

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

**Eightieth Session
April 3, 2019**

The Committee on Health and Human Services was called to order by Chairwoman Lesley E. Cohen at 12:14 p.m. on Wednesday, April 3, 2019, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Lesley E. Cohen, Chairwoman
Assemblyman Richard Carrillo, Vice Chairman
Assemblyman Alex Assefa
Assemblywoman Bea Duran
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Lisa Krasner
Assemblywoman Connie Munk
Assemblywoman Rochelle T. Nguyen
Assemblyman Tyrone Thompson
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS ABSENT:

Assemblyman John Hambrick (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Jim Wheeler, Assembly District No. 39

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Committee Policy Analyst
Karly O'Krent, Committee Counsel
Christian Thauer, Committee Manager and Secretary
Alejandra Medina, Committee Assistant



OTHERS PRESENT:

Rebecca Gasca, representing American Kratom Association
Charles M. Haddow, Senior Fellow on Public Policy, American Kratom Association
Kelly Dunn, President, Urban Ice Inc., North Las Vegas, Nevada
Tom Pilkington, General Manager, Urban Ice Organics, North Las Vegas, Nevada
Kim Demott, Private Citizen, Sparks, Nevada
Eric Cochran, Private Citizen, Reno, Nevada
Steven Armstrong, Private Citizen, Reno, Nevada
Jared Busker, Associate Director/Government Affairs Manager, Children's Advocacy Alliance
Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County
Erik Jimenez, Senior Policy Director, Office of the State Treasurer
Alex Goff, Private Citizen, Reno, Nevada
Tom Morley, representing Laborers' International Union of North America 872; and Nevada State AFL-CIO
Jose Rivera, Private Citizen, Las Vegas, Nevada
Nancy E. Brune, Executive Director, Kenny Guinn Center for Policy Priorities, Las Vegas, Nevada
Tracy Brown-May, Director of Advocacy, Board, and Government Relations, Opportunity Village; and Lead Organizer, A Team NV
Shirley Campbell, Private Citizen, Las Vegas, Nevada
Regina D. Daniel, Private Citizen, Las Vegas, Nevada
David Dazlich, Director, Government Affairs, Las Vegas Metro Chamber of Commerce
C.J. Fields, Education Programs Professional, Nevada Department of Education
Jacqueline Folger, Private Citizen, Las Vegas, Nevada
Judith Koller, Private Citizen, Las Vegas, Nevada

Chairwoman Cohen:

[Roll was called. Committee policies were explained.] We will take the work session first. Then we will take the bills out of order for the hearings. We will hear Assembly Bill 303 first, followed by Assembly Bill 346, and then Assembly Bill 339. Ms. Lyons, please begin the work session.

Marsheilah Lyons, Committee Policy Analyst:

The members of the Committee have in front of them the work session documents prepared by staff, which are also available on the Nevada Electronic Legislative Information System to members of the public.

There are three bills on the work session agenda today that will be rolled to a future work session. These are Assembly Bill 133, Assembly Bill 156, and Assembly Bill 228.

**Assembly Bill 133: Revises provisions governing runaway or homeless youth.
(BDR 38-399)**

[This bill was agendized but not considered.]

**Assembly Bill 156: Revises provisions governing the education of a child who is in need
of protection. (BDR 38-458)**

[This bill was agendized but not considered.]

**Assembly Bill 228: Expands the jurisdiction of the Office of the State Long-Term Care
Ombudsman to protect persons receiving services from certain additional
entities. (BDR 38-171)**

[This bill was agendized but not considered.]

With that notice, if you have subsequent amendments regarding bills that have already been heard by the Committee, I would encourage you to reach out to the respective sponsors so that they are aware of them when the bills are put on work session.

The first bill in work session is Assembly Bill 124.

**Assembly Bill 124: Requires a hospital or independent center for emergency medical
care to take certain actions when treating a female victim of sexual assault.
(BDR 40-591)**

Marsheilah Lyons, Committee Policy Analyst:

[Marsheilah Lyons read from the work session document ([Exhibit C](#)).] Assembly Bill 124 requires each hospital or independent center for emergency medical care to adopt a written plan to ensure that a female victim of sexual assault who is treated in a hospital or independent center for emergency medical care is provided with medically and factually accurate written information concerning emergency contraception, prophylactic antibiotics, and certain other services for female victims of sexual assault. It also requires these facilities to provide an oral explanation of that information in a language the victim understands. In addition, the victim must be offered the opportunity to receive emergency contraception or prophylactic antibiotics, which are available at the hospital or independent center for emergency medical care. The bill also requires the written plan to be approved by the Division of Public and Behavioral Health (DPBH) of the Department of Health and Human Services and authorizes enforcement of the measure's provisions.

There was an amendment proposed by Assemblywoman Munk at the bill hearing. In summary, the amendment:

1. Removes the requirement that each hospital and independent center for emergency medical care adopt a written plan to ensure that certain information and services are provided related to emergency contraception, prophylactic antibiotics, and certain other services. Instead, the amendment requires the DPBH to convene a group, including hospital industry representatives and experts in the

treatment of sexual assault, to write a medically and factually accurate document that includes information and resources to provide to sexual assault victims;

2. Requires the inclusion of statewide resources in the document organized by region; and
3. Expands the provisions of the measure to apply to all sexual assault victims, irrespective of gender.

Chairwoman Cohen:

I will take a motion to amend and do pass.

ASSEMBLYWOMAN TITUS MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 124.

ASSEMBLYWOMAN NGUYEN SECONDED THE MOTION.

Do we have a discussion on the motion? [There was no reply.]

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

I will assign the floor statement to Assemblywoman Munk.

Marsheilah Lyons, Committee Policy Analyst:

We will move on to Assembly Bill 151.

Assembly Bill 151: Provides for the protection of children who are victims of commercial sexual exploitation. (BDR 38-457)

Marsheilah Lyons, Committee Policy Analyst:

[Marsheilah Lyons read from the work session document ([Exhibit D](#)).] Assembly Bill 151 requires any person who is currently required to report the abuse or neglect of a child to report suspected commercial sexual exploitation of a child to a child welfare services agency as soon as reasonably practicable, but not later than 24 hours after becoming aware of the possible exploitation. In addition, the person reporting is required to contact a law enforcement agency immediately, if an alleged perpetrator is present or believed to be with the child, or the child is otherwise in imminent danger. Any person who knowingly and willfully violates reporting requirements is guilty of a misdemeanor for the first violation and a gross misdemeanor for each subsequent violation.

The bill outlines the requirements for a child welfare services agency that receives such a report to conduct an initial screening and report the commercial sexual exploitation to the appropriate law enforcement agency. Additionally, if the child is not in the agency's jurisdiction, the agency is authorized to contact child welfare services in another jurisdiction.

The measure provides that certain information related to a report of investigation is confidential and may only be released or disseminated under certain authorized circumstances. The measure outlines certain requirements related to the release of the information and a penalty for improperly releasing or disseminating the information.

There are no amendments for this measure. Just as a note for the Committee members, Amber Howell, Director, Social Services, Washoe County, put on the record that the fiscal note on the measure can be removed, noting that it is no longer relevant.

Chairwoman Cohen:

I will take a motion to do pass.

ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS
ASSEMBLY BILL 151.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

Do we have a discussion on the motion? [There was no reply.]

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

I will assign the floor statement to Assemblyman Thompson.

Marsheilah Lyons, Committee Policy Analyst:

The final item on work session today is Assembly Bill 194.

Assembly Bill 194: Revises provisions governing the membership of the Nevada Early Childhood Advisory Council. (BDR 38-862)

Marsheilah Lyons, Committee Policy Analyst:

[Marsheilah Lyons read from the work session document ([Exhibit E](#)).] Assembly Bill 194 requires that the membership of the Nevada Early Childhood Advisory Council (ECAC) include a member who is a representative of the pediatric mental, physical, or behavioral health care industry.

An amendment was proposed by Denise Tanata, Children's Advocacy Alliance. In summary, the amendment requires the ECAC to submit an annual report outlining its activities and recommendations for improvement to Nevada's early childhood system. The report must be submitted on or before December 1 of each year to the director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care and the Legislative Committee on Education, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year.

In addition, the bill will be amended to add Assemblymen Tyrone Thompson and Richard Carrillo as sponsors.

Chairwoman Cohen:

I am looking for a motion to amend and do pass.

ASSEMBLYMAN CARRILLO MADE A MOTION TO AMEND AND DO
PASS ASSEMBLY BILL 194.

ASSEMBLYWOMAN GORELOW SECONDED THE MOTION.

Do we have a discussion on the motion? [There was no reply.]

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

I will assign the floor statement to Assemblywoman Krasner.

Chairwoman Cohen:

I will close the work session and open the hearing on Assembly Bill 303.

Assembly Bill 303: Provides for the regulation of kratom products. (BDR 40-1055)

Assemblyman Jim Wheeler, Assembly District No. 39:

I am pleased to present Assembly Bill 303 today for your consideration. Let me start by providing some background on this bill. Americans spend billions of dollars on prescription drugs every year. Many of these drugs, unfortunately, end up being abused. Opioids have been a problem—a problem that has been growing at an alarming rate over the last few decades, as we all know. It is now responsible for the deaths of over 140 Americans every single day. It is because of our opioid crisis that I am introducing this bill at the request of Ms. Gasca.

Kratom, which is a cousin of the coffee plant, is used by many as an alternative to addictive opioids in order to escape addiction. I believe we need to improve access to alternative products like kratom, study their effects, and find solutions to our opioid problem. With me today is Rebecca Gasca, and with your indulgence, I will ask her to walk you through the bill and to answer any questions.

[Assemblyman Wheeler submitted but did not discuss an amendment ([Exhibit F](#)).]

Rebecca Gasca, representing American Kratom Association:

I have submitted my remarks for the record and they are posted on the Nevada Electronic Legislative Information System ([Exhibit G](#)). I would like to introduce you to the plant itself before I turn it over to the clients who are here today to talk about the American Kratom Association and the manufacturing facility located in North Las Vegas. We also have a

young woman here today who will share her personal story of using kratom and talk about how it has helped support her health.

Kratom is a tropical evergreen plant formally known as *Mitragyna speciosa*; it is native to Southeast Asia. It has been used for centuries as an energy and mood booster, similar to having a cup of coffee in the morning, and for its pain-relieving effects. The natural kratom plant is typically consumed by chewing on the leaves, brewing the leaves in hot water to create a tea, or in capsules of powdered kratom leaves. It has shown tremendous promise for acute and chronic pain management patients who choose to use a natural, alternative pain management option instead of chemically formulated prescription drugs.

In 2005, kratom became controversial because the FDA [U.S. Food and Drug Administration] had initially erroneously concluded that as many as 44 deaths were attributable to its use. Based on the mistaken belief that kratom was dangerous, the DEA [U.S. Drug Enforcement Administration] moved to classify kratom as a Schedule I drug in 2016. Although kratom is neither an opiate nor a synthetic opiate, the FDA has publicly stated that it considers kratom an opioid because the active compound partially attaches to the mu-opioid receptors in the brain. This combination of misinformation has continued, and policy makers in six states have been misled into banning kratom.

The National Institute on Drug Abuse (NIDA) investigated the FDA claims regarding 44 related deaths and concluded the deaths were actually the result of polydrug use or the ingestion of adulterated kratom products laced with toxic concentrations of dangerous drugs. The real problem was that unscrupulous vendors had spiked natural kratom products with substances like heroin and fentanyl that produced the same dangerous effects as other opioids—and that was the actual but unnamed problem initially identified by the FDA. Two new animal studies, one by NIDA and the other by a group of independent scientists that were respectively published in June and July of 2018, directly refute the claim that kratom is dangerously addictive or that it has the same effects as classic opioids.

The Kratom Consumer Protection Act will protect Nevada consumers from adulterated kratom products and require labeling that allows consumers to know exactly what is in any kratom product they purchase here in Nevada. The bill also bans the sale of kratom products to anyone under the age of 18. The Kratom Consumer Protection Act, that protects consumers from adulterated kratom, is being currently considered by a dozen states—and more are being added to that list every week. In our neighboring state of Utah, this legislation was passed and signed by the Governor on March 26, 2019, and is now law. Just last week, the Georgia Legislature passed their version of this legislation on a vote of 164-1 in the House, and a 50-0 vote in the Senate, and it is now being enrolled for the signature of the Governor there.

My testimony ([Exhibit G](#)) also lays out the most recent updates on the status on similar forms of this bill in Arkansas, Rhode Island, Wisconsin, Ohio, Michigan, Missouri, Kansas, Oregon, Idaho, and Arizona.

We appreciate the leadership of Assemblyman Wheeler in sponsoring the bill and are grateful that Assemblyman Yeager has agreed to add his name to the bill. We submit the amendment to the Committee with the support of the sponsors. The amendment removes the State Board of Pharmacy as the oversight body, puts the bill into *Nevada Revised Statutes* (NRS) Chapter 597, and adds Assemblyman Yeager as a cosponsor, while also clarifying the definition of kratom in order to make it clear that vendors cannot skirt the intent of the bill by simply labeling kratom products as "not for human consumption."

The amendment moves the regulation into NRS Chapter 597, which essentially is a consumer protection chapter, and gives purview and oversight to the Attorney General or any local district attorney to go ahead and pursue civil violations. That is the summary of the amendment. I am happy to answer any questions.

Assemblywoman Titus:

Thank you for bringing this bill forward. I had huge concerns about this bill when I first read it. I was very concerned that you were mandating our State Board of Pharmacy to put regulations on a medication. I was also concerned about where the FDA was in all of this, and why the FDA was not regulating it. I wish to put out to the Committee that the amendment changes the basic context of this bill, and does not mandate our state to regulate a medication. It just mandates the provision of proper information, and is more of a consumer protection bill rather than a medication pharmacy bill. I appreciate the respective clarifications in the amendment that were added.

You have mentioned the difference between the synthetic type and the actual product, which is a natural product. I have read some information about the FDA having set up sting operations and having had huge success in confiscating these products as they come into the country. Can you give me an update on where the FDA stands on this product? Does it even come into our state at this time? I would like to have some clarification on these questions.

Rebecca Gasca:

I would like to call up some representatives of my clients who actually have specific answers with respect to both the FDA question and the question about the manufacturing of the product itself in the state.

Charles M. Haddow, Senior Fellow on Public Policy, American Kratom Association:

Our association represents the sum of 5 million people in the United States who are consumers of kratom products. Your question, Assemblywoman Titus, is a timely one. Because of the information that had been provided to the FDA about the deaths that were associated with kratom, the FDA took a number of regulatory actions. Since the FDA took those actions, it has been discovered through the evaluation by the National Institute on Drug Abuse, which Rebecca Gasca referenced, that these deaths were actually caused by polydrug use, which is a behavioral issue associated with the opioid crisis that we face today, and by adulterated kratom products.

This is a significant problem for consumers. You have these bad actors—some of them offshore—who will adulterate kratom with fentanyl, heroin, and morphine in order to enhance their sales. The consumers believe they are actually purchasing a pure kratom product, and they receive it, and they get a high from it. You cannot get a high from a natural plant. They think that will enhance their sales. The results are that people die.

There was a cluster of deaths in Sweden in 2009, where 9 people died over a 12-month period from a kratom product called Krypton, which is sold online. When the investigators looked at it, they determined that it was spiked with O-desmethyltramadol, which is the chemical that is used in the production in the opioid tramadol. It killed those people. If you took that same dose of O-desmethyltramadol in your coffee this morning, you would be dead right now. We do not ban the underlying product as a policy in the United States. However, the FDA believed that there was another issue associated with kratom, the natural plant, and the two alkaloids, mitragynine and 7-hydroxymitragynine. Because these two alkaloids hit the mu-opioid receptor in your brain, they were suspected by the FDA to have the same effect as classic opioids. The studies that Rebecca Gasca referenced by NIDA and by independent researchers debunked that theory in 2018. These studies not only found that there is, in fact, not only a low addiction profile from these substances—one study said none—they also found that the alkaloids in kratom actually reduce the cravings for opioids if you are using a classic opioid, which is why so many people found success in using this.

We agree that there is a future for additional study into kratom so that the FDA and other interested parties can find a way to synthesize those products in the future. But in the interim, there is no basis for restricting the availability or access to consumers. Our aim is to restrict the adulterated kratom products. Currently, the FDA imposes an import alert on kratom that comes from Southeast Asia into the United States from specific vendors. So, if the FDA identifies that vendor as a bad actor, because they are mislabeling the product and the raw material they are importing into the United States, then they stop it. But as concerns legitimate manufacturers—and we hope we will get more of them—consumers will be protected by this kind of legislation that bans the use or addition of any dangerous substances, including Schedule I substances, which are added to alter the effect of the natural plant's alkaloid levels. Consumers need to know what they are getting. Right now, it is a Wild West.

Rebecca Gasca mentioned some of the successes we had in other states: In Georgia, it was approved by a vote of 164 to 1 in the House and 50 to 0 in the Senate; the bill is now before their Governor. In Utah, it was not quite unanimous. The House got into a struggle over a tax reform bill and they blocked all Senate bills for a while, so we had a few negatives because of that. But it passed 22 to 1 in the Senate. We do not think that the House vote was reflective of kratom; it was actually about that battle. Yesterday, in Arizona, in the hearing that I testified before, it was a 9 to 0 vote in favor of a similar consumer protection act.

I would like to add one last thing. In Nevada, you have a unique opportunity as you have one of the premier manufacturers. We are a consumer organization, so we do not tout the vendors at all—except that the Nevada organization has also formed a 501(c)(3) nonprofit

corporation to help educate consumers about the importance of buying and purchasing their products from those manufacturers who follow the FDA's Current Good Manufacturing Practices (CGMP) guidelines. This company does this, and they are one of the preeminent companies in America. Their 501(c)(3) is helping consumers to better understand this product.

Assemblywoman Titus:

On these other hearings, has the FDA taken a stand on this particular policy?

Charles Haddow:

Yes, the FDA maintains the position that it is a dangerous product. The FDA does not yet make the distinction between an adulterated product and the natural product. There is some belief that the FDA—this came up in Georgia—wants to turn it into a prescription drug. They want to enforce it as an approved drug. That is very difficult for a natural plant, but we think that is fine if they can find a way to synthesize the alkaloids. That is, however, going to take a ten-year process and a multibillion-dollar effort. In the interim, we have got to have safe kratom products available to the public.

Assemblywoman Titus:

The opium poppy is also a natural drug. Natural is not always necessarily good. One question I have regarding the medical functioning of this drug relates to your saying that it acts very similar to opioids and actually attaches to the opioid receptors. NARCAN and some synthetic pain medications also attach to these receptors, and by their displacing others you can actually send somebody into an opioid withdrawal. Does this drug do that?

Charles Haddow:

The answer that has been found in the research that has been conducted is that the kratom alkaloids—or what they call partial agonists—when they hit the mu-opioid receptors in the brain, they provide some pain relief and maybe even some anxiety relief, and they give you a mood boost. But they do not travel to the respiratory system in the brain, which a full agonist does. Morphine, fentanyl, and heroin are full agonists, and they go there. Partial agonists hit the same mu-opioid receptors and can bring people back from an opioid overdose. Examples of partial agonists are St John's-wort and also cheese. I testified in Wisconsin a couple of weeks ago and they were surprised to hear that cheese hits those same opioid receptors. That is why they feel so happy in Wisconsin, they said. I think the correct characterization is that the alkaloids in kratom provide the benefit without the negative side effects of classic opioids.

Chairwoman Cohen:

The concern with the adulteration is one that is related to offshore companies, as the adulterated products are usually brought to the United States from abroad—is that correct?

Charles Haddow:

It is hard to tell the source of all of these products. We know it is largely done on the Internet, but there are some U.S.-based companies trying to gain an economic advantage with their products by producing adulterated products.

Chairwoman Cohen:

But how does this happen with illegal substances—are these producers who are manufacturing in the basement?

Charles Haddow:

Yes, sadly so, and some of them are even well-intentioned, I suppose. I received a video from an individual who wanted to tell me how great his manufacturing process was. On this video he was in his bedroom taking kratom, putting it into a Ziploc bag, and he was sealing it and writing on it—and while he was doing this, a cat walked in the background. It is hard to describe to people, even if they are well-intentioned, that what they are doing is not FDA CGMP-compliant. That is what we need to clean up. We need to make these responsible manufacturers.

Chairwoman Cohen:

If you have a responsible manufacturer, where does a consumer purchase from a responsible manufacturer?

Charles Haddow:

The company that is here can give you a description of how it is done in Nevada. I can tell you that it is sold across the country in convenience stores, health food stores, and sometimes in tobacco shops. The health food stores will sell either a powdered kratom product or a capsule. It is a very bitter-tasting substance, by the way. If you take it, you have to want to take it for its positive effects. But it is a terrible thing to taste. If you use the capsule, you avoid the taste, but it can upset your stomach. Some products are sold as an extract, like a five-hour energy shot. Again, you have there the foul taste unless you mix it with something that sweetens the taste. Mr. Pilkington and Mr. Dunn of the Urban Ice group and the Leaf of Faith, which is their 501(c)(3) organization, can speak directly to what they do here in Nevada. As I said, they are a preeminent manufacturer that distributes all across America.

[Assemblyman Wheeler announced that he had to attend another meeting and left.]

Assemblyman Thompson:

I would like to thank Assemblyman Wheeler for bringing this bill forward. I have several questions on the proposed amendment. Section 3, subsections 3 through 5 talk about penalties. If I read it correctly, a person who is in violation would be fined up to \$1,000; then they would have a civil penalty of \$1,000; and then they could be further prosecuted by an attorney general or district attorney's office. Is that correct?

Rebecca Gasca:

Yes, that is correct. We thought it would be better to place this in the hands of the Attorney General or any district attorney, and not to seek criminal penalty. In the past, when this body has outlawed synthetics like K2 or Spice or some of the other synthetic cannabinoids, it has opted to move forward with criminal penalties. But that was not our interest. We really are educationally based. We want to make sure that consumers know what they are getting, and we want to go after the bad apples financially.

Assemblyman Thompson:

Is that the reason why you have a double penalty? You have potentially \$2,000 that the person will pay. Why did you split this sum into a fine and then a civil penalty? What is the deterrent factor in that?

Rebecca Gasca:

This is the way the language came out of the Legislative Counsel Bureau. I believe this was replicated from other existing statutes that are similar in nature.

Assemblyman Thompson:

You think that overall the money is really the deterrence? I am not trying to say that we should look into criminalizing violation. But what is the thought process? Is hurting people at their pocketbooks going to deter them from doing this?

Rebecca Gasca:

Yes, we do believe that this is a great place to start. If a district attorney or the Attorney General would like to make an example of bad apples, we think this is a way to create headlines.

Charles Haddow:

If I could add, we have found that the incentives of these bad actors who are adulterating kratom products are mainly financial. If you hit them in the pocketbook, then they run. Some of them, by the way, try to boost it just a little bit, trying to tweak it, and now this law will stop that. But if they continue to do that, they ought to be penalized financially. We believe that will drive them out of the marketplace.

Karly O'Krent, Committee Counsel:

To Assemblyman Thompson's question about subsection 3 of section 4 of the bill, which creates a two-tiered penalty structure: this was modeled after similar provisions that ban selling alcohol or tobacco to a minor. The first of those fines would be the fine associated with the misdemeanor penalty. That first \$1,000 would be for the crime itself.

Assemblyman Thompson:

So this is going to have a criminal element to it? I want to get clarification on this because I was told that it did not. By saying this would be a misdemeanor, it does step it into criminality there. Can you please clarify that?

Rebecca Gasca:

The representative of the Legislative Counsel Bureau will be able to answer this question, but what I can say is that there is no reference to misdemeanor in the bill. There is no criminal penalty in the draft of the bill. It is simply a pecuniary fine. So even though it was modeled after that, because it does not reference a specific misdemeanor or level of classification, my understanding is that there is no criminality here. It is simply civil.

Karly O'Krent:

I will be happy to research this further, but it is my understanding that, as the bill is currently drafted—not referencing your amendatory language—it is a misdemeanor.

Rebecca Gasca:

I really appreciate the clarification. The intent is not to create a new criminal penalty.

Assemblyman Thompson:

I hope you know that in my viewpoint, this changes the conversation. Maybe you want to drop that part and make it a civil penalty of not more than \$1,000 and then make it up to the Attorney General and so on and so forth.

Rebecca Gasca:

Yes, absolutely. I appreciate these comments and am in agreement.

Assemblywoman Krasner:

I have to say that I have never heard of kratom. I understand it is a plant. But you said that there are natural and synthetic versions. What are the uses for kratom products? Can someone overdose on kratom?

Charles Haddow:

The plant itself can be synthesized—much like coffee when someone concentrates and purifies caffeine. That can be deadly. Coffee itself, at the natural dose level that is present in coffee beans, is not. With kratom that is very similar. You could get someone who wants to create a more powerful product by synthesizing or concentrating kratom's alkaloids. Unless that person goes to the FDA and seeks approval for a new drug application, that would be an adulterated product and thus banned by the bill we propose. That resolves the issue of overdosing. On the natural plant, you cannot overdose. That is found in the NIDA study and also in research studies such as by Dr. Hemby in June 2018 and Dr. Yue of NIDA in July 2018. These studies concluded that not only is kratom nonaddictive, but you simply cannot overdose on the plant itself. That is a broad statement, of course. I suppose it is possible; if you binge, you can overdose on anything. But the studies have not seen this in the patterns and as I referenced earlier, kratom is self-limiting because it tastes so bad and it upsets your stomach, so you are typically going to regurgitate it before you do yourself any harm.

With respect to the issue on how it is used, typically in the United States, it is used in powder form. Either you take the powder and put it into hot water to make a tea or, as they do it in Southeast Asia, you pick it from the tree and chew on it or take the leaves and brew it in a

tea. But transporting leaves over to the United States is problematic. It poses a shipping challenge with various kinds of bacteria that can get into it. That is why, typically, they make it into a powder and then it is either sold in this way, or as a capsule or as a pill so that you can ingest it. Sometimes you also have shot drinks, when they make it into a liquid concentrate so you can drink it. But it will not be tasty unless they put sweeteners in it. These are the ways in which kratom is typically consumed.

As to why people use it, you will find people who will take it for the mood boost, some for pain relief—and some people found kratom to be an effective alternative to opioid pain management and thus use it instead of opioids. As was evidenced in the study that was conducted by the Yue group at NIDA, kratom actually reduces cravings for classic opioids. People found it to be an effective way to stop using opioids. We do not support any therapeutic claims being made by any manufacturer about any of those uses, however, until they have been properly studied and vetted through the FDA. But the consumer has the right to use products that are available as dietary supplements or dietary ingredients for their own benefit as they experience it. As long as it is not harming them, which kratom in its natural form will not, then we think the consumers have the freedom to do that. As mentioned, some people claim it has helped them with depression, and other people claim it has helped them with any number of things that they found useful. This product has potential for being a very widely used product that can help as a natural alternative to chemical formulations and drugs.

Assemblywoman Munk:

I have never heard of kratom either. I understand that it caused some salmonella infections in 41 states in 2018. Was that because it was contaminated? Or was it the plant itself that the FDA found causing that salmonella infection?

Charles Haddow:

Yes, there were salmonella infections. The epidemiological research by the Centers for Disease Control found that the possible source of that salmonella—like you see it with lettuce, when there is salmonella in lettuce—is the way that kratom is handled when it is harvested, stored, dried, and then shipped in containers. So the salmonella bacteria typically occurs when the leaves are put on the ground and there are contaminants there and bacteria—or in the shipping, which is why we do not see a lot of kratom being shipped in leaf form.

The importance here is that if you use FDA CGMP standards, you test for that in each batch of the product that you use in the manufacture of your product. That is what we want manufacturers to do. If they are following FDA CGMP guidelines and label their products correctly, consumers can make an informed decision and know that the product they are purchasing is a safe product. There is always the possibility in any kind of manufacturing process that mistakes are being made. But those would be the outliers rather than the norm, and it would end the bad practices that are so common right now, because it is the Wild West with kratom products.

Rebecca Gasca:

We have two representatives here who run a CGMP facility in North Las Vegas. I would like them to deliver some brief remarks for the record about their process.

Chairwoman Cohen:

Thank you, yes, but only after the question Assemblyman Hafen indicated he would like to ask.

Assemblyman Hafen:

I, too, have never heard of this product. Doing some research, it appears that it has been banned from five or six different states. The U.S. Army has actually forbidden their soldiers to use it. Can you explain to us why?

Charles Haddow:

Between 2012 and 2016, six states indeed banned kratom. The information on which those decisions were based upon, however, dated back prior to 2018 to the time when the FDA imputed 44 deaths to kratom. That information has now been corrected as not true. It is, however, a long process for the Army, for example, to unwind a ban. We are working with the U.S. Department of Defense to do that by giving them information such as the NIDA studies and data, which have powerfully evaluated the safety of this product.

Among the states that banned kratom, in the state of Rhode Island, there is a kratom consumer protection act that was heard a couple of weeks ago. I testified at that hearing. The proposed legislation is progressing to overturn that ban. Similar legislation is being introduced in Wisconsin, another state that had banned kratom. We met with the Director of the Wisconsin Department of Health Services and the Arkansas Surgeon General yesterday, and they will hopefully proceed with a legislative solution. They may be able to unwind it on their own. So we are working in every one of the states where it has been banned. The only state in which we have not yet had a bill filed is Alabama.

The important point, however, is that all of those banning decisions by states occurred when it was believed the information received about the use of kratom causing deaths was correct. Since 2016, there has not been another ban. In the last legislative session there were about a dozen states that proposed bans. But we educated the legislators and so none of those bills passed. This year, we are seeing that the kratom consumer protection act, which we think provides the right balance between protecting consumers and also regulating the product properly, is the policy that is moving kratom forward.

We have not yet persuaded the FDA to join that movement. They have a pending application with the DEA for scheduling. But they have had that for 18 months now and the DEA has done nothing with it because they are still evaluating the respective research. The University of Florida received a \$3.5 million research grant from NIDA in December 2018. It is understood that it will be approximately two years before we will see the data resulting from the study of kratom being released. I think the federal government will hold back until they see that data. In the interim, we want to help protect consumers.

Kelly Dunn, President, Urban Ice Inc., North Las Vegas, Nevada:

I am the owner of Urban Ice Organics; we are a kratom manufacturer out of Las Vegas, Nevada. I want to talk about kratom and how we all got here. The FDA keeps pushing back because so many people who take kratom take it for their own personal reasons. It has helped so many people. People have become very passionate about kratom, whether they use it as an opioid alternative or as alternative for something else. The people, once they take it—and once it provides benefits to their lives—become very passionate about it. When you have regular people standing up saying, "This substance saved my life," and "This helped me to get off drugs,"—these are not claims the FDA is comfortable putting out there. The FDA is pushing back a lot because many people are making medical claims about this based on their experience that it has been so helpful to their lives.

We have been involved with kratom for about ten years. We wanted to make it easy for people to understand the science and the basics of kratom. We therefore started sponsoring the research done at the University of Florida. For four years now we are funding the science on kratom. We wanted to make sure that it was, number one, safe, and number two, that it had a future. We recently, on February 8, sponsored a science symposium where we gathered scientists from around the world and brought them all together—NIDA was there, and the National Institutes of Health was there. Everybody is working together on this now because they know it has such benefit.

On the other side of that, we have another tool, a documentary we made and funded, which is on Netflix now. [A DVD entitled "a leaf of faith" was submitted by Rebecca Gasca after the Committee meeting ([Exhibit H](#)).] This documentary explains kratom as a basic substance, the science, and it really gives a good overall education on the basics of kratom.

Tom Pilkington, General Manager, Urban Ice Organics, North Las Vegas, Nevada:

My name is Tom Pilkington. I am the General Manager and Chief Operating Officer of Urban Ice Organics. We also have our local representative and Reno native, Ralph Shively, in the audience today. We are a kratom company located in North Las Vegas. We are honored to be here today. Thank you for having us, and even more so, thank you for this hearing and for having open minds about this contentious issue. The other speakers here today will tell you how kratom has affected their lives. Since they are better suited to do that, I would like to tell you a bit about our company.

It is important for you to know that there are organizations out there like us that put the health and safety of Nevadans first. We are also integral members of our communities. At Urban Ice Organics, we manufacture and sell kratom products all across the country, and are our industry's leader in safety and compliance. Our products are made in a certified facility that meets or exceeds all requirements for good manufacturing practices. Our products are tested multiple times for impurities, adulterants, and contaminants by an independent, third-party, certified lab. We use and follow strict standards for manufacturing and labeling because the safety of our customers is our absolute first priority.

At our distribution center in North Las Vegas, we employ nine wonderful people. Each of these nine persons has a family that relies upon us to do the right thing every day. Each member of our small group of employees is trained in all relevant aspects of safety in warehousing and distribution, and our management team holds a variety of certifications in good manufacturing practices. From manufacturing to distribution, Urban Ice Organics is the type of company that makes sure we do everything right.

Aside from making products, we are also an important part of our community. We have established relationships with a variety of charitable organizations, such as Leaf of Faith and Forgotten Not Gone. Forgotten Not Gone is a veterans group in Las Vegas with the mission to raise awareness of veterans' suicides. Our kratom products and financial aid have helped—and continue to help—these veterans live their lives healthier and happier, and with less reliance upon the U.S. Department of Veteran Affairs (VA) for help, and with fewer of the pharmaceuticals that the VA continues to push on them.

I realize that my testimony here today was less about what kratom is and does for people and more about our company, but I hope I have provided some context about the types of organizations that can be trusted to follow this law by providing safe and effective products to your valued constituents. Thank you very much for your time and consideration.

Kim Demott, Private Citizen, Sparks, Nevada:

I am 33 years old and a stay-at-home mom. I have two amazing kids: My 12-year-old daughter, Jasmine, and Connor, my 5-year-old son. Over the last several years I have been diagnosed with a number of chronic illnesses and conditions, including lupus, fibromyalgia, Sjogren's syndrome, osteoarthritis, osteoporosis, carpal tunnel syndrome, migraines, endometriosis, iridocorneal endothelial syndrome, chronic fatigue, chronic pain, anxiety, and depression.

It was the beginning of 2013 when I was diagnosed with lupus. Before, I had suffered from chronic pain, debilitating fatigue, and other awful symptoms for years—and this was only the first of many chronic conditions that I would be diagnosed with over the next several years. I was prescribed 28 different medications a day, including massive amounts of powerful opioids like oxycodone, hydrocodone, and morphine, along with large amounts of benzodiazepines such as Ativan, Xanax, and Klonopin.

Even though I was taking all these different medications, I was still in pain. I also still had really bad anxiety and no quality of life. I was house-ridden and practically bed-ridden—or at least couch-ridden—on most days from the ages of 28 to 31. On a bad day I had to use a cane in my house to walk, which is no way for a young adult and mother of two to live. My health became so bad that in the fall of 2014 my doctors labeled me permanently disabled and told me to get on in-home support services and file for Supplemental Security Income (SSI). I was only 29 years old.

I would have to tell my kids that mommy was in too much pain and was too tired to take them to the park, play with them, pick them up, take them to school, or be involved in any of

their activities. This has caused me and them to miss out on so much precious time and memories we cannot ever get back. I could not cook, clean, drive, go to the store, or even go for a quick walk. They would see me and hear me hiding in the bathroom, crying from the pain and feeling of failure that I felt as their mom. I could not take a shower, brush my teeth, or even get dressed within the same hour because I would have to rest with each task that I did. Getting dressed really consisted of putting clean pajamas on, because that was the only thing that would not hurt me to wear.

I became isolated and depressed. I stopped answering my phone, text messages, and emails. The medications that the doctors put me on made me gain a ton of weight and made me feel incredibly dizzy, sleepy, forgetful, sick to my stomach, and like I was in a fog and not at all there. Side-effects led to even more medications being prescribed which meant more pills to add to the already huge amount I took on a daily basis. I was so depressed and hopeless that I actually attempted suicide a few times.

For the last two years I have enjoyed drinking my kratom tea. It has helped to promote my mood and energy like a cup of coffee would. It also supports my joints and muscles, making my chronic fatigue and even my pain much more bearable. I am in no way cured, and my pain is not completely gone. It never is. But the discomfort finally has been brought to a level that I can deal with, live with, and function with. I still have bad days, but they are nowhere near as frequent or as bad as they used to be.

Kratom has greatly improved my quality of life and has dramatically changed it for the better. I am not spending every day on the couch or in bed anymore. And my kids finally have their mom back. They are happy that we are doing so many more things together. Not only are my kids happy, but so are my family, friends, as well as myself. Everyone tells me that they have seen a huge change in me and that I am much more like the old me, which is something I have longed for ever since everything started several years ago.

For the first time in years, I do not feel like a prisoner in my own body anymore with my chronic illnesses and pain controlling me. I am healthier and taking better care of myself—including eating better—and have been able to lose weight since I can cook and exercise, as I have better mobility now. I even feel confident that I will be able to return to work again someday soon and plan on returning to school this next year.

I look forward to each day now and I am excited for what the future will bring. I am full of hope and, most importantly, I am setting a better example for my kids—all thanks to this plant. It truly has not only saved my life, but it has also given me a renewed hope on life. Without this plant, I would not have been able to be here today and share my story with you all. I greatly appreciate the opportunity to share my testimony about kratom with you today, and I appreciate your listening.

Chairwoman Cohen:

We really appreciate you coming up and joining us.

Eric Cochrane, Private Citizen, Reno, Nevada:

I am a 37-year-old resident born and raised here in Nevada. I am a union ironworker by trade. I am a small business owner, father of two, baseball coach, and generally very active in my community. I have not always been this way. Back in the year 2000 I had a back injury from skateboarding. The pain ensued and I was given a prescription of Vicodin by my doctor, but shortly found that I could get Vicodin on the street cheaper than I could get it from my doctor. Vicodin eventually led to morphine, morphine eventually led to Oxycodone, Oxycodone eventually led to heroin.

This was a five-year process that I think is more common than we like to talk about. It is a slippery slope with the pain pills. I am sure you are all aware of the opioid epidemic that our country is facing at the moment. This five-year path of drug addiction eventually left me homeless. By the grace of God, my mom found me on the street and took me into a rehab center; I was able to get clean around the time that my firstborn son arrived.

Fast-forward to the year 2010. As an ironworker I sustained a massive injury falling off a building. I crushed my heel, messed up my back all over again, my neck, and so on and so forth. I went in for surgery, and this led back down the same path. Obviously, I was given many prescription medications to help mitigate the pain. My tolerance is really high due to my past. So they had to give me a lot of prescription pills to mitigate the pain, and they were not in a big hurry to get me off of them. It took me six months to kick all of the opioids and I was still left with a large amount of pain, ensuing into large periods of depression.

I was wondering if this was going to be the rest of my life—either having to deal with this excessive amount of pain or going back to opioid use. These were the two options I was looking at. That is when I found kratom. Kratom was a huge game-changer in my life, helping with the depression and being incredible for the pain management. Since finding kratom, I have been able to get back to all the things I love doing—coaching baseball, outings with my family, being active in the community, all those types of things.

I also referred kratom to a number of friends who have been diagnosed with chronic pain. One friend who has been on opioids for two decades was able to get off of the opioids by using kratom. Now he lives a much higher quality of life. The takeaway for me is that kratom can definitively play an important role in the fight against the opioid epidemic that is taking our nation by storm. It has had a profound impact on my life and the lives of many other people I know.

I do want to note here, too, that I do not use kratom on a daily, weekly, or even a monthly basis. It is very easy for me to use it and not use it, which speaks to the lack of an addictive nature inherent in kratom versus the opioids that everyone else is dealing with. It is my belief that kratom should be made safe through consumer protection, and that it should be made available to all who need it. The public should be educated on the safe and responsible use of this amazing plant.

Chairwoman Cohen:

We appreciate your sharing your story with us. We will move to support—is there anyone in support in Las Vegas or in Carson City?

Steven Armstrong, Private Citizen, Reno, Nevada:

I am a 31-year-old male who has been living in Reno, Nevada, for a couple of years now. Since the age of four, I have been dealing with autoimmune disorders in a very unfair manner. I have type 1 diabetes; I was the youngest kid in the world on an insulin pump. I have celiac disease, I have hypothyroidism—and that is all just love and games. You know, it is fun; it is how I get through the day, just dealing with it.

When I got to college, the opioid epidemic hit hard. I went to college from 2006 to 2010, and graduated in 2010 with a severe opioid addiction. I was a junkie for ten years. I was not an active member of society. I could not even make myself happy. There was nothing I was able to do that I could stand behind. Then I found kratom. I dealt with suicidal ideation, anxiety, depression, and opioid addiction. It is not an easy battle. Kratom is the reason I am here today. Kratom is the reason I am paying my taxes. Kratom is the reason I show up to work every day. Kratom is the reason I can be here and talk to you guys about what this plant has done for me.

It scares me to hear that people want to put this plant behind bars. It is a natural plant. There are just so many layers to all this, and it seems like people are just glossing over it, and putting everything together. As was stated before, there is an opioid epidemic that is taking this nation by storm. In addition, mental health is on a trajectory that we never saw coming. Kratom cannot only help with one of these problems, but with both. And it has helped me to an extent that I do not think I can physically explain. I am an emotional individual. I am crying, because that is how much this plant means to me. It is not a joke; without this plant, I would not be here.

I really plead for you to look into the research. If you look into research about cannabis, there is research that says that people have died from cannabis. But that is only because there have been overdoses where cannabis was active in the system at the time of death. That is the same coincidence that takes place with kratom. No one has ever died from kratom alone. People have died with kratom active in their system, and the FDA focuses on that. But they never talk about the heroin, the methamphetamine, the cocaine, barbiturates, whatever else was in the system. They are scared of this plant. If I were the FDA, I would be scared too. This plant has gotten me off of Xanax, off antidepressants, and it keeps me happy. I do not understand why it is a threat.

Chairwoman Cohen:

Thank you for sharing your story. [There was applause in the audience.] In our Committee, there is no applauding, though we appreciate that you appreciate his testimony. But we try to keep that out of the Committee hearings.

Is there anyone else for support in Carson City or Las Vegas? [There was no response.] We will move to opposition—is there anyone wishing to come forward in opposition to A.B. 303? [There was no response.] We will move to neutral—is there anyone wishing to come forward in neutral to A.B. 303? [There was no response.] Ms. Gasca, do you want to conclude?

Rebecca Gasca:

We appreciate your indulgences. I will submit the documentary "a leaf of faith" for the record ([Exhibit H](#)). We will also provide additional research to the Committee with respect to the NIDA and independent studies ([Exhibit I](#)).

Assemblywoman Titus:

I am just wondering, this is a natural plant which is apparently similar to the coffee plant. Can it not be grown by individuals?

Rebecca Gasca:

Theoretically, you could grow it. But I would imagine that it is a complicated process. It is a tropical plant so the conditions would have to be pretty unique to foster success here.

Chairwoman Cohen:

I will close the hearing on A.B. 303 and open up the hearing on Assembly Bill 346.

Assembly Bill 346: Revises provisions governing health care facilities and child care facilities. (BDR 40-846)

Assemblywoman Michelle Gorelow, Assembly District No. 35:

I am here to discuss Assembly Bill 346. As to the background of this bill, current Nevada law prohibits a person who has been convicted of a violation of any federal or state law regulating the possession, distribution, or use of marijuana from holding a license or certificate to operate a child care establishment, intermediary service organization, or certain medical facilities and facilities for the dependent. In addition, individuals are prohibited from working at these establishments as well as participating in certain youth and recreation programs.

The intent of A.B. 346 is to harmonize a law that allows personal consumption of marijuana with the law that governs the care of facilities. [Assemblywoman Gorelow submitted a conceptual amendment ([Exhibit J](#)).] To be clear, we are not talking about hospitals and clinics as you would normally think of them. Those places are defined under *Nevada Revised Statutes* (NRS) 449.119. But facilities that serve psychiatric wards, juvenile cancer wards, hospices, rehab centers, and, generally, places where inpatient stays are longer than 25 days are facilities that need dedicated staff, irrespective of prior legal marijuana use.

With many states, including Nevada, in legalizing the medical and recreational use of marijuana, there is a need to update employment limitations. According to the National Conference of State Legislatures, 22 states and the District of Columbia have decriminalized

small personal consumption amounts of marijuana. Would you want to exclude these individuals from socially useful jobs because of past behavior that is now legal? This measure is an attempt to prevent individuals with prior misdemeanor convictions related to small personal use quantities of marijuana from being excluded from occupations that serve the vulnerable. Let me emphasize, this bill only applies to prior misdemeanors. It does not apply to felonies.

Assembly Bill 346 removes prohibitions regarding holding a license or certificate to operate a child care establishment, intermediary service organization or certain medical facilities, facilities for the dependent, or working at such establishments. In addition, the measure removes those prohibitions from working at certain youth and recreation programs. This bill accomplishes this by revising the list of crimes that disqualify a person from operating or working in these types of establishments. In addition, this bill authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to establish a process by which a person who has been convicted of certain misdemeanor crimes related to marijuana may request that the Division set aside the conviction when determining whether the person is eligible to serve in those capacities. Again, we are talking about facilities which serve those from nontraditional backgrounds. So it makes sense to ensure that those with nontraditional backgrounds are available and legal to be hired.

This bill does not alter the hiring protocols that receive federal funding, and we have a friendly amendment from Clark County to that effect ([Exhibit K](#)). Furthermore, this bill does not duplicate background check requirements and we have a friendly amendment from the Children's Advocacy Alliance who are also here to explain their amendment ([Exhibit L](#)). I appreciate your hearing this bill and am happy to answer questions.

Chairwoman Cohen:

With multiple amendments, can you walk us through where we are ending up with this bill in some more detail?

Jared Busker, Associate Director/Government Affairs Manager, Children's Advocacy Alliance:

Last session, the Children's Advocacy Alliance worked with Senator Woodhouse to pass Senate Bill 189 of the 79th Session, which made changes to the current background checks at child care facilities. One such change we made created an unintended consequence. The bill determined that an independent contractor in a child care facility, who has met the same requirements as the teachers of that facility as far as background check requirements go, cannot be left alone unsupervised with a child. The bill thus required that there always had to be a teacher with that contractor in the room, creating ratio problems. The proposed amendment changes this in that it determines that contractors are allowed to be left alone and unsupervised with a child as long as they meet the same background requirements as an everyday teacher in the facility.

More specifically, the amendment ([Exhibit L](#)) revises NRS 432A.176, which reads:

1. A licensee of a child care facility shall ensure that an employee of the child care facility is in the presence of an independent contractor retained by the child care facility during any period in which the independent contractor is performing any services at the child care facility when a child is present. This section is not applicable to independent contractors who:
 - (a) Have completed and met the background check requirements in NRS 432A.170;
 - (b) Meet the training requirements included in NRS 432A.1776; and
 - (c) Have completed a course of training in the administration of first aid (NAC 432A.308).

We thank the sponsors of this bill for allowing us to make these changes in the bill which are meant to fix the described unintended consequence from the passage of S.B. 189 of the 79th Session. The amendment allows for independent contractors who have gone through the same background check process requirements as current child care workers to be left alone and unsupervised with a child.

Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County:

I would like to thank Assemblywoman Gorelow for allowing us to propose our friendly amendment on this bill ([Exhibit K](#)). The nature of the work that is performed by the Clark County Department of Family Services (CCDFS) involves the welfare, safety, and protection of children. In their fulfillment of these tasks, in particular the CCDFS emergency shelters for children in need of protective custody—which may be considered as a type of child care facility under NRS 432A.024—rely heavily on federal grants and thus have to follow federal guidelines and laws. They are thus subject to the federal Drug-Free Workplace Act of 1988, which requires federal contractors and all federal grantees to agree that they will provide drug-free workplaces as a precondition of receiving a contract or grant from a federal agency.

Marijuana is illegal pursuant to federal law. Therefore, child welfare agencies are bound by these federal mandates. This amendment ensures that the CCDFS—by verifying offenses related to the possession or use of any controlled substance or dangerous drug, and offenses relating to the distribution or manufacture of any controlled substance or dangerous drug—maintains compliance with this federal mandate.

If you look at our amendment [section 7, pages 2 and 3 ([Exhibit K](#))] you will see in subsection 2, paragraph (j) that:

This subsection is not applicable to any child care facility operated by the state or any political subdivision of the state, for any offense relating to the possession or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS that is punishable as a misdemeanor or felony within the immediately preceding 5 years.

We are also removing the "other than marijuana" phrase [section 7.2(j), [A.B. 346](#)]. We have a very similar amendment in paragraph (l), which refers to "the distribution and manufacture of any controlled substance." It is adding essentially the same verbiage to that paragraph.

Chairwoman Cohen:

Assemblywoman Gorelow, could you also tell us about your conceptual amendment.

Assemblywoman Gorelow:

The amendment ([Exhibit J](#)) is to make sure that we are in line with the federal guidelines for organizations such as Clark County and Child Haven.

Assemblywoman Nguyen:

I realize that you have to be in line with federal guidelines and statutes, but as concerns the five-year time period, how is that relevant given that you can seal all misdemeanors, such as drug offenses, from your record after one year under NRS 179.245. For example, the possession or felony possession of a controlled substance—you can seal after two years. Are there any concerns that you will not be able to capture any of these people?

Alex Ortiz:

There are some disqualifying offenses, and there are others, depending on the time period of when they are sealed, that would not disqualify a person. I do not have all of that information in front of me, but I know that there are some guidelines that we follow when we do background checks on folks.

Assemblywoman Titus:

Thank you for the bill. I review drug screens for employment for many businesses in our county. Marijuana is legal now, but individual businesses can still mandate that marijuana is not acceptable in the workplace. I point out constantly that the federal government still recognizes it as an illegal substance. If you are driving down the road as a truck driver, they do not allow you to have marijuana in your system. This bill, however, is different. You are talking about someone trying to be employed with a conviction of having had marijuana at one point. Am I right in this understanding of the genesis of the bill? It is not about whether a person uses marijuana, but if they have been convicted of marijuana use, and now they are trying to get a job and the employer says, "If you have ever been convicted, you cannot apply." Is that correct?

Assemblywoman Gorelow:

Yes, that is correct.

Assemblywoman Titus:

My concern with that is, if you have federal funds coming to your business—for your health care buildings or the services you provide—the federal level can set the rules on what is required. I am concerned about the unintended consequences of the type Clark County has pointed out, which this bill may have. I want to make sure that there are no other agencies that perhaps get federal funds that would be impacted negatively if this bill passes. Is it

really just the one entity that Clark County pointed out that may be affected—or are there more?

Assemblywoman Gorelow:

Yes, Clark County was the only agency that approached us and said the bill would create a conflict for them. Again, this is just saying that someone with a conviction of marijuana use is eligible to be hired. It is not saying he or she has to be hired.

Assemblyman Hafen:

I do see an unintended consequence that I think you are overlooking. That is the distribution portion. Currently, my understanding of our current laws is that it is only a misdemeanor if you provide marijuana to children. Right now, under your bill language, this distribution to children, being only a misdemeanor, would allow them to go to work at child care facilities. Have you considered that unintended consequence?

Assemblywoman Gorelow:

That is definitely not the intent of the bill. However, I would like to look further into that for you.

Chairwoman Cohen:

Is there anyone in Carson City or Las Vegas who wishes to come forward in support of A.B. 346? [There was no response.] We will move to opposition. Is there anyone wishing to come forward in opposition to A.B. 346? [There was no response.] We will move to neutral. Is there anyone wishing to come forward? [There was no response.]

Assemblywoman Gorelow:

I appreciate your time and consideration, and I will follow up with the questions that were brought forth at the hearing.

Chairwoman Cohen:

I will close the hearing on A.B. 346 and open the hearing on Assembly Bill 339.

Assembly Bill 339: Revises provisions relating to wages paid to certain persons who participate in job and day training services. (BDR 39-104)

Assemblyman Richard Carrillo, Assembly District No. 18:

Assembly Bill 339 was originally drafted in a way that reflected neither the intention of myself nor of the individuals whom I worked with on Bill Draft Request 39-104. For that reason, the bill is entirely replaced with a friendly amendment provided to the Committee ([Exhibit M](#)).

I want to start by saying that when the issue was first brought to me, I thought it was just about wages. But now, a month later, I think it is more than that. This is a civil rights issue. I think it is important to recognize that the U.S. AbilityOne Commission, which oversees the AbilityOne Program—the largest source of employment for individuals with disabilities in

the country—released a statement on March 18, 2016, in support of minimum wage for all people who are blind or have significant disabilities. I have provided copies of that document to the Committee ([Exhibit N](#)). Just this morning, the U.S. Department of Defense (DOD) announced a proposed rule which would implement a demonstration project that would allow for the DOD to purchase contracts from eligible firms outside of AbilityOne. Conditions of those contracts would require 33 percent of the workforce to have a disability, and the company must pay federal or state minimum wage, depending on which one is higher.

I also want to make sure that the Committee is aware that this is not just an issue for those with intellectual and developmental disabilities, but also the blind. There are multiple advocacy groups and organizations for a variety of disabilities that support phasing out subminimum wages. These organizations include The Arc, United Cerebral Palsy, the National Federation of the Blind, and the Autistic Self Advocacy Network. In addition, both the Democrat and Republican Parties' platforms also call for an end to this practice.

The amendment to this bill seeks to end this practice in Nevada—not overnight, though, but rather in a way that will fade it out over a period of six years. Acknowledging that there is a lot of work to be done, we do not want individuals who are currently within the system to be harmed. Rather, our intent is to ensure that everyone, regardless of disability, has access to services, job training, and activities that are meaningful to each individual. I will now turn it over to Erik Jimenez.

Erik Jimenez, Senior Policy Director, Office of the State Treasurer:

Why do we believe that the payment of wages below the minimum wage for certain segments of the population is not only discriminatory, but something that we need to start addressing as soon as possible? In 1938, the Fair Labor Standards Act was passed in Congress and signed by the President, which essentially set the standard of a basic minimum wage and overtime pay for workers. At the time, people with disabilities were typically viewed as people who could not work and who were in totally institutionalized settings. I think many of you can imagine that those institutions were not something that we would think from today's perspective were a good place to be in. There was an exemption in section 14(c) of the Fair Labor Standards Act which essentially said that persons with significant disabilities are eligible to not be paid the minimum wage.

In the 81 years since that was passed, we have done nothing to set a minimum standard for wages for persons with disabilities. We are incredibly excited—and I thank Assemblyman Carrillo from District 18 for this—to have one of the first conversations on disability wages in this state in 81 years. We have made a tremendous amount of progress in making sure that our community-based settings and our providers are doing everything they can to support people with disabilities. But I think it is important to ask ourselves that, when we say that some people are not eligible to receive a basic minimum wage because they were born a little bit different, what else are we saying about them?

I think this is a human rights issue. This is a civil rights issue. I firmly believe that we can collaborate and work together to just do a little bit better. I think everybody in this room would agree, if you work hard, you should be able to follow your dreams and live a good and fulfilling life. Unfortunately, the 1,102 people we have in this state who are ineligible to make the minimum wage just cannot get out of the cycle of poverty. People with disabilities in this country are two times more likely to live in poverty. I just do not believe that a preexisting condition should predetermine you to a lifetime of poverty and an inability to get out of the cycle. That is why we are bringing this bill forward.

In the last legislative session, I worked very hard with Assemblyman McCurdy from District 6, and we started asking questions when Assembly Bill 175 of the 79th Session—that was ultimately vetoed by the Governor—was discussed: why were people with disabilities excluded from the minimum wage? We found the answer to this question is really complicated, and we could not get a lot of straight answers. We have taken the last two years—and I have worked so hard—and we went to the City of Reno, which passed a resolution by a 5-1 vote that banned all payments of subminimum wage to persons with disabilities in all city contracts. It is the first resolution of its kind.

Since last session, a growing number of states have sought to address this issue. Three states—Alaska, Maryland, and New Hampshire—have banned the payment of subminimum wages to persons with disabilities. The city of Seattle has also done it. But they did it in a way that I do not think is the best way possible to ensure that we have the supports for people who are already in the system. The bill that we are about to present to you today is based on a lot of conversations with providers who do incredible work and are not to blame for subminimum wage conditions. They are just operating in a system where we do not fund services well enough for them to pay the minimum wage. The bill proposes a long-term solution and a way to get these people the wages that they deserve. I would now like to walk you through the bill.

The amendment that you have on your desk in front of you ([Exhibit M](#)) is not the amendment we originally submitted. We have worked hard over the last 72 hours to finally get here today, and it makes me really happy that we have managed to get everybody on board. It is basically taking an idea developed first in New York City for fast food workers, called the Fast Food Wage Board. The Center for American Progress has done a lot of research on this, and I would like to share some of that with the Committee at a later time. Essentially, it brings government officials, representatives from organized labor, and representatives from populations that would be affected—in particular, industry—together to determine what should be the minimum standards for wages.

We are essentially creating the first wage board in the state of Nevada that would be called the Task Force on Ensuring Equal Pay for Persons with Disabilities (Task Force). We felt that this was best fitted in legally in *Nevada Revised Statutes* (NRS) Chapter 608. We are pretty confident that this is totally germane and fitting in with that chapter. The Task Force on Ensuring Equal Pay for Persons with Disabilities would consist of the following members, as outlined in section 1 of the amendment ([Exhibit M](#)):

- The Labor Commissioner or his or her designee, who would serve as an ex-officio member—we wanted someone who has the experience with collective bargaining but does not have any skin in the game;
- The Administrator of the Aging and Disability Services Division of the Department of Health and Human Services or his or her designee;
- The Director of the Department of Employment, Training and Rehabilitation (DETR) or his or her designee;
- The State Treasurer or his or her designee;
- The Superintendent of Public Instruction or his or her designee;
- The Executive Director of the Nevada Governor's Council on Developmental Disabilities or his or her designee;
- The Attorney for the Rights of Older Persons and Persons with a Physical Disability, an Intellectual Disability, or a Related Condition as described in NRS 427A.123; and
- Five additional members appointed by the Labor Commissioner which shall include:
 - One member who is a representative of an organization that provides jobs at day training services to persons with disabilities;
 - One member who is the parent or guardian of a person who receives such services;
 - Two members who are persons diagnosed with an intellectual or developmental disability as defined by NRS 435.007—one from Washoe County and one from Clark County; and
 - One member who is a representative of a labor organization as defined in NRS 613.310.

It is important to note that the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) passed a resolution advocating for the complete elimination of subminimum wages for persons with disabilities. Moving on to section 2 ([Exhibit M](#)), the amendment designates the Labor Commissioner, who would be serving ex officio, as the chair of this Task Force while also giving the Task Force the ability to prescribe its own regulations for management and governance.

Section 3 lays out a state plan and also requires the Task Force to collect data on the number of people with intellectual and developmental disabilities who are competitively employed, and on the support that exists around them. We would like to know who is providing the services. We would also like to gain access to data from the Department of Education to figure out how we can ensure that when a kid gets out of high school, we do not set this kid down a path with no ability to earn higher wages.

The state plan would, under section 3, subsection 1, paragraph (b), allow for the establishment of a minimum level of compensation for persons with disabilities. It would also assess the feasibility of ensuring that all persons with disabilities—including those who receive job and day training services and those in vocational rehabilitation services—are compensated at a rate no less than the state minimum wage by the year 2026. It is important to note that this section does not require us to do that. It merely has us look at the feasibility

of a minimum wage, and to study the costs and the impacts of it. The goal of this is to reduce the number people with disabilities who are not currently employed.

As I mentioned earlier, if you have a disability, you are two times more likely to be in poverty. You are also two times more likely to be unemployed. We actually do well in Nevada, but I think we can always be doing better. The bill also defines that the Task Force shall study the adequacy of Medicaid reimbursement rates for services outlined in NRS 435.130 to 435.310. The Task Force would monitor the progress of carrying out the state plan, and then revise the plan as necessary. It would also research and review any other issues that are relevant to increasing the number of persons with disabilities who are actively engaged in competitive integrated employment. I think that is the way that most of the disability community is moving towards already.

The report would be due on or before August 1, 2020, and it would be submitted to the Governor and the Director of the Legislative Counsel Bureau, who would then submit it to the Legislative Commission for a series of recommendations for the 81st Legislative Session of the Nevada Legislature. It would also determine if there were any potential cost impacts to the State of Nevada. I would note that in some of the studies that were performed by the National Council on Disability, in particular the 2012 study, they actually found that sometimes the cost of getting people to competitive integrative employment actually was lower than continuing to keep them in facility-based employment.

For the purposes of this act, DETR would staff the Task Force—in an attempt to minimize costs, given that DETR already staffs a lot of other councils and workforce councils. We are hopeful that we can find a way to reallocate some existing staff and fill the positions of this board. I would note that the Task Force is meant to sunset. I know everyone is thinking that' another board that will exist in the ether. Section 5, however, states: "Sections 1 thru 3 of this bill become effective on passage and approval, and expire by limitation on June 30, 2021."

Finally, section 4 amends NRS Chapter 435. You will remember that we presented Assembly Bill 130 in this Committee a month ago concerning the Nevada ABLE Saving Program. You know how important this program is to allowing people to earn and save more money without losing their means-tested benefits, such as Medicaid and social security. I know that the Treasurer's Office is committed to seeing the success of that program. In section 4, A.B. 339 would require that every person receiving services through a jobs and day training program receives an annual presentation from the Treasurer's Office on the ABLE Savings Program. We think that will really kick-start the number of accounts that we are seeing in the state.

Section 4 would also require the Administrator of the Aging and Disability Services Division to receive reports identical to those that are submitted to the U.S. Department of Labor from service providers. We want to understand what the organizational costs of these providers are, what their staff costs are, and what the wages are they are paying people right now. We hope that will give us an easier access and pipeline to data.

We fundamentally believe that this is a civil rights bill and the best path forward. I want to thank all of the providers, parents, families, disability advocates, local governments, and the members of organized labor for working with us on this. We think it is a great piece of public policy.

Chairwoman Cohen:

Could you give us a little background on the day training centers and your understanding of the services that are provided?

Erik Jimenez:

The way I understand it, under NRS 608.255 they are currently exempted from the employer-employee relationship. They basically operate to provide services such as day training services to people with disabilities. However, they do contract out for work. A lot of the hotels in Las Vegas—Caesars Entertainment, for example—will contract with them for services and then people are paid based on the amount of work that they do for that service. But I think it is important that we talk about how that wage is calculated. Instead of making an hourly rate, what we typically see is that the prevailing wage for that category of work is calculated, then the person's productivity standard in relation to a normal person is calculated, and that is then put to the calculation. For example, if someone only produces one-fourth of what the standard rate of productivity for that service is, that person would only receive one-fourth of that wage. That is why we see people getting paid a dollar or two dollars per hour.

Chairwoman Cohen:

If the representatives of the providers think that was not an accurate portrayal, please feel free to let us know how you would answer the question as you would see fit.

Assemblywoman Titus:

Thank you for bringing this bill forward. Clearly, it is something that needs to be addressed by the state, and that has not been addressed sufficiently by states. I do have some questions, however. I appreciate that you sunset it in your bill or, more precisely, the amendment. I can get behind something that has an end point and a goal. But having said that, in the bill itself, under section 3, where it says "NRS 435.130 to 435.310," you are stating that the Task Force is supposed to "Monitor the progress in carrying out the state plan," and "Review and revise the state plan as necessary." Who is going to be doing that as the Task Force will have folded in June of 2021? Who is going to be responsible for that provision in the bill?

Erik Jimenez:

We modeled this language after the Task Force on Alzheimer's Disease, but I think you are bringing up a really good point as to whether that actually needs to happen, given the sunset. Right now, the staff for DETR, the Labor Commissioner, and the members of the Task Force would be responsible for monitoring the progress of that plan internally.

Assemblywoman Titus:

I was also curious about who is going to staff this commission. The Labor Commissioner is supposed to be the chair. I guess that the Director of DETR will be in charge of the personnel and equipment and all of those tasks—is that correct?

Erik Jimenez:

This change was made right before the Committee hearing by the folks at Opportunity Village. Initially we had the Director of the Department of Business and Industry to staff the committee, because the Labor Commissioner falls within that Department. However, they made some really good points at Opportunity Village insofar as DETR is already set up with a number of other vocational kinds of councils, it may be better equipped to staff this quickly and more cost-effectively. I am open to suggestions and ideas on that, but as of right now, I think Opportunity Village's suggested changes are good ones.

Assemblywoman Titus:

I think we will need some clarification going down the road on who is going to be in charge, who is going to monitor, where is it going to be housed, who is going to be staffing it, and then, if it sunsets, who then follows up with the monitoring.

Assemblyman Assefa:

Thank you, Assemblyman Carrillo and Erik Jimenez, for working with me on this. I understand there have been some discussions in the past couple of weeks on the bill, and I want to make sure that the amendment that we are looking at before us is a complete amendment that all parties have agreed to. Is that correct?

Erik Jimenez:

That is correct. We held a gigantic stakeholder meeting on Monday of this week with almost 35 participants, which included providers, parents, persons with disabilities, and advocates. The amendment is basically the result of that meeting. This is an agreed-upon amendment.

Assemblyman Assefa:

It looks as though Assemblywoman Titus touched on a lot of my questions already. But I will raise one more question. In section 3, subsection 1, paragraph (b), subparagraph (2), it talks about "The feasibility of ensuring that all persons with disabilities, including those who receive jobs and day training services and those in vocational rehabilitation services, are compensated at a rate no less than the state minimum wage by the year 2026." Are you setting a goal for the Task Force to achieve? Are you telling them that this is a goal at which we need you to arrive? Or are you leaving it open for them to find out what the reality is on the ground?

Erik Jimenez:

The national consensus on this, such as stated by the National Council on Disability, the National Federation for the Blind, and the National Down Syndrome Society, has been that if there were to be a phaseout of subminimum wage programs, it would be a six-year phaseout. We do think that this would be a rather ambitious goal. But I think the way the language is

also written is that, if they were to come to the conclusion that it would not be feasible—or maybe it is only by 2040—they could leave everything as is. But I think with this bill we can finally get that data to make that decision.

Chairwoman Cohen:

Everyone in Las Vegas, we have copies of the amendment coming to you so that you will be able to see it.

Assemblyman Carrillo:

I want to make sure that everyone down south is aware of the amendment that Opportunity Village, I, and other stakeholders have worked on until 30 minutes prior to this hearing.

Assemblywoman Munk:

I think the bill is very important. When the A Team NV was here a couple of weeks ago and met with a lot of us, they were saying that if this bill passed, it would eliminate jobs. They said it was already hard enough to find jobs and convince employers to hire the disabled. What is your thought on that?

Erik Jimenez:

That was right after the initial bill language dropped. As Assemblyman Carrillo mentioned, that was not the way we intended it. The way that some of the providers and the people receiving services read the bill as it was initially drafted, was that it would phase out the use of subminimum wage in a period that was too fast, so that they may not be able to keep their current contracts or jobs. I am not sure if I agree with that—that is fine; we can all disagree on that stuff—but that particular point you are mentioning is the reason why we started all over again and drafted a whole new bill. I want to clarify this for the record: the last thing we want is anybody negatively impacted by this bill. If you have a disability and you like working at the provider that you are working at now, you should be able to continue doing that.

Chairwoman Cohen:

As Mr. Jimenez knows, I know a lot about ABLE accounts. But I do have a question about the training aspect, the presentation of the ABLE account section. Many people who are utilizing ABLE accounts are protected persons. Should the language reflect that the presentation would only be provided to the clients and to their guardians—if they have guardians?

Erik Jimenez:

I think that is an excellent idea. I would love to incorporate that into the bill before the work session.

Chairwoman Cohen:

Are there any other questions from the Committee at this point? [There were none.] I will move on to support.

Alex Goff, Private Citizen, Reno, Nevada:

I first became aware of this issue when Erik Jimenez brought it before the City of Reno's Human Rights Commission, on which I serve, but which I am in no way representing today. The concepts he presented were a lot different at that point. Looking today at the amendment, I can see the work that Assemblyman Carrillo and Erik Jimenez have put into it, the carefulness to get it to this point. I really would like to give them praise for doing that. This is a very sensitive issue, but also a very important one. We are talking about workers who right now have no basement as far as how low they can be paid. I think that ensuring that these workers are seen, and ensuring they have an ability to fulfill their work with full dignity, is important.

Tom Morley, representing Laborers' International Union of North America 872; and Nevada State AFL-CIO:

We are fully in support of this bill. We believe fair wages are good for everybody in the industries.

Jose Rivera, Private Citizen, Las Vegas, Nevada:

I speak on behalf of the Nevada Hispanic Legislative Caucus and would like to express support for this bill. The caucus supports phasing out subminimum wages and developing programs that support people with disabilities.

Chairwoman Cohen:

We will go down to southern Nevada now.

Nancy E. Brune, Executive Director, Kenny Guinn Center for Policy Priorities, Las Vegas, Nevada:

Two years ago, the Guinn Center published a report titled "Pathways to Nowhere" ([Exhibit O](#)). The report looked at how well our school districts and our state agencies were doing in terms of providing robust and meaningful pathways for our students with intellectual disabilities to either enter the workforce or pursue additional education. Through that work I became aware of individuals who participate in job and day training service programs. Oftentimes job and day training service programs, which often provide subminimum wages, are presented as the only option for our residents who have intellectual disabilities. However, I would argue that there are many models in our communities around the state that provide opportunities for these individuals and pay them the minimum wage or fair wages.

I currently serve on the board of Goodwill Industries of Southern Nevada. We hire and train individuals with intellectual disabilities and we pay the minimum wage. Recently we were informed that there is a teacher at Legacy High School in North Las Vegas—Legacy High School has a school garden—who connected one of the students who has intellectual disabilities with the garden, and really tapped into her love of the garden. That student now has a job at a local nursery where they are paying fair wages. My point today in speaking before you is to acknowledge that we do have opportunities and alternatives in our community that provide robust pathways.

Tracy Brown-May, Director of Advocacy, Board, and Government Relations, Opportunity Village; and Lead Organizer, A Team NV:

Many of the A Team members came and visited with you about a week ago, on March 25, to share their opinions. That was really about engaging individuals with disabilities, and having them share their voices and their concerns with each of you. We are here today in support of the amendment that you heard this morning.

However, it is really important to note that the original bill—while I am sure that it was very well-intentioned—did potentially offer a great harm to people who have intellectual and developmental disabilities. That was what you heard from the A Team visitors. Everyone should be given the opportunity to become engaged in their community to the degree that they find most valuable. We believe in choices. Choice is a civil right. I believe that some of the comments you have heard today have been painted as very one-sided. There are two sides to every story. It is important that we embrace people as individuals. It is important that you know that the Nevada jobs and day training providers are working really hard to engage people and help them grow to the highest level of independence that they choose and are capable of.

Many of our jobs and day training providers are indeed offering employment opportunities at—and many times high above—the minimum wage. You heard Assemblyman Carrillo speak this morning about the Source America, AbilityOne memo that came out. It also is important that you know that Opportunity Village was instrumental in that guidance which is specific to AbilityOne contracts on a federal level. It does not propose to eliminate section 14(c) of the Fair Labor Standards Act from other jobs and day training providers. The memo does cite that it will provide assistance to existing providers so that people can become engaged in employment. We do not want to lose anyone. That is what a jobs and day training provider is there to do—offer employment opportunities for people who may have other barriers to accomplish success so that we do not lose people who just do not have access to minimum wage employment without additional training opportunities.

To provide clarification with regard to how people are compensated, Opportunity Village bids its contracts on a minimum wage rate of \$9.30 per hour. When the calculations are completed, wages are set based on a piece-rate analysis and on individual performance. This way, the persons working at Opportunity Village are able to earn a wage. That was done as a training tool. And it was meant to engage people in productivity, so that they understand where they fall on an industrial level. As their abilities increase, then so does their pay, so that eventually they can be transitioned to community-based and integrated employment at or above minimum wages. I am happy to share with you that at Opportunity Village, many persons with disabilities managed to transition into community-based and integrated employment at or above minimum wages, and many of our folks are not only earning living wages, but even have retirement accounts, as they are employed on federal contracts.

It is important that you know that each year the jobs and day training providers in the state of Nevada engage people where they are, so that we can help them to grow to the next level. We are the safety net. We applaud the efforts of the bill sponsor, now that we have the

friendly amendment, and Mr. Jimenez, for his collaborative effort. The amendment is not specific to Opportunity Village. It is the result of a collaborative effort by Nevada providers, family members, and people with disabilities. They all agreed that this is the direction that they would like to go, so that we have good data and will be able to discern the true status of disability in Nevada, and what hurdles we need to overcome so that we can provide better services to ensure that people are better engaged. That is why we are here to support this friendly amendment, because we really are interested in data and helping people to be successful.

Chairwoman Cohen:

Are there any questions from the Committee? [There were none.] Is there other support for the bill in Carson City or in Las Vegas? [There was none.] We will move to opposition. If you are opposed, now is the time to speak up. I would like to thank all of the stakeholders on this matter. I know that you did a lot of work over the last few days, even the last few minutes. We do appreciate your coming to a place where you can all come to the table together. In Las Vegas, please feel free to go ahead with opposition.

Shirley Campbell, Private Citizen, Las Vegas, Nevada:

I belong to the A Team NV, which is an advocate organization for the disabled community. I have a son who is 45 years old. He has worked out in the community, he has been with transitional services, and he has been with Opportunity Village. But now that he is 45 years old, he is not interested in the jobs that are available. He is unemployed at this moment. For the last six months, I have been trying to get services through vocational rehabilitation which is supposed to be helping. They finally, after six months, got back to me saying that they would have a meeting to see what they can come up with.

Meanwhile, in those six months, my son was unemployed. He is hyperactive. It has been really a strain on the family. I think that before you pass bills that are supposed to put everyone out in the community, you have to improve the infrastructure for people with mental or intellectual disabilities to find work. There are so many clients who are out of work right now who could work. There are so many clients who cannot do minimum wage work. They cannot work on something maybe even one hour a day and be productive. Businesses are not going to hire them.

I have not seen the amendment to A.B. 339. But there are so many things that are here that have to be worked out before you decide to put everybody out into the community. It just overwhelms me, the fact that you are assuming that the community is going to welcome them. Being in Las Vegas, many of the casinos are kind of fussy about who works for them in the first place, no less when it comes to having someone work for them who is handicapped.

Chairwoman Cohen:

We do have Constituent Services in the Legislature, if you would like to have another advocate helping with what you are trying to do for your son. The secretaries can certainly give you my email address and we can get Constituent Services staff helping you.

Sometimes having someone from the Legislature helping with that does kind of move the process a little faster. There should be copies of the amendment down there by now. As you heard, the parties were working on this amendment literally until we started the hearing. Usually we try to have everything accessible for all participants well in advance of hearings, but sometimes it just happens that people negotiate up until the last minute. The sponsors, when they conclude, should address the concerns you just voiced. I do not think it is anyone's intent to take away anyone's services, and especially not in the near future to have anyone out on the street. Instead, the intent of the bill and the amendment is to have the Task Force start looking at these issues to see where we can go in the future with them.

Regina D. Daniel, Private Citizen, Las Vegas, Nevada:

I am a parent of an individual with an intellectual and developmental disability. I am also a board member of A Team NV. Why are we racing before we have done all of the studies? We are pushing this bill through prior to conducting that study of how many actual Nevadans with intellectual and developmental disabilities are going to be affected. How many people are actually going to be displaced? When we have an employment issue already, our loved ones are the ones at the back of the line when it comes to integrative employment. How many provisions are in place for alternative placements for those who are now in short-term training centers? What provisions are there for job placement and job security? Many of our loved ones cannot be integrated into the community—for a lot of reasons. Maybe they have toileting problems, maybe they are not mature enough to go and take a break unattended. Where is the dignity in having someone who is supposed to be a job coach have to take you to the restroom? I would think that would be an untenable way to work.

The other concern of mine is with regard to the Task Force. It seems to be stacked with paid individuals who do not walk the walk. By that I mean, when you talk about civil rights, the only civil rights issue you have seen is on paper and not up close in person. You have never gone to supportive services and had them tell you that you can get \$15 per month for food stamps or that they cannot provide a personal care attendant for you. These are things that happen on a daily basis to individuals in our community, but there are no provisions for that.

If someone in my family cannot work, that means I cannot work. If my son is not allowed to train to be able to prepare for work, then that means I cannot work. He cannot be left unattended. These are all the unintended consequences that this bill may cause. In addition, once someone has an increased wage, what provision is there that they might not have their supportive services diminished or eliminated? These are all real concerns.

We are putting the cart before the horse if we just say no to 14(c) subminimum wages—and then what? What is the alternative? Until that question can be answered, I think it is unfair to push this bill through. The final issue with regard to the Task Force is that it seems everybody is invited to the table—but you have only one parent, and one person with an intellectual or developmental disability. That is surely not enough. We need people who have actual stakes in this bill on that Task Force. Thank you.

Chairwoman Cohen:

Is there anyone else in opposition in Carson City or in Las Vegas? [There was no response.]
Is there anyone who wishes to testify as neutral in Carson City or in Las Vegas?

David Dazlich, Director, Government Affairs, Las Vegas Metro Chamber of Commerce:

We had initially signed in as opposition to this bill based on the original language that the bill put forward. I would like to thank Assemblyman Carrillo and Opportunity Village for bringing forward the amendment. In light of that amendment, the Las Vegas Chamber of Commerce is in neutral.

C.J. Fields, Education Programs Professional, Nevada Department of Education:

The community rehabilitation programs in Nevada, which provide jobs and day training services at subminimum wage, offer those services to individuals with more significant disabilities. During the last legislative session, the Nevada Department of Education worked with the Legislature to pass Assembly Bill 64 of the 79th Session that created the alternative diploma, which is now a graduation option for Nevada students with significant cognitive disabilities. It is specific to that population.

Recent implementation guidance issued by the Nevada Department of Education is designed to ensure both the increased inclusion of students with significant disabilities and access to more rigorous standards of instruction for these students. As a system, we are seeking to raise expectations for students with significant disabilities, which in turn, we believe, will increase the quantity and quality of their postsecondary opportunities. As we set higher expectations for these students as a school system, we welcome and wish to participate in any corresponding discussions that seek to raise expectations and promote more inclusive and empowering postsecondary outcomes for them.

We were excited to see that the language of the amendment to A.B. 339 included voting membership participation from the Nevada Department of Education within the proposed Task Force. We feel as if we possess significant knowledge and expertise which will allow us to meaningfully contribute to the Task Force, as well as provide connections to national postsecondary transition networks that can be relied upon for data and information that can help inform the activities to which the proposed Task Force is assigned.

We understand that this is a complex undertaking that is grounded in historic and current inequities, current economic systems, federal law, and complex statewide service delivery mechanisms. However, we also welcome the opportunity to work toward the creation of a more transparent system and towards the illumination of how current wage and job development practices affect individuals with significant disabilities and their opportunity to access the ultimate goal of all Nevadans—and dare I say of all Americans—to achieve meaningful employment at a competitive wage.

Jacqueline Folger, Private Citizen, Las Vegas, Nevada:

I am the caregiver for my 27-year-old nephew who attends Opportunity Village. I just received the copy of the amendment and so will have a chance to look at that. But there are a few things that I would like to bring up as I wanted to make sure that they are known by the people who are making these bills. My nephew was born blind and has a seizure disorder and a mental disability. One of the first things I am always concerned about is Ryan's safety. That is most important to me at all times with him. He is unable to be safe in an open environment, even though he has gone through many classes with titles such as Stranger Danger or Model Mugging. But to this day, at 27 years of age, he would still give his wallet or last dollar to anyone who asked and would follow anyone who asked him to come along. Being in an open environment where his safety is not number one to everyone around him could be something that he could lose his life over. That is always a concern of mine when he is working in the regular community.

Ryan also needs, like the rest of us, to have meaning in his life. It is important for him to feel needed and productive, and at his workshop at Opportunity Village, that is how he feels. Every day he is so excited to go to work. He is not concerned about the amount of money, but he is excited to bring home his check that shows his wages. It makes him feel needed and important—just as we all need to feel needed and important.

The work is also essential for Ryan's happiness. He works with his friends and a group of people who he understands, and who understand him, and he enjoys his everyday activities. At 27 years of age, he has been doing this for a number of years. He has been in different programs throughout the country, as we are originally from Massachusetts. I can only speak from our perspective. He will certainly not be able to live off the piecework that he does at Opportunity Village's workshop. There is no model that I see at this point where he could be in a productive job and make a wage that would enable him to be able to sustain himself. According to every expert whom he has been in front of, that would be impossible due to his disabilities.

I would therefore just like to say that I want people who are making those decisions over there to keep those things in mind. These are not just important to you and me, but also more so to the disabled community.

Judith Koller, Private Citizen, Las Vegas, Nevada:

I have two sons; both go to Opportunity Village. The oldest son is 52 years old; the younger son is 47. My oldest son can barely tell how to go to the bathroom. He has to be told how to shower, and what to put on. He could not be working in a community place. The younger son right now is maxing out. He is doing wonderfully well. I am so proud of both of them. But if something would have happened to close their jobs at Opportunity Village, I honestly do not know what they would do now. For somebody who, as far as I know, is not even associated with somebody with disabilities, to try to ruin the lives of so many people—No.

Chairwoman Cohen:

Thank you for sharing with us about your family. Is there anyone else who wishes to speak in neutral in Las Vegas or Carson City? [There was no response.]

Erik Jimenez:

Thank you for hearing this bill today. I think we really got something good. We started in a bad place, but I think we have got something that will give us a lot of data and a lot of answers. To the folks in Las Vegas who testified under neutral, I share your concerns. It is exactly the reason why we made the changes that we did. We want to study it and make sure that no one is left behind or falls through the cracks. However, I would leave you with this: when family members come up and say that their relatives are just not good enough—that is not good enough for me. No one should have to look in the mirror and say, "I am not good enough for the minimum wage; I am not good enough to make a productive life." As someone with a disability, I think this is the best step forward that we can take as a state. I am really proud that we are here today.

Chairwoman Cohen:

Thank you. We will not be taking further comments from southern Nevada. This is the closure of the hearing. I have invited the presenters up to make a final statement. If you would like to reach out to them to share something with them, please feel free to do so. You can also continue to share with the Committee via email, letter, or phone. But in the meantime, we are going to end this hearing and we are going to allow the sponsor and the presenter to finish up what they have to say. Go ahead, Assemblyman Carrillo.

Assemblyman Carrillo:

Facing a subminimum wage or special wages is a discussion that is taking place all over this country. This is a disability movement. This is a national conversation. I thought it was important to have this discussion in Nevada, to talk about how Nevada can be a leader in providing a path for persons with disabilities to reach their full potential. This bill seeks to bring the movement to Nevada, develop a thoughtful plan that takes all those who will be impacted into account, and provide all our citizens with disabilities with a spectrum of opportunities and the supports they need.

Chairwoman Cohen:

With that we will conclude the hearing on A.B. 339. We will open it up for public comment. If there is anyone in Las Vegas or in Carson City who would like to give public comment, please come forward.

Regina D. Daniel, Private Citizen, Las Vegas, Nevada:

I just wanted to state for the record that, as a parent, I find it condescending when people say that we say that our loved ones are just not good enough. We pray every day that they reach their highest potential. For someone unrelated to make a comment like that is just disconcerting. I do not think it is fair that we would not have an opportunity to rebut that. But I would like to make it clear, as a parent, I only want the best for my loved one. I have

tirelessly looked for every opportunity. For those who do not know us, who do not know our walk, I think they have no right to make comments like that.

Judith Koller, Private Citizen, Las Vegas, Nevada:

I am just reasserting everything that Regina Daniel has said. For 52 years, we have done the best we can for our children and watched them grow to adults only to be pushed backwards—No, no.

Chairwoman Cohen:

Thank you. Is there anyone else wishing to come forward under public comment? [There was no one.] We are adjourned [at 2:33 p.m.].

RESPECTFULLY SUBMITTED:

Christian Thauer
Committee Secretary

APPROVED BY:

Assemblywoman Lesley E. Cohen, Chairwoman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is the Work Session Document for [Assembly Bill 124](#), dated April 3, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 151](#), dated April 3, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 194](#), dated April 3, 2019, submitted by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is a proposed amendment to [Assembly Bill 303](#), dated April 2, 2019, submitted by Assemblyman Jim Wheeler, Assembly District No. 39.

[Exhibit G](#) is a document containing written testimony for [Assembly Bill 303](#), dated April 3, 2019, presented by Rebecca Gasca, representing American Kratom Association.

[Exhibit H](#) is a photograph of the DVD titled "a leaf of faith," submitted by Rebecca Gasca, representing American Kratom Association.

[Exhibit I](#) is a document containing the agenda and paper abstracts of the "Second International Symposium on Kratom," which took place on February 8-10, 2019, in Orlando, Florida, submitted by Rebecca Gasca, representing American Kratom Association.

[Exhibit J](#) is a proposed amendment to [Assembly Bill 346](#), presented by Assemblywoman Michelle Gorelow, Assembly District No. 35.

[Exhibit K](#) is a proposed amendment to [Assembly Bill 346](#), dated March 27, 2019, presented by Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County.

[Exhibit L](#) is a proposed amendment to [Assembly Bill 346](#), presented by Jared Busker, Associate Director/Government Affairs Manager, Children's Advocacy Alliance.

[Exhibit M](#) is a proposed amendment to [Assembly Bill 339](#), presented by Assemblyman Richard Carrillo, Assembly District No. 18.

[Exhibit N](#) is a document titled "Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities," from the U.S. AbilityOne Commission, dated March 18, 2016, submitted by Assemblyman Richard Carrillo, Assembly District No. 18.

[Exhibit O](#) is a study titled "Pathways to Nowhere: Post-secondary Transitions for Students with Disabilities in Nevada," dated January 2017, published by the Guinn Center for Policy Priorities and the Nevada Governor's Council on Developmental Disabilities, submitted by Nancy E. Brune, Executive Director, Kenny Guinn Center for Policy Priorities, Las Vegas, Nevada.