

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-ninth Session  
February 27, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 9:05 a.m. on Monday, February 27, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Kelvin Atkinson, Chair  
Senator Pat Spearman, Vice Chair  
Senator Nicole J. Cannizzaro  
Senator Yvanna D. Cancela  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Heidi S. Gansert

**GUEST LEGISLATORS PRESENT:**

Senator Becky Harris, Senatorial District No. 9

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Bryan Fernley, Counsel  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

K. Neena Laxalt, State Board of Physical Therapy Examiners  
Kirk Sachtler  
Jenelle Lauchman, Nevada Physical Therapy Association  
Daniel H. Stewart, General Counsel, Office of the Governor  
Elyse Monroy, Policy Analyst, Office of the Governor

Manny Lamarre, Executive Director, Office of Workforce Innovation, Office of the Governor  
Laura Hale, Primary Care Workforce Development Office, Department of Health and Human Services  
Amber Reid, Office for a Safe and Respectful Learning Environment, Department of Education  
Keith Lee, Board of Medical Examiners  
Michael Hillerby, Nevada State Board of Accountancy; State Board of Nursing; State Board of Pharmacy  
William Horne, Board of Dental Examiners of Nevada  
Stephanie Jobin  
Dena Durish, Deputy Superintendent for Educator Effectiveness and Family Engagement, Department of Education  
Jaime Maldonado  
Saundra Bryant-Lamb  
Terri Rosenberg  
Danika Chapple  
Darrella McQuire, National Nurses United; National Nurses Organizing Committee  
Katrina Alvarez-Hyman  
Orsburn Stone  
Kari Deaton  
Jeanette K. Belz, Associated General Contractors  
Cherie Mancini, Service Employees International Union  
Nick Vander Poel, Chiropractic Physicians' Board of Nevada; Board of Homeopathic Medical Examiners

CHAIR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 142.

**SENATE BILL 142**: Revises provisions governing physical therapy. (BDR 54-511)

SENATOR BECKY HARRIS (Senatorial District No. 9):

I am here today on behalf of the State Board of Physical Therapy Examiners, hopefully soon to be renamed the Nevada Physical Therapy Board. The State Board of Physical Therapy Examiners protects the safety and well-being of the public consumer of physical therapy. It licenses and regulates physical therapists, physical therapist assistants and physical therapist technicians under the provisions of chapter 640 of the *Nevada Revised Statutes* (NRS).

Senate Bill 142 makes changes to the structure and duties of the State Board of Physical Therapy Examiners. I will note some key provisions in the bill.

Section 5 of S.B. 142 changes the name of the Board to the Nevada Physical Therapy Board to reflect that the Board no longer administers examinations but merely designates them.

Sections 2, 12 and 13 through 15 of the bill make changes to the composition and membership of the Board by appointing nonvoting advisory members who serve without compensation. New officers must be elected annually.

Section 3 of the bill authorizes the Board to issue a citation for certain violations.

Section 4 of S.B. 142 allows a person to whom a citation has been issued to contest the citation in a hearing conducted according to the provisions of NRS 233B and NRS 622A.

Section 6 of the bill clarifies that a physical therapist who is supervising a physical therapist technician must be present on-site.

Sections 15 through 32 of the bill require the Board to adopt regulations prescribing the activities a technician may perform only under the supervision of a licensed physical therapist.

Section 11 of the bill expands the exemption from licensure and regulation by the Board to include a provider of health care as defined in NRS 629 if he or she does not practice physical therapy or represent himself or herself as a physical therapist or physical therapist assistant.

Sections 8 through 12, 15, and 26 through 32 of the bill standardize the terminology used to refer to physical therapist assistants and physical therapist technicians.

K. NEENA LAXALT (State Board of Physical Therapy Examiners):

I have written testimony ([Exhibit C](#)) from Lisa Cooper, Executive Director of the State Board of Physical Therapy Examiners, describing the effect of each section of the bill.

SENATOR HARDY:

Can you extrapolate some of the provisions of S.B. 142 to other boards?

SENATOR HARRIS:

I do not believe so, but I will look into it.

KIRK SACHTLER:

I support S.B. 142. I am a physical therapist and have been practicing in Reno for 29 years. This bill cleans up the functions of the Board and makes the Board able to do their job better. It simplifies the Board's tasks on our behalf.

CHAIR ATKINSON:

Did someone ask you to testify today?

MR. SACHTLER:

No.

JENELLE LAUCHMAN (Nevada Physical Therapy Association):

I am the past president of the Nevada Physical Therapy Association. We want to register our support of S.B. 142 and thank Senator Harris for bringing it forward.

CHAIR ATKINSON:

I will close the hearing on S.B. 142 and open the hearing on S.B. 69.

**SENATE BILL 69**: Revises provisions governing state agencies, boards and commissions that regulate occupations and professions. (BDR 54-229)

DANIEL H. STEWART (General Counsel, Office of the Governor):

We have a proposed amendment ([Exhibit D](#)) to S.B. 69.

It is important to talk about the genesis of S.B. 69. Governor Sandoval had five reasons for making this one of his bills this Session. The first and most important is workforce development as we continue to transform from the old Nevada to the new Nevada. As mentioned, 31 percent of Nevada's workforce requires an occupational license of some sort. This is the second highest in the Nation. Any workforce development plan must take occupational licensing into

account. We cannot understand our workforce needs as a whole without understanding our system of occupational licensing.

Occupational licensing boards play an important role, and we do not want to minimize that role in any way. The boards are there to protect the public, provide information to consumers, professionalize industries, help their members receive higher wages and reward hard work. We do not want to do anything to disrupt those benefits. However, there are trade-offs; there are no perfect solutions. We want to make sure our occupational licensing system is not acting as an improper barrier to entry and workforce development. Any process that requires a license or requires approval from regulatory bodies is going to provide some level of barrier, and we do not seek to remove that barrier. We want to remove improper barriers, or at least shine a light on what may be improper barriers.

There have been some transformations in occupational licensing in the last few years. Licensure is no longer reserved for only white-collar jobs, especially in Nevada. Blue-collar, low-wage, middle-class jobs are increasingly requiring an occupational license. If you do a cost-benefit analysis of whether you should get a license and your starting annual wage is \$20,000, you may not want to hire an attorney or go through a long, drawn-out process. You might get discouraged before you begin.

Second, this topic has become one of national, bipartisan interest. I have submitted a number of exhibits to show the breadth of interest in the topic right now. These are a paper from Rebecca Vallas, et al., with the Center for American Progress titled "One Strike and You're Out" ([Exhibit E](#)), prepared testimony given before the U.S. Senate Committee on the Judiciary by Jason Furman ([Exhibit F](#)), a paper titled "Occupational Licensing and American Workers" by Ryan Nunn of the Hamilton Project ([Exhibit G](#)), a policy report by Stephen Slivinski from Arizona State University titled "Turning Shackles into Bootstraps" ([Exhibit H](#)), a paper from Morris Kleiner of the Hamilton Project titled "Reforming Occupational Licensing Policies" ([Exhibit I](#)), and a volume from Dick Carpenter, et al., titled "License to Work" ([Exhibit J](#)). All these documents raise similar concerns and strive to make sure we do our best on workforce development needs.

Based on the 2015 report from President Obama's Council of Economic Advisors titled "Occupational Licensing: A Framework for Policymakers," it is

clear that Nevada is the most restrictive state in the Nation when it comes to occupational licensing. Not only do we have the second highest percentage of the workforce required to have a license, but for those who get a license, Nevada has the fourth highest education or experience requirements. No other state is in the top five in both areas except Florida, and we are above them in both areas. In addition, Nevada is one of 25 states in which a criminal record can prevent someone from getting a license regardless of whether it is relevant to the license being applied for.

There is reason to believe Nevada is more restrictive than these numbers indicate. Generally, occupational licensing disproportionately affects certain communities, including immigrants, persons of color, women, individuals with criminal records and high school dropouts. These groups make up a large portion of Nevada's general population. Given the disparity of the impact on these groups and their significance in Nevada's population, it is reasonable to conclude that strict occupational licensing is weighing heavily on Nevadans.

Another issue is our educational shortfalls. While education in Nevada is improving and we are happy with the reforms and new investments that have been made in education in the last few years, we still have a long way to go. Educational shortfalls and occupational licensing go hand in hand. If our educational system falls short, we may not be preparing individuals to meet the needs of our industries. It is a classic case of the right hand not knowing what the left hand is doing, and we need to realize that.

The second genesis for the bill is that restrictive occupational licensing does not just affect those looking for jobs. When occupational licensing is too restrictive, we can end up having unmet needs and shortages in critical areas of service such as health care. In education, we recently had an emergency teacher shortage because of occupational licensing strictures. In response to situations like this, the Legislature regularly passes laws to fill some of these unmet needs and to increase access to certain services. However, these policy decisions can be frustrated or even blocked unless the occupational licensing boards are taken into account. When we created the Office for a Safe and Respectful Learning Environment (OSRLE) to decrease bullying in schools, we ended up with a shortage of social workers. This is something we are trying to fix with this bill.

The third genesis for S.B. 69 is standardization and transparency. Our occupational licensing system, Title 54 of the NRS, is in some respects a

patchwork. Some problems and solutions are dealt with individually by specific boards and are not global. Some boards have benefits that others do not. We wanted to add some transparency and standardization across all boards.

The fourth genesis for the bill is executive agency complaint data. When people have complaints about boards, they often call the Governor's Office. These complaints are anecdotal evidence, and we have no data to understand the significance of these individual complaints. We will have more to say about our need for data. These boards and commissions are technically part of the Executive Branch, and it is important that we have answers for our constituents when they call.

Finally, the fifth genesis is a U.S. Supreme Court case from 2015, *North Carolina State Board of Dental Examiners v. Federal Trade Commission* (FTC), that raised some concerning factors for Nevada's boards. The Supreme Court held that boards and commissions are not entitled to state action immunity unless they meet certain requirements. After that case was decided, many different solutions were proposed. The solution in S.B. 69 is the least burdensome, least disruptive of these, and it fits in with what we are already doing well.

I will walk through the specifics of the bill. Section 3 of S.B. 69 is our license by endorsement process. In meeting with stakeholders, this was the section that received the most attention and concern. That is partly because there is some confusion between license by endorsement and reciprocity. The two are not the same thing. Many of our boards already have provisions allowing license by endorsement, and this bill will do nothing to change that process. Reciprocity means out-of-state licensees can come to Nevada and start practicing immediately. There is no requirement that they obtain licenses from the appropriate Nevada boards, and there is no guarantee that they meet the qualifications a Nevada licensee would have to meet. Given that our requirements seem to be stringent for all boards, it is unlikely that licensees from other states would automatically meet our standards. Endorsement, on the other hand, requires an out-of-state licensee to come before the appropriate Nevada board, apply for a Nevada license, meet all the Nevada standards and be approved by the board. The most important thing for license by endorsement is the person's qualifications and the experience they have gained in those other states. With license by endorsement, out-of-state licensees will still have to meet Nevada standards.

In S.B. 69, we are asking that boards and commissions create a policy for license by endorsement. No board is asked to change its requirements in the slightest. The boards do have to establish a process whereby someone who has obtained a license with substantially similar requirements as Nevada's can get a license in the State. It could be that no other state in the U.S. has substantially similar requirements to Nevada's, and that is fine, but it must be stated as part of a transparent policy. Under no circumstances is a Nevada board required to accept any qualifications from anywhere that do not meet its standards.

Section 3, subsection 1, paragraph (a) of S.B. 69 states that to obtain a license by endorsement, a person must first have a similar license from another state. Paragraph (b) requires the person to have qualifications that are substantially similar to those required in Nevada. The boards will determine whether those qualifications are substantially similar.

Section 3, subsection 2 covers background checks. The applicant for license by endorsement must have a clean record without professional discipline, lawsuits, revocations or pending investigations. The board may add additional requirements to this list, such as a certain score on a national examination, a certain course of study or specific on-the-job training. This is at the board's discretion. It may require an FBI background check. We are working with the Department of Public Safety on this, as the FBI might ask us to include more specific language in the bill on the subject of background checks.

Section 3, subsection 3, paragraph (d) has been changed slightly by the amendment offered in [Exhibit D](#). It now states, "Any other information required by the regulatory body, pursuant to the regulatory body's Administrative Code."

If a person meets all the requirements, the board must then have a policy regarding issuing a license. The board can still deny a license at this point for good cause. How this happens is up to the board, but it must have a policy. Silence is no longer acceptable in the license by endorsement process.

There is another amendment to section 3, subsection 4 to answer some concerns from the State Contractors' Board. In their profession, a person can be approved for a license, but the license is not issued until the person shows proof of bonding. The amendment adds paragraph (c), "10 days after proof of bonding, if required by the regulatory board." That is license by endorsement. Again, I want to emphasize that this is not reciprocity. This is a way to compare



Nevada to other states, and if those other states meet our standards, to offer an expedited process for people to obtain Nevada licenses.

Section 4 of S.B. 69 imposes term limits for board members. This provision was added because of concerns raised by *North Carolina v. FTC*. One of the major issues from that case was that when boards are dominated by active market participants, competitors are determining if new competitors can get a license. There must be some oversight. Term limits will keep the boards from becoming entrenched. In dealing with appointments and nominations in the Governor's Office, I have found that there is an expectation that if you do a good job on a board, you will be reappointed. Potential new board members will not apply unless they know that a current board member is going to step down. With term limits, individuals can start planning ahead, and we can expand the pool of qualified applicants for the boards.

Section 5 of the bill deals with contingency fees. This is an effort to make sure each board's economic and other incentives are aligned with the mission of that board. We do not want boards to hire attorneys whose financial incentive may be to put licensees out of business.

Section 6 deals with concerns arising from *North Carolina v. FTC*. We want to make Nevada's policy regarding occupational licensing clear. *North Carolina v. FTC* makes it apparent that protectionism is not a valid state policy, especially when boards are dominated by market participants as they are in Nevada. To get state action antitrust immunity, a board must meet two requirements. The first is active supervision, and the Legal Division of the Legislative Counsel Bureau (LCB) has opined that Nevada meets that requirement. The second is that the challenge policy must be clearly articulated and affirmatively expressed as state policy. We have said that this is safe policy. It is not protectionism. We have set out statutory boundaries to prevent wandering by boards and commissions. We also made sure participants are not confusing their own private interests with the State's policy goals.

Section 6, subsection 2 says if a board wants to increase the stringency of regulations, it must be done in the least burdensome way possible. If a board can achieve goal A in two ways, one that puts ten licensees out of business and one that puts five licensees out of business, it must choose the option that puts five people out of business.

Section 6, subsection 3 says the boards cannot go beyond their stated statutory purpose. We are working with some of the stakeholders to change the language from " ... included in a statute ... " to " ... included in a chapter ... " to make it more specific. One of the issues that got North Carolina in trouble was that their statutes did not include teeth whitening as something that was part of the practice of dentistry, and the dental board decided on its own that it would incorporate teeth whitening. We are saying here that lawmakers will lay out what is to be regulated, and boards will regulate.

Section 6, subsection 4 ensures that endorsement is sufficiently transparent and efficient.

[Exhibit D](#) adds subsection 5 to section 6 indicating that those policy concerns are to be taken into consideration when boards create regulations.

There have been a few fiscal notes attached to S.B. 69. Some of them may have been from some misunderstanding, and we have been working to alleviate those concerns. My understanding is that the boards covered by Title 54 of the NRS are not funded by the General Fund, though some may be self-funded. Also, 81 percent of the fiscal notes submitted stated there would be no fiscal impact.

SENATOR HARDY:

Regarding section 3, subsection 2, paragraph (b), one of the challenges the Board of Medical Examiners has is that if it receives a complaint, it is called an investigation rather than an inquiry. Even if the complaint is spurious and is thrown out, the person has technically been investigated. If a person has been investigated and exonerated or the investigation was thrown out because there was no merit to the complaint, this particular language would require that person not receive endorsement.

MR. STEWART:

Your point is well taken. I have no problem with changing the language to make it clear.

ELYSE MONROY (Policy Analyst, Office of the Governor):

I will cover sections 2 and 7 of S.B. 69.

In 2015, Governor Sandoval's budget included \$11 million over the biennium to place much-needed social workers in schools. In March 2015, the OSRLE began trying to fill these approximately 250 jobs. It quickly found that there was not a sufficient workforce in Nevada to meet this need. In an effort to fill the gaps, the OSRLE began working with an occupational licensing board. However, due to the strenuous and arduous licensing process and regulations, there were still barriers to getting those positions filled. The OSRLE is here today to provide information on how just one occupational licensing board disrupted policy and program implementation across Nevada.

Section 2 of the bill allows the Governor to direct a board by executive order to take final action on all completed applications for licensure if the Governor determines there are critical unmet needs with regard to the number of persons in the State who are engaged in that occupation or profession, and that unmet need adversely affects public health or safety.

In February 2016, Governor Sandoval signed an emergency regulation that had been adopted by the Department of Education (DOE) to address an historic teacher shortage. At the time, there were over 900 vacancies, of which 698 were in Clark County. The emergency regulation allowed the Superintendent of Public Instruction to issue provisional teaching licenses. The Governor's ability to sign off on the emergency regulation allowed him to take action in face of a problem. It allowed him to respond to a critical unmet need that was adversely affecting schools and children in Nevada.

Section 7 of the bill requires occupational licensing boards to report data regarding the administration of professional licensure. Currently, the following information is reported quarterly on the legislative Websites specific to occupational licensing boards: number of disciplinary actions, number of licenses added and number of licenses revoked for that period. While these metrics provide an insight into the number of licenses our boards are issuing or revoking, our State policy makers would also benefit from additional information about how our boards are working to administer professional licensure. The additional data we are proposing boards report will provide context to current reports, better explain the application process and tell us about our workforce pipeline.

Section 7, subsection 1, paragraph (b), subparagraph (1) of the bill requires boards to submit the following data every quarter:

1. The number of applications received.

This provides context to data already reported by the boards. Currently, boards report the number of applications granted each quarter, but we do not know how many people applied for licenses during that same time. If a board adds 300 licenses in a quarter, we do not know what percentage of those licenses were applied for in that quarter. It could be that the board received 700 applications in that period. The new requirements will give us a better idea of the timeliness of application processing.

2. The number of applications rejected as incomplete.
3. The average number of days between the date of rejection as incomplete and the resubmission of a completed application.
4. The number of applications reviewed on an individual basis by the board.

This will better explain the time it takes an applicant to navigate the application process. Many of the complaints we hear about professional licensure in Nevada is that it takes a long time to get licensed. Our office has heard anecdotally that it can take anywhere from six months to a year just to complete an application for consideration by one of our behavioral health licensing boards. When questioned, the board in question reported that many submitted applications are incomplete. Senate Bill No. 68 of the 78th Session established time frames for certain boards for processing applications for licensure. It required occupational licensing boards to notify applicants within 15 days if additional information was needed. Another complaint we hear is that many boards subject to this provision frequently stop the clock. Every time the board asks for additional information, the 15 days start over.

Another factor that slows down the granting of a professional license is case-by-case review. Title 54 of the NRS covers 55 professions, of which 27 are related to health care. Each board administers professional licensure uniquely. For some boards, individual review of each application is standard practice. For others, individual review happens only under certain circumstances, such as when something is flagged on a background check or there is a question about professional experience. Many of our occupational licensing boards hold quarterly meetings, and they do not always have a quorum. If you are an applicant for a license from a board that meets quarterly

and practices case-by-case review, you had better hope your application is deemed complete before the agenda posting of the next quarterly meeting and that there is a quorum at that meeting.

For all 55 boards, all requirements for licensure and professional standards are in each board's NRS and *Nevada Administrative Code* (NAC) provisions. In many instances, it should be possible to compare an application against those standards. If the requirements in the standards are satisfied, the application should be granted. This improves efficiency and supports transparent board processes.

These additional metrics will help to confirm or discredit the complaints we receive. In addition, they will also help policy makers as they review occupational licensing boards by providing insights into how the administration of professional licensure is working for the 31 percent of Nevada's workforce that is licensed by a board.

5. The reasons given by the board for the denial of applications and the number of applications denied for each reason.

As we have heard today, Nevada has some of the most burdensome professional licensing standards in the Country. If state policy makers can better understand the reasons licenses are denied, we can better inform conversations about our occupational licensing standards.

This data will also give us information about our workforce pipeline. For example, if boards are routinely denying applications from individuals educated or trained in Nevada schools for inadequate training or failure of a nationally recognized exam, there could be a problem in our education system that needs fixing.

Senate Bill 69 is being proposed to ensure that our occupational licensing boards are not acting as an improper barrier to workforce development or marketplace entry. Improved data collection will give policy makers a better understanding of how our boards are working for the new Nevada.

SENATOR HARDY:

Would this data collection include licensure by endorsement, by compact or new applications of any kind?

MS. MONROY:  
Yes.

SENATOR GANSERT:  
I appreciate the reporting element. It will bring greater transparency to the process. You mentioned the executive order to allow licensure for teachers. How did that work out? How many teachers were able to move through the system at a quicker pace?

MS. MONROY:  
A representative from the DOE will speak to that in a moment.

SENATOR SPEARMAN:  
We heard that Nevada has the most restrictive licensing parameters. What would those parameters be? How are they different from other states? Is it a bad idea for those restrictions to apply to health care licenses?

MR. STEWART:  
No, it is not bad to have high standards for health care licenses. We are not proposing anything in this bill to change the requirements someone would have to meet to get a license. To call Nevada's licensing system the most restrictive is perhaps the wrong term. Calling it the most extensive would be more accurate. We took the term restrictive from the data points in a 2015 report from President Obama's Counsel of Economic Advisors. It was derived from combining the percentage of the workforce that must be licensed with the fact that we have the fourth highest education and experience requirements. This makes it clear that Nevada has an extensive occupational licensing system. That is one reason I focused on improper barriers to the market. Protecting the public and ensuring health and safety are not improper barriers.

MANNY LAMARRE (Executive Director, Office of Workforce Innovation, Office of the Governor):  
I want to provide a quick context of some workforce related data points that are relevant to this conversation. This bill is definitely sound policy for workforce development in Nevada.

This bill allows the State and its workforce to be responsive to current and future challenges and opportunities in economic development as we seek to

build a more vibrant and sustainable economy. Further, S.B. 69 has the potential to transform the Nevada human capital pipeline and fundamentally improve the lives of Nevadans. For example, analysis of occupations directly connected to the most in-demand occupations in Nevada showed that at least 22 percent required licensing. When the in-demand occupations are analyzed and disaggregated even further, we meet substantial expected growth by 2024 in a variety of licensed occupations that cuts across six of the eight priority industries, such as aerospace and defense, health care and medical services, advanced manufacturing, mining and materials, and natural resources.

It is important to note that we are talking about occupations with substantial room for growth in Nevada. For example, if we look at the data for new jobs only in occupations due to grow by 2024, we see a conservative estimate of a little over 1,200 engineering-related jobs, over 2,500 accountants, and over 5,000 new jobs in the health care industry. These estimates are conservative and could be much greater. Any positive tick in these six industries could significantly increase the number in a short time, especially since we are significantly below the national average in those industries.

Here are some more quick data points. In the combined engineering-related occupations, we are currently a little over 3,500 jobs below the national average. In the health-care related occupations, we are well over 7,000 jobs below the national average. It is imperative we examine, consider and remove any potential barriers that would limit our ability to get a qualified workforce. It is an absolute economic imperative, with negative unintended consequences to the workforce if left unaddressed.

When employers or industries are unable to acquire workforce with appropriate credentials, such as relevant licensing, they may do several things that will eventually be detrimental to Nevada with negative economic consequences. First, they might leave the State or not come at all, which would result in loss of tax revenues and employment opportunities for Nevadans. Second, they might seek ways to increase efficiency such as automation. Third, they might acquire an unrealistic view of Nevada's workforce potential and expand recruitment efforts outside of Nevada.

On the employees' side, it can have a benefit for Nevadans and for our servicemen and women. According to the Council of State Governments 2017 report, more than one-third of military spouses are in occupations that

require them to have a license. This bill could help alleviate some of the transitional burdens on those military families. Imagine if in five or ten years an industry experienced a challenge in human capital such as that facing education, especially during a non-session year. We would want state leaders to have the ability to fix, curtail or remedy these challenges.

Economic growth and diversification will only occur with robust data, sound policy and efficiency in government, especially related to the workforce. This bill enhances our capacity to expand the economy and will make Nevada more competitive and attractive to employers and employees as we seek to build a robust human capital pipeline and workforce.

LAURA HALE (Primary Care Workforce Development Office, Department of Health and Human Services):

We are in support of S.B. 69. I have brought a map ([Exhibit K](#)) showing the areas of Nevada experiencing a shortage of health care professionals. In Nevada, we have severe shortages for primary care, behavioral health and dental health. The most severe shortage is for behavioral health. You can see from the map that the entire State has been designated as a mental health professional shortage area except for a small area in Clark County. The shortages are less marked in primary care and dental care, but the need is still severe. These designations are based on primary care physicians, dentists and psychiatrists, but the shortages impact all other levels of those fields as well, such as nurses, social workers and so on.

AMBER REID (Office for a Safe and Respectful Learning Environment, Department of Education):

We support S.B. 69. The OSRLE was created in 2015 by S.B. No. 504 of the 78th Session, which amended Nevada's anti-bullying laws. The *Executive Budget* appropriated \$17 million to put social workers and other mental health workers in schools to support those efforts through a State block grant titled the Social Workers in Schools Program. This grant specified ten professional licenses and degrees as qualified to fill these positions. This gives us flexibility to draw on existing professionals across the behavioral health field, which has been especially valuable in the rural and frontier counties.

When I took this position in May 2016 and considered the task of finding enough social workers in a State that has historic workforce shortages in the field of behavioral health, I thought it might turn out to be impossible. As it has



happened, we have had a greater level of success than we anticipated, but it has not been without challenges. The district and charter school partners in particular have had to do what I refer to as complex acrobatics to fill these positions. We might expect this to be the case in the rural and frontier counties, but we have also had significant difficulties finding qualified people in Washoe and Clark Counties as well.

Our unique relationship of constant collaboration with our district and charter partners puts us in the position that we hear regularly from them and from our professionals about the difficulties they have with their licensing boards. We are regularly asked about the requirements for licensure by endorsement. Unfortunately, we are unable to answer those questions because that information is not readily available and the answers, as you heard earlier, change on a case-by-case basis. When we are told that decisions are made on a case-by-case basis, it becomes difficult for us to assure professionals that if they relocate their families to Nevada to take our positions, their professional licenses will be honored. We have had numerous potential applicants for whom this was simply too great a risk, and who then opted not to pursue these positions. Those who do decide to take a leap of faith and make the move face a long, drawn-out process. This is true across all behavioral health licensing boards.

From our professionals, we hear that the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors (MFTCPC) does not answer phone calls or return calls and no one is at the office during business hours. We have also heard that the MFTCPC has lost applications, asks for additional documentation when it has already been provided, or will not accept applicants' clinical hours and requires them to obtain additional hours. In this last case, the professional in question had been licensed in another state for more than five years, which is identified in regulation as the requirement for licensure by endorsement.

With the Board of Examiners for Social Workers (BESW), which serves a much larger group of licensees, the most common complaints we hear are in regard to an overall lack of communication, a lack of clarity about what is required for the application process, a lack of information on the Website and an inability to communicate with the Board electronically. The email address listed online is nonfunctioning, which makes it difficult for applicants to communicate with the Board or document their interactions with the Board or its staff. We have also

heard about strange and illogical requirements, such as requiring a 10-year work history when the applicant is 23 years old or asking for letters from supervisors who have passed away. Applicants have been required to take the national exam after being licensed for more than five years in other states. We regularly hear about the difficulties of getting clinical hours approved.

For all boards, the entire application process is done on paper and submitted either in person or via snail mail. All correspondence with the boards is done via snail mail, which slows the process considerably. The boards tell us they are able to process completed applications within the time frames required in the NAC, and that may be the case. The issue is that it takes much too long for applicants to ascertain what is required for an application to be considered complete, at which point those timelines are triggered. When all communication with a board relies on snail mail, information is not clearly provided online and no one will answer the phone or return calls, the process grinds to a halt. We have professionals who have applied for licensure by endorsement who have been waiting six months to a year to be licensed. We have professionals who have been in clinical practice in another state for 30 years and have not been granted a license in Nevada.

Our program is ready to grow. Our districts are asking for more Safe Schools professionals. We have not left any stone unturned in looking for people to take these positions, and we must recruit from other states. We face significant challenges in convincing people their professional licenses will be honored if they move to Nevada. Senate Bill 69 will require boards to put in the clarity and transparency we need to help those professionals come to Nevada and serve our schools.

KEITH LEE (Board of Medical Examiners):

We are here in support of S.B. 69. We thank the Governor's Office for including us early on in the discussions on this bill. The Board of Medical Examiners has had licensure by endorsement as a path for a number of years.

MICHAEL HILLERBY (Nevada State Board of Accountancy; State Board of Nursing; State Board of Pharmacy):

We are in support of the bill. We echo Mr. Lee's thanks to the Governor's Office for working with us, particularly on section 6, subsection 3. I believe there will be some testimony in opposition, and I will remain in case you have questions for the State Board of Nursing. The State Board of Nursing has had a process

for licensure by endorsement in place for many years. It allows nurses in good standing from other states to get a temporary Nevada license. That process currently takes four to five days to complete.

WILLIAM HORNE (Board of Dental Examiners of Nevada):  
We are in support of S.B. 69.

STEPHANIE JOBIN:

I support this bill. I have written testimony ([Exhibit L](#)) describing the experiences of my husband and me in trying to obtain licenses in social work in Nevada after practicing in Illinois for many years.

DENA DURISH (Deputy Superintendent for Educator Effectiveness and Family Engagement, Department of Education):

We support this bill. In response to Senator Gansert's question, I want to share some information about the process the DOE went through. A little over a year ago, there was a severe teacher shortage across Nevada, with close to 1,000 vacancies in the middle of the school year. When the federal Every Student Succeeds Act passed, it lightened some of the requirements for states regarding highly qualified status for teachers. This allowed Nevada to have more flexibility with regard to licensing teachers.

Since February 6, 2016, when the executive regulation was issued by Governor Sandoval, we have given out 2,168 endorsements to 1,815 unique licensees. A licensee may hold more than one endorsement area. If I am endorsed as an elementary school teacher, I may also have an endorsement as a reading specialist or a school administrator. We worked with the licensing board that works with educators as the Commission on Professional Standards in Education. That board took Governor Sandoval's emergency regulations and held the appropriate public workshops and public hearings. The language was passed by the Legislative Commission on June 28, 2016, and became permanent regulations.

Although we still have many teacher shortages across the State in both urban and rural settings, I am happy to report that we have almost 1.5 percent fewer vacancies than last year. That is a significant number.

JAIME MALDONADO:

I am here in support of S.B. 69. On August 1, 2016, I relocated to Nevada from Massachusetts as a result of a hardship transfer. I have been a practicing clinician for close to 30 years. My last employment was as clinical director for two mental health and substance abuse clinics. I hold a license in good standing in social work from Massachusetts. I submitted my application for license by endorsement to the Board of Examiners for Social Workers in August 2016 and have yet to receive a license from them. I am also licensed as an independent alcohol and drug counselor by the Massachusetts Department of Public Health. When I called the Board of Examiners for Alcohol, Drug and Gambling Counselors to find out about Nevada's endorsement for that license, they informed me the Board does not do endorsements for out-of-state licenses and I would have to take the classes and pass the examination in Nevada as if I had just graduated from college yesterday.

I have been practicing in behavioral health for close to 30 years, and these regulatory agencies are not looking at this fact. Nevada is sorely in need of people like me, and these entities make it very difficult for professionals with needed skills to practice in the State and help the people who need our services. It is my hope that you seriously consider S.B. 69 and approve it. The people of Nevada are sorely in need of this bill becoming law.

SAUNDRA BRYANT-LAMB:

I support this bill. I have written testimony ([Exhibit M](#)) describing my experiences trying to obtain a license by endorsement in social work since April 2016. I have been working as a social worker in other states for more than 30 years. It is unfair that those who have given their lives to serve are being refused the opportunity to serve in Nevada when we were licensed in other states. Senate Bill 69 would allow Nevada to hire experienced individuals who know the profession well rather than restricting it to people who have just graduated.

TERRI ROSENBERG:

I support S.B. 69. I am a Safe School professional. I moved to Nevada because I knew there was an opportunity for social workers with the new program in schools, and I wanted to be part of it. I started the process to get my license by endorsement in February 2016 before I moved here. I arrived in Nevada in July 2016 and received my license two days before I started my new job. I had 115 hours toward my Licensed Clinical Social Worker (LCSW) license in

New York, where I am also licensed as a Licensed Master Social Worker, a license that does not exist in Nevada. I also applied for internship so I could continue my hours and my education. It took me six months to find an internship in Nevada.

It takes a long time to get the paperwork through. You get the wrong answers when you call or you get no answers at all. I have had to send transcripts from college at least three times to the same board. I love my job and love what I do, but they make it very difficult for us to move forward in Nevada.

DANIKA CHAPPLE:

I support S.B. 69 mainly for the board transparency and license timeliness provisions. I am a licensed professional counselor in the state of Idaho, where I have been practicing as a counselor for the last six years. I moved to Nevada in 2016 and applied for my license in August 2016, and I have yet to receive a license. I was not scheduled for a board meeting until December. The MFTCPC Board was not clear about what documents I needed for that meeting and was almost impossible to contact. The board meeting was a short group interview, and I was told I would need to pass a test for my license in Nevada. This is understandable; however, they could have told me that in August. It takes a few weeks to apply for this test, a few weeks to be processed for the test, and a few weeks to receive a testing date. In Nevada, this process can take months. I submitted my application almost six months ago and have just recently been approved to take the test in Nevada. That means I have not been able to work in my field for more than six months.

DARRELLA MCQUIRE (National Nurses United; National Nurses Organizing Committee):

We are opposed to S.B. 69. The language in the bill is overly vague and broad, potentially affecting disparate professions licensed in very different ways and in very different contexts. In the case of Registered Nurses (RNs), licensure regulations are designed to protect the health and safety of patients in Nevada. This bill could allow those standards to be circumvented, adding potential risks to Nevadans with no clear criteria and no evidence of any real potential benefits. This bill seeks to expedite the movement of professionals into the State.

Nurses as a profession are accountable for the care of Nevadans. Expediting professional registration runs the risk of diluting standards of care. Due diligence in allowing out-of-state professional practitioners access to practice in Nevada

should be the paramount concern of the State. This bill does not reflect such due diligence. This bill could amend nurse licensure in such a way that it effectively surrenders Nevada's state-level authority to many other state boards of nursing, which could supersede Nevada's autonomy and control over the practice of nursing and nursing standards, thereby not ensuring consistent care for the patients in Nevada hospitals. Instead, it could allow standards to be set in effect by out-of-state officials in closed meetings that may be inconsistent with Nevada's Open Meeting Law.

Senate Bill 69 could allow nurses who are under a cloud of investigation in another state to move out of their home states and obtain a new license in Nevada in order to postpone or completely avoid investigation, sanction, and possible license revocation. Examples of this behavior can be found in a joint *ProPublica* and *USA Today* article from July 2010 titled "Troubled Nurses Skip from State to State Under Compact." This article describes some of the more egregious situations that have occurred when former licensure procedures were circumvented to the multi-state license compact.

If this bill accomplishes its goal, which is to expedite the availability and mobility of nurses and other licensed professionals across state lines into Nevada, it would encourage out-of-state residents to come in and take good jobs from Nevadans. For RNs, this would be done by effectively lowering standards and safeguards for the licensing of health care professionals. Given that it is currently possible to obtain a license to practice as an RN in Nevada within five days, it is unclear how waiving the time required to ensure appropriate background checks and requirements have been met will somehow increase the overall availability of RNs in Nevada. The only relevant data we are aware of from a credible source is a research paper by professors at the University of Michigan and Emory University for the National Bureau of Economic Research in 2016 titled, "Labor Supply Effects of Occupational Regulation: Evidence from the Nurse Licensure Compact." This paper evaluated the impact on mobility and availability of RNs in the numerous states of the multi-state RN licensure compact over a 12-year period. The study found no appreciable increase in the supply of nurses after the need to go through the previous application procedures for state licenses was removed.

The wording in this bill is vague. There are benefits to this bill, but as it stands, it could open a can of worms. We are not interested in changing the way RNs are licensed in Nevada. Nurses do not need to be included in this bill. The only

credible evidence we have found suggests that the measures enabled by this bill would have no appreciable impact on the supply of RNs, while evidence does suggest there would be increased risks to the health and safety of Nevadans. This is not sound policy. I urge the Committee to vote against S.B. 69.

KATRINA ALVAREZ-HYMAN:

I am opposed to S.B. 69. I am a civilian registered nurse. I have been in contact with Governor Sandoval's office for the past six years as an advocacy nurse and have always told him about the travesties that have been happening at our hospitals.

The reason for the push on this bill can only be that we opposed the nurse license compact bill last Session and testified about many real stories of a disregard for proper safety standards. The emergency the Governor thinks we have is honestly nonexistent. The problem we have is with staffing. All of these for-profit hospitals, which are 90 percent of the hospitals in Las Vegas, know the consequences of short staffing.

The problem is that we do have lots of traveling nurses who come to Las Vegas. They see the type of nursing we have, and they leave. The push for this bill to have these types of professionals come in and out of Nevada is not something we need. We need people held to the same standards that we have so we can provide good care.

I firmly oppose S.B. 69 for fear of a further backslide in the effective and efficient care nurses provide every day to our communities. The critical need the Governor says is unmet is only unmet because the for-profit hospitals do not care about bedside nurses. That is why we are here today. I am opposed to the bill based on the lack of definition and the language in this bill. We do have a need, but the need is for people to be held to the proper standards and not come in and out of the State. If they do something wrong in another state, they might come to Nevada and get a temporary license, and we would not know about their former problems for 100 days. It is important that you oppose this bill.

ORSBURN STONE:

I oppose S.B. 69. I have been an RN for 36 years and am a retired Air Force officer. I have seen nursing come from its infancy to where we are today. I have lived in Nevada for 16 years.

I oppose this bill because it is nothing more than an attempt to dilute the ability of nurses to represent our patients and be the advocates we are sworn by our license and the law to uphold at the bedside. Corporate America is pushing this bill because they are trying to remove people like me and other RNs who have experience protecting you and other citizens of Nevada at the bedside. They want to bring in newly licensed people who can be paid less because they do not want to pay for the expertise required in the hospital, the expertise that can save lives. It is imperative that as a Committee, you not sign this death warrant for Nevadans. That is what this is. It is a way to circumvent the system that has licensed us for years and allowed us to provide the type of advocacy and professional patient care required to save lives and preserve the integrity of our profession.

KARI DEATON:

I speak in opposition to S.B. 69. I am an RN with 30 years of experience. As bedside RNs, we have not been given the opportunity to explore the potential ethical issues related to this bill and the impact it will have on nursing and interstate practices for Nevada. How can you vote on a bill that strips away the profession's ability to meet and review these ethical principles? The first one is nonmaleficence. The second is beneficence. The third is autonomy of nurses in Nevada versus any other state or territory. The fourth one is justice that allows each patient in Nevada what they are due. The fifth one is privacy and confidentiality for patients. None of these are addressed in this bill.

Our goal is to be proactive and stimulate critical thinking about ethics and interstate practices. We as RNs must think ethics before we act. By following these five principles, we are nurses practicing at the highest nursing standards in Nevada. I ask that the Committee review these five ethical principles before voting on S.B. 69. It would alter nursing as a profession in Nevada and would impact our patients' care for many years to come.

As RNs, we should not be included in this bill. Senate Bill 69 is a way to introduce compact nursing in Nevada. This is unacceptable.

CHAIR ATKINSON:

I am confused by this opposition. It sounds as if you are talking about understaffing, and that is not what S.B. 69 deals with. We will get clarification on this, but you might want to talk with the Governor's Office about the bill.



JEANETTE K. BELZ (Associated General Contractors):

We are neutral on S.B. 69. I would like to make two brief points. First, the bill talks repeatedly about occupations or professions, but it seems to be geared more toward individuals being licensed. In the contractors' world, large companies are also licensed to be contractors, such as CORE Construction, Granite Construction and Q&D Construction. We have talked with Ms. Monroy to see if there might be some opportunity to change the language to include businesses. Second, we appreciate the Governor's inclusion of the clarification regarding bonding in [Exhibit D](#).

CHERIE MANCINI (Service Employees International Union):

We are neutral on S.B. 69. I represent a number of professional groups, including nurses, respiratory therapists, x-ray technicians and others.

There are a lot of positives in this bill. The transparency piece is very good, as is the expediting of licensing by boards that are taking an inordinate amount of time and essentially prohibiting people from getting licensed and getting work in Nevada.

The question I have is about the definition of critical need. We heard testimony earlier from the State Board of Nursing to the effect that the endorsement process is already in effect to get a temporary license. How would we then transition people who came in with temporary licenses? Are they still going to continue with the process to get full licensure? I may be able to flesh that out with the Governor's Office representatives here today.

SENATOR HARDY:

Realistically, the State Board of Nursing is one of the best. I am not sure where this is going, but they are wonderful.

NICK VANDER POEL (Chiropractic Physicians' Board of Nevada; Board of Homeopathic Medical Examiners):

We are neutral on S.B. 69. We are awaiting positions on this bill from these two boards. We look forward to working with the Governor's Office to address any concerns.

MR. STEWART:

This bill does not involve the Interstate Nursing Compact in any way. Assembly Bill (A.B.) 18 does, and it is possible there has been some confusion between the two bills.

**ASSEMBLY BILL 18**: Ratifies the Nurse Licensure Compact. (BDR 54-182)

We are not asking for the Compact to be brought into S.B. 69 in any way. To echo Senator Hardy's comments, when we were looking at a way to provide standardization to the boards, one of the boards we looked at as a model for what other boards should be doing was the State Board of Nursing. It is the gold standard. Most of this endorsement language came directly from the endorsement process used by the State Board of Nursing. I would be happy to meet with any of the groups that spoke here today to see if we can ease some of those concerns.

CHAIR ATKINSON:

I will close the hearing on S.B. 69. I have a bill draft request (BDR) for introduction.

**BILL DRAFT REQUEST**: Revises provisions relating to transportation network companies. (BDR 58-486) (Later introduced as S.B. 226.)

SENATOR HARDY MOVED TO INTRODUCE BDR 58-486.

SENATOR CANNIZZARO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

\* \* \* \* \*

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CHAIR ATKINSON:

Is there any public comment? Hearing none, I will adjourn the meeting at 10:45 a.m.

RESPECTFULLY SUBMITTED:

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Lynn Hendricks,  
Committee Secretary

APPROVED BY:

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Senator Kelvin Atkinson, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	6		Attendance Roster
S.B. 142	C	3	K. Neena Laxalt / Board of Physical Therapy Examiners	Lisa Cooper / Written Testimony
S.B. 69	D	11	Daniel Stewart / Office of the Governor	Proposed Amendment
S.B. 69	E	79	Daniel Stewart / Office of the Governor	One Strike and You're Out
S.B. 69	F	17	Daniel Stewart / Office of the Governor	U.S. Senate Judiciary Occupational Licensing Testimony
S.B. 69	G	9	Daniel Stewart / Office of the Governor	Occupational Licensing and American Workers
S.B. 69	H	11	Daniel Stewart / Office of the Governor	Turning Shackles Into Bootstraps
S.B. 69	I	36	Daniel Stewart / Office of the Governor	Reforming Occupational Licensing Policies
S.B. 69	J	198	Daniel Stewart / Office of the Governor	License to Work
S.B. 69	K	1	Laura Hale	Map
S.B. 69	L	1	Stephanie Jobin	Written Testimony
S.B. 69	M	1	Saundra Bryant-Lamb	Written Testimony