

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-ninth Session  
May 2, 2017**

The Senate Committee on Finance was called to order by Chair Joyce Woodhouse at 6:33 p.m. on Tuesday, May 2, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Joyce Woodhouse, Chair  
Senator David R. Parks, Vice Chair  
Senator Moises Denis  
Senator Aaron D. Ford  
Senator Ben Kieckhefer  
Senator Pete Goicoechea  
Senator Becky Harris

**GUEST LEGISLATORS PRESENT:**

Senator Yvanna D. Cancela, Senatorial District No. 10  
Senator Heidi S. Gansert, Senatorial District No. 15

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Cynthia Clampitt, Committee Secretary  
Barbara Williams, Committee Secretary

**OTHERS PRESENT:**

Lindsay Anderson, Washoe County School District  
Nicole Rourke, Clark County School District  
Paige Ritzman, Nevada Association of School Boards; Nevada Nurses  
Association

Mary Pierczynski, Nevada Association of School Superintendents; Nevada Association of School Administrators  
Edward Ableser, Administrator, Aging and Disability Services, Department of Health and Human Services  
Jon Sasser, Legal Aid Center of Southern Nevada; Legislative Chair, Nevada Commission on Services for Persons with Disabilities  
Gwen Dwiggin, Executive Director, Accelerated Learning Clinic, Inc.  
Donny Newsome, Director, Fit Learning  
Jared A. Chase, President, Nevada Association for Behavior Analysis  
Ken MacAleese, Advanced Child Behavior Solutions  
Shannon Sprout, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services  
Jodi Tyson, Government Affairs Director, Three Square  
Shane Piccinini, Government Relations, Food Bank of Northern Nevada  
Matthew B. Parker, Brotherhood of Locomotive Engineers and Trainmen  
Stephanie d. Mullen, Executive Director, Public Utilities Commission  
Anne-Marie Cuneo, Director of Regulatory Operations, Public Utilities Commission  
Jason T. Doering, Legislative Director, International Association of Sheet Metal, Air, Rail and Transportation Workers  
Fran Almaraz, Teamsters  
Robert Conway, Ironworkers Local 433  
Alfonzo Lopez, Sheet Metal, Air, Rail and Transportation Local 88  
Raymond McAllister, Nevada State AFL-CIO  
Nathan Anderson, Director Public Affairs, Union Pacific Railroad  
Joseph Guild, Union Pacific Railroad  
Chelsea Capurro, Nevada Advanced Practice Nurses Association  
Joseph Decker, Administrator, Division of Industrial Relations, Department of Business and Industry

CHAIR WOODHOUSE:

We have five bills to hear tonight. We will start with Senate Bill (S.B.) 212.

**SENATE BILL 212 (1st Reprint)**: Revises provisions governing the welfare of pupils. (BDR 34-674)

SENATOR HEIDI S. GANSERT (Senatorial District No. 15):

The State Public Charter School Authority removed the fiscal note for S.B. 212 (Exhibit C).

Senate Bill 212 is a follow-up to the Safe-to-Tell legislation from the 2015 Legislative Session. It enacts some of the recommendations of the Interim Safe-to-Tell Advisory Committee. The telephone number for students to call anonymously to report dangerous activity will be placed on the back of their identification cards as well as in conspicuous places around the school.

The bill adds suicide to the Safe-to-Tell Program and requires schools to have a plan in place to address this issue. This is partly because of the rash of suicides in Washoe County in the spring of 2015. The hope is that some student suicides can be prevented by having a prevention and counseling plan in place.

LINDSAY ANDERSON (Washoe County School District):

We supported the bill in the policy discussion, and we do not have a fiscal note attached.

NICOLE ROURKE (Clark County School District):

Clark County School District did not attach a fiscal note to the bill, and we appreciate working with the sponsor on S.B. 212.

PAIGE RITZMAN (Nevada Association of School Boards):

We support S.B. 212. We worked closely with Senator Debbie Smith on the Safe-to-Tell legislation in 2015. Senate Bill 212 enables Nevada to fully implement the Safe-to-Tell program. It is our understanding there will be a grant to support the implementation.

MARY PIERCZYNSKI (Nevada Association of School Superintendents and Nevada Association of School Administrators):

We supported this bill in the policy discussion, and we support it now with the understanding that the teams in schools are on call during school hours only and not on a 24-hour basis. We understand the training is the responsibility of the Department of Education funded through a grant. Some of our rural schools do not issue identification cards, so we understand that a sticker will be sufficient. With those understandings, we support this bill.

SENATOR PARKS:

I noticed that some of the rural school districts had indicated that they had fiscal impacts. I note that Lincoln County School District said they would require a staff of three to cover the provisions of the bill.

MS. PIERCZYNSKI:

The rural counties with high fiscal notes believed they had to have staff on call 24 hours a day. It was explained to us that that is not the case, so the fiscal notes do not apply.

SENATOR PARKS:

We learned from the experiences of Colorado that the Safe-to-Tell policies could be implemented using existing resources.

SENATOR GANSERT:

Senator Smith led the way on this legislation, and I am fortunate to be able to follow through with it. It is critical legislation. There is a grant of \$5 million over 3 years to help offset incurred costs.

Individuals in the program will not be on call 24 hours per day. Law enforcement will usually be the first called, and they will contact those who need to take action at that time.

CHAIR WOODHOUSE:

I will close the hearing on S.B. 212 and open the hearing on S.B. 286.

**SENATE BILL 286 (1st Reprint)**: Revises provisions governing the regulation of applied behavior analysis. (BDR 39-633)

SENATOR GANSERT:

Currently, registered behavior technicians (RBT) and others who deal with behavioral analysis are licensed through the Board of Psychological Examiners. What S.B. 286 does is create a new board of applied behavior analysis for licensing that will be under the Aging and Disability Services Division (ADSD) in the Department of Health and Human Services (DHHS). There is a great need for interventionists and technicians who deal with children with autism and other behavioral issues. Creating a board just for this need will expedite processing of applicants and enable Nevada to use more Medicaid funds.

Currently, RBTs are primarily serving the private sector and not children on Medicaid. We hope that having expedited processes in place to certify individuals will enable more people to be trained to serve the Medicaid population.

There is a Mock-Up Amendment 4333 ([Exhibit D](#)) before you tonight. The amendment clarifies some language. Currently, there are several levels of professionals who treat children with behavioral issues. We want the new board to create another tier known as behavior interventionists. The services of the interventionist would potentially be reimbursed by Medicaid. The new board would determine the credentials and requirements of the new position.

We were also contacted by individuals who do behavior analysis on animals and asked that they be excluded from the bill. Other excluded individuals would be family members working with children, school personnel and interns working through university or fellowship programs. The proposed amendment excludes these categories of individuals.

SENATOR KIECKHEFER:

As we followed the issue of RBTs over the Interim there was much discussion of reimbursement rates. The amount that an RBT receives from Medicaid is one of the primary barriers to registering more individuals as Medicaid providers. Does this bill address reimbursement rates? Please explain more fully the new category of provider you are proposing.

SENATOR GANSERT:

This does not address reimbursement rates. The bill allows us to potentially license or register more people who can help these children. The State has been providing some funding to enable people to receive the RBT designation.

EDWARD ABLESER (Administrator, Aging and Disability Services, Department of Health and Human Services):

Reimbursement rates are not addressed in S.B. 286. The bill simply creates a board for processing licensing. It opens up opportunities for individuals, such as interns on the way to further certification, to potentially provide Medicaid reimbursable services.

SENATOR KIECKHEFER:

Who is a behavior interventionist?

MR. ABLESER:

Currently, an interventionist is designated through the State as a registered behavioral technician. They achieve that designation through a National process with certain criteria. It requires 40 hours of coursework, direct practice,

oversight by a board certified behavior analyst (BCBA) and an examination that shows competence in the field. At that point, they become credentialed as an RBT. That designation permits insurance and Medicaid reimbursement.

SENATOR KIECKHEFER:

What is a State certified behavior interventionist?

MR. ABLESER:

The bill will expand the opportunity for the board to license more individuals. We currently have individuals working with this population that are seeking an RBT credential, which takes some time. In the meantime, we are paying for these supervised, not-yet-credentialed individuals to work with children but cannot recoup any reimbursements from Medicaid.

SENATOR KIECKHEFER:

Will it allow this new category of treatment provider who is not currently eligible to bill for Medicaid to bill Medicaid?

MR. ABLESER:

It is incumbent upon the board to make those determinations. We have a gap in between services that are being provided and the ability to draw down Medicaid funds. A potential future fix could be the board intervening and adding an interventionist role in the treatment of these children.

SENATOR KIECKHEFER:

Is this a licensed provider category under the Centers for Medicaid and Medicare Services (CMS)?

MR. ABLESER:

Nothing is set without approval from the new board. The language in the amendment might guide the board. We have been working with our Medicaid services staff on changes that might need to be made to enable the opportunity for Medicaid reimbursement.

SENATOR FORD:

I wonder whether, with the sweeping amendment, this bill should go back to the policy committee. Our basic focus is the fiscal impact. The questions being asked are related to policy.

SENATOR GANSERT:

At our policy hearing, we talked about creating another tier of professionals who could serve children with autism or other behavioral needs. We had not really defined what it would be, and in trying to differentiate the terms, we landed on the term interventionist. The intent is to provide more flexibility to the State to serve children and to potentially be reimbursed by Medicaid. We have millions of dollars that are not used and hundreds of children on the wait list. We are trying to figure out how best to serve them.

SENATOR FORD:

The intent is admirable, and I am not suggesting I do not support it. I am concerned that these are policy-based questions and beyond the scope of this Committee. Has the fiscal note been removed?

MR. ABLESER:

The Division recognizes there is an impact on our services. As with many other commissions, committees and consortiums, this is a function of our Division and we would be willing to absorb that function. We are comfortable providing support to the board.

SENATOR FORD:

Is there a fiscal note from ADSD?

MR. ABLESER:

No, there is not. I have removed the fiscal note ([Exhibit E](#)).

SENATOR FORD:

I would also like to ask Fiscal staff if the bill, as amended, could have a fiscal impact on this Division or any other State agency.

MARK KRMPOTIC (Senate Fiscal Analyst):

The proposed amendment was submitted immediately prior to the meeting, and Staff has not had an opportunity to review it.

CHAIR WOODHOUSE:

We will go ahead and take comment on S.B. 286 and at a subsequent meeting decide to process or rerefer the bill.

SENATOR HARRIS:

I noticed in sections 58, 59 and 74 you remove a member from the Board of Psychological Examiners. Please tell me what the intention was.

SENATOR GANSERT:

Because the behavior analysts will now have their own board of applied behavior analysis, we have removed the behavior analyst from the Board of Psychological Examiners.

CHAIR WOODHOUSE:

Would anyone like to testify in support of S.B. 286?

JON SASSER (Legal Aid Center of Southern Nevada; Legislative Chair, Nevada Commission on Services for Persons with Disabilities):

We are in support of this bill because it is an attempt to address a crisis in Nevada. The Legislature appropriated some \$42 million to serve children with autism in 2015 through Medicaid. I do not think you have even spent \$2 million. Many children have gone unserved. One of the reasons has been a lack of providers eligible to be reimbursed by Medicaid who will only pay for the RBT designation. Medicaid looks at each state for guidance as to what that State requires in licensing and credentialing of providers. If interventionists are registered under Nevada law, then CMS will pay. That is my understanding of the purpose of this bill.

SENATOR KIECKHEFER:

Is the lack of RBTs due to a licensing issue and not a reimbursement issue?

JON SASSER:

No, I did not say that. We have some 400 RBTs in the State, and only about 170 of them are accepting Medicaid reimbursement. It is a fact that you can get more as a RBT from private insurance. Currently, if you have someone in training for RBT, working under the supervision of a BCBA, we cannot bill Medicaid for that service.

SENATOR KIECKHEFER:

Are you saying because we require an RBT for private insurance reimbursement, CMS will only reimburse services provided by an RBT? Now, it seems you are saying that if we have a licensed interventionist designation, that person would be able to bill Medicaid. Is that correct?



JON SASSER:

This really becomes a CMS decision. If our State approves persons without the RBT designation to work with this population, then CMS is likely to agree.

CHAIR WOODHOUSE:

Would anyone like to express opposition to this measure?

GWEN DWIGGINS (Executive Director, Accelerated Learning Clinic, Inc.):

It concerns me that the bill does not outline what the criteria will be for this lower level credential; it is left up to the new board to decide. We keep talking about licensing and how it is tied to reimbursement. As a behavior analyst who wants to defend my profession, the licensing should be separate from any funding motivations. What is the quality we want and the criteria we set for who will provide these services to children with autism? The gold standard in qualifications is already set by the Behavior Analyst Certification Board. Private insurance and Medicaid already require the RBT designation.

I do not mind if we change wording to have a behavior interventionist, but I want to know that their credentials and quality of care will be at the same levels as an RBT. Right now, that is not addressed, and that is why I am opposed to S.B. 286.

I have heard frequent reference to the time period during which an individual is trying to get their RBT. We have all our RBTs certified in one to three months. The bill needs more clarification and specific guidelines. Otherwise, our profession becomes watered down. My written testimony is submitted ([Exhibit F](#)).

DONNY NEWSOME (Director, Fit Learning):

I cannot support S.B. 286 as currently written. We have heard an assumption today that the lack of quality providers has something to do with a bottleneck of credentialing. That is not correct. We only have to look at California, whose BCBAs and RBTs have similar requirements. Yet, in California they have many qualified providers. The difference is they pay better. The University of Nevada, Reno, has one of the best graduate-level behavior analysis programs in the world. There is no shortage of talent, but the shortage of funding drives those Nevada-trained professionals to other states to make their living.

Based on the current language, this bill seems likely to create more problems than it solves. The scope of professional behavior analytic activities goes well beyond what is appropriate for the DHHS to oversee. Applied behavior analysis is not just about autism spectrum disorder services; it is practiced in almost every sector of industry. The proposed amendment is not sufficient with respect to the ubiquity of practices informed by behavioral science. My written testimony ([Exhibit G](#)) is submitted and contains some suggestions for language clarification.

JARED A. CHASE (President, Nevada Association for Behavior Analysis):

The Nevada Association for Behavior Analysis (NABA) cannot support the bill as it currently reads, although we do appreciate its intent. In a previous attempt to garner NABA member and leadership support, a letter with recommendations for conceptual amendments was sent to the bill sponsors on April 7. Some of our recommendations were adopted in the subsequent amendment, however we still cannot support this version of the bill. The last set of amendments demonstrated a step in the right direction, and we are still willing to work with the sponsors. My written testimony ([Exhibit H](#)) includes a detailed list of reservations with certain sections of the bill and general comments about language.

KEN MACALEESE (Advanced Child Behavior Solutions):

I am opposing the first reprint of S.B. 286 because its current language cannot be supported. I am concerned that this bill does not address the access issues it is attempting to solve. I still feel this is a proxy for the real issues in Nevada that suppress professional growth, which are low rates of reimbursement in our State relative to others and insufficient investment in workforce development. My written testimony ([Exhibit I](#)) is submitted. I was not clear that the fiscal note had been removed.

My concern is that as we invite this access level conversation in, there is the potential that the scale tips to lower quality of care. If individuals are ready to provide service to the children here in Nevada, it is likely they are ready to sit for the RBT examination. The problem seems to be funding, and I question if a new credential is going to change that.

CHAIR WOODHOUSE:

We have a complicated situation with an extensive amendment. The fiscal impact will need to be evaluated. If there is no fiscal impact, we will probably send the bill back to the policy committee.

SENATOR GANSERT:

We did work with NABA and used all their suggestions. It appears they may have more now. The bill is not just about autism. The board of applied behavior analysis would be set up for anyone related to behavioral analytics.

SHANNON SPROUT (Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

The bill, as amended, would allow for permissive language to add additional provider qualifications. It does not require Medicaid to add those provider qualifications into the State plan. At this point, it has no fiscal impact to us.

SENATOR KIECKHEFER:

If Medicaid does not recognize the new designation, then it will not do anything to increase access.

MS. SPROUT:

If it were not added into the State plan, we would continue to operate Medicaid under the current providers that are allowed, the RBTs. There are an additional 30 RBTs reported since last month. If the new designation were not added into the State plan, there would still be an access issue.

CHAIR WOODHOUSE:

Are you speaking to the first reprint or to the mock-up?

MS. SPROUT:

I am talking about the mock-up.

SENATOR KIECKHEFER:

If we create this new licensing category, will CMS consider the new category to be a reimbursable provider?

MS. SPROUT:

The CMS allows for states to determine what their provider qualifications will be when they submit the State plan. We could propose, with a State plan

amendment, to add this category. At that point, we would have to identify a fiscal impact for the addition.

CHAIR WOODHOUSE:

I have one letter in opposition to S.B. 286 to put into the record ([Exhibit J](#)) and now will close the hearing on S.B. 286. Next we will hear S.B. 323.

SENATOR YVANNA D. CANCELA (Senatorial District No. 10):

Senate Bill 323 has the potential to make a significant impact on the lives of many of Nevada's most vulnerable citizens. I am submitting my remarks for the record ([Exhibit K](#)). I would like to lead with the fact that the fiscal note from DHHS has been removed.

**SENATE BILL 323 (1st Reprint)**: Revises provisions governing the Supplemental Nutrition Assistance Program. (BDR 38-627)

The federal Supplemental Nutrition Assistance Program (SNAP) requires recipients to meet work requirements unless they are exempt due to age, disability or other specific reasons.

Able-bodied adults without dependents (ABAWD), a subset of SNAP recipients, are limited to receiving SNAP benefits for a period of 3 months every 36 months, unless they meet special work requirements. The ABAWD population includes individuals between 18 and 49 years of age. In order to receive benefits for more than 3 months, ABAWDs must work 20 hours per week, participate in certain education and training activities, or participate in a State-approved voluntary workforce program.

Currently, Nevada has a temporary waiver from the three-month time limit for ABAWDs. This type of waiver is granted when State unemployment is high. As the economy has improved in Nevada, this waiver is set to expire on January 1, 2018. This means that many ABAWDs will lose their SNAP benefits unless they meet work requirements. Senate Bill 323 aims to reduce the impact of losing this waiver in a few ways.

First, the bill calculates the 36-month time period to begin and end on fixed dates that are the same for all SNAP recipients in the State. This means that if a person begins receiving benefits at some point in the middle of the 36-month period, he or she would not have to wait a full 33 months after the

3-month time limit to receive benefits again. Instead, the person would be able to receive benefits when the Statewide 36-month clock started again.

Second, the bill requires DHHS to seek certain waivers allowing a person otherwise subject to the three-month limit to receive SNAP benefits without meeting federal requirements. If the Department obtains a waiver, the Division of Welfare and Supportive Services (DWSS) may prioritize certain individuals for continued receipt of benefits past the three-month limit. These priority groups are listed in section 2, subsection 2 of the bill. They include:

- A person who is the subject of a pending social security disability determination.
- A person discharged from the Armed Forces of the United States or the National Guard, within one year of discharge.
- A person who does not have custody of his or her child but who is responsible for providing child support.
- A person who resides in a county whose unemployment rate is at least 10 percent.

Third, S.B. 323 requires DWSS to establish a voluntary workfare program. Workfare program participants who engage in unpaid work through a special State-approved program, such as volunteering for a nonprofit organization, would be eligible to receive SNAP benefits. This would be the first time Nevada has this program, and I am excited about it.

Finally, the bill authorizes DWSS to contract with appropriate persons or entities to assist in determining whether a person is eligible to receive benefits under a waiver and requires the Division to consult with appropriate persons and entities to comply with certain requirements.

You have before you Mock-up Amendment 4284 ([Exhibit L](#)), which is meant to clean up some of the policy language. Jodi Tyson will walk through it for you.

JODI TYSON (Government Affairs Director, Three Square):

We worked very closely with Senator Cancela and Steve H. Fisher of DWSS to clean up language and make some of it permissive. The Division will have to go to the U.S. Department of Agriculture (USDA) to obtain authorization for some changes to the ABAWDs program.

Currently, every 36-month period is unique to each individual. This bill will change that. It is a small technical change for DWSS, but it requires the USDA be informed.

The amendment also stipulates that the workfare program is voluntary. It will require the adoption of some regulations to allow nonprofit organizations to be included in a group of entities who are willing to accommodate workfare recipients and track their hours. That is really what removed the fiscal note. The Department originally assumed they would have to have case managers in the same way they do for SNAP Employment and Training.

Mr. Fisher explained that individuals with pending disability claims are automatically exempt from the ABAWD provisions, so that was removed in the amendment. We also added a provision for persons who work more than 20 hours per week but only seasonally. They also may get an exemption. We are trying to identify those individuals who are doing their best to meet the work requirement and give them a helping hand so they do not lose their nutrition benefits.

SENATOR KIECKHEFER:

Does section 2, subsection 1 (b) in the proposed amendment refer to the waiver granted as a result of a high unemployment rate?

Ms. TYSON:  
Yes.

SENATOR KIECKHEFER:

If any portion of the State meets the requirement, will the whole State get the waiver?

Ms. TYSON:

No, just the affected geographic area would get the waiver. It could be a small portion or the whole State. A waiver can also be granted for a portion of the State where unemployment does not exceed 10 percent, but does exceed 20 percent of the national average.

SENATOR KIECKHEFER:

How many State geographic areas are there?

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Ms. TYSON:  
I am not sure, but at least three.

SENATOR KIECKHEFER:  
Would any of them be able to receive a waiver under this provision?

Ms. TYSON:  
This is a currently allowable reason for a waiver.

SENATOR KIECKHEFER:  
Now we are mandating that they do it.

Ms. TYSON:  
Yes. The DWSS has always been active in seeking waivers that are helpful to people in terms of their SNAP benefits.

SENATOR KIECKHEFER:  
What does section 2, subsection 2 (a) refer to?

Ms. TYSON:  
The referenced federal statute applies to the individual discretion that DWSS has in relation to the amount of people that are ABAWD-subject. Within the ABAWD population, which is currently somewhere between 45,000 and 65,000, DWSS has the discretion to grant individual exemptions up to 15 percent due to life circumstances. This bill spells out what kinds of life circumstances we would want to prioritize as a State rather than at the discretion of a caseworker.

SENATOR KIECKHEFER:  
Is there no written policy in DWSS regarding who is eligible for waivers now?

Ms. TYSON:  
If there are any policies, they predate 2009 when we last had this situation.

SHANE PICCININI (Government Relations, Food Bank of Northern Nevada):  
We are in support of S.B. 323.

CHAIR WOODHOUSE:

I have a letter from DWSS withdrawing the fiscal note ([Exhibit M](#)) and will enter it into the record. Is there anyone wishing to testify in opposition or neutral on this bill? Seeing none, I will close the hearing on S.B. 323 and open the hearing on S.B. 427.

**SENATE BILL 427 (1st Reprint)**: Revises provisions governing the crew of certain freight trains. (BDR 58-1014)

MATTHEW B. PARKER (Brotherhood of Locomotive Engineers and Trainmen):

I am the Chairman of the Nevada State Legislative Board for the Brotherhood of Locomotive Engineers and Trainmen (BLET). I am here tonight asking you to support passage of S.B. 427. I have submitted written testimony ([Exhibit N](#)) regarding this bill, which I will summarize.

Groups in opposition to this bill have included in their talking points the improvement seen in safety statistics since the 1985 repeal of Nevada's prior train crew-size law, implying there is a relationship between these two facts. In fact, these safety improvements have resulted from substantial changes in railroad operating practices along with a commitment to safety on the part of railroad employees who support the passage of this bill and ask that you do the same. These safety improvements are not related to the issue of freight train crew size. The fiscal note attached to S.B. 427 has brought it before this Committee. That fiscal note was submitted by the Public Utilities Commission of Nevada (PUC) stating their need to add a safety specialist position to the staff of its rail safety program.

The need exists for a robust rail safety inspection program. In 2016, the Federal Railroad Administration (FRA) reported it had collected a record amount of fines assessed as penalties for safety violations. Of the Class 1 carriers in the Nation, the two that had the highest number of defects found as the result of inspections and the most number of reports with recommended violations are the two railroads operating in Nevada and opposing S.B. 427. At its current staffing level, FRA is able to conduct inspections on less than 1 percent of all rail operations.

The right choice to make is to support passage of S.B. 427.



SENATOR FORD:

Can you speak to the purposes and merit of the fiscal note?

MR. PARKER:

As the bill was originally written, it included a provision that made a violation of the proposed statute a misdemeanor, adding a criminal element to it. We understand that the PUC had concerns that it would be required to file charges in every county that a train was operating through in violation of the statute and subsequently appear in court. The amendment in the reprint you have before you changed the criminal element to a civil penalty.

STEPHANIE D. MULLEN (Executive Director, Public Utilities Commission):

Pursuant to section 2, subsection 1, the operating practices specialist would be responsible for monitoring crew size and would be required to bring a case and testify at the PUC each time there was a violation of the two-person crew. This would take them off their duties in operations. Because of this, we see a need for an additional operations inspector. At our budget presentation, there was a lot of support and positive feedback regarding inspections, program continuity and a continued effort for a robust railway safety inspection program. We continue to feel this additional position is a necessity.

SENATOR FORD:

Does the fiscal note remain despite the amendment?

MS. MULLEN:

That is correct.

SENATOR FORD:

If the penalty were removed from the bill, would there still be a fiscal note?

ANNE-MARIE CUNEO (Director of Regulatory Operations, Public Utilities Commission):

If we did not have to issue a civil penalty through a hearing process, I guess the fiscal note would be removed. Currently, there would be no violation of federal regulation, so I do not know what the violation would be if that portion were removed.

SENATOR FORD:

Without some level of civil or criminal penalty, you would not have the ability to enforce the law.

MS. CUNEO:

The duty would be to enforce the code of federal regulation, which is less restrictive than this bill. You are correct, without a penalty the PUC would have no enforcement authority.

SENATOR FORD:

I am not sure I agree with that because the statute would still require a two-man crew. I am asking if you remove section 2 of the bill, would that remove the fiscal note?

MS. CUNEO:

If there is no penalty associated with the violation then there is, in effect, no enforcement.

CHAIR WOODHOUSE:

Is there anyone wishing to testify in support of S.B. 427?

JASON T. DOERING (Legislative Director, International Association of Sheet Metal, Air, Rail and Transportation Workers):

I would like to briefly explain to the Committee the importance of this critical piece of rail safety legislation. My written testimony ([Exhibit O](#)) details rail accidents, one whose outcome could have been ameliorated by the presence of more than a one-person crew and another whose outcome could have been much worse if there had not been several crew members aboard.

In regards to the fiscal note, it is the opinion of our organization that S.B. 427 would not require extra personnel to enforce compliance. We do, however, support the need for supplemental rail safety inspectors.

FRAN ALMARAZ (Teamsters):

The teamsters are part of BLET. I am here today in support of this bill as a safety measure. Some of these trains are two miles long. If something happens as they are going through Nevada's towns, there is only one person there and they cannot leave their engine. There is no one to take care of a car uncoupling or accident at the middle or back of the train.

President Trump's proposed budget includes \$120 million to revive the Yucca Mountain Nuclear Waste Repository. If this happens, the nuclear waste will arrive by train across Nevada. As a safety measure, we need more than one person on these trains. Please support this bill.

ROBERT CONWAY (Ironworkers Local 433):

I am here in support of S.B. 427. It is simply prudent to have a redundant backup in the form of another person on board.

ALFONZO LOPEZ (Sheet Metal, Air, Rail and Transportation Local 88):

We support S.B. 427.

RAYMOND MCALLISTER (Nevada State AFL-CIO):

We are in support of this bill. We realize there is a fiscal note on it. If enforcing a violation and attendant court time is the whole reason for the fiscal note, we believe safety is the most important factor to be considered. The biggest part of safety is having two-man crews.

We support the bill in its current version, but if it has to be amended to remove the fiscal note and get it passed, we would be in support of that.

SENATOR FORD:

A wise man once said, "If there is no penalty for a violation, there is no incentive to do right." I would be interested in knowing how the code would be enforced with no penalty.

MR. MCALLISTER:

From my perspective, the locomotive engineer that was on the train by himself would have an obligation to report a violation of State law.

SENATOR FORD:

I suspect that we already have whistleblower statutes that the PUC has a responsibility to respond to. It would seem to me that the PUC should be able to absorb those types of complaints as opposed to needing a new position.

MR. PARKER:

If a violation were to occur, unless the PUC inspectors out in the field saw it themselves first, the complaint would likely come from the train engineer. That is not uncommon and is part of what our State Board does; it addresses the

safety concerns of our members. When potential violations of railroad safety occur, our members come to us, we gather the information and write a complaint letter to the FRA or the PUC and ask for an investigation of the matter. It is likely the source of information on any violation would come from us.

SENATOR FORD:

I cannot imagine that a railroad company would violate our laws so frequently that we would need to add another staff member to respond to whistleblower complaints.

CHAIR WOODHOUSE:

How could you fund the fiscal note if this measure is approved?

MS. MULLEN:

If requested, we could absorb the cost. We are resourceful, and we will get the job done. If a member of our Rail Safety Program had to be pulled from their regular duties to respond to a violation complaint, it could result in some delay of inspections.

SENATOR FORD:

If the penalty stays in place, I would not anticipate a large upswing in violations. The railroad companies are more likely to comply if there is a penalty.

MS. CUNEO:

Let me briefly describe the enforcement process. If our inspector is given a report of violation or witnesses one, that inspector has to gather the documentation, counsel will be assigned, the case gets a docket, notices are filed and the case runs through our hearing process. If the case were to be settled, it would require settlement conference time between staff, the hearing inspector and the railroad. If the railroad opposes the imposition of a penalty, they have the right to a hearing. A hearing can involve witnesses and cross-examination. All of this takes time and resources.

SENATOR FORD:

I understand what you are saying, but I do not think all of that would cost \$184,568 for what I believe would be a de minimis amount of complaints. I think these are things you already have to do on a whistleblower complaint, and I am not entirely convinced this fiscal note is proper.

SENATOR HARRIS:

We are talking about public safety. We have heard a lot of testimony about how crucial two-man crews are. My question relates to the penalties. How did you arrive at such low numbers for violations in the interest of public safety? At some point it becomes an economic decision for a railroad company to not pay attention to the penalty and take its chances.

MS. MULLEN:

The penalties were submitted by the bill sponsor, not the PUC.

CHAIR WOODHOUSE:

We will move on to opposition testimony.

NATHAN ANDERSON (Director Public Affairs, Union Pacific Railroad):

We take safety very seriously. We implement work rules, and we bargain collectively to ensure that work is done safely. We support safety initiatives, and we work closely with those in our labor force and our management team to make sure that work is done safely.

Specifically, S.B. 427 creates a financial responsibility for the State. The enforcement of operating practices already has a check and a balance. Labor and management have agreed to a two-person crew. No manager will put less than two operators on a train, and labor would not agree to get on such a train. Changing the crew size is not part of our current collective bargaining negotiations. We have a two-person crew in the agreement today, and we will have a two-person crew in the new agreement.

The bill does, however, threaten the integrity of the ratified local labor agreements. It compromises future cooperation and negotiations on the crew size, and it circumvents the collective bargaining process, a process designed to ensure crew safety. Finally, the bill does not address a legitimate safety concern. There is not a correlation between crew size and safety. As work rules and technology have advanced, we have seen a decline in safety incidents along with a decline in total crew size. Crew size has declined about 60 percent over the last 30 years. In that time, injuries and safety incidents have declined over 1,000 percent.

SENATOR FORD:

I have heard your policy-based arguments. I would be interested in understanding what your thoughts are on the PUC's contention that they need a new staff position to implement this bill.

MR. ANDERSON:

There is already a check and balance to ensure that there is always a two-person crew minimum. It is negotiated and agreed to, and it will not change. Adding an enforcement layer at the State level impacts the collective bargaining process, and I think it is unnecessary. If the State is interested in spending that money for public safety, I would encourage the State to look at grade separations.

SENATOR FORD:

Do you agree that if Nevada requires a two-person crew that the PUC would need to add personnel to enforce that bill?

MR. ANDERSON:

I am not an expert on how the PUC manages that process. If there was a mandate, I would say the PUC would have to enforce it somehow.

SENATOR KIECKHEFER:

Are the requirements set out in the bill already in place based on your collective bargaining agreement?

MR. ANDERSON:

That is accurate.

JOSEPH GUILD (Union Pacific Railroad):

There is a law called the Federal Rail Safety Act which might be violated with the passage of this bill. The Railway Labor Act says specifically that the State may not apply its law if it would require a court or agency to interpret or apply a collective bargaining agreement. It would be up to a court whether future collective bargaining agreements would be prohibited by the two-crew minimum statute in Nevada. There is also a possible commerce clause violation because of the barriers set up by the State. I think the Legislature should consider the importance of honoring the collective bargaining process. The results of that process, and the way in which the Class 1 railroads in Nevada abide by those

results, illustrate the same good faith by which the bargains were negotiated and struck.

CHAIR WOODHOUSE:

Seeing no further testimony on this bill, I will close the hearing on S.B. 427. I will relinquish the gavel to Vice Chair Parks.

VICE CHAIR PARKS:

We will open the hearing for S.B. 227.

**SENATE BILL 227 (1st Reprint)**: Revises provisions relating to nurses.  
(BDR 54-213)

SENATOR JOYCE WOODHOUSE (Senatorial District No. 5):

I have submitted my written testimony ([Exhibit P](#)). I am here this evening to present S.B. 227 for your consideration. This bill authorizes an advanced practice registered nurse (APRN) to sign certain documents in the place of a physician's signature if it is within his or her scope of practice.

Every day in Nevada, APRNs care for thousands of patients ranging from newborns to nursing home residents in hospitals, community-based clinics and schools. All APRNs have advanced clinical training and graduate educations that expand their scope of practice beyond that of a registered nurse. These include advanced practice competencies such as clinical nurse specialist and nurse practitioners. They work with other health care professionals to manage patient's health needs. They are central to the functioning of the health care system.

Given the current circumstances related to the access of care, Nevada can no longer afford to maintain the regulatory status quo. Nevadans are challenged to access basic health care, especially in our rural areas. As care solutions are considered, we need to recognize the value that the APRN workforce can add in providing care to all Nevadans.

In an effort to provide increased availability of health care providers I am sponsoring S.B. 227. The bill authorizes an APRN, when the signature, certification, stamp, verification or endorsement of a physician is required, to provide his or her own signature, certification, stamp, verification or endorsement if he or she is qualified to do so. The bill also requires the State

Board of Nursing to adopt regulations specifically providing for when an APRN may do so.

In certain circumstances, the bill authorizes APRNs to make certain certifications, diagnoses and determinations required to be made by a physician or other provider of health care. Additionally, this measure expands the ability of APRNs to sign documents including: excusing a person from jury duty due to a disability; authorizing a pupil to self-administer medication for asthma, anaphylaxis or diabetes; exempting a pupil from immunizations if the child is prevented by a medical condition from receiving that immunization; signing a death certificate or a stillborn certificate; authorizing the APRN to make a pronouncement of death; executing physician orders for life-sustaining treatment forms; allowing youths to return to playing a competitive sport after sustaining a head injury; authorizing a person who has a disability to obtain a disabled parking placard from the Department of Motor Vehicles; signing workers' compensation forms for an injured employee who has experienced an industrial accident; and issuing a health certificate to a prospective taxicab driver.

There is a fiscal note on this bill from the Division of Industrial Relations (DIR) within the Department of Business and Industry for \$69,994 in fiscal year (FY) 2017-2018 and \$84,996 in FY 2018-2019. These funds would be used to hire an additional licensed registered nurse (RN) to review permanent partial disability reports and other duties.

I have a soft spot in my heart for nurse practitioners. My sister was one and had her own practice in Oregon before she passed away due to brain cancer four years ago. When I was first elected to the Nevada Legislature she said to me, and I quote, "It is my hope that you will help nurse practitioners in Nevada." I have never forgotten this statement from her, and I am living up to that promise to my sister by doing what I can to support her and the APRNs in Nevada.

I would like to draw your attention to a letter ([Exhibit Q](#)) we have received from Joan Hall, President of the Nevada Rural Hospital Partners. She writes, "APRNs are the primary care provider to many rural residents and to patients in our long-term care facilities. S.B. 227 is a bill that simply makes good sense."

That concludes my comments and I would urge your support of S.B. 227.



SENATOR KIECKHEFER:

The fiscal note submitted by DIR refers to the passage of Assembly Bill (A.B.) 116. What is the pertinence of that bill?

**ASSEMBLY BILL 116**: Authorizes advanced practice registered nurses to perform certain acts required to be performed by a physician or certain other providers of health care. (BDR 54-497)

SENATOR WOODHOUSE:

That bill was sponsored by Assemblywoman Titus and did not proceed to the Senate. The two bills basically mirrored each other, but I would ask Chelsea Capurro to add anything she can to that.

CHELSEA CAPURRO (Nevada Advanced Practice Nurses Association):

Senator Woodhouse is correct, A.B. 116 basically did exactly the same thing as S.B. 227. I am assuming that it was an oversight that the bill number was left over from before.

The fiscal note submitted by DIR implies that, since Nevada has 1,600 APRNs, all of them would start processing workers' compensation claims. We do not believe that to be the case. A major provision of this bill states that an APRN can only sign documents that are within their scope of practice. We think there are about 1,100 APRNs that would be qualified to do this. Of the physicians and chiropractors who are currently allowed to sign workers' compensation claims, only about 58 percent are actually doing them. We think that approximately 25 percent of qualified APRNs would do workers' compensation claims, bringing the estimate to about 275 APRNs. Even at 58 percent, that would be about 678 APRNs signing workers' compensation claims, nowhere near the 1,600 that the DIR counted in their fiscal note.

VICE CHAIR PARKS:

Are there others wishing to testify in support of S.B. 227?

PAIGE RITZMAN (Nevada Nurses Association):

We supported this bill in the policy committee, and we continue to support it now.

VICE CHAIR PARKS:

Is there anyone wishing to speak in opposition or neutral to S.B. 227?

JOSEPH DECKER (Administrator, Division of Industrial Relations, Department of Business and Industry):

The fiscal note does incorrectly reference A.B. 116. It should reference S.B. 227. From the perspective of DIR, the potential population of 1,600 APRNs could theoretically apply to the rating panels for workers' compensation. We did not extrapolate a likely number who might process claims but the entire potential number. A reduced number of APRNs would not change our fiscal note, as we are at capacity now. We have only one RN who runs medical compliance for the entire State for DIR. I do want to point out that the DIR is funded through federal grants and the worker's compensation assessment, which follows the legislatively approved budget. Our assessment is calculated annually by DIR to fund the budget. No General Fund appropriations are used.

SENATOR FORD:

You are self-funded. Do you think you can absorb this cost?

MR. DECKER:

If the Committee added the position we are requesting, the workers' compensation assessment would reflect the legislatively approved budget. The cost would be paid for through the next calculation of the assessment. We do not feel that the one RN position we have can take on the additional workload this bill might generate.

SENATOR KIECKHEFER:

Are you maintaining a reserve level that might accommodate the cost?

MR. DECKER:

The Division does not draw from the General Fund and does not maintain a reserve. We calculate the workers' compensation assessment at the end of each year to fund the operating costs of the approved budget to a zero balance.

VICE CHAIR PARKS:

I will close the hearing on S.B. 227 and return the gavel to Chair Woodhouse.

CHAIR WOODHOUSE:

I will ask Fiscal staff to introduce some bill draft requests (BDR) now.

MR. KRMPOTIC:

The BDRs that I will read into the record were not submitted in the *Executive Budget* and were requested over the past month or so by the Finance Committee as requested by the Governor's Office of Finance.

The first is a supplemental appropriation to the Division of Child and Family Services of DHHS. This particular BDR S-1169 includes a supplemental appropriation for Northern Nevada Child and Adolescent Services program totaling \$201,329 for a projected shortfall related to the Certified Public Expenditure cost settlements. Section 2 of the BDR includes a supplemental appropriation for Southern Nevada Child and Adolescent Services program totaling \$1,156,544 for the same purpose.

**BILL DRAFT REQUEST S-1169:** Makes supplemental appropriations from the State General Fund to the Division of Child and Family Services of the Department of Health and Human Services for a projected shortfall related to child and adolescent services. (Later introduced as S.B. 526.)

SENATOR KIECKHEFER MOVED TO INTRODUCE BDR S-1169.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR FORD WAS EXCUSED.)

\* \* \* \* \*

MR. KRMPOTIC:

The second BDR is S-1170. This was also an appropriation not included in the *Executive Budget*. This is a \$5,000 supplemental appropriation to the Nevada Supreme Court for a shortfall related to judicial selection processes.

**BILL DRAFT REQUEST S-1170:** Makes a supplemental appropriation from the State General Fund to the Nevada Supreme Court for a projected shortfall related to judicial selection processes. (Later introduced as S.B. 527.)

SENATOR PARKS MOVED TO INTRODUCE BDR S-1170.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR FORD WAS EXCUSED.)

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MR. KRMPOTIC:

The next BDR is S-1173. This is a supplemental appropriation to the Division of Forestry in the amount of \$7,060,885 for a projected shortfall related to higher than anticipated costs for fire suppression and emergency response.

**BILL DRAFT REQUEST S-1173:** Makes a supplemental appropriation from the State General Fund to the State Department of Conservation and Natural Resources for a projected shortfall related to higher than anticipated costs for fire suppression and emergency response. (Later introduced as S.B. 524.)

SENATOR DENIS MOVED TO INTRODUCE BDR S-1173.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR FORD WAS EXCUSED.)

\* \* \* \* \*

MR. KRMPOTIC:

The last BDR is S-1182. This is a supplemental appropriation to the Highway Patrol Division in the amount of \$34,358 for a projected shortfall related to higher than anticipated costs for providing dignitary protection services.

**BILL DRAFT REQUEST S-1182:** Makes a supplemental appropriation from the State General Fund to the Department of Public Safety for a projected shortfall related to providing protective services to visiting dignitaries. (Later introduced as S.B. 525.)

SENATOR DENIS MOVED TO INTRODUCE BDR S-1182.

SENATOR PARKS SECONDED THE MOTION.

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THE MOTION CARRIED. (SENATOR FORD WAS EXCUSED.)

\* \* \* \* \*

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CHAIR WOODHOUSE:

Is there anyone wishing to make public comment? Seeing none, this meeting is adjourned at 8:28 p.m.

RESPECTFULLY SUBMITTED:

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Barbara Williams,  
Committee Secretary

APPROVED BY:

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Senator Joyce Woodhouse, 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	4		Attendance Roster
S.B. 212	C	1	Patrick J. Gavin / State Public Charter School Authority	Letter clarifying fiscal impact
S.B. 286	D	56	Senator Heidi S. Gansert	Proposed Amendment 4333
S.B. 286	E	1	Edward Ableser / Aging and Disability Services	Letter Removing Fiscal Note
S.B. 286	F	2	Gwen Dwiggin / Accelerated Learning Clinic, Inc.	Testimony in Opposition
S.B. 286	G	2	Donny Newsome / Fit Learning	Testimony in Opposition
S.B. 286	H	2	Jared Chase / Nevada Association for Behavior Analysis	Testimony in Opposition
S.B. 286	I	2	Ken MacAleese / Advanced Child Behavior Solutions	Testimony in Opposition
S.B. 286	J	2	Shannon Crozier	Testimony in Opposition
S.B. 323	K	4	Senator Yvanna D. Cancela	Presentation
S.B. 323	L	2	Jodi Tyson, Three Square	Proposed Amendment 4284
S.B. 323	M	1	Division of Welfare and Supportive Services	Letter Removing Fiscal Note
S.B. 427	N	11	Matthew B. Parker / Brotherhood of Locomotive Engineers and Trainmen	Testimony in Support

S.B. 427	O	5	Jason T. Doering / International Association of Sheet Metal, Air, Rail and Transportation	Testimony in Support
S.B. 227	P	4	Senator Joyce Woodhouse	Presentation of S.B. 227
S.B. 227	Q	1	Joan Hall / Nevada Rural Hospital Partners	Testimony in Support of S.B. 227