

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

**Seventy-ninth Session  
April 26, 2017**

The Senate Committee on Health and Human Services was called to order by Chair Pat Spearman at 3:31 p.m. on Wednesday, April 26, 2017, in Room 2149 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 Pat Spearman, Chair  
Senator Julia Ratti, Vice Chair  
Senator Joyce Woodhouse  
Senator Joseph P. Hardy  
Senator Scott Hammond

**GUEST LEGISLATORS PRESENT:**

Assemblyman Jason Frierson, Assembly District No. 8  
Assemblywoman Dina Neal, Assembly District No. 7

**STAFF MEMBERS PRESENT:**

Megan Comlossy, Policy Analyst  
Eric Robbins, Counsel  
Martha Barnes, Committee Secretary

**OTHERS PRESENT:**

Jared Busker, Children's Advocacy Alliance  
David Cherry, City of Henderson  
Marc Markwell, Boys and Girls Club Statewide Alliance of NV  
Susan Fisher, YMCA of Southern Nevada  
Jody Tyson, Three Square; Food Bank of Northern Nevada  
Denise M. Becker  
Ricky Gourrier, Communities in Schools Nevada

Kirsten Coulombe, Deputy Administrator, Administrative Services, Division of  
Public and Behavioral Health, Department of Health and Human Services  
Paul Shubert, Chief, Bureau of Health Care Quality and Compliance, Division of  
Public and Behavioral Health, Department of Health and Human Services  
Susan Lucia-Terry  
Delia Oliveri, American Cancer Society Cancer Action Network; Nevada  
Ambassador Team  
Tom McCoy, American Cancer Society Cancer Action Network  
Cari Herington, Executive Director, Nevada Cancer Coalition  
Morgan Holt, Intern for Assemblyman James Oscarson  
Paige Ritzman, Nevada Association of School Boards  
Shelley Hendren, Administrator, Rehabilitation Division, Department of  
Employment, Training and Rehabilitation  
Cara Paoli, Deputy Administrator, Aging and Disability Services Division,  
Department of Health and Human Services

CHAIR SPEARMAN:

I will open the hearing on Assembly Bill (A.B.) 176.

**ASSEMBLY BILL 176 (1st Reprint)**: Establishes certain requirements for the  
operation of seasonal or temporary recreation programs. (BDR 38-702)

ASSEMBLYMAN JASON FRIERSON (Assembly District No. 8):

In 2011, the statutory structure created a distinction between seasonal programs run by local government and those run by anyone else. The reason for the distinction is because local government programs utilize facilities that already meet certain requirements such as having existing escape plans, cardiopulmonary resuscitation (CPR) trained staff members and fire extinguishers throughout the facilities.

In 2011, the Legislature wanted to provide oversight and protection for children participating in these programs by creating the seasonal, recreational or out-of-schooltime programs. There was absolutely no structure put in place about how these programs should run. At the time, it was more about handling the local government-run programs in the local government facilities.

In 2013, I brought a measure to deal with the nonlocal government programs and we created a defined structure. Unfortunately, we were unable to get that measure advanced, so we continue to try. This was brought to my attention

because there was a report in Clark County where a ranch-type horse camp had children participating in this camp. It turned out the children were being brought in to do the work of the ranch. In the process, a child was hurt and there was no one on-site with CPR training. There was no one there with a first aid kit, and it became obvious these programs needed some structure and oversight.

There are parents who take their kids to these programs thinking they are in reputable programs and the children will be cared for in safe environments during the day. They later realize there was no structure in place to ensure these children were cared for and protected. In collaboration with many community organizations who already meet and exceed these standards, we were able to develop language in A.B. 176. This begins the conversation of addressing the programs that are not local government programs in order to provide an entry level of safety and security for our children.

There are several organizations who can provide insight into what is already being done and how A.B. 176 brings other programs into closer alignment. This bill is much shorter than it was when we began. There was a structure in place that complicated the matter about who monitors these programs and who should provide oversight.

A program could be the local high school basketball star wanting to give back by providing a one-on-one summer camp. There is really no need for this person to go through the same type of licensing that an established program would go through, but we still want our children to be safe. The bill is designed to ensure these kinds of community programs that may exist for a couple of months or for the summer will provide assurances for the parents.

The language created a need for the State to collect and maintain the data. The monitoring portion was removed so we can provide a base level of safety and security.

Section 2 references a person who operates a program that primarily functions as a seasonal or temporary recreational program. What we do not want is a church that operates a basketball court out back to be included as a seasonal program. We want to focus on the programs whose primary purpose is to function as a seasonal or temporary recreation program.

Section 2, subsection 1 requires a complete first aid kit be on-site and accessible in accordance with Occupational Safety and Health Administration of the United States Department of Labor.

Section 2, subsection 2 requires there be an emergency exit plan posted in a conspicuous place.

Section 2, subsection 3 requires there be one staff member who is certified and receives annual training in CPR.

Section 3 outlines the screening process. If a personal entity is going to operate a seasonal or temporary recreational program, they must meet certain criteria. The potential employee must have a complete background check and personal history check. They must also have a child abuse and neglect screening performed. The bill does not intentionally prescribe how these checks are accomplished.

If I want to go to the Las Vegas Metropolitan Police Department (LVMPD) and get a printout to take to a summer program and apply for work as a volunteer, that should be sufficient. We are not trying to prevent these community programs from being able to function, but we do want to make sure our children are safe.

Section 4, subsection 1 requires the person operating the program to maintain records of the volunteers or staff members working with these programs. If an incident occurs, the records will allow someone to determine who was at the same place at the same time.

Section 4, subsection 2 is cleanup language dealing with the protection of personal and private information.

Section 5 outlines penalties for a person operating a seasonal or temporary recreational program who fails to comply with any of these provisions. If there are no incidents, whether or not someone complies with this provision or not, we may never know. We want people to follow the law. We want parents to know what is expected and what they should see when they get to the program location. If what they see is different from what they expected, they can let someone in the program or the State know there is a problem. The operator will be subject to a civil penalty for failure to comply.

SENATOR HARDY:

When you say person, do you mean entity, corporation or business? Are you trying to highlight a business, but stay away from a basketball camp put on by my grandkids? Will they have to comply with these regulations, too?

ASSEMBLYMAN FRIERSON:

The definition of "a seasonal or temporary recreational program" is located in *Nevada Revised Statutes* (NRS) 432A, and if someone is operating a program that meets that description, there needs to be assurances for the children participating. There is a minimal amount of protection for the operator and to know who the people are instructing our children. If the person running the program wants to have a potential employee go to the LVMPD and get a printout, then they have a usable background check. Requiring these programs to have a first aid kit, someone trained in CPR and an exit plan is minimally intrusive. People running the program can be assured they have the means to assist a child who may be injured.

SENATOR RATTI:

This is a good bill that applies to a real need. In my prior life, I was the Girl Scout Lady, and I liked your example of the basketball star who came back to town but is not affiliated with an organization. This bill will also apply to organizations such as the YMCAs, the Girl Scouts and the Boy Scouts who provide temporary or seasonal programs. Is your intent to include all of these organizations?

ASSEMBLYMAN FRIERSON:

My intent is to capture all of the organizations that are not already compliant. The seasonal or temporary recreation program means a program that is offered to children for a limited time or duration and may include, without limitation, a special sports event, to include a camp clinic or workshop, a therapeutic program for children with disabilities, an athletic training program, and other special interest programs which may include, without limitation, arts and crafts workshops, theatre camp, and dance competitions.

I collaborated with some of the national organizations because they already exceed the minimum requirements based on their federal status as nonprofit organizations and participation in these children's programs. I have worked with the Boys and Girls Club, Opportunity Village and several other organizations.

SENATOR RATTI:

In Boy Scouts of America and Girl Scouts of America, the model is volunteer-driven. In the Sierra Nevada Girl Scout model, there are 2,000 volunteers serving 4,500 girls. The Girl Scouts hold a camporee with children's programs all run by volunteers. I have a concern with section 2, subsection 3, where the bill states, "Has at least one staff member on-site and available for the hours of operation who is certified and receives annual training in the use and administration of first aid." The Girl Scouts could meet this requirement if it said "staff or volunteer." We cover 96,000 square miles and have limited staff. There are some great volunteers in Elko putting on their camporee for the kids, and a staff member would not be present. But, a very qualified and highly trained volunteer would be present. Would you be open to changing the language to include the volunteers?

ASSEMBLYMAN FRIERSON:

That was originally part of the conversation and the Children's Advocacy Alliance has an amendment ([Exhibit C](#)) that may address your concern. I consider this a friendly amendment and welcome the expansion to anyone who is supervising our children. I was concerned about the overbreadth of adding volunteers, but welcome any effort to make sure anyone supervising our kids in these types of programs meets the minimum requirements.

SENATOR RATTI:

For both scouting and church programs, this addition will be important. There are areas in Nevada without paid staff, but there are highly trained volunteers. In many cases the volunteers have more experience and training than some of the staff who tend to turn over more often.

ASSEMBLYMAN FRIERSON:

Because the volunteers are not always as trained and experienced, there was concern about how broad to make the language and how burdensome this might be with programs that struggle to get volunteers. I want to be sensitive to the concerns of others, and if there is an appetite for this type of change, I will certainly welcome it.

SENATOR HARDY:

This discussion seems to be getting deeper and deeper. I look at the volunteer nature of the church I attend and just about everybody at one time or another is going to be helping some program. Does everyone in my church need to get a

background check done so they can comply before they participate in any church programs?

ASSEMBLYMAN FRIERSON:

A volunteer is not currently included, and your example is the reason they were excluded. I do not think the requirement is overly burdensome, but I recognize the church example specifically and was sensitive to how this requirement might impact such programs.

SENATOR HARDY:

That is the reason I was asking about a person, because my church uses the definition differently than you might use it. Legislatively, a person is a corporation. Is this person a random person, or is this person a corporation that should have a business license before they go out to offer a seasonal or temporary recreation program? If you have someone who is setting himself or herself up as a business, he or she is a person who needs a business license.

ASSEMBLYMAN FRIERSON:

The bill does not speak to business licensing, and it is not my intent to change the statutory structure. I believe a person who operates this type of program is considered an entity for legal purposes. The responsible party is the person who is operating a seasonal or temporary recreation program and ensuring people who are supervising kids meet the minimal requirements.

SENATOR HARDY:

Are you talking about a natural person? When you say a person, do you mean both a person and a natural person? If an individual such as you or I decide to operate a seasonal or temporary recreation program, do we have to meet the requirements of this bill? And similarly, do you mean corporate as we use the term legislatively?

ASSEMBLYMAN FRIERSON:

Yes.

CHAIR SPEARMAN:

In my other life as a pastor, I require this of everyone who is going to be around children to include those who teach Sunday school. I feel it is our responsibility to the parents and the guardians to make sure when children were left in our

care they were safe. In the United Methodist Church, that type of training to ensure background checks are completed is mandatory for pastors.

ASSEMBLYMAN FRIERSON:

If a child gets hurt, what do we do? Who is responsible? If I am operating a program and a child gets hurt, I want my staff to be protected as well by having someone there who can take responsibility for the injury. If we are talking about the safety of our children, we have to find a way to marry that with existing community programs and churches so the needs are being met.

SENATOR HARDY:

In the Boy Scouts, we go through protection training. Would some kind of training be involved to help qualify someone?

ASSEMBLYMAN FRIERSON:

Training in CPR will qualify a person to participate in a seasonal or temporary recreation program. A first aid kit can be purchased, and anyone can get a background check. I believe the last time I needed to provide a background check it cost me \$25 for a printout.

JARED BUSKER (Children's Advocacy Alliance):

I would like to walk the Committee through our proposed amendment, [Exhibit C](#), for [A.B. 176](#). The proposed amendment establishes the frequency of background checks so the amendment requires a background check and personal history check no later than three days after the employee is hired and then at least every five years thereafter. We want to ensure this information is included in the bill language so a person does not need to complete a background check annually.

We would like to add an additional section following section 3 which sets disqualifiers for a background check that are similar to the current disqualifiers for other child care facilities and similar types of after-school programs.

The last section requires an employee of a seasonal or temporary recreation program, who is under the age of 18 or a volunteer of any age, not to provide direct care to a child at the program unless the care is provided under the supervision of an employee of the program who is 18 years of age or older. Because we are not currently requiring volunteers to have background checks, this will provide another layer of supervision and protection for children.



SENATOR RATTI:

In the Girl Scouts, every volunteer is required to have a background check. There are existing standards regarding CPR training and having more than one person in attendance at all times. Do you really need to require a paid staff member or is it more about the qualifications?

MR. BUSKER:

We are looking more specifically at the qualifications, so it would be up to Assemblyman Frierson to accept or change the language. We would be more than open to seeing some type of language to say, "if a volunteer has a background check and other qualifications, they could be excluded from being under the direct supervision of a staff member." We want to ensure the individual who is providing care has the required qualifications and a background check.

SENATOR RATTI:

This will be an important change for me.

SENATOR HAMMOND:

Referencing your amendment, you have added a section 4, and my question has to do with the proposed subsection 2 of that section. You are allowing an employee 30 days to correct information that may be incorrect. Is it your intent to ensure the employee is not working until the corrections are made?

MR. BUSKER:

This language mirrors the current language for child care facilities. I believe the current practice, if there are any issues, is the person would fall under the previous standard that the person cannot be left alone with the child until the issue is corrected. The person will have to stay under direct supervision until the background check clears.

SENATOR HAMMOND:

There is another amendment being proposed by the YMCA of Southern Nevada ([Exhibit D](#)) where the language contradicts the amendment submitted by the Children's Advocacy Alliance regarding how often a background check is required. The Children's Advocacy Alliance amendment, [Exhibit C](#), wants the background check to be conducted every five years following the original background check which mirrors what is done for teachers. I think fingerprinting is done every five years or when the license is renewed. The amendment from

the YMCA of Southern Nevada, [Exhibit D](#), is requesting a background and personal history check every three years. What is the reason you chose five years?

MR. BUSKER:

Yes. We are trying to mirror current practices for other child care facilities.

DAVID CHERRY (City of Henderson):

We support A.B. 176. The City of Henderson supports this concept as it will help protect members of our community while still allowing the activities contemplated in the bill to take place without an undue burden on those who are providing the activities. We think this is a nice balance. We worked closely with Assemblyman Frierson in previous sessions on the portions for city governments and applying a similar framework to private recreational activities would be a good way to keep our kids safe.

MARC MARKWELL (Boys and Girls Club Statewide Alliance of NV):

We represent all of the Boys and Girls Clubs in Nevada. We want to offer our support to A.B. 176 as written. The Boys and Girls Clubs currently exceed these requirements, but we think this is a good bill.

SUSAN FISHER (YMCA of Southern Nevada):

We support A.B. 176 as a good first step. You have a proposed amendment from the YMCA of Southern Nevada, [Exhibit D](#), and we are formally withdrawing the proposed amendment. We support A.B. 176 in its current form and the amendment proposed by the Children's Advocacy Alliance as it goes a long way to protecting our kids.

JODY TYSON (Three Square; Food Bank of Northern Nevada):

We support A.B. 176 and the proposed amendment from the Children's Advocacy Alliance, [Exhibit C](#).

DENISE M. BECKER:

Madam Chair, and members of the Committee, my name is Denise M. Becker and I am representing myself and my young daughter today, the first day of Sexual Assault Awareness Month in Nevada. I support A.B. 176 because I wholeheartedly believe that full background checks on each and every person who work with children should be mandatory. In addition, I believe that child abuse and neglect screenings must be done as well, regardless of whether "he

is a good kid” or “she comes from a great family—of course she is trustworthy.”

On August 3, 2016, my then six-year-old daughter informed me she had been inappropriately touched by a male volunteer at the Carson City Parks and Recreation Summer Kamp Program. The Website states the program goes the extra mile to provide a fully involved experience for its participants every year and that staff members are afforded over 35 hours of rigorous training which includes CPR, first aid, mandated reporting, bloodborne pathogens, team building and behavior management. Their mission statement reads: To provide quality recreational services in an effort to continuously accommodate the leisure needs of our growing community through a spirit of partnership, innovation and a commitment to the highest level of service.

Consequently, since this highest level of service was not done, my child was violated.

My daughter is very resilient. She is a survivor. She does not suffer from trauma, but she does attend therapy. I am concerned that even though she does not exhibit any signs of shame or anxiety now, she may in the future. I am sure it will take a long time to fully heal. I will say that my daughter does have moments when worry fills her heart. Just the other day, we bumped into her friend’s father at the grocery store. My daughter wanted to know where her friend was, and he said, “His mom picked him up at the community center before I could get there.” My daughter’s eyes grew wide, she looked at me and then back at her friend’s dad. “Are you sure he is safe there?” I put my hand on her shoulder and told her it was okay, her friend is okay. My sweet little girl, I am so sorry this happened to you. I am so sorry Mills Park is not as fun as it once was because of the close proximity to the community center. I am so sorry I will not let you go to chess camp or other out-of-school programs because I cannot be there to protect you, and without proper background checks, you could be victimized again.

I mentioned today is the first day of Sexual Assault Awareness Month. In the final paragraph of Governor Brian Sandoval’s proclamation he writes, “Whereas, the Silver State is committed to engaging new voices to speak up and speak out against sexual violence, with the common goal of expanding sexual assault prevention efforts to ensure the next generation fosters attitudes that promote healthy relationships, equality and respect...”

Madam Chair, and Committee, I am one of the new voices speaking out against sexual violence—an issue I unfortunately know all too well.

CHAIR SPEARMAN:

Thank you for your testimony. Our thoughts and prayers are with you and your daughter.

RICKY GOURRIER (Communities in Schools Nevada):

I am not representing my organization today, but I come forward with ten years of experience in youth development and protection. I am in support of A.B. 176. I worked with Assemblyman Frierson over the past six years to move this process along and ensure the safety of our youth. Our biggest concerns relate to the sports programs. When a parent takes a child to participate in a football program, you automatically assume the child will be safe because the coaches have gone through background checks. If a child participates in a baseball program and the coaches have CPR training, a parent may assume they have had background checks. This assumption is incorrect because we do not have the infrastructure to ensure these individuals are trained with a tracking system to ensure they continue to meet the requirements.

Part of my professional career was with the Boy Scouts of America, so I understand youth development, youth protection training and two-deep leadership. I do not think these programs are the ones we are trying to capture with the intent of this bill. The bill is meant to capture programs that pop up and do not have the backing of an organization to ensure the proper training, background checks and infrastructure to adequately address the needs of the children.

KIRSTEN COULOMBE (Deputy Administrator, Administrative Services, Division of Public and Behavioral Health, Department of Health and Human Services):

The Division of Public and Behavioral Health submitted a fiscal note for A.B. 176. I wanted to make it clear our fiscal note for this bill is zero. When we originally reviewed the bill for costs, we interpreted the language as having the Division oversee and inspect 800 programs. Thankfully, we had an opportunity to speak with Assemblyman Frierson about the intent of the bill and were able to revise our fiscal note. We understand these programs will be under self-attestation to meet the requirements of the bill.

SENATOR HAMMOND:

As I looked at the bill, there are some requirements for these seasonal or temporary recreation programs. In order to ensure compliance, somebody has to go through and make sure the program is following the rules. When the children arrive at camp, the parents will be looking to ensure there is a first aid kit and a posted emergency exit plan. Who will make sure these items are in place?

MS. COULOMBE:

Our understanding is this will be self-attestation by the program leaders who would say they have met all of the requirements of the law. If there is some kind of issue, the Attorney General will investigate.

SENATOR HAMMOND:

How will the Attorney General be alerted to the violation? Do they send someone out to check or wait for reports or complaints to be filed by parents or individuals who experienced the missing first aid kit or posted emergency exit plan?

MS. COULOMBE:

Assemblyman Frierson mentioned he was trying to keep the language broad. We have a child care licensing unit, but these are not necessarily programs we monitor. If we receive a complaint regarding a child under four in a child care establishment that we do not license, we can investigate the complaint and make referrals. The entity responsible for the review is not addressed in the bill, and I would respectfully defer to legal counsel for an explanation. As I understand it, the Attorney General will be responsible to recoup any penalties.

ERIC ROBBINS (Legal Counsel):

Yes, the Attorney General will be responsible for enforcing any penalties. In section 5 of A.B. 176, it says a person who operates a seasonal or temporary recreation program who fails to comply with any provision of sections 2, 3 or 4 of this act is subject to a civil penalty and authorizes the Attorney General or a district attorney to recover the penalty in a civil action. It would either be the Attorney General or a district attorney who would be responsible for enforcing these provisions.

SENATOR HARDY:

How does a self-attestation work? Do you send the information to somebody to say you have met all of the requirements for a seasonal or temporary recreation program?

MS. COULOMBE:

It is my understanding in meeting the requirements of the bill, the program will have to have evidence of the background checks being provided by their employees.

We use self-attestations in other programs under our Bureau of Health Care Quality and Compliance within the Division of Public and Behavioral Health.

SENATOR HARDY:

Will someone from the program have to send the information somewhere rather than keeping it for themselves and say they did it?

MR. COULOMBE:

In this instance, they would not be able, necessarily, to send anything to the Division of Public and Behavioral Health because our understanding from Assemblyman Frierson is we would not have oversight of these programs so as not to be onerous with our Division receiving a fiscal impact from the bill.

CHAIR SPEARMAN:

When testifying, Assemblyman Frierson said representatives of a program indicated staff had training, but if they did not, there would be appropriate legal action taken.

MS. COULOMBE:

This is also my understanding about when the Attorney General becomes involved regarding penalties if the program does not meet the requirements of A.B. 176.

PAUL SHUBERT (Chief, Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services):  
In other health care facility types, we do attestation where we send information to the facility in the form of a checklist. The facility must respond back to us and provide us with an attestation that they are in compliance or have identified noncompliance with a statement of corrective action. In this case, this would

not necessarily occur, but this is how it is handled by the Bureau of Health Care Quality and Compliance in reference to health care facilities.

SENATOR RATTI:

I absolutely celebrate the intent of A.B. 176 and think it is incredibly important to keep our children safe. I need to make sure I understand the intent and who should be included in this bill. With the exception of section 2, subsection 3 in the original bill where it speaks to having one staff member on-site, do all other provisions apply to employees or staff and not volunteers?

MR. BUSKER:

Yes, except for the proposed amendment, Exhibit C, adding section 3, subsection 4 where the volunteer cannot provide unsupervised care. This is the only place where our amendment addresses volunteers.

SENATOR RATTI:

Can you only address volunteers with programs that have existing staff because the volunteers must be supervised?

MR. BUSKER:

Yes, relative to the amendment, Exhibit C. The original bill touches the broad range of any establishment operating a seasonal or temporary recreation program.

SENATOR RATTI:

What about the sports leagues such as soccer, Little League or basketball teams? There may be staff members associated to the parent organization, but at the local level, there are no staff, only volunteers. We really need to work with Assemblyman Frierson to determine who he wants to include in this bill.

When a parent drops off his or her child at a basketball or football program or camp, there are some assumptions made about safeguards being in place for the protection of that child. In most cases, those assumptions are wrong. Most of the programs we are talking about are run by parents who have committed to help. Some of the organizations may have background checks, but the vast majority of them will not. You can look at Boy Scouts, Girl Scouts and YMCAs where there is a structure that includes staff background checks with the help of volunteers, but there are other programs where volunteers perform most of the work and there are no permanent staff.

Are we including the organizations led only by volunteers because it is critically important that the background checks apply to at least a lead volunteer or there is language to cover them. The way this amendment is worded will shut down almost all of the sports leagues. I am not sure that is what we are working toward with this bill.

SENATOR HAMMOND:

There are volleyball games being played on Saturday mornings, and the games are being played at three or four different sites. Every one of the coaches is a volunteer and there is one employee from the organization who goes from one site to the next. The organization does not have a large staff, so there is not a staff member at each site during the Saturday morning games. The permanent staff member is not on-site for the entire day.

SENATOR RATTI:

Yes, there is that model where there is a staff person available, but there are other sports leagues where there is no staff person at all.

CHAIR SPEARMAN:

I will close the hearing on A.B. 176 and open the hearing on A.B. 214.

**ASSEMBLY BILL 214 (1st Reprint)**: Establishes a program to increase participation by certain demographic groups in clinical trials.  
(BDR 40-707)

ASSEMBLYWOMAN DINA NEAL (Assembly District No. 7):

Basically A.B. 214 is about diversity in clinical trials. I attended a conference in New Orleans, Louisiana, where I learned about diversity in clinical trials. I learned the United States Federal Drug Administration (FDA) developed an action plan to promote diversity in clinical trials to ensure more engagement. This bill mirrors sections of the FDA action plan and places it in the NRS.

There is scientific evidence pointing to the biochemical and physiological differences between genders; racial and ethnic groups influence disease risk, severity of the disease and the response to treatment. Diversity in clinical trials is one of the ways we can get a full picture about how a drug interacts with different human beings. The purpose of the bill is to build collaboration and relationships for the State to be an active participant in the clinical trials within Nevada.



I have a video from the National Institute of Health, Milena's Story <<https://www.youtube.com/watch?v=T3tmUX49xko&feature=youtu.be>>.

After watching this video, I understood the importance of bringing A.B. 214 forward to promote and encourage diverse members of our society to participate in clinical trials.

I grew up knowing how drugs impact life-threatening diseases because my mother had cancer. She was diagnosed when I was 15 years old. She had to find the right drug for her. Most people do not understand the impact a particular drug has on a human being and how it can change the outcome and length of someone's life. My mom had cancer twice. The drugs she was able to take in 1987 for breast cancer lengthened her life. The second time she contracted cancer, a brain tumor, she was given six months to live. She lived two years past that diagnosis date because of the drugs she was given.

It became evident that we need to deal with the stereotypes surrounding drugs, especially in African-American and Latino communities. There is a myth that a person will be a guinea pig for any new drug. There are finally mechanisms in place regarding how people are treated when participating in clinical trials. The historical abuses from the past associated with drug trials and the mistreatment of people who have participated in them are no longer the case.

When I was posting information regarding this bill, I received complaints from people who would not participate because of the "Tuskegee Study of Untreated Syphilis in the Negro Male." That was a long time ago, and we have moved toward sanctity for these trials. We are not trying to use particular groups of people in order to advance an erroneous idea or mistreat the participants. Our goal is to have better drugs and ensure we do not have more side effects than cures.

I am making light of the commercials for some drugs that may promote blindness, your left leg may be paralyzed or you may pass out when taking it. If you listen to some of the commercials you might wonder if it is worth the effort to take the drug when the list of side effects is so long. Before I get into the provisions of the bill, I want you to hear the stories from my two friends.

SUSAN LUCIA-TERRY:

I am here as a family member representing my father, Joseph Lucia, who is currently going through a clinical trial. He has an amazing gusto for life. He has had contagious enthusiasm through every aspect of his life from being a father, a husband, a family member, a community member, a volunteer and a church member. I have a photo that was taken not long before his first battle with prostate cancer 24 years ago. Following the removal of his prostate and treatment, we thought his cancer was gone. The cancer was gone for a long time and he continued to live his life.

About ten years ago, he was diagnosed with tumors in his bladder which were being identified every three months to a year. After ten instances of having bladder cancer removed, it broke through the bladder wall and the only option left was for him to have his bladder removed. His scans came back clean for about six or eight months, but the cancer came back again in his lymph nodes and a couple of spots in his bones. He was referred to the Comprehensive Cancer Center in Las Vegas, and it was the first time anyone spoke to us about the possibility of a clinical trial. I often wonder if we had heard about clinical trials earlier if he would have been able to keep the body parts that were removed.

The very first time my father walked into the Comprehensive Cancer Center in Las Vegas, the doctor informed him he might be a good candidate for a clinical trial and they were about to begin phase three. There was about three months of concern for us while they tried to decide if he was going to be included in the clinical trial. A piece of his tumor and some of his blood were sent to Europe for analysis to ensure he was an appropriate candidate. He was accepted into the clinical trial.

He goes every three weeks and will have been going for three years in November. He gets one-half day at the Center to take his drug cocktail. He goes for scans every three months, and his cancer is in remission which is the most wonderful thing in the world for our family. I have full confidence that it is because of his participation in the clinical trial that I get to have breakfast with my father every Sunday morning after church. We are grateful for the clinical trial he is participating in now.

DELIA OLIVERI (American Cancer Society Cancer Action Network; Nevada Ambassador Team):

I support A.B. 214 and am a firm believer in clinical trials. I have had breast cancer with a mastectomy, bladder cancer, leukemia and three skin cancers. I am fighting against cancer. In 1999, when we were getting ready to move to Las Vegas, my oncologist of 16 years diagnosed me with incurable leukemia.

You have what is called chronic lymphocytic leukemia [CLL]. Unfortunately, you have the worst possible markers and your life expectancy is about seven years. Because of your markers you could go into crisis mode and be dead in two weeks. There is no cure and there is no treatment. I suggest you search the Internet for a clinical trial because I think that is your only hope.

I searched the Internet, but could not find any clinical trials. Fortunately, when I moved to Las Vegas, I went to my new oncologist, Dr. Ellerton of the Clark County Medical Society, who advised me of a clinical trial that was available to me because I met all of the criteria. Dr. Ellerton explained the clinical trial in detail because there is so much uncertainty about them. The doctors do not know if the clinical trials will work. He explained the protocol to me. As a participant, I would take medication daily and every four weeks have blood drawn. Every three months I would have a bone marrow biopsy.

Fortunately, after 12 bone marrow biopsies, Dr. Ellerton contacted the study and I no longer have to have this test. I was reluctant to participate, but based upon the bleak picture provided by my oncologist in California, I decided to do it.

As a result of that trial, I still have leukemia, but it is very stable. I have been able to lead a very full and active life with my husband, my friends, my volunteer work, my 14 grandchildren, my 14 great-grandchildren, and I do not think I would be here if I was not a participant in this clinical trial.

As a member of the Nevada Minority Health and Equity Coalition and the Diversity Outreach Ambassador for the American Cancer Society Cancer Action Network, I know the importance of addressing health disparities. This is a much needed bill that will go a long way to promote diversity in clinical trials.

ASSEMBLYWOMAN NEAL:

The "2015-2016 Drug Trials Snapshots Summary Report" ([Exhibit E](#)) from January 2017 was published by the FDA. The report shows the demographic group and the type of drugs tested by demographic groups. There is also a copy of the "FDA Action Plan to Enhance the Collection and Availability of Demographic Subgroup Data" ([Exhibit F](#)). Another handout is an FDA Consumer Update titled, "FDA Encourages More Participation, Diversity in Clinical Trials" ([Exhibit G](#)).

I built the bill around the information contained in these exhibits. There is a really good Website, <clinicaltrials.gov>, where people can find all of the trials happening in Nevada. I want the Committee to be aware of how A.B. 214 is trying to connect the dots.

Section 1, subsection 1, paragraph (a), it says the policy of the State is to improve the completeness and quality of data concerning diverse demographic groups. It is super important that we as a State become a part of what is already happening in a nucleus of clinical trials. We have been disconnected as a State to the activities that are going on. When I presented the bill in the Assembly, there was a process of educating the Division of Public and Behavioral Health that these trials are occurring in Nevada. There are not just two or three clinical trials, but several hundred. We need to play a role in the encouragement and public policy surrounding these clinical trials.

Section 1, subsection 1, paragraph (b) talks about the identification of barriers. In the process of learning about these trials, transportation is one of the key barriers for people to get to the clinical trials. There are several other barriers such as myth, or it may be about child care. There are some wraparound issues where the State can assist in terms of identifying some of these clinical trials. We run many programs through the Department of Health and Human Services where we have the ability to be a conduit to identify and alleviate some of these barriers. One process of identifying a barrier is knowing what the barrier is and who can help fix it.

Section 1, subsection 1, paragraph (c) says it is State policy to "make data concerning demographic groups that is collected, reported and analyzed ... more available and transparent." It is super important for the State to participate in the linkage of this information. Going to a federal Website to find a clinical trial

in Nevada should not be the only option. People should be able to research a Nevada Website to find clinical trials in our State.

Section 1, subsection 2, paragraph (a) says, the Division shall review the most recent version of "Collection of Race and Ethnicity Data in Clinical Trials-Guidance for Industry and Food and Drug Administration Staff." This language was inserted into the bill so there is constant guidance because I learned we have limited knowledge. I want to ensure the Division provides constant updates regarding what is available.

Section 1, subsection 2, paragraph (a), subparagraph (1) says a program must include "Collaboration with medical facilities, health authorities and other local governmental entities." I actually had Dr. Ellerton present during the Assembly hearing as a supporter of A.B. 214. It is important for the State to engage in conversations with the groups that are performing this work. This is how we are able to help, support assist, promote and encourage this relationship, as it has not been solid.

Section 1, subsection 2, paragraph (a), subparagraph (2) establishes and provides maintenance for a Website and is another vehicle for people to find the relevant information. The Division is promoting the information. I do not expect the Division staff to perform the work themselves, but through collaboration, they should have relevant information to post for the public. Relevant information to the clinical trials and targeted groups, with marketing assistance, should be provided by the Division of Public and Behavioral Health.

In section 1, subsection 2, paragraph (b), I inserted "the Office of Grant Procurement Coordination and Management of the Department of Administration" to ensure we are participating by helping with any type of grants needed by the entities in order to expand the promotion of diversity in clinical trials. The more money we have on the table, the better. We know our State funds are limited, so I included this information in the bill.

The rest of the bill talks about ensuring the medical schools at the University of Nevada are part of the conversation because of clinical trials being conducted at the medical school at the University of Nevada, Reno. We hope the medical schools we intend to build in the south will also be engaged in this promotion and activity. The intent of A.B. 214 is to build collaboration.

SENATOR HARDY:

The bill already speaks to grants, would you like to include gifts and donations as well?

ASSEMBLYWOMAN NEAL:

Yes.

SENATOR HARDY:

Some of the grants require a State match so we should not limit ourselves. Just getting the information out to the public is invaluable.

SENATOR HAMMOND:

When clinical trials are conducted, it is good to know how the drug reacts in different groups of people. Clinical trials are good because they find valuable information that save and extend lives. How do we get more diversity and what is the State's role in that question? This bill has answered these questions. Your proposals are spot on, but we do not want to limit ourselves when it comes to funding.

SENATOR WOODHOUSE:

This is a subject that is near and dear to my heart. These clinical trials are so very important. In February of 2011, my sister, with no signs whatsoever, crashed. We airlifted her to San Francisco and she was diagnosed with a major brain tumor. She underwent surgery that night, and at best, we had three months to share with her. We planned for her radiation and chemotherapy treatments which she endured.

She was in Oregon at the time and her oncologist was a staunch supporter of clinical trials. My sister was a nurse practitioner and we were hoping for more time with her. Her oncologist pursued a clinical trial for her at Oregon Health and Science University in Portland. The overriding reason for her to participate in the clinical trial was for the medical community to use the information learned from her trial to help others. Because of the clinical trial, she lived for 20 more months rather than 3 months as predicted. This provided an opportunity to do more things together and celebrate the time she had left. We were very lucky she was given that opportunity. This is why it is so important to pursue this type of issue and make sure the information gets out to the public in order to participate for all of the right reasons.

CHAIR SPEARMAN:

I think the premise of the bill is to make sure people in different demographics participate.

Someone had a bill in the Senate Committee on Commerce, Labor and Energy for people who had stage 4 cancer not to have to go through three or four medications that do not work before they get to one that does. I remember a gentleman called me to tell me he wanted me to support the bill because he wanted to walk his daughter down the aisle at her wedding in June. What if there is a way to pair that bill with this one? Someone who is drowning will grab a stick. If someone has stage 4 cancer and has weeks to live, could you put something in the bill to cover clinical trials? Or could you put something in the bill to cover the outreach?

ASSEMBLYWOMAN NEAL:

I understand what you are saying because most times if a person has stage 4 cancer and they are going through a system of care, they have probably already tried a number of different drugs. They have probably even applied for or participated in a clinical trial, but we want to ensure the clinical trial information is available.

I have learned the folks doing this work are trying to do as much outreach as possible. Clients are being offered the widest range of opportunities they can have for their health concerns. These people are very dedicated to their work. Dr. Ellerton is actually a principal investigator for clinical trials. When I had conversations with the folks conducting these clinical trials, their concerns were about the State being disconnected from them.

CHAIR SPEARMAN:

When you start talking demographic groups not usually included in clinical trials, many times they are the demographics without access to the same types of information. Is there a way for the information to be passed along to people who are very ill? How do we get people healthy again?

SENATOR HARDY:

One thing I found to be very effective for people who are not computer literate is Nevada 2-1-1. Someone can call 211 because they have cancer and ask what options are available to them. The operator could be a resource to look at a

particular Website or go to the library for more information. This is a good way to point people toward information.

SENATOR RATTI:

Is this mostly in Clark County because of the resources there, or are these clinical trials held in the northern portion of the State?

ASSEMBLYWOMAN NEAL:

There are trials all across Nevada. If you access the Website <clinicaltrials.gov>, it will show the clinical trials occurring in Nevada. The information will tell when the trial began, what stage it is in and when it will be completed. There are a range of options to choose from on the Website. You can find out which drug is being used, who is conducting the clinical trial and how long it will last. I believe there are 354 clinical trials being held now. There were over 1,000 clinical trials conducted in Nevada. It is a really good Website; the information is updated frequently, and information is there from other states. We are hoping Nevada will be able to link to this Website, which is supported by the FDA, so people in Nevada will know about the clinical trials.

TOM MCCOY (American Cancer Society Cancer Action Network):

Clinical trials present opportunities for options for treatment, but oftentimes it may be the only option available for someone with a life-threatening illness. This bill fits very well with the mission of the American Cancer Society to promote and expand the clinical trial availability here in Nevada.

As mentioned, there can be barriers such as transportation. When you think about the rural portions of Nevada, we have people who cannot take advantage of clinical trials due to transportation issues. Perhaps there is an expense involved while staying away from home to receive treatment. These are issues we hope to address later on.

While we are working on the Website or the suggestion of Nevada 2-1-1, the American Cancer Society has a free service with 6 cancer information specialists with clinical trial expertise who are available for 12 hours every day speaking English and Spanish. The number to call is 1-800-303-5691 for someone who does not have the ability to go online to work through things they do not understand. This is a great resource. This number is available right now, and there are about 9,000 clinical trials listed, with most of them being



conducted in the United States. Some trials are being held in Europe. Anyone can pick up the phone and receive information about clinical trials today.

CARI HERINGTON (Executive Director, Nevada Cancer Coalition):

Clinical trials are huge for cancer patients by providing advanced technologies and treatment protocols, in addition to helping us develop more effective and accurate ways of detecting cancer early. We do have amazing things happening in Nevada, both in the north and the south.

Dr. Ellerton's group is the Nevada Cancer Research Foundation, which is an independent review board bringing national clinical trials to Nevada. The issue is to connect people with these clinical trials. Our patients are more informed about what to look for and how to locate different clinical trials. Our health care providers are just as informed in how to connect these patients to the correct clinical trial. This is what A.B. 214 is all about, moving forward for all of our families and communities in Nevada and expanding our reach in clinical trials.

CHAIR SPEARMAN:

I received testimony and data in support of A.B. 214 from the Pharmaceutical Research and Manufacturers of America ([Exhibit H](#)) and a report referencing Clinical Trials: Beneficial to Patients, the Economy and Science ([Exhibit I](#)). I have a bill, S.B. 400 called "pay for success" that would marry up nicely with A.B. 214.

**SENATE BILL 400:** Authorizes the Director of the Department of Health and Human Services to enter into success contracts. (BDR 18-310)

CHAIR SPEARMAN:

The Department of Health and Human Services will set up the infrastructure for people who want pair off with a 501(c)(3) nonprofit organization, so that might be something to consider. It has a scheduled hearing in the Assembly Committee on Government Affairs next week.

I will close the hearing on A.B. 214 and open the hearing on A.B. 305.

**ASSEMBLY BILL 305 (1st Reprint):** Requires each public school and private school to post a toll-free telephone number for a child abuse or neglect hotline. (BDR 34-362)

MORGAN HOLT (Intern for Assemblyman James Oscarson):

I am here to present A.B. 305 on behalf of Assemblyman James Oscarson, Assembly District No. 36. Assemblyman Oscarson is the Chair of the Interim Legislative Committee on Health Care. This Committee has the authority to review and evaluate the quality and effectiveness of the overall system of health care in Nevada.

During the 2015-2016 Interim, the Committee was composed of Assemblyman James Oscarson, Assemblywoman Teresa Benitez-Thompson, Assemblyman David Gardner, Senator Joseph Hardy, Senator Ben Kieckhefer and Senator Pat Spearman.

Over the course of seven meetings, the Committee considered numerous issues affecting the health care of Nevadans. One of the crucial issues discussed was children's health and their well-being. Every year, thousands of American children are victims of abuse and neglect. This includes non-accidental injuries that can be physical, mental and emotional. These injuries include sexual abuse, exploitation or maltreatment of children under 18 years of age. Abuse and neglect can be caused or allowed by persons responsible for the child's welfare. According to the federal Centers for Disease Control and Prevention, one in four children falls victim to child abuse or neglect at some point in his or her life.

Child abuse and neglect result in long-term negative consequences. Victims are more likely to engage in risky behaviors in adolescence and to experience poor health outcomes in adulthood including depression, substance abuse, cardiovascular disease and diabetes.

Early detection of child abuse not only reduces the negative effects later in life, but it can also save a child's life. However, victims of child abuse are often terrified to discuss what has happened or is happening to them. Perpetrators often threaten the child or threaten to harm the child's loved ones. Most perpetrators are known to the victims, and many are even family members. Disclosing the abuse can often be frightening in this situation because it leads to a disruption within the child's own family.

School can be a safe place for victims of child abuse and neglect, and this bill aims to make it easier for children to disclose what is happening to them. An example of this can be found in written testimony submitted by Janice Bundas

([Exhibit J](#)). For Janice, having such a poster would have sent a message that someone cared and would have encouraged her to report her own abuse.

Assembly Bill 305 as amended specifically requires the Division of Child and Family Services (DCFS) of the Department of Health and Human Services to design a child abuse hotline poster to be displayed in public and private schools across the State. This poster must be in bold, include the statewide child abuse and neglect hotline number and any local hotline number. The poster must be at least 11 by 17 inches and include simple, clear information in English, Spanish and any other language the Division sees fit.

Lastly, the poster must contain instructions for calling 911 and accessing the Division's Website for information on reporting these abuses. In addition to establishing guidelines for the poster, the bill also requires the DCFS to distribute the poster to the boards of trustees of school districts, governing bodies of charter schools and private schools.

The board of trustees in each school district and the governing body of each charter school and private school must ensure at least one poster is clearly displayed in every school at student eye level and in an area easily and frequently accessed by students. They may also promote the hotline through electronic means including social media.

For the Committee's reference, I have provided a couple of examples of similar posters posted by schools in Texas ([Exhibit K](#)) and ([Exhibit L](#)). Requiring schools to post these child abuse hotline numbers seems like a fairly easy way to raise youth awareness and the use of the State and local child abuse hotlines. The costs to schools and to the DCFS are quite low, but the benefits to students are numerous.

During the Interim when the Legislative Committee on Health Care first considered this issue, the DCFS was supportive and indicated there is no fiscal note. In addition, I want to emphasize this bill relies on existing hotline numbers. Currently, the DCFS has a statewide toll-free hotline number for reports of abuse or neglect and local child abuse hotlines are also operated in Carson City, Fallon and Pahrump as well as Clark, Elko, and Washoe Counties. In passing A.B. 305, Nevada will join numerous other states enacting similar legislation ([Exhibit M](#)). The legislation informs child victims of their value, tells them they can inform someone about the victimization and provides resources to connect

them with people who can and want to help them. If these posters encourage even one scared child to reach out and tell someone about his or her abuse or neglect, this bill will be a success.

MR. BUSKER:

We support A.B. 305. We feel this legislation will perfectly align with S.B. No. 394 of the 78th Session, which required schools to teach personal safety to children. Both of these requirements will help empower children to report their own abuse or the abuse of their friends and family.

PAIGE RITZMAN (Nevada Association of School Boards):

We support A.B. 305 and appreciate the inclusion of social media, as we feel it will reach children where they socialize. This is a really simple step to protect our children.

CHAIR SPEARMAN:

I want to add to the record the written testimony I received from Marc Klaas and Erin Harper ([Exhibit N](#)). I will close the hearing on A.B. 305 and open the hearing on A.B. 20.

**ASSEMBLY BILL 20 (1st Reprint)**: Revises provisions relating to services to assist persons with disabilities in obtaining employment. (BDR 38-225)

SHELLEY HENDREN (Administrator, Rehabilitation Division, Department of Employment, Training and Rehabilitation):

Assembly Bill 20 primarily affects NRS 426 and NRS 615, which mandate the vocational rehabilitation program. These statutes pertain to the Bureau of Vocational Rehabilitation and the Bureau of Services to Persons Who Are Blind or Visually Impaired, so together they are typically called Vocational Rehabilitation. Both programs have a mission to assist people with disabilities to remove barriers to employment. We help people obtain employment, maintain employment or promote employment if their disability is a barrier.

To that end, we can provide goods and services to remove barriers that can be anything from job search skills, assisted technology, job coaching and job development. We can put people through training programs, college education certification programs and pay for tools and credentials. I submitted my written testimony ([Exhibit O](#)), but will summarize the information. This bill began as four

different bills, so I have divided the bill into themes to explain why some of the changes are being proposed.

You may be familiar with the Workforce Innovation and Opportunity Act (WIOA) which gave states the ability to select to whom the federal Department of Education issues the Rehabilitation Act, Part B funds. Part B funds are utilized for independent living services. Nevada's Aging and Disability Services Division (ADSD) already operates an independent living program.

The Division's Bureau of Vocational Rehabilitation previously sub-granted those Part B funds to ADSD to administer in its programs. We were able to utilize these independent living funds through our partnership with ADSD. With the changes in the WIOA, and agreement with all parties, Governor Brian Sandoval made a request for the Part B funds to go directly to the ADSD. The request was granted. Upon submission and approval of ADSD's State Plan for Independent Living, this change became effective on October 1, 2016. Section 16 removes the Rehabilitation Division as the designated State entity to receive the federal Part B funds for independent living. This is the only funding being addressed by A.B. 20.

The Bureau of Services to the Blind and Visually Impaired (BSBVI) previously operated a program called "Life Skills." The funding for this program was eliminated during the 2011 Legislative Session. The governing statutes were never updated to reflect the elimination of this independent living program. Independent living programs do not require an employment focus. All of the funding we have now requires an employment focus. The independent living skills outlined in NRS 426.518 are unfunded, and we do not have the ability to provide these services.

Sections 8, 10, 11 and 12 of A.B. 20 remove the provisions regarding the unfunded independent living services within the BSBVI. It also clarifies the duties and responsibilities of that Bureau which includes vocational rehabilitation with competitive, integrated employment as the goal. This is pursuant to the Rehabilitation Act of 1973 and includes the amendments in Title IV of the WIOA.

The WIOA also impacted the Rehabilitation Division's vocational rehabilitation program in some dramatic ways. The WIOA emphasized and defined competitive integrated employment as the goal of the vocational rehabilitation

program to be a workforce program. That definition and the renewed program emphasis is included throughout A.B. 20. The reference to competitive integrated employment is included in sections 2, 8, 10, 11, 12, 23, 24, 25, 26 and 31.

The definition of competitive integrated employment from WIOA has been added in sections 3, 21 and 25. The term "competitive integrated employment" language has been added to describe the employment goals of the vocational rehabilitation and services to the blind programs. In some places the language replaced the term "gainful occupation" in sections 8, 10, 24, 26, 28, 29, 31 and 41 as amended.

While we were cleaning up and making changes to the language, we added some "people first" language within sections 26, 27, 28, and 29, changing the term "handicap" to "impediment" and the term "render fit" to "prepare," to remain consistent with the Rehabilitation Act regulations in *Code of Federal Regulations* (CFR) Title 34.

Assembly Bill 20 makes changes within the Bureau of Vocational Rehabilitation authorizing statutes NRS 615.010 to NRS 615.300 and the BSBVI authorizing statutes NRS 426.518 to NRS 426.610 to create consistency between the two Bureaus in sections 2, 4, 5, 7, 8, 23 and 31. Both Bureaus have the same goal, and they have the same service provision, but what is unique is the population being served in those two Bureaus.

Sections 13 and 40 update and clarify confidentiality as it relates to consumer information that is gathered and contained within both Bureaus. This change is being made on the advice of the Office of the Attorney General to maintain consistency with CFR Title 34.

Language is added to authorize the Rehabilitation Division to create policies concerning the nature and scope of vocational rehabilitation services in both Bureaus in sections 6, 16, 17 and 22. The bill clarifies the requirement for the use of comparable services and benefits in certain circumstances in section 14.

Lastly, the bill eliminates all references and authority for the Bureau of Vocational Rehabilitation to operate "rehabilitation facilities" and/or "workshops" in sections 19, 32, 36 and 37 and all but one of the repealed sections.

It is the opinion of the Division that the U.S. Supreme Court decision resulting in the Olmstead ruling, and the decision by the Department of Justice in a case against the State of Oregon, *Lane v. Kitzhaber*, mandate that government agencies provide services, and in particular, employment services, in the most integrated setting possible. A Division-operated rehabilitation facility would be a segregated setting, and contrary to the American Disabilities Act (ADA) and these recent court decisions.

In the Lane case against the state of Oregon, employment services for individuals with intellectual and developmental disabilities included facility-based sheltered workshops. It was determined Oregon significantly over relied on this employment services option. A sheltered workshop is a segregated facility that exclusively or primarily employs persons with intellectual and developmental disabilities. Sheltered workshops are usually institutional facilities in which persons with intellectual and developmental disabilities have little or no contact with nondisabled persons besides paid staff and typically earn wages that are subminimum wage.

By contrast, supported employment services and related employment services, such as those provided by Nevada's vocational rehabilitation programs support individuals with disabilities including those with intellectual and developmental disabilities, to work in typical jobs in the community at competitive wages. These services enable individuals to access jobs in typical work settings where they can interact with nondisabled coworkers, customers and peers and enjoy the same benefits of employment as their nondisabled peers, like competitive wages, employee benefits and the opportunity to advance.

In addition to these recent court cases, other states have been sued by the Department of Justice for violations of the ADA for systematically utilizing sheltered employment or "workshops" and for not providing services in as integrated a setting as possible. The WIOA supports integration, defined it and included it as a requirement for a successful employment outcome in the vocational rehabilitation program. Therefore, A.B. 20 removes the authority for the Bureau of Vocational Rehabilitation to manage "rehabilitation facilities" and/or "workshops."

The vocational rehabilitation program previously operated two workshops, one in Reno and one in Las Vegas more than 15 years ago. Both were closed in 1999. There is currently no appetite and no support in the law for the

vocational rehabilitation program to operate a rehabilitation facility or workshop in the future.

SENATOR RATTI:

I understand the direction we are moving from sheltered workshops to more integrated employment options, what are we doing to address the need for more employers who are willing to support that option?

MS. HENDREN:

About two years ago, we established a workforce development team within the vocational rehabilitation program. We have a workforce development manager who has a team of employees to serve the north and rural areas, and another team in the south. These teams make contract with employers, outreach and make presentations. Through these teams we have established some work readiness programs with Pepsi, OfficeMax and Office Depot in Las Vegas. We began a program with Arrow Electronics in the north and a program with Starbucks at their roasting plant in Minden. These teams are primarily responsible for finding these partners to convince them about the benefits of hiring these individuals. We also conducted a media campaign that focused on employers. We now have a social media presence, success videos on the Website and on our YouTube channel showing employers talking about their success with hiring people with disabilities.

SENATOR RATTI:

Do you flow through funds to local organizations like High Sierra Industries in the north or Opportunity Village in the south?

MS. HENDREN:

Yes. We work with these organizations and many others to provide integrated services toward employment for these individuals. With Easterseals, Opportunity Village and High Sierra Industries we have a braided funding program to move individuals who were in sheltered employment into competitive integrated employment. It is intensive work readiness and behavioral development that is part of the program and moving into work experiences. That program was initially piloted with High Sierra Industries and was very successful. The program is being duplicated with Easterseals and Opportunity Village.



SENATOR RATTI:

Whenever we change models, we change for the right reasons. Our thinking has evolved. Then, there is this reality that we have clients who have lived in another model where they have been comfortable for decades. A 75 percent success rate is great, but there is still that 25 percent that are not transitioning to a new supported workforce model. The old model was providing quality of life benefits where the clients were getting out of their apartments and interacting socially with other people. It almost becomes an independent living issue more than a workforce issue to ensure we replace the workforce support with independent living support. We do not want these people to end up institutionalized. I want to make sure everyone transitions to someplace positive if not all to supportive workforce.

MS. HENDREN:

Yes. We work very closely with our partners, especially the Aging and Disability Services Division that provides many of these services and supports we cannot provide due to our funding source. That is one way in which we hope to reach the folks who are not seeking employment.

The Bureau of Vocational Rehabilitation was part of the Governor's Task Force on Integrated Employment which worked across agencies including many nonprofit representatives, some parents and some self-advocates. That group developed three year, five year and ten year strategic plans for the State. One of the cornerstones for that taskforce was choice. Individuals should have the choice regarding what goals they would like to have in their lives. There is a choice for someone not seeking employment, although the vocational rehabilitation program must maintain that focus.

SENATOR RATTI:

If the funding source changes, do these people really have a choice? There is a choice not to move to the new program, but if the program they are participating in is eliminated, what choice do they have?

MS. HENDREN:

There are other programs and funding streams such as Medicaid and the Waiver Program that pays for these kinds of services. Someone has always had to have employment as their goal to be eligible to participate in the vocational rehabilitation program.

SENATOR RATTI:

I am really nervous about the transition for this last group of people who may have been in the system for a long time. The program required these people to be seeking employment in order for them to participate, but could employment have been defined as a sheltered workshop in the past?

MS. HENDREN:

That is correct. But in Nevada, we have not placed individuals into sheltered employment through the vocational rehabilitation program for a number of years.

SENATOR RATTI:

Even the programs that are operated by the nonprofits in the communities and not necessarily the State operated programs? You indicated you provide funding to nonprofits that may have been placing individuals into sheltered workshops. Is that true?

MS. HENDREN:

No. We do not provide funding to someone like Opportunity Village to place an individual into sheltered employment.

SENATOR RATTI:

That is the clarification I needed.

CHAIR SPEARMAN:

When you talk about employment, is there a limit in terms of the economic sector you would review? There is a burgeoning clean and green industry coming to Nevada. That industry will pay handsomely to people who are engaged. I am wondering if there is an opportunity to begin now for the Division to look at what is necessary for someone who is blind or visually impaired to be a part of this industry.

MS. HENDREN:

We are making great strides, prompted by WIOA, to collaborate better with our workforce partners when we developed a unified State plan. We are taking steps to better communicate with the sector councils and the Governor's Office of Workforce Innovation when established, and we are having conversations with the local workforce development boards with regard to the expansion of the one-stop system. We are working closely with them and we want to be a

part of career pathways and share resources. We are particularly interested in what comes out of the sector councils for what is considered in-demand jobs. We use a person-centered planning model. Whatever the employment goal is of a person, it has to be unique to their skills, abilities and interests. Our rehabilitation counselors have master's degrees and this is their area of expertise. They spend many hours working with individuals to assess these things. Together, an informed choice of an employment goal is made. We can encourage people with a skill set to go into specific areas where there are high paying jobs. Ultimately, there are many factors that would have to be considered and it comes down to the choice of the individual.

SENATOR SPEARMAN:

This is why I would like to change the term from "disabled" to "differently abled." The minute a person gets the term "disabled" in their head, thoughts go toward what the person cannot do instead of what they can do.

I found a study at <<http://dx.doi.org/10.1080/13549839.2014.974151>> conducted in British Columbia, Canada in 2013.

Findings indicate that green businesses and social entrepreneurs have uniquely engaged in social training and hiring strategies related to green jobs. The major challenges they face include a lack of policies that support the development of green jobs through social training and hiring. As a result with these findings, an argument is made for combining job and life skills for both disadvantaged populations and the agencies that serve them as well as building the capacity of employers to practice social hiring.

The title of the article is "Green Jobs for the Disadvantaged in British Columbia, the Perspectives of Non-governmental Organisations and Social Entrepreneurs" taken from the *International Journal of Justice and Sustainability*, Volume 21, 2016, Issue 4.

As we are going through this metamorphosis, it is not just for the visually impaired but across the spectrum. There are things that people who are in the differently abled community might be able to do if we think about what they can do differently.

MS. HENDREN:

We agree with you and spend many hours speaking publicly and providing outreach to try to dispel the myths around hiring a person with a disability. We spoke to 23,000 people last year around the topic of skills and abilities they have that can be of value in the workplace.

To your point about providing job skills and life skills, for consumers in the vocational rehabilitation program that are employment seeking, we can provide life skills if it is part of the barrier to employment. For example, someone with a visual impairment might need orientation and mobility training to learn how to catch the bus in order to get to work. If the life skill training can be tied to employment we can still provide some of these services.

CHAIR SPEARMAN:

I received written testimony ([Exhibit P](#)) from Ed Guthrie of Opportunity Village in support of A.B. 20. I also received written testimony ([Exhibit Q](#)) and a Position on Employment report ([Exhibit R](#)) from Sherry Manning, Executive Director of the Nevada Governor's Council on Developmental Disabilities in support of A.B. 20.

CARA PAOLI (Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services):

We work closely with Vocational Rehabilitation and have an independent living program through our Aging and Disabilities Services Division. We have job and day training programs through Developmental Services where we work toward competitive employment for individuals served.

SENATOR RATTI:

I am more focused on the developmental population as opposed to the visually differently abled population, and is that where the current sheltered workshop challenge resides? This is a more recent shift from sheltered workshops to competitive employment.

MS. PAOLI:

Developmental Services still has sheltered employment sites that we are working to move to community-based sites with the help of our providers. We are neutral on the bill.

SENATOR RATTI:

My concern references the differently abled folks who have been in sheltered workshops. We are working hard to move lots of people into competitive independent living, but I believe there is a population where the sheltered workshop experience has become part of their independent living, coping or safety net. I am nervous about this transition being a major challenge.

MS. HENDREN:

There are many intricacies in what the Division is proposing.

Remainder of page intentionally left blank; signature page to follow.

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CHAIR SPEARMAN:

I will close the hearing on A.B. 20. We have concluded the work of the Committee for today and are adjourned at 5:42 p.m.

RESPECTFULLY SUBMITTED:

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Martha Barnes,  
Committee Secretary

APPROVED BY:

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Senator Pat Spearman, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	9		Attendance Roster
A.B. 176	C	2	Jared Busker / Children's Advocacy Alliance	Proposed amendment
A.B. 176	D	1	Susan Fisher / YMCA of Southern Nevada	Proposed amendment
A.B. 214	E	16	U.S Food and Drug Administration	Drug Trials Snapshots Summary Report
A.B. 214	F	39	U.S Food and Drug Administration	FDA Action Plan to Enhance the Collection and Availability of Demographic Subgroup Data
A.B. 214	G	2	U.S Food and Drug Administration	FDA Encourages More Participation, Diversity in Clinical Trials
A.B. 214	H	1	Pharmaceutical Research and Manufacturers of America	PhRMA Testimony
A.B. 214	I	1	Pharmaceutical Research and Manufacturers of America	PhRMA Clinical Trials Report
A.B. 305	J	2	Janice Bundas	Written Testimony
A.B. 305	K	1	Texas Education Agency	English Child Abuse Hotline Poster 1
A.B. 305	L	1	Texas Education Agency	Spanish Child Abuse Hotline Poster 2
A.B. 305	M	1	Morgan Holt	List of states passing similar laws
A.B. 305	N	4	Marc Klaas and Erin Harper	Written Testimony

A.B. 20	O	3	Shelley Hendren / Rehabilitation Division, Department of Employment Training and Rehabilitation	Written Testimony
A.B. 20	P	1	Ed Guthrie, Opportunity Village	Written Testimony
A.B. 20	Q	1	Sherry Manning, Governor's Council on Developmental Disabilities	Written Testimony
A.B. 20	R	1	Sherry Manning, Governor's Council on Developmental Disabilities	Position on Employment