree with that. However, unfortunately in the rural areas, a small for-profit company could come in and make a profit if they just did services that were reimbursable, such as same-day surgery. That can happen and is the reason rural hospitals that are so overregulated need protection. Those little hospitals that have stayed there through thick and thin, including Boulder City, are barely surviving. If one person feels he had a bad experience in the hospital, other people from the small community do not go there. However, in the middle of the night or 2 a.m., who is going to be there? You are going to go to your local hospital. I appreciate what you and Senator Hardy are trying to do here.

Chair Oscarson:

I echo Assemblywoman Titus's remarks. I am from a rural community where a small hospital came in and expended capital, time, and efforts to provide services to a community that was without services. Prior to that, people were driving to the nearest facility, and some were dead before they got there because it was too late. As with many issues, it is a different dynamic in the rural areas. I like to think of it as the facilities who have made investments in those areas should continue to be supported rather than looking at this bill as protectionism. It is a mechanism that would allow a process to be put in place to evaluate the current need and any additional services. It is not stopping any of those services from happening. I am the first one at the front of the train saying that, if we do not have a magnetic resonance imaging machine, for example, that we should get one or that we need a diagnostic imaging center. There are opportunities for growth with other types of services, too, such as dialysis. People in the rural areas deserve them without having to drive 300 or 400 miles. In the urban areas, we often take for granted that medical facilities are close by. Thank you, Senator Hardy, for your concern. It is a subject near and dear to my heart, and I understand the need. Is there any testimony in support of S.B. 247 (R1)?

Senator Joseph (Joe) P. Hardy, Senate District No. 12:

I am in support.

Bill Welch, representing Nevada Hospital Association:

The Nevada Hospital Association is in support of this legislation.

Chair Oscarson:

Is there any other testimony in support? [There was none.] Is there any testimony in opposition? [There was none.] Is there any testimony in neutral?

Warren Hardy II, representing the City of Mesquite:

We appreciate Senator Hardy bringing this bill forward. It is not in our purview, which is why we are here in neutral. However, we do appreciate the amendment that moves the population threshold back to 25,000. We believe that more accurately reflects the need for this. We support that amendment 100 percent. That puts us in neutral for that piece of legislation.

Chair Oscarson:

Would that be neutral leaning in support?

Warren Hardy:

Yes, we feel that strongly.

Chair Oscarson:

Is there any other testimony in neutral? [There was none.] We will close the hearing on Senate Bill 247 (1st Reprint). I will open the floor to any public comment either here or in Las Vegas. [There was none.] I adjourn the meeting [at 4:22 p.m.].

RESPECTFULLY SUBMITTED:

Karen Buck
Committee Secretary

APPROVED BY:

Assemblyman James Oscarson, Chair

DATE: _____

<u>EXHIBITS</u>			
Committee Name: <u>Assembly Committee on Health and Human Services</u>			
Date: <u>May 6, 2015</u>		Time of Meeting: <u>1:42 p.m.</u>	
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 172 (R1)	C	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
S.B. 303 (R2)	D	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
S.B. 419 (R1)	E	Senator Joseph (Joe) P. Hardy	Proposed Amendment
S.B. 419 (R1)	F	Sherry Manning, Nevada Governor's Council on Developmental Disabilities	Testimony
S.B. 419 (R1)	G	Sam Lieberman, Easter Seals Nevada	Testimony
S.B. 419 (R1)	H	Ian Zehner	Testimony
S.B. 419 (R1)	I	Santa Perez, People First of Nevada	Testimony
S.B. 419 (R1)	J	Mark L. Olson	Testimony
S.B. 419 (R1)	K	Sara Hart Weir, National Down Syndrome Society	Testimony
S.B. 257 (R1)	L	Senator Joyce Woodhouse	Testimony
S.B. 257 (R1)	M	Assemblyman John Moore	Amendment
S.B. 257 (R1)	N	Assemblyman John Moore	Testimony
S.B. 257 (R1)	O	Theresa DeGraffenreid, St. Gall Preschool	Testimony
S.B. 257 (R1)	P	Julie Mathews, Creative Kids Learning Center	Testimony

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S.B. 247 (R1)	Q	Senator Joseph (Joe) P. Hardy	Amendment
S.B. 247	R	Joan Hall, Nevada Rural Hospital Partners	Testimony, Map