

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

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

The Senate Committee on Health and Human Services was called to order by Chair Joe P. Hardy at 6:02 p.m. on Monday, April 6, 2015, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Joe P. Hardy, Chair
Senator Ben Kieckhefer, Vice Chair
Senator Joyce Woodhouse

COMMITTEE MEMBERS ABSENT:

Senator Mark Lipparelli (Excused)
Senator Pat Spearman (Excused)

GUEST LEGISLATORS PRESENT:

Senator Ruben J. Kihuen, Senatorial District No. 10
Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Eric Robbins, Counsel
Debra Burns, Committee Secretary

OTHERS PRESENT:

Kristy Oriol, Policy Specialist, Nevada Network Against Domestic Violence
Steve H. Fisher, Administrator, Division of Welfare and Supportive Services,
Department of Health and Human Services
Lynn Hettrick, Deputy Director, State Department of Agriculture

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Christy McGill, Healthy Communities Coalition
Rebekah May, Sunny Day Organic Farms; Healthy Communities Coalition
Marcia Litsinger
Paula Berkley, Food Bank of Northern Nevada
Joe Iser, M.D., Chief Health Officer, Southern Nevada Health District
Robert Sack, Division Director, Environmental Health Services, Washoe County Health District
Joseph L. Pollock, Program Manager, Public Health Engineer, Division of Public and Behavioral Health, Department of Health and Human Services
Brian M. Patchett, President and CEO, Easter Seals Nevada
Terri Albertson, Administrator, Division of Management Services and Programs, Department of Motor Vehicles
Mark Olsen, President and CEO, LTO Ventures
Julie Kotchevar, Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services

Chair Hardy:

I will open this hearing with Senate Bill (S.B.) 364.

SENATE BILL 364: Establishes a pilot program to provide financial assistance to certain persons to pay the cost of child care. (BDR S-880)

Senator Ruben J. Kihuen (Senatorial District No. 10):

Senate Bill 364 establishes a pilot program to provide financial assistance to pay the cost of child care. My written presentation has been submitted to you ([Exhibit C](#)).

This bill will create the Fund for the Mitigation of the Cliff Effect on Financial Assistance for Child Care. The cliff effect is the loss of certain assistances when earnings increase in lower-income families. Many parents, particularly women, are forced to refuse pay increases resulting in the continued life of dependence upon the system and disallowing advancement at the cost of losing their child care assistance benefits. Even a small increase in income can cause the loss of these benefits and small increases of income cannot pay for the ensuing loss caused by the termination of these benefits.

Over the last decade, affordable child care is increasingly necessary in the lives of American families. As more women join the workforce and family roles

evolve, the demand for affordable, high-quality, family child care has become increasingly complex.

Although the types of child care settings available have increased, the costs have not decreased. Over the last 3 decades, child care costs have increased nationally almost 60 percent. The largest increase has been in the last 15 years. In Nevada, child care costs exceed housing or college tuition monthly. Those costs rise when infant, newborn or toddler, special needs or disabilities, or nontraditional work hours care is required.

In Nevada, we are the eighth most expensive state in the full-time, center-based, infant care category. Nevada is the fourth most expensive for full-time, center-based child care for 4-year-olds. Child care in Nevada is more expensive than sending a child to the University of Nevada. Although many low-income families qualify for child care subsidies, the current program only serves 1.15 percent of eligible children. Nevada's low reimbursement rate limits access to quality care. If a family's income increases only slightly, that may make them ineligible for a child care subsidy.

Senate Bill 364 is an attempt to address these gaps by establishing a 2-year pilot program. A maximum of five counties within Nevada may participate, as long as their populations represent the geographic and ethnic diversity of Nevada. Enough participants in each county to ensure adequate evaluation of effectiveness results of the pilot program are required. Additional requirements and reports will apply as noted in the bill.

Kristy Oriol (Policy Specialist, Nevada Network Against Domestic Violence):

I have provided you a copy of my testimony ([Exhibit D](#)). In many instances, victims of domestic violence are forced to stay with their abusers because they lack child care. The mothers often earn too much to qualify for public assistance, but not enough to afford child care. Senate Bill 364 would do a great deal for counties that participate in the pilot program.

Senator Kieckhefer:

Are there additional programs available other than the Child Care Subsidy Program through the Division of Welfare and Supportive Services? Is there anything available at the county level?

Senator Kihuen:

I am not aware of any other programs. Senate Bill 364 specifically targets those parents who, in getting extra pay for extra hours at work, fall out of the traditional program's eligibility.

Ms. Oriol:

There is a domestic violence program in Washoe County that raises some private funds that may be available in certain situations, but it is limited funding. I will check to see if any other funding is available but I do not believe there is any.

Senator Woodhouse:

I find your statement that child care is more expensive than sending a child to college in our university system very disturbing. Would you reiterate the facts you stated regarding Nevada being the eighth and the fourth most expensive in certain areas?

Senator Kihuen:

I was quite surprised by these numbers myself. A single mother in Nevada wishing to continue her education to better provide for her family who did not qualify for a Pell Grant or other assistance would have to pay more for her child's care than she would for her college tuition.

Nevada is the eighth most expensive state for full-time, center-based, infant care. We are the fourth most expensive for full-time, center-based child care for 4-year-olds.

Steve H. Fisher (Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services):

We run the child care program for the State. In November 2014, the President of the United States signed the Child Care and Development Block Grant Act of 2014, which reauthorizes the Child Care Development Program in Nevada and requires it to make a number of changes. One change in particular mandates us to implement a graduated phaseout of child care for working parents. Our program will have to implement similar activities.

Senator Kieckhefer:

Does that mean Nevada will be implementing a plan for self-sufficiency?

Mr. Fisher:

Yes, that is correct; this addresses what Senator Kihuen called the cliff effect. When a person gets a job and begins earning too much money to qualify for assistance, we will provide a stair-stepped approach to provide continued child care assistance for a period of time, exactly like the pilot program presented.

Senator Kieckhefer:

Are there additional federal dollars for that?

Mr. Fisher:

As far as I know, there are no additional federal dollars.

Senator Kieckhefer:

How is that regulated?

Mr. Fisher:

We have to do that through policy. That has to be implemented by October 1, 2015.

Senator Kieckhefer:

Have you begun writing those policies?

Mr. Fisher:

We have begun working with our federal partners as we speak. That is just one of the many changes we must implement.

Chair Hardy:

There is a fiscal note attached to the bill; therefore, do I have a motion for rereferral?

SENATOR KIECKHEFER MOVED TO REREFER S.B. 364 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Senator Kieckhefer:

Once it goes to the Senate Committee on Finance, S.B. 364 will be exempt from the deadlines for the rest of this Session.

Chair Hardy:

Now, I will open the hearing on S.B. 441.

SENATE BILL 441: Revises provisions relating to cottage food industries.
(BDR 40-988)

Lynn Hettrick (Deputy Director, State Department of Agriculture):

Before you is Proposed Amendment 6192 to S.B. 441 ([Exhibit E](#)).

Section 1 of [Exhibit E](#), changes *Nevada Revised Statutes* (NRS) 446 to 583, which is in the State Department of Agriculture (NDA). Section 2 establishes the definitions. Section 3 defines acidified foods and the levels certain foods require. Section 4 establishes authority over the cottage “pickling industry” with the State Department of Agriculture. Section 5 defines the requirements for a cottage industry acidified food product produced for sale in Nevada.

A cottage industry food maker must comply with six requirements. The food maker must be registered as required in this bill for traceability. A log must be maintained of what has been done, batches made and information required including product name, recipe, process used, batch date and result of a pH test, all of which are crucial to the production of safe, pickled, acidified foods. Subsection 4 of section 5 states the NDA must approve pH meters by regulation, so a device is used to measure that acidity is low enough. Section 5 also states the producer must use a canning recipe approved by the NDA that guarantees the food safe. Subsection 6 specifies the labelling requirements.

Section 6 of the proposed amendment, [Exhibit E](#), defines the requirements to register as an acidified food producer. To become registered, producers must have training and pass an exam. This section allows the NDA to inspect those food producers and investigate any issues that arise.

Section 7 includes boilerplate language stating a producer not in compliance with a court order for the support of a child is ineligible to register or renew registration. This has resulted as more of a licensing process than a registration process for the cottage food industry. The Legislative Counsel Bureau stated

they had to include that boilerplate language in dozens of other licenses and throughout statutes.

Section 9 amends NRS 446.866 to reflect that acidified foods are not in this chapter and adds acidified foods to the list of cottage industry foods. Section 10 pertains to licensing producers in the event federal law supersedes our statutory requirements.

Senate Bill 441 is straightforward and simple. We are comfortable with what it is proposing to do.

Senator Kieckhefer:

Does the NDA currently have a course and examination on acidified foods? Is there a national standard exam on that?

Mr. Hettrick:

I am aware of no national standard exam, nor do we have an existing exam.

The NDA staff researched pickling recipes and procedures and compiled 15 different universities' results instantly with all the information a cottage industry would require. The United States Department of Agriculture (USDA) has similar information on its Website. We could create a training course and test with this information and the NDA has no issue with doing this. We anticipate registering around 100 producers statewide.

Senator Woodhouse:

Senate Bill 441 identifies a pH value of no more than 4.6. I do not see that in the proposed amendment [Exhibit E](#). Is there a reason for this?

Mr. Hettrick:

It is stated in sections of [Exhibit E](#). Representatives from Washoe County and the Southern Nevada Health District are here. They feel obligated to tell you they have concerns regarding food safety; this is why they asked us to move acidified foods from the cottage food program into the NDA. The NDA is satisfied with the safety of acidified foods and the products made.

For instance, I pickle green beans myself. I have not had a training course, I do not own a pH meter. I went on the Internet, got various recipes from the USDA, extension services and other places, picked a recipe and started canning and

pickling. I pickle onions, mixed vegetables and green beans. I never have a safety issue. I do not sell the vegetables. I give them to family and friends; my grandkids love them. This is not a safety issue, but that of being clean and diligent, and following the recipe and procedures. It is a simple and straightforward process. Every hardware store and supermarket sells canning products. There are dozens of recipe books on canning and pickling. This is not dangerous if people follow the simple instructions. That is the intent of the training and examination, making sure people understand what they are doing.

I would like to add that people who make cottage foods, although they would like us to remove that terminology, are very proud of making their products safe and healthy. If they make products for sale, they want people to come back and buy more. Obviously, they are concerned with the products they turn out. This helps the food producers; at harvest, if they are unable to sell everything produced as fresh, it is wasted. Instead, they can pickle it, extending the value and life of their crops. They avoid wasting the food and earn a little money. We think it is a good thing. We are satisfied with the safety and urge you to support S.B. 441.

Christy McGill (Healthy Communities Coalition):

About 15 other states allow pickling, and 27 more allow some sort of pickling and canning as well. I have submitted my testimony in writing ([Exhibit F](#)).

Last fall, eight volunteers called 15 states to see if they had any foodborne illnesses or reportable issues and there were none. Pickling has been around 4,000 years. It is how we humans preserve food. We would like to enable people today who struggle with food security to have the option to garden and pickle, and be able to sell some pickled products, for perhaps \$2.50 a jar. In the states that allow pickling, often it is done by farmers on small to midsize farms struggling to hold onto their family farms. They can test out value-added products or test products for possible commercial kitchen production. We may see gardeners pickle product for their families. Others may be selling product at church bazaars or bake sales. We also see new, younger people who embrace the "food movement," whom we lovingly call "hipster" farmers. They own small pieces of land and do high-density farming producing value-added products.

In the worst-case scenario of a foodborne illness incident, there is a label on the product listing the direct consumer relationship. It will be easier to telephone the cottage producer, than to call an industrial producer. The states we called said

the cottage food industry is much safer because of small batches. When the liability rests between the consumer and the producer whose home is at risk, the producer is more likely to be assured their product will not make anyone sick.

Senator Kieckhefer:

I recall buying pickled green beans at the Carson City Farmer's Market and paying significantly more than \$2.50; they were delicious.

Senator Woodhouse:

I grew up a rancher's daughter and my mother had a huge garden and we made sure we used everything produced. She pickled cucumbers and beets. This is not something that I am afraid of—we followed the recipes and were very safe and healthy.

Senator James A. Settelmeyer (Senatorial District No. 17):

I have put Senate Bill 441 forward for former Assemblyman Hettrick as I believe it is important that we diversify and expand our economy even within the craft industries. I have brought some Tahoe Cheese to sample, though not pickled, it is made in Yerington. This is what the bill is about, supporting Nevada-grown products.

Rebekah May (Sunny Day Organic Farms; Healthy Communities Coalition):

As a hipster farmer, I strongly favor S.B. 441. I testified on behalf of the cottage food bill 2 years ago. I do this to support my family. I love being able to make the tomatoes I grow into a value-added product for my customers, rather than feeding them to my hogs. I call myself a "craft" farmer; I have 1.33 acres, raise about ten hogs organically each year and have dairy goats which supply raw milk to my family.

This bill opens opportunity for economic development in Lyon County, where we serve, which is poverty stricken and a food desert. This gives residents the option to preserve their food rather than driving 50 miles to a grocery store or buying poor nutrition through convenience store foods. I manage all the school gardens to teach our children how to grow their own food.

I feel we have taken the power of choice away from consumers in this culture of convenience and how involved all our lives are, this gives us the opportunity to know our farmers. Instead of going to the grocery store to buy dyed pickles

and getting those chemicals, one can have a relationship with local producers. With giant industries, if one batch goes wrong, thousands can be affected. Rather, the potential risk is a lot smaller with an individual farmer making small batches.

If a food item has a pH of 4.6 or below, it is deemed high in acid and at lower risk for contamination. It is safe for boiling and water bath canning. These foods will not be a high risk to start with. Even with tomatoes, whose ranges of acidity vary by variety, citric (ascorbic) acid can be added to a batch of anything to increase the acidity. I spoke with a doctoral chemist this morning inquiring about an average person's ability to correctly perform a pH test; that chemist felt a litmus paper test was extremely easy to perform. The training we have looked into is extensive as is follow-up training to keep people informed; education and continuing education seem easy to obtain.

I would personally like to see, especially in this drought, a newly reformed agrarian situation where people grow their own food and preserve it.

Marcia Litsinger:

I am an organic farmer in Lyon County who has been pickling for a long time; I learned from my grandmother, who also pickled for a long time, to feed her family in the Great Depression. We have never gotten sick. I preserve food following all the USDA regulations and teach it, using litmus paper and citric acid if the acidity is not high enough on the litmus test. It is very simple. Most of us know the inspection processes in this Country as opposed to imported products; I feel it is much safer to buy a locally produced jar of pickles than one from China, for instance.

Paula Berkley (Food Bank of Northern Nevada):

This has been a fun coalition; we began last Session with jellies and jams and moved on to pickles this Session. The Food Bank has a different take on this; we see it as a way for people who are food insecure to create a sustainable environment for their families, and even make a few dollars working their gardens, and selling a few jars of pickled product. There has been remarkable cooperation between the NDA and the food banks and community coalitions. The Health Department has helped us by raising safety concerns so we could make S.B. 441 as good as it can be.

Joe Iser, M.D. (Chief Health Officer, Southern Nevada Health District):

I am a former U.S. Food and Drug Administration (FDA) investigator and was a lead on such foodborne outbreaks as E. coli in leafy greens and salmonella in raw almonds, both considered to be relatively safe foods.

I am from an extended farm family in Missouri. My aunt had a huge garden and canned, though she did not sell goods to other people, but gave them to family and served them at meals.

Last Legislative Session, those of us in the public health jurisdictions successfully worked on the cottage food bill, with stakeholders who supported these home-based businesses while still protecting the public health of consumers. Mr. Sack and I made the rounds with you 2 years ago.

Senate Bill 441, unfortunately, opens the door to the production of high-risk foods, in my opinion, in unacceptable environments. I have submitted my written testimony ([Exhibit G](#)). This bill allows for the pickling of fruits and vegetables, pickles and salsa. The canning process has been linked to the growth of the bacteria clostridium botulinum (botulism) which causes great fear in those of us in public health and public safety. This process is not low risk; it is high risk and was specifically omitted from the legislation worked on by stakeholders last Session for this very reason. According to the Centers for Disease Control and Prevention (CDC), home-canned vegetables are the most common cause of botulism outbreaks in the United States. In an analysis of the 48 outbreaks in home-prepared food from 1999 to 2008, in just two states, Ohio and Washington, 38 percent were from home-canned vegetables. These outbreaks illustrated critical issues of concern in both the training and ongoing food preparation practices that occur with these activities.

I will quote from an article in the *Journal of Food Protection*:

In each instance, home canners did not follow canning instructions, did not use pressure cookers, ignored signs of food spoilage, and were unaware of the risk of botulism from consuming improperly preserved vegetables. Home-canned vegetables remain a leading cause of foodborne botulism.

That is mostly concerned with pickling, but we need to talk also about salsa. That product's preparation with bare hands brings into account other types of

bacteria. Organisms, such as E. coli, can survive in acidic environments. This bill, while requiring training and regulatory measures, is unclear how the training will be provided, how it will be verified and who will be verifying these regulatory requirements if these businesses are not being inspected.

We strongly oppose S.B. 441 because we are very concerned with the public health impacts these activities could have on potential consumers.

As a physician, I have taken care of patients who had botulism. Just one patient with botulism, from whatever source of contamination, has a devastating impact on a family for weeks to months. There are indications that 5 percent to 10 percent of deaths from home canning in the United States are caused by botulism. While I was with the FDA, which oversaw manufacturing in northern California, Nevada, Hawaii and the former Trust Territories of the Pacific Islands, we investigated no less than two complaints, two different cases of persons exposed to botulism through improper canning. Those people were on respirators for weeks to months at a time.

We are very afraid how the outcome of this bill may impact Nevada.

Robert Sack (Division Director, Environmental Health Services, Washoe County Health District):

I concur with Dr. Iser's comments. We are not against home canning for one's family, but when it is commercial, it takes on a much higher risk level. Were this activity associated with a restaurant regulated by us, it becomes a higher risk activity. We look more closely at the menus; we make sure it is permitted; we inspect the places; there is considerable oversight. With the operations proposed in S.B. 441, there is not the oversight. It could be done more safely with increased oversight.

Joseph L. Pollock (Program Manager, Public Health Engineer, Division of Public and Behavioral Health, Department of Health and Human Services):

We are officially neutral on Senate Bill 441 with the amendments proposed by Mr. Hettrick.

One major concern we have is the mention of cottage foods in labeling and with the addition of these acidified products to the list of cottage foods. We ask that acidified foods be removed from the cottage foods list. We would also like to

adopt the term “craft acidified food operation” on labels rather than “cottage food operation.”

Chair Hardy:

With no further comment, we will close the hearing on Senate Bill 441 and open the hearing on Senate Bill 248.

SENATE BILL 248: Revises provisions relating to certain persons with disabilities. (BDR 38-982)

Senator Joe P. Hardy (Senatorial District No. 12):

My purpose here is to introduce Brian Patchett of Easter Seals so he can provide detailed information about this bill. We have Proposed Amendment 6280 to add to the bill ([Exhibit H](#)).

Brian M. Patchett, (President and CEO, Easter Seals Nevada):

Easter Seals Nevada provides services to about 8,000 children and adults in Nevada including early intervention, therapy, assistive technology, adult day care, job assistance of various kinds and many other services, information and referrals.

Senate Bill 248 is a result of a personal experience. The political process, especially voting, is of particular interest. I enjoy going to my polling place, and interacting with my neighbors and friends. However, as a person with visual impairments, I found the requirement to complete a green form with the signatures of all persons involved with assisting me to cast my vote caused me a great deal of consternation. This can be embarrassing and frustrating, not only in obtaining this assistance, but in going from agency to agency, proving I have a disability. It often seems each agency requires a different form of proof.

It came to me that one form of proof of disability acceptable throughout all agencies and divisions would be wonderful. Many agencies have been working on this in Nevada. Many other states do not grapple with this issue. As long as a person can prove to be a registered voter, they should be easily accommodated with assistance.

Senate Bill 248 is a longer bill because we are addressing the initial certifications available for disabled persons and the individual polling place aspects of assistance.

Senator Kieckhefer:

Which agency is going to issue the card?

Mr. Patchett:

The Department of Motor Vehicles (DMV) will issue the proof of disability cards.

Senator Kieckhefer:

Would there be a cost for obtaining the card?

Mr. Patchett:

No, the card would be free for the disabled individual after he or she had gone through the process at various agencies.

Chair Hardy:

Could you tell us the approximate cost for the DMV to produce this card certification, and does this exist in another state for our study? What would the actual process be?

Mr. Patchett:

The process at DMV would be to provide documentation to DMV and receive the card at no cost. If there is a person here representing DMV, that person could give you more information, as I do not know it. I know it would make the disabled person's processes simpler.

Senator Kieckhefer:

Is the language in place here or elsewhere that details the process of assisting disabled persons in casting their ballots?

Mr. Patchett:

The Americans with Disabilities Act (ADA), Title II, addressed the accommodations required. It is no different than a disabled person coming to the Legislature; upon notification that specific assistance is needed, it is provided, whether hearing assistances with sign language, visual impairment with audio-visual enhancements, and such. When I fly, Southwest Airlines gives me a pre-boarding pass as I have difficulty seeing the signage. It is straightforward under the ADA.

Terri Albertson (Administrator, Management Services and Programs Division, Department of Motor Vehicles):

We at DMV received the Proposed Amendment 6280, [Exhibit H](#), to the bill today. The fiscal note we worked up was for the original bill. Further analysis of the proposed amendment will require additional time. Since this is a separate identification card, policy issues will be involved.

Currently, the DMV has a "one person, one card" policy. I interpret this bill as a separate card with separate numeration, valid for a 10-year period, totally redesigned. We will have to work with our vendor to produce these.

Recently, we had a similar situation with our driver's authorization card. The vendor cost to initiate that was around \$50,000. If the DMV is not charging a fee for this, there will be a much larger fiscal impact when compared to the original bill.

As originally drafted, DMV's fiscal note for 2015-2016 for S.B. 248 was \$247,000 of which \$217,000 was programming cost, \$50,000 to do the programming onto the original driver's license or identification card, and registration and card fees.

Senator Kieckhefer:

Is this then a work in progress?

Ms. Albertson:

Yes, we are working on this.

Senator Kieckhefer:

Will you now be reviewing the amended bill language and the fiscal note?

Ms. Albertson:

Yes, we will be reviewing both.

Chair Hardy:

I do not see the fiscal note going away.

Ms. Albertson:

Nor do I see the fiscal note going away, Senator Hardy.

Senator Kieckhefer:

Seeing no further testimony, I will close the hearing on Senate Bill 248 and open the hearing on Senate Bill 419.

SENATE BILL 419: Revises provisions relating to services for persons with disabilities. (BDR 38-978)

Chair Hardy:

There is a conceptual amendment for S. B. 419 ([Exhibit I](#)) that includes the ABLE savings accounts that are germane to the bill as we have determined. The Proposed Amendment 6033 ([Exhibit J](#)) is the one we are putting forward.

Mr. Patchett:

I have submitted written testimony on Senate Bill 419 ([Exhibit K](#)).

There are three parts to the bill, now. Independent living services through the Aging and Disability Services Division have seen a 28 percent increase in visual disabilities in recent years due to the aging of the population and veterans returning with such disabilities. As such a person, I know one has to learn how to be blind. I can remember it being very shocking and difficult at first. As the chair of the Nevada Commission on Services for Persons with Disabilities I can testify the Commission has examined how we can assist in independent living services for persons with these disabilities. Assistance in getting around within their homes and the use of the devices inside, getting around in their neighborhoods, riding public transportation, accessing information and using assistive technology. Technology is critical for the visually impaired. To have a device that speaks is wonderful. With my smart phone, I have access to the world—news, information, amazing things. We need to bolster people's skills to be more independent, and we can come back next Legislative session with even more data about how to help people who have newly become visually disabled.

Recently, we were made aware that people appointed to the Nevada Commission on Services for Persons with Disabilities could be "commissioned out" all at one time, resulting in the absence of persons with the needed expertise as retiring commissioners' terms expired.

The third part inserts "may" where previously "shall" was used, necessitating fiscal notes.

Chair Hardy:

Do I understand that it would be good to have the terms for commissioners staggered to avoid the loss of institutional knowledge all at once?

Mr. Patchett:

You understand it correctly, Chair Hardy.

Chair Hardy:

Will the "may" allow the study to be done only if they have the funds to do it?

Mr. Patchett:

That is correct, Chair Hardy. We would like to rid ourselves of any fiscal notes.

Chair Hardy:

In doing so, would you like to add something to the effect of may use gifts, grants and so on to cover said costs?

Mr. Patchett:

Yes, and a great deal of this information has already been acquired, but the Commission would like time to synthesize that information and then come back in the next Legislative Session and make recommendations.

Senator Kieckhefer:

In the proposed amendment, [Exhibit J](#), I see a change in the definition of a disabled person to a recently disabled person. Could you describe that change for us?

Mr. Patchett:

The change is to provide for the need for independent living in those with no vocational goal. Usually we are looking at the ultimate vocational goal in disabled persons; in those described in the bill, this may be a senior looking for independent living who was recently visually disabled. Many are so new to the situation, getting into an employment world is not even in their thoughts. With living independently as the goal, perhaps their final goal, that is what we hope to achieve.

Senator Kieckhefer:

There is a proposed amendment, the ABLE Act; is it germane to [S.B. 419](#)?

Mr. Patchett:

We tried to attach the ABLE Act to a different bill, but it was not germane. That is when we discovered it germane to S.B. 419. If you have a child with a significant disability, there is a challenge to assure care for said child through his or her life, especially when the parents reach the age that they cannot care for their child. Establishing savings accounts in such cases has resulted in the child losing other funding such as social security, Medicaid and Medicare.

The federal ABLE Act enables accounts to be established for very specific purposes for our disabled children without their other funding being affected. We have attained the support of many groups for the ABLE Act across the disability community.

Mark Olsen (President and CEO, LTO Ventures):

To my right is my daughter, Lindsay Olsen, who is 19. Her presence here is particularly germane to this bill. I am not only her only parent, but her guardian. Lindsay suffers from autism, intellectual disability, epilepsy and a few other comorbid conditions. My company, LTO Ventures, develops residential communities and employment possibilities for adults who have autism.

The ABLE Act passed in Congress and was signed into law in December 2014 with bipartisan support. Forty-four states are developing ABLE Act enabling language currently. Virginia has signed it into law. In Utah and West Virginia, it is on their governor's desks. Three other states are very close.

The people who will benefit from ABLE accounts are the disabled. ABLE accounts are one more valuable tool to help keep the disabled person's burden on government as low as possible. Unless the ABLE account funds are used for housing expenses, they will not affect eligibility for Supplemental Security Income, Medicaid or other means-tested safety net programs. As a first-party trust account, the person disabled has a voice in how the money is spent. There are deep resources available for the setup of these accounts. An ABLE National Resource Center exists to assist the creation of these accounts nationwide. These ABLE accounts are especially a win-win scenario for Nevada, that is without a state income tax.

Chair Hardy:

Can you explain how the money comes in and how the money gets withdrawn?

Mr. Olsen:

The money could come from any private person, the family or even the disabled person if working; however, the IRS has not written the final language. These ABLE accounts cannot be funded until the final IRS language is in place. Currently there is a federal \$14,000 gift limit from me to my daughter. There is a qualifying disability requirement. The ABLE Act legislation allows only 11 or 14 qualified disability category expenses.

Chair Hardy:

Is there a fiduciary responsibility of a guardian, or if the disabled person is a child, how does this qualify?

Mr. Olsen:

The qualifying expenses these funds can be used for are education, housing, transportation, employment training and assisted technology, personal support services, health, prevention and wellness, financial management, administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses and other expenses as approved by the IRS. This is the language in the federal ABLE Act.

Julie Kotchevar (Deputy Administrator, Division of Aging and Disability Services, Department of Health and Human Services):

As S.B. 419 was originally written, we placed a fiscal note on it because we are required to develop an independent living program for people legally disabled with blindness or visual impairment. It would cost our current service system to add these services for an unmet need presently in this State. If the language were changed to "may" instead of "shall," we would remove the fiscal note. Our Division is officially neutral.

Senator Kieckhefer:

If there is no further comment or testimony, I will close the hearing on S.B. 419.

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Chair Hardy:

Seeing no further testimony or public comment, this meeting is adjourned at 7:28 p.m.

RESPECTFULLY SUBMITTED:

Debra Burns,
Committee Secretary

APPROVED BY:

Senator Joe P. Hardy, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 364	C	4	Senator Ruben J. Kihuen	Introductory Statement
S.B. 364	D	1	Kristy Oriol	Written Testimony
S.B. 441	E	7	Lynn Hettrick	Proposed Amendment 6192
S.B. 441	F	4	Christy McGill	Written Testimony
S.B. 441	G	1	Joseph Iser	Written Testimony
S.B. 248	H	10	Senator Joe P. Hardy	Proposed Amendment 6280
S.B. 419	I	1	Senator Joe P. Hardy	Proposed Amendment 6192
S.B. 419	J	4	Senator Joe P. Hardy	Proposed Amendment 6033
S.B. 419	K	1	Brian Patchett	Written Testimony