

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Eighty-First Session  
May 28, 2021**

The Committee on Ways and Means was called to order by Chair Maggie Carlton at 8:21 a.m. on Friday, May 28, 2021, Online and in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, 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/81st2021](http://www.leg.state.nv.us/App/NELIS/REL/81st2021).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Maggie Carlton, Chair  
Assemblywoman Daniele Monroe-Moreno, Vice Chair  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman Jason Frierson  
Assemblywoman Michelle Gorelow  
Assemblyman Gregory T. Hafen II  
Assemblywoman Sandra Jauregui  
Assemblyman Glen Leavitt  
Assemblywoman Brittney Miller  
Assemblywoman Sarah Peters  
Assemblyman Tom Roberts  
Assemblywoman Robin L. Titus  
Assemblywoman Jill Tolles  
Assemblyman Howard Watts

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Julia Ratti, Senate District No. 13  
Senator Nicole J. Cannizzaro, Senate District No. 6  
Senator James Ohrenschall, Senate District No. 21  
Senator Marilyn Dondero Loop, Senate District No. 8



**STAFF MEMBERS PRESENT:**

Sarah Coffman, Assembly Fiscal Analyst  
Kevin C. Powers, General Counsel  
Brody Leiser, Principal Deputy Fiscal Analyst  
Mary O'Hair, Committee Manager  
Kareen Prentice, Committee Secretary  
Betnimra Torres Perez, Committee Assistant

**OTHERS PRESENT:**

Beth Slamowitz, M.D., Senior Policy Advisor on Pharmacy, Division of Public and Behavioral Health, Department of Health and Human Services  
Priscilla Maloney, representing the American Federation of State, County & Municipal Employees (AFSCME) 4041 Retiree Chapter  
Tom McCoy, Executive Director, State Government Affairs, Nevada Chronic Care Collaborative  
Brett Michelin, Senior Director, Association for Accessible Medicine  
Asher Lisec, representing Pharmaceutical Research and Manufacturers of America (PhRMA)  
Shenakwa Hawkins, Care with Purpose Medical Center  
Wendell Potter, Center for Health and Democracy  
Jim Penrose, Private Citizen, Carson City, Nevada  
Stacie Weeks, Principal, Medicaid Transformation & Financing, Aurrera Health Group  
Suzanne Bierman, J.D., M.P.H., Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services  
Jennifer Krupp, Chief Financial Officer, Silver State Health Insurance Exchange  
Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association  
Tessyn Opferman, representing Service Employees International Union Local 1107 and the Nevada Women's Lobby  
Sarah Adler, Silver State Government Relations, representing the Nevada Advanced Practice Nurses Association  
Maria Nieto Orta, Nevada State Coordinator, Mi Familia Vota Nevada  
Tom Wellman, President, Nevada State Education Association-Retired  
Quentin Savvoir, Deputy Director, Make It Work Nevada  
Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada  
Benjamin Challinor Mendez, Policy Director, Faith in Action Nevada  
Amy Koo, Deputy Political Director, One APIA (Asian Pacific Islander American) Nevada  
Annette Magnus, Executive Director, Battle Born Progress  
Jennifer Fleischmann, Co-Director of Organizing, Make the Road Nevada  
Reverend Michael Willoughby, Private Citizen, Las Vegas, Nevada  
Katie Robbins, representing Planned Parenthood Votes Nevada

Anwar Green, Private Citizen, Las Vegas, Nevada  
James Wadhams, representing the Nevada Hospital Association  
Tray Abney, representing America's Health Insurance Plans (AHIP)  
Jaron Hildebrand, Executive Director, Nevada State Medical Association  
Bill Harenburg, Private Citizen, Henderson, Nevada  
Mary Beth Sewald, President and Chief Executive Officer, Vegas Chamber  
Amber Stidham, Vice President of Government Affairs, Henderson Chamber of Commerce  
Tom Clark, representing the Nevada Association of Health Plans  
Lindsay Knox, McDonald Carano LLP, representing the Nevada Self Insurers Association  
Maggie O'Flaherty, McDonald Carano LLP, representing the Nevada Orthopaedic Society, REMSA, and the Nevada State Society of Anesthesiologists  
Janine Hansen, State Chairman, Independent American Party of Nevada  
Bob Russo, Private Citizen, Gardnerville, Nevada  
Jim Sullivan, Political Director, Culinary Workers Union Local 226  
Laura E. Freed, Director, Department of Administration  
Brian Mitchell, Director, Office of Science, Innovation and Technology, Office of the Governor  
Matthew Tuma, Administrator, Administrative Services Division, Department of Administration  
Jennifer Ouellette, Director, Nevada Western Interstate Commission for Higher Education (WICHE) Program  
Terry J. Reynolds, Director, Department of Business and Industry  
Tracy Chase, Acting Executive Director, Commission Counsel, Commission on Ethics  
Steven Cohen, Private Citizen, Las Vegas, Nevada  
Jhone Ebert, Superintendent of Public Instruction, Department of Education  
Jim Frazee, Vice President, Clark County Education Association  
Brenda Pearson, Director, Strategic Policy Initiatives, Clark County Education Association  
Kenny Belknap, Acting Secretary, Clark County Education Association Executive Board  
Karl Catarata, Chairman, Nevada Advisory Commission on Mentoring  
Jason Trevino, Chair, Statewide State School Safety Task Force Committee  
Bailey Bortolin, representing Nevada Coalition of Legal Service Providers  
Julie Ostrovsky, Commissioner, Nevada Commission on Autism Spectrum Disorders  
DuAne Young, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services  
Doralee Martinez, Nevada Disability Peer Action Coalition  
Molly Halligan, Private Citizen, Las Vegas, Nevada  
Randy Gabe, Board Chair, Grant A Gift Autism Foundation  
Lenise Kryk, Clinic Director, the Lovaas Center  
Janelle Saunders, Private Citizen, Henderson, Nevada  
Yesenia Gonzales, Assistant to the Director, Azulblue United by Autism

Jan M. Crandy, Former Chair of the Nevada Commission on Autism  
Jon Paul Saunders, Private Citizen, Las Vegas, Nevada  
Michele Tombari, Private Citizen, Las Vegas, Nevada  
Ashlyn Frits, Private Citizen, Reno, Nevada

**Chair Carlton:**

[Roll was called, and Committee protocols were explained.] We have a lot of work to do today, and it is going to be a long day. There will be a lot of moving pieces. We have budget implementation bills that still need a hearing. We have other bills that we need to process. If you are a Senate member, there is no need to wait in Room 3137. We will be sure to let you know when your bill comes up. There is limited space in all the rooms, and we want to make sure that we can accommodate everyone and have a nice flow throughout.

Today, the first bill to be heard will be Senate Bill 380 (1st Reprint), then Senate Bill 420 (2nd Reprint). Because S.B. 420 (R2) did not go to the policy committee in the Assembly, we will be giving it a little more time and latitude to make sure that everyone has their voices heard on the record. We are going to keep it tight and keep it to two minutes each for everyone. When you spend 45 minutes to an hour on a bill in the Assembly Committee on Ways and Means in the last four days of the session, you are spending a whole day on one bill. We will keep it tight to get it done, and there is no intention to move the bill today. I wanted to make that perfectly clear because it is an important bill, and we want to make sure it has the time it deserves.

I will open the hearing on S.B. 380 (R1). The Chair of the Senate Committee on Health and Human Services needs to get to the Senate Committee on Finance meeting so we need to get done here so that committee can get its work done.

**Senate Bill 380 (1st Reprint): Revises provisions governing the reporting of data concerning the prices of prescription drugs. (BDR 40-445)**

**Senator Julia Ratti, Senate District No. 13:**

Thank you for the opportunity to present this bill and for the discretion to go first today. I know that is a significant gift on the fourth to the last day of this legislative session. Today, I am presenting Senate Bill 380 (1st Reprint) on behalf of the Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs. I cannot do this work without briefly taking a moment and thanking former Senator Yvanna D. Cancela for her good work on this issue and for leaving me this wonderful gift of the bill from the Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs.

Senate Bill 380 (1st Reprint) continues the groundbreaking work that was done during the 79th Session to shine a bright light on, and bring more transparency to, how we come to the cost of pharmaceutical drugs. You will all recall that in that session we started focusing on the drugs that many people depend on that were in the news quite a bit at that time. Those drugs are big cost drivers for health care costs in Nevada, and those would be diabetes drugs. In 2019, we built on that, and we added asthma drugs. In 2021, what we seek to do is

modernize the program, make sure that staff has the resources they need to collect the data, get meaningful information from the data, and expand the class of drugs to those drugs that are increasing in price. This bill removes the requirement that the Department of Health and Human Services compile a list of essential asthma drugs. We think we have gotten where we need to go with asthma drugs, and we are removing asthma drugs from consideration. We are keeping diabetes drugs, and that program is still important. The bill requires the Department of Health and Human Services, in addition to the list of essential diabetes drugs, to compile a list of prescription drugs with a wholesale acquisition cost exceeding \$40 for a course of therapy. A course of therapy could be one month of pills, it could be one pill, it just depends on what the defined course of therapy is for that drug. This is the wholesale cost of \$40 and drugs that have undergone a price increase of 10 percent over one year or 20 percent over two years. We are narrowing the class of drugs on which we would like to have more data and information. From a transparency standpoint, we will shine a brighter light on the diabetes drugs, which are still a significant cost driver for the state, and include any drug with more than a \$40 wholesale acquisition cost for a course of therapy that has a 10 percent cost increase over one year or a 20 percent increase over two years. That is the most significant change in this bill.

In addition, the bill adds wholesalers as a required reporting entity. What we have learned about pharmaceutical drugs over time is there are a bunch of players in the chain. We want to get more information on what is happening with wholesalers. Sections 11 and 12 of the bill expand the information that a manufacturer is required to report. Section 13 of the bill expands the information that a pharmacy benefit manager (PBM) is required to report. We are talking about all these supply chain issues. The bill relates to not just the manufacturer but the wholesaler and the PBM. The Department of Health and Human Services is required to conduct an annual public hearing based on the report findings. We want to make sure that the public is hearing about what we learn.

We have done some updates on definitions for unit and manufacturer to make sure that we are getting that right in the law. The bill maintains existing penalties set forth in *Nevada Revised Statutes*. We have been collecting penalties from those who do not comply. Knowing that we are still in a fiscally tight environment, from a fiscal note standpoint we are suggesting that we use the penalties that have been collected to date to cover the costs of the transparency program for this biennium. There is about \$1 million in the account right now. The costs to do this program for the next two years is approximately \$770,000. You can see the amount in the fiscal note. We would use the bulk of those penalties in order to not touch the State General Fund in this cycle. There would be some remaining penalties left over. We do not know if that is sustainable going forward. We hope that people will comply and provide their reporting. The next Governor and Legislature would need to decide if this is something that we want to put in the base budget or are the penalties an ongoing and sustainable form of funding for this program. For this biennium, the penalties will cover the cost. Knowing that time is of the essence, I will stop. I have with me Beth Slamowitz, M.D., Senior Policy Advisor on Pharmacy, Division of Public and Behavioral Health, Department of Health and Human Services.

**Chair Carlton:**

I have heard some conversations around this bill. I believe the bill was amended in the Senate to address some of these matters. I want to understand the \$40 course of therapy a little better.

**Senator Ratti:**

As the bill came out of the policy committee, the committee wanted to include all drugs in the bill. The cost of including all drugs would have crushed the program. We could not afford the number of staff it would take to analyze the data on all drugs. It would have been quite the burden for the industry. Through lots of stakeholder, industry, and working group conversations, we felt this final amendment [[Exhibit C](#)] was the best focus and price point. We really want to know about the drug costs, but we realized at a certain level drugs are too cheap for it to matter. The \$40 seemed like a reasonable price point. The provision of an increase of 10 percent in one year or 20 percent in two years in a drug cost will narrow the universe of drugs we are looking at and hopefully give us information on those that are a significant cost to a family. The \$40 is a wholesale number and not a retail number. For many of us, \$40 may not sound like a lot of money, but for many of our seniors on fixed incomes and people with a disability, \$40 is a significant amount of money. We felt that was a good starting point, coupled with the increase of 10 percent or 20 percent in the cost. Plus, we want to keep the diabetes program intact. The diabetes program stays intact completely because we have two years of good data. We are not tweaking that program at all because we want to keep that data stream for a while to make sure we have a good apples to apples comparison for a couple of years. We learn things from that as well.

**Chair Carlton:**

My next question is about the unsolicited fiscal note. You are saying the dollars they have now can cover the cost. I have watched a lot of bills come through in the last 100 days. There are a lot of responsibilities being given, and we know we always need resources to get those things done. We can have all the great policy in the world, and we can fund it, but the people who actually get the work done are not going to get the data we need next time. Are those positions included in the unsolicited fiscal note? I would like to make it clear about what those positions are because it is important when we do these things to give the individuals the resources they need. Are those positions included?

**Senator Ratti:**

I will say the Legislature and the agency were enthusiastic about getting this program done. The agency absorbed some workload in the past two bienniums. One of the things that was important was to sit down with staff. This bill started without a fiscal note. I do not think it is often you will see a legislator go back to an agency to request a fiscal note and want to know what it is going to take to do this. Collecting the data is helpful, but if we do not have the people to analyze, process, and get insight about the data, then it is not as helpful as it could be. We had serious conversations. I would like to turn it over to Dr. Slamowitz who can talk about what the workload is and how she is staffing it.

**Chair Carlton:**

I want to make sure about the positions because I saw the advanced pharmacist and the management analyst listed with notations on those. Those positions are encapsulated in the fiscal note. It would not be in addition to the fiscal note because it has already been addressed.

**Senator Ratti:**

Correct. We went and sought an unsolicited fiscal note to give us the real costs.

**Chair Carlton:**

Would you briefly go over these positions because they are already in there, and we want to understand?

**Beth Slamowitz, M.D., Senior Policy Advisor on Pharmacy, Division of Public and Behavioral Health, Department of Health and Human Services:**

The two positions that are requested within the unsolicited fiscal note are an advanced pharmacist and management analyst position. We have absorbed the current work. We do not have any designated staff that is doing the work. We have absorbed the work and relied on staff from other programs and contract work to help with the collection of the data. There are a lot of communications that occur on a daily basis and other aspects of the program that are required to put out in the annual reports.

The advanced pharmacist position would give us the expertise and knowledge to understand the complexities of the supply chain, to compile the lists of essential drugs, analyze the drug files, and give oversight to the program. That position would supervise the management analyst position. The pharmacist managing the program would also be responsible for analyzing the information provided by all of the reporting entities, developing and submitting the annual reports as required, and participating in the public hearings and the high level and complex discussions that take place with stakeholders and legal counsel that occur with some of the reporting entities when necessary. That position would be vital to the sustainability of the transparency program. Having that staffing in permanent positions would assist in moving the program forward to inform and change any future policy.

The management analyst position would help with all the reporting, the templates, some of the data analysis, collecting all of the reports that come in, and providing communication. We do not have any administrative assistants for this program, and we get multiple emails, phone calls, and all kinds of communications that occur on a daily and monthly basis. I will give you an idea of the amount of work that comes in. For this last reporting period, we are getting ready to put out the 2020 report on June 1, 2021. There were over 1,500 drugs that needed to be analyzed and put into the report, and each one of the reporting entities including the PBMs, manufacturers, and drug representatives all had to submit reports on those drugs. Each one had to be analyzed. There were various communications back and forth before the final completion and submission of the end result report. It takes work to manage the program, and the work will increase with adding additional reporting requirements and drugs on which to report. It is not a bad thing because it will give us more data to inform our

policy. It would be helpful to have sustainable resources and appropriate analytical tools. That is what the fiscal note addresses.

**Chair Carlton:**

I want to make sure we have a clear record that these will be contracted positions, and they will come out of a nonexecutive budget account. We do not put permanent positions into this program. We are contracting to see how things will work for the next couple of years for those positions. Then we will see where the program is in two years from now. You will be able to reevaluate to see if those positions might be needed on an ongoing basis. Do I understand that correctly?

**Beth Slamowitz:**

Right now, the penalty fund that would be used is in a nonexecutive budget account and would be used to sustain those positions for the next biennium. Hopefully, we would be able to put the program in a consistent budget going forward so they would be permanent positions.

**Chair Carlton:**

We want to make sure we have a good record so we do not have an issue with positions at another time.

**Senator Ratti:**

I should have said at the beginning that we are working off the mock-up proposed amendment 3408 to Senate Bill 380 (1st Reprint), which is an exhibit [[Exhibit C](#)] on your Committee's page. Everyone should have access to it. The fees are in section 18 of the bill.

**Chair Carlton:**

We are making sure that all the pieces align, because we do not want to have a domino that does not fall over. We will make sure everything is correct as we move forward. Are there any questions at this time?

**Assemblyman Roberts:**

I was on a health and welfare trust representing management at Metro [Las Vegas Metropolitan Police Department]. We heard a lot of things about health care, and prescription drugs were always an issue for a lot of our members. I see this as a transparency bill. It has PBMs and manufacturers having to provide reports. I am curious why we did not include insurers and health trusts? A lot of rebates are given that reveal the costs of medicine and some of that is passed on to members. Why was that not included?

**Senator Ratti:**

We did start with insurers in this bill. At the beginning of the session, I was doing a lot of work on two bills. This bill was on behalf of the Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs. I also had the privilege of having the Patient Protection Commission bills come to the Senate side first. The all-payer claims database provides a lot of information. When we were looking at workload and where we were going



to get the best transparency, the all-payer claims database includes 100 percent of the insurance data, and we get to see all of the claims. We considered how much we asked these insurers to report, how many different places insurers had to report, and how many different forms required their data. I felt the best bang for our buck was by having the all-payer claims database go forward to allow us to see every claim on all health care including pharmaceutical drugs. This bill would focus on the rest of the supply chain. In conversations with stakeholders it was a matter of how much can we ask and how much can we really process. We tried to hit the sweet spot with the two bills. You are going to get information from the insurers in the all-payer claims database.

**Assemblyman Roberts:**

Would that be a transparency piece as well in the database?

**Senator Ratti:**

There is so much going on right now. That would be Senate Bill 40 that the Assembly Committee on Ways and Means heard yesterday. It was mostly focused on the fiscal note yesterday. The all-payer claims database is exactly what it says. It is all claims from all insurers going into a database that can be analyzed by staff.

**Assemblywoman Peters:**

I have a similar question related to how we are going to bring those two data streams together and the capacity for that. Are these two offices working tangentially together?

**Senator Ratti:**

One of the things that I am most excited about this session is that the Department of Health and Human Services is creating an entire data team. We would have heard more about this in the Money Committees. They are moving toward a much more coordinated, professional approach to data collection and data usage. The tools that we are giving them including the pharmaceutical drug transparency program, the all-payer claims database, and some other things that have happened during the session, are going to give the Department a wealth of data that will now be in a team that is completely focused on analyzing data. I am more confident today than I have ever been that we are going to get good, meaningful, coordinated data. If you need more information than that, I will ask Dr. Slamowitz to speak to that.

**Chair Carlton:**

We put the Office of Analytics under the Director of the Department of Health and Human Services. All these pieces of legislation will go under that umbrella.

**Assemblyman Hafen:**

You said that Senate Bill 40 and S.B. 380 (R1) were going to work with this data team now. Would that also be true with Senate Bill 5 and everything else that we have done? There are lots of moving parts that passed out of this Committee yesterday. I want to make sure that everything is going in the right direction.

**Beth Slamowitz:**

The drive is to tie all these pieces together. Right now, the only utilization that we have to look at about how these drugs are being used in the state is Medicaid utilization for drug transparency. Although Medicaid is about one-third of the state in terms of utilization, it still does not give us a broad picture of how these drugs are being used and what kind of utilization we are looking at as far as trends. Having access to the all-payers claims database not only gives us the opportunity to look at additional utilization but it also gives us the opportunity to do a cross-check on what the PBMs are reporting is happening. We are seeing what the PBMs are claiming as far as the costs of the drugs and rebates being received. Then we can go back to the all-payer claims database if those PBMs are reporting that pharmacy data for those health plans, and we have a cross-check to be able to look at that and verify the data. I think all of those pieces coming together in an analytics team with the resources to understand how to do the analysis is important. It takes a certain subset to look at and understand SQL [Structured Query Language] because the drug files that come in are not in any kind of tangible form. It is important to have people who know what they are doing to pull the data accurately and do the appropriate analysis while also having the clinical resources to put those pieces together. Hopefully, that helps.

**Chair Carlton:**

Are there any other questions? [There were none.] This is the hearing for Senate Bill 380 (1st Reprint). At this time, I will open it for testimony in support of the bill.

**Priscilla Maloney, representing the American Federation of State, County & Municipal Employees (AFSCME) 4041 Retiree Chapter:**

I do not know if anyone is here from the Public Employees' Benefits Program (PEBP). We are in support of this bill as written. We have also taken a look at the amendment, and PEBP is included there in section 2 of amendment 426. Globally and briefly, we are in support of this bill even as amended.

**Chair Carlton:**

Is there any other testimony in support? [There was none.] Is there any testimony in opposition to the bill?

**Tom McCoy, Executive Director, State Government Affairs, Nevada Chronic Care Collaborative:**

On behalf of the thousands of patients with one or more chronic conditions/diseases in Nevada, the Nevada Chronic Care Collaborative (NCCC) shares our concerns about S.B. 380 (R1) as it now reads [[Exhibit D](#)]. The NCCC supports transparency for prescription drug pricing. We felt that S.B. 380 (R1), as introduced, would help to achieve that desired goal. But for patients to truly benefit from transparency policy in prescription drug prices, notwithstanding Senate Bill 40, that policy needs to apply to all players in the prescription supply chain spectrum that impact what consumers pay when checking out at the pharmacy counter. Excluding insurers, as S.B. 380 (R1) does, from the same reporting obligations and pricing picture is far from transparent and offers only half the pricing picture.

Senate Bill 380 (1st Reprint) does not address a most important factor for patients with chronic illnesses: out-of-pocket costs. Moreover, the legislation fails to address why pharmacy benefit managers and health plans do not pass along rebates and discounts that they receive regularly from biopharmaceutical companies directly to patients, which would lessen the burden of those out-of-pocket costs.

The NCCC is a network of Nevada and regional advocacy organizations advancing public policy that serve to improve and inspire the lives of those living every day with chronic conditions and diseases. We encourage the members of the Assembly Committee on Ways and Means to consider these concerns as you decide the future of S.B. 380 (R1). As written now, the legislation does little to improve access and affordability of prescription medications for Nevada patients.

**Brett Michelin, Senior Director, Association for Accessible Medicine:**

The Association for Accessible Medicine represents the generic and biosimilar manufacturers. I have three main points I would like to make. First, I think the state needs to consider what it is going to be paying for with its fine and penalty monies. The state will be aggregating data and reporting information submitted by manufacturers on drugs with a wholesale acquisition cost of \$40 that increases by 10 percent. This is not going to capture the high-cost drugs. In fact, it will generally only capture generic drugs, which in the state of Nevada was \$2.4 billion in 2019 alone. For example, this bill will capture drugs that cost \$1.33 that increased by 13 cents for a drug taken once a day. For a drug taken three times a day, it will capture drugs that cost 44 cents and increased by only 4 cents.

However, we need to consider what it will not capture. Humira, as a real-world example, increased in price according to Medicare Part D by 44 percent over five years. It will not be required to be reported under this bill because that is just on average approximately 9 percent per year. Another real-world example is the brand name Ultram and its wholesale acquisition cost is approximately \$300. If it increases by \$30 it will not have to be reported. However, generic Ultram costs approximately \$3. If it increases by 3 cents, it will be reported. This bill is not going to capture the drugs that are driving the increase in cost of medicine.

The wholesale acquisition cost (WAC) price on the generic side is very different. The WAC does not reflect what the patient is actually going to pay at the pharmacy counter. We have multiple manufacturers making the exact same drug regardless of what the WAC price is in the state, and the plans do not even negotiate with wholesale manufacturers for the wholesale price. That is done on a national sales price. The WAC is not going to reflect what patients pay.

The Association for Accessible Medicine can suggest amendments, and we could be neutral on a bill that differentiated between brand medications and generic medications with thresholds that would actually represent and would capture the high-cost drugs. That is similar to what other states have done. This information has already been captured by California. They have done this work for Nevada already. From California, we know that

even with the most expensive generic drugs, they are 25 percent of all prescriptions but are only 8 percent of the spend and less than 1 percent of the premiums. This bill is not going to capture the information that Nevada needs. The state should consider other proposals to reduce the cost of medicine.

**Chair Carlton:**

Is there any further testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill?

**Asher Lisec, representing Pharmaceutical Research and Manufacturers of America (PhRMA):**

Senate Bill 380 (1st Reprint) is a byproduct of the Committee to Conduct an Interim Study Concerning the Costs of Prescription Drugs. While we are disappointed that many of our measures did not get vetted by the 2021 Legislature that would have truly assisted all Nevadans with their prescription drug costs, the Pharmaceutical Research and Manufacturers of America appreciates the opportunity to work with Senator Ratti on S.B. 380 (R1) to address our primary concerns with the measure.

**Chair Carlton:**

Is there any further testimony in neutral on the bill? [There was none.] Are there any closing comments? I do not believe that there are any closing comments that need to be made.

**Senator Ratti:**

I appreciate the time of the Committee on this bill. We worked with lots of stakeholders, and we accepted lots of amendments. I think you see that reflected because there was not a long line of people to testify in opposition. I think the individuals we disappointed the most were the individuals who represent generics. We think there is a good argument for keeping generics in at least for two years. Then that can be revisited. We will get the utilization data from the all-payer claims database if that gets across the finish line, which will help us as well.

**Chair Carlton:**

I will close the hearing on this bill and open the hearing on the next bill.

**Senate Bill 420 (2nd Reprint): Revises provisions relating to health insurance. (BDR 57-251)**

**Senator Nicole J. Cannizzaro, Senate District No. 6:**

I have two copresenters joining me today who I promise will be very short but can provide some context on this bill. I have Shenakwa Hawkins from Care with Purpose Medical Center in Las Vegas, and Wendell Potter from the Center for Health and Democracy who can join us via Zoom. Also, here to assist with technical questions as we walk through the bill and are able to answer questions for the Committee, I have Stacie Weeks, from Aurrera Health Group.

One of the problems and one of the most common concerns that I hear when I am talking to constituents at the door, whether it is in Senate District 6 or whether we have individuals here, is the cost of health care in the state. That is such a huge issue for so many families. Polling and studies do reflect this reality. According to the Kaiser Family Foundation, the cost of health care ranks as one of the top things that Americans worry about. It affects every aspect of patient experience from decisions about whether to even seek care to the impact of medical bills after receiving care. Importantly, it affects decisions about insurance coverage. It is not just families who are concerned about the cost of care. In research that was released recently, the Kaiser Family Foundation also found that more than 90 percent of business leaders surveyed believe there is a greater role for the government to play in controlling health care costs and providing coverage options, including potentially public options.

In the years following the passage of the Affordable Care Act (ACA) in 2010, Nevada also expanded Medicaid and began offering private health insurance through the Silver State Health Insurance Exchange. The number of Nevadans without health insurance did decline, however, the uninsured rate in the last two years has remained stubbornly consistent and among the highest in the nation at approximately 11 percent. In fact, there are nearly 350,000 uninsured Nevadans, and our uninsured rate, despite being one of the states that did in fact expand Medicaid coverage, is still 7th highest in the nation. We pay some of the highest costs but still struggle with disappointing health outcomes. What S.B. 420 (R2) hopes to address with respect to that issue is to expand affordable, accessible, quality health insurance options for all Nevadans.

As members of this Committee may remember in 2017, the Legislature passed Medicaid buy-in legislation. That legislation was ultimately vetoed by Governor Sandoval, and there were some additional conversations about how to address health care costs here in the state. At the end of last session in 2019, we passed Senate Concurrent Resolution 10 of the 80th Session, which provided for an actuarial analysis in the interim. That data has led us to this point and the introduction of S.B. 420 (R2).

This bill also comes at a critical time. We are more than one year into a global pandemic that has resulted in job loss and loss of health insurance. People are struggling to ensure they will have access to health care if they get sick. Now is an opportune moment to take advantage of the state's considerable bargaining power to make health care more affordable and more accessible by enacting this particular bill.

This bill improves access to health care in two key ways. First, by requiring the establishment of a public health option, and second, there are also provisions in the bill that make various changes to Medicaid to expand access to care. Those are two separate pieces of the bill. With your permission, I would like to turn it over first to Shenakwa Hawkins who is joining us via Zoom and then to Wendell Potter.

**Chair Carlton:**

That would be fine. Please proceed.

**Shenakwa Hawkins, Care with Purpose Medical Center:**

I am speaking in favor of S.B. 420 (R2). I am a health care provider and a small business owner. I am an advanced practice registered nurse (APRN), and I run Care with Purpose Medical Center in Las Vegas. We predominately serve people of color and low-income communities, including a large population of homeless clients. I have submitted written remarks for the record [[Exhibit E](#)]. Out of respect for our time, I will just say this. I personally know what it is like to lose a job, and with it, health insurance. I lost mine at the start of the COVID-19 pandemic when the clinic I worked for shut its doors. Our practice now is comprised of many people in this very same situation whom we see and treat. I have been a registered nurse for over 20 years including in the emergency and trauma centers. I know that not having health insurance means that people end up needing expensive emergency care because of conditions that could have been treated proactively if they could have afforded insurance earlier to have prevented some of these complications. The Nevada Public Option helps make preventative medicine more affordable and accessible.

As an APRN, the move toward pay parity is grave. There is much inequality in our existing system. That is part of what inspired me to open my own practice and serve historically underserved communities and populations. We are providing the same level of care with preventative medicine and management of chronic diseases such as hypertension, diabetes, and cholesterol issues that are especially problematic in communities of color. Pay parity would help me keep my clinic open long term, and I appreciate this step in that direction.

It is also helpful to providers like us that generally giving more people access to health insurance will more adequately reimburse providers. There are many other reasons why I support this bill, but in the interest of time, I will end by reiterating that this bill will help communities like the ones that my clinic serves. I ask and urge you to pass this bill to help us.

**Chair Carlton:**

We will make sure to put your comments in the support testimony section of the hearing. We are still in the presentation of the bill section of the hearing. Senator Cannizzaro, do you have anyone else wishing to be in the presentation section of the hearing and then would you walk us through the bill?

**Senator Cannizzaro:**

Yes, we should have Wendell Potter available, and he is also going to provide an explanation of why this type of legislation is important.

**Wendell Potter, Center for Health and Democracy:**

A dozen years ago, President Obama told the Joint Session of Congress that a public option was necessary to keep insurance companies honest and hold them more accountable. Without the competition that a public option would provide, he said, it is easier for insurance companies to treat the healthiest and drop the sickest and overcharge small businesses and jack up rates. He went on to say that as one former insurance executive testified before Congress, insurance companies are not only encouraged to find reasons to drop the seriously

ill, but they are rewarded for it. All of this is done in the service of meeting what this former executive called Wall Street's relentless profit expectations. That former executive was me. Not long before that speech, I had left my career as head of communications at Cigna Insurance Company after a crisis of conscience.

The powerful insurance industry was able to strip the public option out of the ACA to protect profits. In the years since that bill was enacted, insurance companies have only become bigger and emboldened in their efforts to keep people from getting the care that they need. Insurers have also become some of America's most profitable companies. In fact, most of them have posted record profits during the COVID-19 pandemic. Those record profits are the result of barriers that insurance companies have erected that make it more and more impossible for people with insurance to get the care that they need.

Hundreds of thousands of your constituents still cannot afford health insurance because of ever-increasing premiums. Many others who do have insurance cannot even pick up their prescriptions because insurance companies now make them pay, in many cases, thousands of dollars from their own pockets before their coverage kicks in.

It is not just ordinary individuals who are being fleeced by insurance companies; so are employers, most of whom were hard hit during the pandemic. A recent survey by the Kaiser Family Foundation found that the CEOs [chief executive officers] of America's biggest employers now want the government to play a bigger role in bringing down the cost of health care.

In my old job, I helped carry out numerous propaganda campaigns to scare people about health care reform proposals at both federal and state levels. One of the ways we succeeded was going into states and recruiting hospital executives to serve as our messengers. It was dishonest work, which I will always regret. If I had not quit, I might still be writing this meeting's talking points for the industry's front group, like the ones they call Nevada's Health Care Future.

Assembly members, how you vote on this bill will result in either more Nevadans being able to get the care that could save their lives or further enriching the people who are bankrolling the campaign against the bill before you. You have the power to hold insurance companies more accountable and bring down the cost of health care and health insurance. Do not let the industry's greed keep you from doing what is right for your constituents.

**Senator Cannizzaro:**

At this point I would like to walk through the provisions of the bill. We will begin with the Public Option piece of the bill. As I mentioned, there are two separate pieces of this bill. This bill specifically requires the Director of the Department of Health and Human Services (DHHS) in consultation with the Executive Director of the Silver State Health Insurance Exchange (Exchange) and the Commissioner of Insurance, Department of Business and Industry, to design, establish, and operate a public health benefit plan called the Public Option. The primary goals of the Public Option are: to leverage the state's purchasing power

to reduce health insurance costs for Nevadans; improve access to high-quality, affordable health care for residents including those employed by small businesses; reduce disparities in access to care and health outcomes and increase access to care for historically marginalized communities; and increase competition in the individual health insurance market to improve health insurance options for rural Nevadans. Pursuant to section 10 of the bill, the Public Option must be made available to all Nevada residents, both as a policy of individual health insurance through the Exchange and for direct purchase. It may also be made available to small employers for their employees.

I would note that we do have proposed amendment 3463 to Senate Bill 420 (2nd Reprint) [[Exhibit F](#)]. The amendment includes some clean up language after consultation with the Executive Director of the Exchange to make sure that what we are doing here has accurate definitions of what is included in the bill. You will see some changes to section 10 to clarify that we are talking about natural persons in this particular bill. Section 10 further requires the Public Option to meet the requirements established by federal and state law for individuals' health insurance or health insurance for small employers. To keep costs down, premiums for the Public Option must be at least 5 percent lower than the premium of the second lowest Silver Plan available on the Exchange in the relevant zip code. Those premiums must not increase by more than the Medicare Economic Index in a given year. Under the provisions of this bill, these requirements may be revised by the Director of DHHS, the Executive Director of the Exchange, and the Commissioner of Insurance, Department of Business and Industry, if the Public Option is on track to reduce its premiums relative to the state's benchmark premiums by at least 15 percent in its first four years of operation.

Section 11 of the bill requires the Director of DHHS, the Executive Director of the Exchange, and the Commissioner of Insurance, Department of Business and Industry to apply for certain waivers to obtain federal financial support for the Public Option and authorizes them to contract with an independent actuary to assess the impact the Public Option would have on health care and health insurance markets in the state. Section 12 requires the Director of DHHS to use a statewide competitive bidding process to solicit and enter into contracts with health carriers and others to administer the Public Option. In order to increase competition, health carriers that provide Medicaid managed care organization (MCO) plans in Nevada must participate in the competitive bidding process. The bill also authorizes the Director of DHHS to directly administer the Public Option if necessary.

We have added language for bidding preference criteria to reward those plans that can demonstrate that their Public Option product will better align with MCO networks, include value-based care arrangements, and provide for adequate coverage in rural areas and underserved communities. This also requires a health carrier who is administering the Public Option to provide information to the Commissioner of Insurance, Department of Business and Industry and obtain certification as a qualified health plan.



Sections 13, 21, and 29 of the bill require health care providers and facilities that participate in Medicaid, the Public Employees' Benefits Program, or the State's workers' compensation program to enroll in the Public Option as a participating provider in at least one Public Option plan and accept new patients who are enrolled in the Public Option to the same extent they would accept new patients not enrolled in the plan. Section 14 requires aggregate reimbursement rates under the Public Option to be comparable or better than Medicare reimbursement rates. It also requires the Director of DHHS to establish health care provider networks for the Public Option that minimize disruptions in care for those who do lose coverage through Medicaid or the Children's Health Insurance Program and enroll in the Public Option. The Director must also encourage the use of value-based payment models, reward delivery of high-quality services, and lower the cost of care throughout the state. Section 15 establishes the Public Option Trust Fund to hold certain funds for the purpose of implementing the Public Option. This bill makes various additional changes to ensure the Public Option is treated similarly to comparable forms of public health insurance.

Beyond the Public Option, the second piece of this bill relates to several pieces of Medicaid expansion that came as a result of conversations that we were having with DHHS as we were discussing the implementation and the pieces of the Public Option. They had a series of Medicaid expansion pieces that would help to aid with additional care for pregnant and nursing moms for both prenatal and postnatal care. We have included a lot of these in this bill following those conversations. Senate Bill 420 (R2) makes some of those various changes to Medicaid by expanding coverage for those pregnant women in hopes of improving outcomes and reducing health disparities by expanding access to critical prenatal and postpartum care among other services.

As we know here in Nevada, non-Hispanic, black, American Indian, Alaska Native, Asian, and Pacific Island populations have some of the highest rates of severe maternal morbidity, which includes potentially life-threatening conditions and maternal complications. Rates for these populations are approximately double those for non-Hispanic whites. In addition, non-Hispanic black women have the highest pregnancy-associated and pregnancy-related death ratios accounting for less than 15 percent of all deliveries, but 25 percent of all pregnancy-associated deaths and 33 percent of all pregnancy-related deaths. As the single largest payer of births in Nevada, Medicaid is uniquely positioned to improve maternal and child health outcomes.

It is my hope that expanding the health insurance coverage and access to care for pregnant women will improve existing health disparities and maternal and child health outcomes for moms and babies. I would be remiss if I did not recognize that this is certainly a piece that we have included in Senate Bill 420 (2nd Reprint). I have an interest in some of the types of care that come as a result of these pieces. This is not something that I want to take any credit for leading the way on. I know we have several members on this Committee who are doing remarkable work on other bills this session and have done remarkable work in other sessions. Assemblywoman Gorelow and Assemblywoman Monroe-Moreno have been leaders in this aspect of making sure that moms can get additional care. We were excited to include some

of these pieces after those conversations with DHHS. I would be remiss if I did not recognize that they have been leading the way in a lot of these respects.

Section 24 of this bill enhances Medicaid services for pregnant Nevadans to ensure that more expectant parents and their children receive quality prenatal and postpartum care. It increases the income caps on Medicaid eligibility for pregnant women from the current limit of 165 percent of the federal poverty level (FPL) to 200 percent of FPL. It requires Medicaid to expedite enrollment for pregnant women through a policy of presumptive eligibility, which allows certain entities to help women enroll in Medicaid without submitting a full application that includes proof of eligibility. It prohibits DHHS from requiring a pregnant woman who is otherwise eligible to live in the United States for a certain period of time before enrolling in Medicaid. Section 25 further expands access to care for all Nevadans by requiring Medicaid to cover the services of community health workers who provide services under the supervision of a physician, physician assistant, or advanced practice registered nurse.

Section 26 requires Medicaid to cover certain costs for doula services. Section 27 requires fee-for-service Medicaid to reimburse APRNs to the same extent as the services provided by a physician. Section 28 requires Medicaid to cover breast-feeding supplies, certain prenatal screenings, tests, and lactation consultation and support. Finally, in an effort to improve access to care for Nevada's rural residents, section 30 requires DHHS to establish a Medicaid managed care program to provide health care services to Medicaid recipients in all geographic regions of the state rather than just in urban areas as is the current practice. The DHHS must conduct a statewide procurement process to select health maintenance organizations to provide these services. We want to ensure as well that under statewide managed care, rural providers and FQHCs [Federally Qualified Health Centers] could expect to receive at least the same rates as they are today under fee for service.

Finally, the bill directs the Exchange and DHHS to seek a waiver from the federal government to allow multiemployer health trusts to offer their plans on the Exchange under certain circumstances. We have a lot of Nevadans who are covered under these plans, and they often work in industries that are particularly sensitive to challenging economic circumstances. This waiver would be an innovative way to make it easier for those plans to provide continuity of coverage to their members leading to more consistent care and better health outcomes. Section 39 also requires the performance of the actuarial study and requires the Director to apply for the waivers indicated to support the Public Option.

We have heard time and time again that Nevadans need more affordable health insurance. We have heard from small business owners, the employees, the uninsured, the underinsured, and those who have lost their jobs and their health insurance as a result of the COVID-19 pandemic, and who lost their jobs from other economic circumstances. They need health care. That is what this bill is seeking to do. They need affordable insurance options. Senate Bill 420 (2nd Reprint) does take the critical steps that I believe lead us in the right direction. The bill is also married with data from an actuarial study and allows us to utilize the state's purchasing power to help increase those affordable options for Nevadans.

There are two final things on which I wanted to touch. In the bill as presented to this Committee, there are appropriations for the Public Option for the pieces of the Medicaid portions that are not savings. They have been made to read that they would be permitted as funding may become available. You will see that reflected in the bill as well. For the Money Committees' purposes, there is an appropriation that we added in the Senate for the implementation and beginning of the Public Option. The other thing I wanted to note is that the Public Option pieces would allow for procurement in 2025, with the first plan year being in 2026. I also think that is an important note because it does provide time for us to ensure that what we are implementing makes sense. Finally, I know that Jim Penrose is here and was planning to address the Committee about a proposed amendment that we have worked on with the Majority Leader. That amendment is friendly, and we are supportive of and happy to have it in the bill. His plan was to come up during testimony unless you would like him to come up now.

**Chair Carlton:**

I think now would be better. It is best to have the comprehensive conversation all in one section of the bill since we were working from a previous version and another proposed amendment. Then we do need to get into the fiscal component of it because we believe there was an extra fiscal note attached after it left the Senate. We want to make sure that we get that addressed.

**Jim Penrose, Private Citizen, Carson City, Nevada:**

My wife Pam is here as well. We are from Carson City and are retired public employees currently insured by the Public Employees' Benefits Program (PEBP). Pam is one of approximately 100 people who suffer from a rare, metabolic disease that requires her to take what in statute is called an enteral formula. Because she is unable to absorb a particular amino acid, she is restricted to a very low-protein diet of regular food. She is required to take every day for the rest of her life a specially formulated medical formula that supplies her with a protein that she needs but without the particular amino acid that she is unable to metabolize. The unreimbursed cost of that formula to us is approximately \$9,600 a year. For a family with two or three children with PKU [Phenylketonuria], which is another disease that is involved here, the cost can be two or three times that amount. For a middle-income family, that is a substantial amount of money.

Back in 1997, the Legislature mandated that health insurers provide coverage for enteral formulas that are prescribed by a physician and used for the treatment of these metabolic diseases. Unfortunately, the Legislature did not attempt at that time to define what an enteral formula was. Both then and now, the vast majority of the formulas are consumed orally. There are products that can be drunk rather than administered through a feeding tube or intravenously. Nevertheless, PEBP and a number of other health insurers in Nevada and elsewhere across the country have taken the position that coverage for an enteral formula is required only if it is administered through a feeding tube or intravenously and the patient is otherwise unable to take oral nutrition. That effectively in our view eliminates the mandate that was adopted in 1997.

We have a mock-up amendment [[Exhibit G](#)], which is on NELIS [Nevada Electronic Legislative Information System] and amends the provisions of *Nevada Revised Statutes* (NRS) to explicitly provide coverage for the enteral formula. The language used in the coverage mandate provisions for enteral formulas includes, without limitation, a formula that is ingested orally to make sure that the formula that Pam and so many other patients take continues to be covered. The PEBP as a matter of practice, even though it is largely a self-insured program, has undertaken in its various plans to provide coverage for enteral formulas as mandated by law. Nevertheless, they take the position that we are not talking about formulas that are administered orally. The final provision of the amendment adds language to NRS 287.04335, which sets forth the various provisions that the PEBP Board is required to comply with to make reference to the particular provision that relates to group health insurance and to health maintenance organizations. All those changes would be effective under the terms of the amendment on July 1, 2021, to ensure that PEBP complies with these provisions during its upcoming claim year, which is called the 2022 plan year.

Other than that, I am happy to answer questions you may have. I have submitted a letter to the Committee [[Exhibit H](#)] and a document from the Michigan Department of Health and Human Services [[Exhibit I](#)] that outlines this problem. I should add in terms of the fiscal impact of this bill, which is this Committee's concern, that it may be that Pam is the only patient among the 75,000 that PEBP insures who is affected by this particular problem. We are talking about 100 patients out of a population of approximately 3 million people in Nevada. I do not anticipate there will be a significant impact from PEBP's standpoint. I should also add that local governments that provide a health plan through self-insurance to their employees under the provisions of NRS 287.010 are subject to the group health insurance mandates. Potentially, there could be an additional fiscal impact, incremental I would argue to them, but I want to make that clear for the record.

**Chair Carlton:**

You have made it clear what we are doing, and the sponsor considers it a friendly amendment. We would normally have individuals come up in the neutral section of the testimony or even in the opposition section to propose an amendment. Because it has been previously discussed and everyone is on board, this bill is having a unique way through the system. We are trying to make adjustments in the last few days of this session to make sure everything gets addressed. Committee members, are there any questions at this time? The game plan is we started at about 9 a.m., and we are at 9:26 a.m. now. We will go into questions for the next 10 to 12 minutes. Then I would like to open it for testimony in support for approximately 15 minutes, opposition for approximately 15 minutes, and neutral. I would like everyone to keep their comments to approximately two minutes each. We have a lot of letters associated with this also, and those have been uploaded to NELIS and are available to the public. I want to give everyone the lay of the land as far as how we are going to do this.

**Assemblyman Hafen:**

We had a bill yesterday about prenatal care, and that is a huge thing for me. I appreciate that aspect. I want to touch on how this is going to interact with the new American Rescue Plan Act of 2021 (ARP). Effective on April 1, ARP increased eligibility from 400 percent FPL to

600 percent FPL, and then limited the amount for insurance to 8.5 percent of their income. With that increase in the Exchange to 600 percent of FPL, how is this bill going to interact with those changes?

**Senator Cannizzaro:**

That is a question that has come up throughout discussions on this particular bill. I think there are a lot of good pieces with the ARP dollars and how it is helping to get more Nevadans covered by health insurance, which speaks to exactly the problem that we have. There are people out there who are uninsured who need to be insured, and how do we start to address that? The ARP is a "temporary and expiration in the future" situation. I think this bill is the complement to that. We know that there are people who are underinsured or uninsured who need access to health care and are willing to get access to health care when it is something that they can afford, can qualify for, and get proper coverage. I think that speaks to the exact issue that S.B. 420 (R2) is trying to address.

But what is happening with the ARP dollars is some of those effects are temporary. Here in the state, we need to think about something that is more long-term, permanent, and is going to help to reduce those costs. That is what S.B. 420 (R2) will do. The Public Option will operate a little differently from what we are seeing with ARP. The Public Option has a procurement year of 2025, with implementation for the first plan in 2026, which allows us time to get this set up. In the interim, it allows for there to be another option for individuals who really do need that coverage after the expiration of the ARP.

**Assemblyman Hafen:**

You mentioned that this is only temporary, but it is my understanding that President Biden has asked that the 600 percent FPL be made permanent. If it did become permanent, should we be spending time during the interim studying this and bringing this back as a whole picture and piece. I understand the ARP piece just hit on April 1, 2021, with this aspect. Then should we bring this back next session, so we have time to fully tweak it and get all the bugs out of it before we implement this?

**Senator Cannizzaro:**

I think the short answer is yes. Until there is something that says this is absolutely permanent, we are betting on conversations that could happen at the federal government and hoping that we are going to solve a problem with that. I also do not think ARP solves the entirety of the problem. The Public Option complements the problem well with the actuarial study that would be conducted in accordance with the waivers that are sought in this particular piece, and ARP will not cover all Nevadans who will fall under the provisions of S.B. 420 (R2) if we are able to implement it.

**Assemblywoman Tolles:**

How many Nevadans are currently eligible for Medicaid but not taking advantage of it?

**Senator Cannizzaro:**

I would invite Ms. Weeks to answer. She may provide some technical assistance and may have the answer more readily.

**Stacie Weeks, Principal, Medicaid Transformation & Financing, Aurrera Health Group:**

Of the 350,000 uninsured, 37 percent are eligible.

**Chair Carlton:**

Please repeat that.

**Stacie Weeks:**

Of the 350,000 people uninsured, 37 percent are expected to be eligible for Medicaid.

**Chair Carlton:**

There are 350,000 who are eligible to be on Medicare, 37 percent are currently enrolled, correct?

**Stacie Weeks:**

No. There are approximately 350,000 uninsured Nevadans. Of that 350,000 uninsured, and according to the most recent information, 37 percent are expected to be eligible for Medicaid.

**Assemblywoman Tolles:**

I was looking at the fiscal note from DHHS, and this bill will cost \$75 million over the biennium. Would it be less expensive and make more sense to do outreach to that 37 percent to try to get them enrolled in Medicaid? My concern is we are going to have one more option, and they still are not going to be taking advantage of it.

**Senator Cannizzaro:**

With respect to some of the DHHS provisions that you are seeing in the fiscal note, a lot of those were related to some of the Medicaid pieces for prenatal and postpartum care for pregnant and nursing moms. Regarding the Public Option, if you were eligible for Medicaid, then you would not qualify for the Public Option, but you could buy it off the Exchange if you wanted to buy the Public Option off the Exchange. But if you were eligible for Medicaid, we would seek to get you enrolled in Medicaid. Similar to when we have seen expansions of other health care provisions, individuals who end up being eligible for Medicaid are typically signed up for Medicaid because that is going to be the most affordable place for them to be covered. We want to make sure that we can help in any way. I think the Public Option works in conjunction with those outreach efforts and the navigator programs that we have seen with the Exchange to help get people enrolled when they do qualify for Medicaid. There is still a significant portion of that population that is uninsured, underinsured, cannot qualify for subsidies on the Exchange, or do not qualify for Medicaid. There would still be individuals who we want to get covered, and the Public Option would be an avenue for that.

**Assemblyman Roberts:**

I have a question about the hospital rates. Currently, Medicaid is approximately 50 percent reimbursement, and Medicare is approximately 90 percent reimbursement. This bill proposes to move people from the commercial rate onto the Medicaid or Medicare rate. It is going to cut a lot of the reimbursements to hospitals. We saw this last cycle when we restored some of the cuts for pediatrics because we were trying to solve a problem related to Sunrise Hospital. They were ultimately going to cut services if we did not do that. Do you think that this bill creates that scenario, and could hospitals potentially cut services because their reimbursement rates are going to be forced lower?

**Senator Cannizzaro:**

I want to clarify a couple of things about the Public Option. It does not require everyone who is on commercial health insurance to take a Medicaid or Medicare rate. What the Public Option has in it is a floor—the Public Option must at least be Medicare reimbursement rates. We did not want to use Medicaid rates because of some of the issues that you have outlined. We went with Medicare rates as a floor. This is not a ceiling or a mandatory reimbursement. Some of the concerns that we have heard is that if you set a floor, then that is all there is. But that ignores the essence of bidding on insurance products even in the Exchange. If somebody else has a different amount and is bidding on what they would offer, you still have that negotiating power. The state is still going to utilize its negotiating power. Yes, we are trying to create something that will cost Nevadans less from a premium standpoint. We are utilizing not only the state's own procurement authority but also the Public Option Trust Fund, which will allow us to draw down some federal dollars to help buy down the premiums as well, and then there will be a premium reduction over time. That is one of the misnomers when you see the Medicare rates in there. It is not mandating that is what the rate would be. That is what it must at least be when we are talking about bidding on these particular plans.

There are other provisions in the bill that these must be silver and gold plans. We want to incentivize value-based systems where we can get people into care that helps to address issues before they become acute. One of the issues is when we are talking about adding individuals onto health insurance, what does that do with respect to lowering rates for providers. Currently, the individuals and small group employers that we are trying to get here are either offering health care plans that are not providing the kind of health care that is necessary for the individuals covered on those health care plans or they are uninsured or underinsured. When an individual who is uninsured goes into a hospital and receives care, it is often for a more acute injury or disease, and it is often an emergency-type basis, and it is uncompensated for with respect to the providers.

When we are talking about what impact this Public Option would have, we are not talking about taking people from their employer plans. In fact, all the provisions of the ACA still apply, and that is reflected in the language of the bill. That is not who we are talking about. If somebody qualifies for Medicaid and they are on Medicaid, that is how they would receive their care. But for other individuals who are currently going to providers once something has become a much more distressing situation that involves much more medical care in order to

address, that is currently uncompensated. We are trying to get people into health insurance programs that they can afford that will provide for compensation for that care.

**Assemblywoman Jauregui:**

My question is piggybacking off of the question from Assemblywoman Tolles. This might be a better question for Medicaid. They said there were 350,000 people uninsured and 37 percent of them would be eligible for Medicaid, and that is approximately 130,000 who are eligible. My colleague asked the question about redirecting the money on the fiscal note to outreach. I would ask Medicaid how much it would cost them to reach out to these people to get these 130,000 people enrolled in Medicaid? What would that cost be to reach out to them?

**Suzanne Bierman, J.D., M.P.H., Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:**

I do not have that amount today but would be happy to go back and see if we can put together an estimate. The Division of Welfare and Supportive Services, Department of Health and Human Services does eligibility and enrollment for Medicaid, and we could work with them to see if we could put together a cost estimate for reaching the remaining uninsured and what outreach and education efforts would cost, and we would be happy to do that. I did want to clarify that we have submitted an updated fiscal note. That prior number was based on an earlier version of the bill that did not have the "as funding allows" language. Our new fiscal note has decreased significantly.

**Assemblywoman Titus:**

I know we have been warned to keep this short, but I do have several questions. I am going to start with a question regarding access to care. I believe you want good health care for all Nevadans, and that is why you are bringing this bill forward. Yesterday, *Becker's Healthcare* released a study that the top five worst states in which to practice medicine are as follows: West Virginia, Louisiana, New Mexico, Nevada, and Rhode Island. Do you feel in this bill you will increase access and bring providers to Nevada?

**Senator Cannizzaro:**

I think the answer is yes. I know there has been a lot of conversation about how this bill would lead to decreased provider access. Frankly, I struggle with that concept because what we are trying to do is include yet another piece of health coverage in order to ensure that when providers are seeing patients, they are getting paid for that. It is an important piece of this. That is something that gets overlooked. Some of the other caveats to those kinds of statements are we have the ARP funds, or we should just put more people on Medicaid. Yet at the same time we often hear the arguments that Medicaid rates are too low here in the state so why would providers want to treat more Medicaid patients because then they start to lose money. It is inconsistent to say that we should be putting more people on Medicaid or that somehow if an ARP temporary solution is helpful in getting people onto coverage, it is not great for providers. We are creating another option for people to have another option so that they are getting preventative care and regular checkups. In this bill, we built in the procurement preferences for value-based services so people can get that kind of care and



made sure that what we have here are plans that are going to provide that kind of thing. There should be an incentive for providers. Providers are going to get compensated for seeing patients, and they are going to help with better health outcomes overall by being able to have people covered.

**Chair Carlton:**

What was the study that you cited?

**Assemblywoman Titus:**

*Beckers Healthcare* study.

**Assemblywoman Titus:**

You mentioned reimbursement. To be clear, the reimbursement is not going to be based at the Medicaid reimbursement but is going to be based at the Medicare reimbursement rate.

**Senator Cannizzaro:**

That is correct. That is what the minimum would have to be for the Public Option plan. It could be higher than that. We want to encourage negotiations in those spaces, so we did not put a ceiling on that. It is Medicare.

**Assemblywoman Titus:**

It is not cost based, however.

**Senator Cannizzaro:**

It is not cost based.

**Assemblywoman Titus:**

I have said many times for the many sessions I have been here, just to be clear, Medicaid rates are horrible, Medicare rates are bad. None of it is good. We lose money no matter which one of those rates we negotiate. Is there anything in this bill about what to do if the actuarial study comes back bad and if Nevada is set to lose money if this does not work? Mandating that we follow it, what will be the state's option if this does not look good for the state?

**Senator Cannizzaro:**

I fundamentally believe that we are going to see a place where we are going to have an option that is going to help get people insurance that is affordable for them. I would start there. We obviously have built in, after concerns we heard in the Senate, the requirement for the actuarial study to take place, which we have to do for some of the waivers that we are contemplating that will help buy down the cost of those products. Additionally, I would note that there are two legislative sessions built into the timeline. I do not think anyone in this building is ever coming in and saying I would love to implement a horrible piece of legislation that is going to do no good for Nevadans. I think there are opportunities to make improvements if we need to. The whole purpose of this is to start getting it set up so that we

can be ready for procurement and make adjustments, and we will have data to help back that up.

**Assemblywoman Benitez-Thompson:**

More than a question, I think it is something that I want to make sure we have on the record as food for thought. It is the definition of small employer in section 10 defined as 42 USC [United States Code] §18024(b)(2). I believe the way we are referencing 42 USC 18024(b)(2) is a small employer is a business with fewer than 50 employees. What we have been doing in other programs throughout the state is proposing that we talk about a small employer in terms of their revenues and account for healthy for-profit entities and for businesses that are doing well and have the resources to supply things and cover costs of things like health insurance for their employees versus a hard fast quantitative number that does not reflect whether or not a company is highly profitable or not. We have lots of tech companies like that. They may have five employees, but they might be doing \$10 million a year.

It might be interesting to say what if we had small employers defined by those who have to file and pay the commerce tax in Nevada. For example, we did that in the PETS [Pandemic Emergency Technical Support] program at the beginning of the year to say that if you want to be eligible for this kind of assistance then you cannot be a company that is grossing more than \$4 million a year in revenue. We know in 2018, the Department of Taxation let us know that there were 388,000 small business taxpayers who did not qualify in terms of meeting the \$4 million in gross revenue to have to pay the commerce tax. The actual bill that we passed was if you come within \$500,000 of the \$4 million you have to file to make sure that you do not have to pay the tax. We would have 388,000 nonfilers. That was a great number because it gave us a reference of how many businesses do not gross \$4 million per year. I have been one to say if you are grossing more than \$4 million and we start to line things up with that commerce tax reference then we are talking about profitable companies.

What we want in this state is for profitable companies to insure their employees. We do not want highly profitable companies to be forcing their employees onto Medicaid because that is the welfare conversation or the Walmart, Amazon, or Tesla companies. That is our big problem when you have highly profitable companies that will not insure their employees and build their business models with part-time employees and will not insure them. It has only been getting worse. As much as we can, I think it would be interesting to consider that. I think it would be a great statement about making sure that when we talk about small businesses and we have a quantified number, we would want close to 400,000 small businesses that do not make a lot of money to have an option for their employees to have health care in this way. I do not think what we would want is a little bit of that conversation where individuals are worrying about siphoning where we have highly profitable companies pushing their employees to a system like this simply because they want to drive their margins up. That we have to fight.

**Assemblyman Leavitt:**

I have been doing some research. Washington currently has a public option, and their rates are fairly high compared to the nonpublic option. I think it is 29 percent is what we saw. Very few people are taking the public option. Only 1,900 people are taking the public option. When you have over 200,000 who are eligible for it and only 1,900 are taking it, there is a problem. Did you look at that? How does this plan differ from that plan, so we do not fall into that trap?

**Senator Cannizzaro:**

This is different from what exists in Washington. Ms. Weeks may have some good technological connections and provide a little bit more context to that answer.

**Stacie Weeks:**

Washington is different. This bill tried to address many of the issues seen in Washington. The bill includes a premium target, and plans have to set premiums at least 5 percent lower. That was not done in Washington. There is also something different in this bill than other public options that you may be hearing about, and others have written about. That is the purchasing strategy. This bill includes a procurement process that would be bid simultaneously with the Medicaid managed care plans. By tying those two together, the state is able to leverage its purchasing power, which you do not typically see with the other public options that are currently out in the world of discussion. This is similar to a large employer who has a number of covered lives and money so that health insurers want to win that contract. They can leverage that. The other thing to note about Nevada is the insured rate is much higher than Washington, and it is a different state. This bill in many ways addresses issues differently. Washington has a much lower uninsured rate. I think it is a different situation, and this bill is different.

**Chair Carlton:**

I believe we might have lost you for the last couple of sentences. Assemblyman Leavitt got the answer to the question that he posed.

**Assemblyman Leavitt:**

Keeping in mind that you are adjusting the rates accordingly, I would imagine the rates were set that way in order to not lose providers. Is there a potential that we are going to lose providers because we are not adjusting those rates? I would imagine that is why they did it because they did not want to lose providers. How are we balancing that out to not lose providers by managing rates the way it is laid out?

**Senator Cannizzaro:**

I will note a couple of things, and I know we have had some technical difficulties. I would say that we are pairing this with actuarial data that will also look into the premiums and look at what we are talking about related to reducing those over time with the 15 percent that you see in the bill. I think that is a notable difference. I think because these plans are different from what is occurring in Washington, we are in a different space. I wanted to note that piece about the actuarial study.

**Stacie Weeks:**

I have nothing to add.

**Chair Carlton:**

We need to get to the fiscal notes now because that is part of our responsibility in this Committee. The Medicaid fiscal notes were adjusted as the bill left the Senate. That is my understanding. Ms. Coffman, would you address the fiscal note from the Silver State Health Insurance Exchange?

**Sarah Coffman, Assembly Fiscal Analyst:**

The Silver State Health Insurance Exchange testified in the Senate that there would be a \$600,000 cost related to the waiver development as well as an actuarial assessment. During that testimony, it was unclear whether or not they could utilize their reserves in order to pay for these expenditures. After the hearing it was discussed with Fiscal staff and determined they would not be able to use their reserves to address this fiscal impact.

**Chair Carlton:**

When the bill left the Senate, was it still undetermined whether they could use the reserves, or had that actually been put on the record then?

**Senator Cannizzaro:**

My recollection was that we had a conversation about it in the Senate. There was an indication that they may be able to use their reserves. That question had not been 100 percent decided. When we left the Senate, we did not allocate \$600,000 for that cost.

**Chair Carlton:**

I guess I need to have the Silver State Health Insurance Exchange respond. Would you address that?

**Jennifer Krupp, Chief Financial Officer, Silver State Health Insurance Exchange:**

When this bill was heard in the Senate Committee on Finance, on May 21, 2021, the Exchange was asked if we would be able to use our reserves to cover the \$600,000 in actuarial and waiver development costs that are projected in fiscal year (FY) 2023. The carrier premium fee that the Exchange collects is our only source of revenue. This carrier premium fee is governed by Title 42 USC (United States Code) §18031 (5), which indicates the funding limitations. Paragraph A indicates that Exchanges are to be self-sustaining, become self-sufficient, and not use federal funds by the imposition of a fee upon insurers on the exchange marketplace. Paragraph B indicates that, among other things, these user fees cannot be used for state, legislative, or regulatory programs. We cannot use this for state programs such as the Public Option.

**Chair Carlton:**

You did not realize that when the bill was in the Senate for the amount of time that it was there?

**Jennifer Krupp:**

I indicated that we needed to do some additional research. The additional research has been conducted, and our fiscal note has been updated to reflect that.

**Chair Carlton:**

That would mean a State General Fund appropriation would be needed in order to be able to fund the bill.

**Senator Cannizzaro:**

I believe that is correct.

**Chair Carlton:**

Those dollars were not put on the sheets before it left the Senate. Those dollars will be on the sheets on the Assembly side.

**Senator Cannizzaro:**

It was not put on the sheets on the Senate side. The appropriation that is included in the bill was for the other costs for the Division of Welfare and Supportive Services, Department of Health and Human Services.

**Chair Carlton:**

We want to make sure we have a complete record as we move forward to be able to figure out how to fund everything. I think that addresses that issue. That is something we are going to have to work on also. This is the hearing for Senate Bill 420 (2nd Reprint). I would like to keep everyone to two minutes each of testimony. At this time, I will open it for testimony in support of the bill.

**Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association:**

The NSEA [Nevada State Education Association] supports S.B. 420 (R2) creating the Nevada Public Option [[Exhibit J](#)]. Like education, Nevada ranks near the bottom of states in investment in health care. In addition to underinvestment, health disparities continue to run deep with low-income communities facing fewer options, higher prices, and significant health disparities in Nevada's communities of color. In Nevada's rural communities there are even fewer health insurance options and typically just one plan on the Exchange or none at all. In order to access basic health care in rural areas, many Nevadans have to travel hours, and in some emergency situations air transport is required at a very high cost. Due to the WEP/GPO [Windfall Elimination Provision/Government Pension Offset] many retired Nevada teachers face barriers with Medicare and instead rely on private insurance plans. Some of these carriers have been known to push older Nevadans into plans with high deductibles and copays. The Public Option created by S.B. 420 (R2) will ensure that Nevadans always have equal access to affordable quality coverage. We support the bill.

**Tessyn Opferman, representing Service Employees International Union Local 1107 and the Nevada Women's Lobby:**

The SEIU [Service Employees International Union] Local 1107 represents hospital workers across Nevada including more than 9,000 nurses and ancillary professionals across Nevada who serve on the front lines caring for the uninsured. Our members see firsthand that the vast majority of these patients are suffering from conditions that could be treated earlier if they had access to quality health insurance plans and preventative care. All Nevadans deserve the opportunity to be covered by quality health care. It is up to our state Legislature to pass policies to ensure they have access. Senate Bill 420 (2nd Reprint) is an important measure to help protect Nevadans. The SEIU Local 1107 and the Nevada Women's Lobby are in full support of this measure.

**Sarah Adler, Silver State Government Relations, representing the Nevada Advanced Practice Nurses Association:**

The NAPNA [Nevada Advanced Practice Nurses Association] is in full support of S.B. 420 (R2) in two pieces. To the Public Option piece, Nevada needs affordable health care. The APRNs [advanced practice registered nurses] or nurse practitioners as fully licensed, accountable, and qualified primary care providers will be a great provider source for the Public Option plans. The APRNs are often receiving horrible reimbursement rates now, and they would be glad to go to "bad" reimbursement rates under the Public Option plans.

The second piece that NAPNA supports is the Medicaid enhancements. Many APRNs specialize in obstetrics and pediatric care. The focus is on the Medicaid enhancements in S.B. 420 (R2) as well, and they support section 27, which will provide reimbursement parity for APRNs should funds become available. California, Oregon, and Washington all provide reimbursement parity for APRNs. We in Nevada are going to have a hard time retaining our nurse practitioners and attracting more of them if we do not meet our surrounding states in reimbursement parity.

**Maria Nieto Orta, Nevada State Coordinator, Mi Familia Vota Nevada:**

Mi Familia Vota is in strong support of S.B. 420 (R2). It is a very much needed investment for our community. Mi Familia Vota submitted written testimony [[Exhibit K](#)] to further expand on the need for S.B. 420 (R2). We urge the support of S.B. 420 (R2).

**Tom Wellman, President, Nevada State Education Association-Retired:**

I am submitting these remarks in support of S.B. 420 (R2). One of the major expenses that all senior citizens and our members face in retirement is the continuing and escalating costs of health care. Retirees living in rural Nevada also face the additional burden of accessibility to quality, affordable health care that does not require them to drive over two hours to see a doctor or go to a hospital. Any measure that can be put in place to help curb this runaway train is greatly appreciated. Senate Bill 420 (2nd Reprint) is that measure.

The Nevada State Education Association Retired Program is asking, along with everything else you are faced with, that you make access to retiree health care a priority and also address

the escalating costs of prescription medication. However, please keep in mind Nevada is a WEP/GPO state, and many of our retired members may not qualify for access to either social security or Medicare. Please consider as you move forward that active educators will also need to have access to quality, affordable health care when they retire. Working together, we can now help to solve this problem for the employees to continue to handle these life changing assignments on a daily basis. We support S.B. 420 (R2).

**Quentin Savvoir, Deputy Director, Make It Work Nevada:**

In the interest of time and at the instruction of the Chair, I want to say ditto. We support S.B. 420 (R2). This bill will be great for Nevadans ensuring that we have healthy futures.

**Christine Saunders, Policy Director, Progressive Leadership Alliance of Nevada:**

I am here in support of S.B. 420 (R2). This morning I want to share a brief personal story with you. I recently celebrated my fifth wedding anniversary. While I had been with my partner many years prior to getting married, the date of our wedding was rushed. It was quickly scheduled at the courthouse 12 days after my 26th birthday, the day I was no longer covered by my mother's health plan. I will note I told my husband if I was injured in those 12 days, I was uninsured, he was paying for it. A policy like the Nevada Public Option would have made a huge difference when I was struggling to ensure that I was still going to have access to my medical care for chronic illness and for the prescriptions I take every day. In fact, it probably would have been more affordable coverage for both my husband and me than utilizing his high-deductible health insurance plan. On behalf of him and myself, I urge you to support this legislation.

**Benjamin Challinor Mendez, Policy Director, Faith in Action Nevada:**

We are here is strong support for S.B. 420 (R2). Loving your neighbor and healing the sick are major priorities of the faith communities that make up Faith in Action Nevada. It is our moral obligation to be able to provide affordable and accessible health care to all by providing a Public Option that all Nevadans can buy into, thereby ensuring that they get the health care coverage that they need. Senate Bill 420 (2nd Reprint) will allow for increased access, mobility, and foster equity in health care. We urge your support.

**Amy Koo, Deputy Political Director, One APIA (Asian Pacific Islander American) Nevada:**

Nevada is home to over 300,000 Asian Pacific Islander Americans comprising about 10 percent of the total population. We are the fastest growing community here in the state. We have submitted written testimony [[Exhibit L](#)]. We also have community members who will be submitting op-eds [a page of special features opposite the editorial page] in different newspapers throughout the week including the *Asian Journal* and the *Philippine Times*. We urge you to review those and support S.B. 420 (R2).

**Annette Magnus, Executive Director, Battle Born Progress:**

We thank Senate Majority Leader Cannizzaro for her leadership on this bill [[Exhibit M](#)]. We support S.B. 420 (R2). I will skip to the part that matters. I want to add that technically we are a small business. I pay 100 percent of our ten employees' health insurance and cover

their children. We pay over \$6,000 for health insurance a month, and that does not always cover everything that we need with the best plan available from Sierra Health and Life. I cannot wait for this plan to be available to us so we can have better, more affordable options and coverage for our employees. I urge you please support this bill.

**Jennifer Fleischmann, Co-Director of Organizing, Make the Road Nevada:**

I am here today in strong support of Senate Bill 420 (2nd Reprint). As a woman with Factor V Leiden Thrombophilia, it would have cost me over \$10,000 in prescriptions alone to have my pregnancy in Nevada. In the interest of time, I will not go into details, but I did submit testimony [[Exhibit N](#)] that you may review. I am in strong support of S.B. 420 (R2) as is Make the Road Nevada. I hope you will join us in that support.

**Reverend Michael Willoughby, Private Citizen, Las Vegas, Nevada:**

Today, I am speaking in my personal capacity. I am here today to speak in support of S.B. 420 (R2). While I would normally be here to give voice to your conscience, I am here to give voice to my best friend, Ian Wilkinson. I am speaking on his behalf today because he cannot be here. After 28 years of love and friendship, after he beat what should have been fatal lymphoma, I lost my best friend last December.

Ian died because he lost his employer-sponsored health insurance and could not afford to get basic medical treatment. He died by himself on the floor of Eagle's hall. None of his friends had a chance to say goodbye. None of his family had a chance to say goodbye.

And sadly, Ian's story is neither unique nor even rare. We are failing Nevadans every day, and it is time to do something. It is time to do something about the pain that I get to carry everyday being duplicated ad nauseam over and over again.

And so, I am here to plead with you to exercise your power not for me but for Ian and for every other Ian out there and friends and family who get left behind when this happens. It could be you next. It could be anyone in this room. Please let something good come out of the death of my best friend Ian Wilkinson. Please support S.B. 420 (R2). I have also sent in this testimony for review as well [[Exhibit O](#)].

**Priscilla Maloney, representing the American Federation of State, County & Municipal Employees (AFSCME) 4041 Retiree Chapter:**

We submitted written remarks on May 4, 2021 to the Senate Committee on Health and Human Services. Just to reiterate, S.B. 420 (R2) will capture a portion of the 350,000 uninsured Nevadans that Mr. Daly and the NSEA retirees just referenced. These are the individual retirees who are not eligible for Medicare by virtue of their age and not Medicare eligible for other reasons. I would like to make one important point, and this is in reference to a question that Assemblywoman Tolles raised. It is important to understand that when we talk about moving people to Medicaid, you cannot toggle between Medicaid and Medicare. Many individuals who are entitled to Medicare but lose their job and thus their employer-provided health care late in their careers, do not want to be forced onto Medicaid. They want to preserve that right to be in Medicare once they age into that system.



Senate Bill 420 (2nd Reprint) would meet an important gap for those individuals. That part of this population is who we are talking about globally today.

**Katie Robbins, representing Planned Parenthood Votes Nevada:**

I will say ditto to what we have already heard. Increasing access to health care, including reproductive health care, will make our state stronger and more equitable. We urge the Committee's support of S.B. 420 (R2).

**Anwar Green, Private Citizen, Las Vegas, Nevada:**

I am here to express my support of Senate Bill 420 (2nd Reprint). I believe a Public Option benefits all of us. As someone who just recently obtained insurance through my employer, I am way too familiar with the uncertainty of being uninsured and having to make a choice between a doctor's appointment and a necessary bill. While someone would look at my situation and say that is unacceptable treatment for a veteran, I believe it is unacceptable treatment for anyone, especially in Nevada, to be unable to see a doctor because they are uninsured and for anyone to be uninsured because they cannot afford it. As I am sure you all know, studies continue to show that people support this legislation in a growing majority. For those reasons, I support Senate Bill 420 (2nd Reprint).

**Chair Carlton:**

If there is any further testimony in support of the bill, we would ask you to submit your comments in writing.

[Exhibit P is a packet of letters submitted by various individuals in support of Senate Bill 420 (2nd Reprint) but not discussed and is included as an exhibit of the hearing.]

We are going to open the hearing to testimony in opposition to the bill. We will do the same process. Please keep the two-minute limit in the back of your mind.

**James Wadhams, representing the Nevada Hospital Association:**

The Nevada Hospital Association supports access to care. In fact, hospital facilities with emergency rooms are open to all comers irrespective of any condition of insurance or otherwise. Access to care is important. I have listened to the testimony today, and I compliment Senator Cannizzaro on her advocacy. This Committee in particular is charged with the fiscal impact to analyze the contingencies and the uncertainties that are represented by this bill and are important. In that regard specifically, I want to draw the Committee's attention to the purposes of the bill as stated in section 2. It is designed to improve access, reduce disparities in access, and increase competition. One of the problems we have is that it has to be based upon data. We cannot assess whether this is going to improve something that we have not previously measured.

We know Nevada ranks 45th in the country in terms of physicians per capita, and approximately 45th or maybe 48th in terms of nurses per capita. The Nevada Hospital Association has just gone through a pandemic, which many of you saw in your communities, both north and south. There was a tremendous expansion of the capacity in order to

accommodate the significant impact of COVID-19 patients, from converting garages to putting up tents in Las Vegas and retooling the Convention and Visitor's Authority facility to be prepared to handle that increase. This is an industry that is prepared to deal with people who come and who have needs.

The concern of course becomes the cost. Looking at page 25 of the Senate Concurrent Resolution 10 study, they specifically indicated that the study did not address the risk modeling, and that is what is the cost of this bill. There are certain contingencies built into the proposal, including applying for federal waivers, federal grants, all of which raises issues of cost uncertainty. Perhaps the fiscal note should be evaluated in terms of set asides to anticipate variations of whether those waivers are granted by the federal government.

I think the other element that is critical, because I emphasized the access in the purpose section, is it would be critical that the state benchmark the current accessibility of care so that we could measure any improvements or deteriorations. I think it is especially noteworthy that the drafters of the bill paid particular attention to this issue in section 13, subsection 2. There they exempted the mandatory participation if it is determined to diminish the access for Medicaid recipients and PEBP beneficiaries. Why would that be the case? If you lose physicians, you will decrease access. As hospitals, we cannot go anywhere because we are bricks and mortar. What we need are the personnel, the doctors and nurses, and if we lose that ability to respond with personnel because they are withdrawing from these other programs, that is going to decrease access. That is a measurement that needs to be monitored carefully.

We strongly suggest that the Committee consider taking the first step on this laudatory goal of universal access but do it in the incremental steps that show we have set aside the money to accommodate the changes and have assessed the measuring tools to accumulate the data to address the needs.

**Tray Abney, representing America's Health Insurance Plans (AHIP):**

I am here to testify in strong opposition to S.B. 420 (R2). I was going to open and provide context and talk about the American Rescue Plan Act of 2021, but Assemblyman Hafen and Assemblywoman Tolles stole my thunder on that. Suffice it to say, the American Rescue Plan Act of 2021 means approximately 80,000 uninsured Nevadans now qualify for zero-cost or significantly reduced-cost plans through Nevada Health Link, and an additional 50,000 qualify for reduced-price plans. Also, 41,000 uninsured Nevadans will now qualify for premium tax credits, who have never been eligible for subsidies before. We have already mentioned the 37 percent of uninsured Nevadans who qualify for Medicaid now but are not on it.

However, S.B. 420 (R2) would destabilize the Nevada health care system by requiring providers to accept reimbursements lower than cost. This would force these providers in the state, already experiencing a severe provider shortage, to recoup their costs by demanding higher reimbursement rates from all group plans including small business plans. Moreover,

this bill does nothing to address the underlying cost drivers that are driving higher premiums other than setting arbitrary rates for providers in hospitals. There is no mechanism included in the proposal to actually drive down the health care costs to achieve the bill's premium reduction goals.

In particular, we should discuss the ever-increasing price of prescription drugs. Prescription drugs represent the largest portion of health care spending, making up more than 21 cents for every premium dollar. Senate Bill 420 (2nd Reprint) demands that the Public Option premium achieve a 5 percent reduction in premiums but does nothing to address the portion of premiums that keeps increasing the high price of drugs. In closing, we urge you to focus on getting those in Nevada without coverage covered without driving up the cost of coverage for everyone else. We believe this bill is step Z before we have taken steps A through Y, which were discussed earlier. The America's Health Insurance Plans (AHIP) strongly support expanding Medicaid coverage. We urge you to move forward with those provisions of the bill.

**Jaron Hildebrand, Executive Director, Nevada State Medical Association:**

On behalf of the American Medical Association and our physicians and medical students as well as the Nevada State Medical Association (NSMA) with over 2,000 members statewide, we express our concerns today with the legislation we have before us [[Exhibit Q](#)]. Our organization shares your interest in improving access to care and the affordability of health insurance. Covering uninsured and improving health outcomes and affordability has been a longstanding goal of the American Medical Association as well as NSMA.

First, under sections of the legislation regarding the physician participation in Medicaid, workers' compensation, and the Public Employees' Benefits Program, we would be required to participate in networks of this Public Option to accept new Public Option patients in the same manner as physicians would accept any new patients under the program. The NSMA supports physician freedom of choice when it comes to health plan participation and therefore, we oppose this effort. Participation in a Public Option by tying it to participation of these three important programs is not acceptable. This mandatory participation overlooks the complexities of running a physician's practice and the balance of determining the capacity of a practice to serve their patient mix. There are many reasons as to why practices will not participate in plans including low reimbursement levels, burdensome administrative policies, saturation of practice resources, physician time, the engagement in alternative payment models pending retirement, and so on. It is critical that a physician should be able to weigh in on their contract options and make decisions that are best for their patients and their practices.

Second, we have concerns with the general established provider payment of using Medicare rates as the floor. While we appreciate that Medicare rates are meant to serve as a starting point and the targets for the negotiation between a provider and plans, many physicians rightfully fear that these rates will ultimately become the de facto ceiling. This scenario is even more likely in determining requirements of participation that remain in place and contract negotiation is not required. Moreover, as plans work to meet premium saving

requirements outlined in S.B. 420 (R2), it is highly unlikely that they will offer rates above the statutory minimum. Given the financial risk of setting the Public Option rates at Medicare baselines for physician practices, NSMA urges this body to consider the impact of the policy and the long-term sustainability of our small practices. Ultimately, access to care in Nevada is important. As such, we respectfully ask this Legislature to refrain from using Medicare rates as the floor for physician payments under this option. We do feel this would create access to care issues and also network adequacy issues especially with the mandate. Other states are starting reimbursement rates at 160 percent above Medicare without physician mandates.

One, this bill is not means tested. We just heard on the record that some individuals are looking forward to this bill passing who already have commercial insurance and would hop off those and move to this. This Public Option should be for those individuals who make just above Medicare and Medicaid limits and are in those coverage gaps and cannot afford a plan on the Exchange. We feel without that means test, this bill will likely cause cost shifting deductibles and increased premiums like we just saw in Washington that already had to amend the bill after five months.

**Bill Harenburg, Private Citizen, Henderson, Nevada:**

I am just an ordinary citizen. I am impressed by all the knowledge and wisdom that is in the room here and all the research that you have done. My immediate reaction is that this bill is just too risky for Nevada. The chances of us overflowing and requiring more money is too much. If you look at the federal government at least they can write checks and print money. But Nevada cannot do that. Those are my comments. I strongly oppose this bill.

**Mary Beth Sewald, President and Chief Executive Officer, Vegas Chamber:**

While I compliment Majority Leader Cannizzaro on her advocacy and we at the Vegas Chamber do agree that everyone should be able to access health care, we are opposed to S.B. 420 (R2). This bill would not reduce health care costs, rather it would shift costs onto other Nevadans. Also, mandating a state insurance plan to offer a rate 5 percent lower than commercial rates is another cost shift. Evidence from other states that have implemented similar programs confirms that insurance costs did go up, which is also very concerning to us. We agree that a thorough actuarial analysis to understand the full financial impact that S.B. 420 (R2) would have on the state and health care sector would be helpful. There are also concerns about requiring health care providers to accept government set reimbursement rates as well. Any impact that it will have on doctors is a concern to us. We urge you not to pass S.B. 420 (R2).

**Amber Stidham, Vice President of Government Affairs, Henderson Chamber of Commerce:**

I will be brief. We continue to be extremely concerned about the impact to all Nevadans as a result of this proposal. We believe this unproven, costly government program will shift costs up to Nevadans and private- and employer-provided health insurance, making health care more expensive and having the potential to dissuade doctors from accepting new patients on Medicaid and Medicare, thereby reducing health care access and choice for all Nevadans. It

is for these reasons and those outlined by my Chamber colleague earlier that we too are strongly opposed and urge your opposition as well.

**Tom Clark, representing the Nevada Association of Health Plans:**

I come before you in opposition to the Public Option provisions that are outlined in Senate Bill 420 (2nd Reprint). The bill will place a financial burden on Nevadans and instability on the health care market in our state. You have heard references to the Manatt study. To be clear, that was a report that was put forth on an initial analysis of public option plans. That report states clearly "Nevada policy makers must consider the extent to which the model will have the larger impact on affordability for Nevadans weighed against implementation feasibility cost to the state and impacts on existing markets." An actuarial analysis has not been completed on the concept before you today.

While there is a study currently referenced in the bill specific to the waiver, there is nothing that requires the results of the actuarial analysis be submitted for review by the Governor or the Legislature before moving forward with this Public Option. In other words, the bill does not stop enactment of the Public Option pending the result of that study. Our recommendations are that legislative action should not be taken until the results of that study are reviewed and put forward. Also, before considering putting anything into *Nevada Revised Statutes*, we strongly suggest the state perform an actuarial analysis examining the impact on insurance market stability, the work adequacy of health care providers, and potential cost drivers that could unintentionally impact consumers throughout our state. Private insurance and managed care organizations must demonstrate that the insurance products they offer are actuarially sound. Should not the state expect the same from the Public Option? We firmly believe so.

**Lindsay Knox, McDonald Carano LLP, representing the Nevada Self Insurers Association:**

The workers' compensation community already struggles to empanel adequate choices of qualified physicians in all areas of health care. Many physicians already choose not to accept workers' compensation patients because of the regulatory requirements involved and the burden it places not only on themselves but also on their administrative staff. There are many injuries in industrial-related conditions that require specialized care with few to no appropriate physicians available to treat them. This issue is not limited to rural areas but exists statewide, even in our largest counties.

While the Nevada Self Insurers Association (NSIA) fully supports the desire to increase access to health care for Nevadans, we believe that S.B. 420 (R2) will create additional detriments against workers' compensation stakeholders including injured employees in our state and communities. In 2019, NSIA worked with the Nevada Justice Association to pass Senate Bill 381 of the 79th Session. That bill was created to expand each injured worker's access to quality health care. We believe this change will undermine the changes made under Senate Bill 381 of the 79th Session. Physicians who do not have the staff, desire, or resources to treat both workers' compensation patients and the Public Option patients, will simply choose to withdraw from the state of Nevada's list of approved treating physicians

and chiropractors for workers' compensation. This will cause a reduction in the limited numbers of physicians already available to our workers' compensation community. We, therefore, respectfully request that you remove workers' compensation physicians from the Public Option requirements.

**Maggie O'Flaherty, McDonald Carano LLP, representing the Nevada Orthopaedic Society, REMSA, and the Nevada State Society of Anesthesiologists:**

I will not be duplicative, but I want to echo the remarks made by Mr. Hildebrand with the Nevada State Medical Association.

**Janine Hansen, State Chairman, Independent American Party of Nevada:**

Senate Bill 420 (2nd Reprint) will cost taxpayers, those with private insurance, and those who pay cash for their care because they do not have health insurance much more than any fiscal note listed on the bill [[Exhibit R](#)]. Obamacare caused health insurance premiums for average people to double between 2013 and 2017. This bill will ask more doctors to treat more people below cost, undermining care for everyone and forcing those who have private insurance or pay out of their own pockets to subsidize those who are on Medicaid or who received this so called Public Option. That means that essentially we are creating a hidden tax financing Medicaid patients and patients covered under the Public Option whose health care will now be subsidized by those who have private insurance, causing their insurance rates to go up along with those who do not have insurance causing their cash costs for medical care to go up.

I live in Elko County. Already it is difficult to find a doctor or get specialized treatment at the hospital. Everyone I know in Elko has to go out of town to Twin Falls, Idaho, which is two and one half hours away, or Salt Lake City, Utah, which is three and one half hours away, or Reno, which is four and one half hours away to see the doctor or go to the hospital. Senate Bill 420 (2nd Reprint) will make access to health care in rural areas worse.

Medicaid reimburses at only 52 percent and Medicare reimburses at 80 percent of actual costs. This makes it much more difficult to find a doctor who will accept Medicaid or Medicare patients in rural counties or in a hospital that cannot afford to stay open. Who can continue to treat patients at 48 percent below cost? That means there will be fewer doctors or hospitals, especially in the rural counties.

As Ronald Reagan said, "Government is not a solution to our problem, government is the problem." The solution is simple. Freedom is the solution: freedom from government regulations and laws regarding health care, freedom for our insurance companies to truly compete, and freedom of choice. Freedom is the answer to better health care, not S.B. 420 (R2).

**Chair Carlton:**

We will take one more caller in opposition, and then we need to move to testimony in the neutral position.

**Bob Russo, Private Citizen, Gardnerville, Nevada:**

Unfortunately, history shows that once the government gets involved with health care, something it has no business being involved with, the quality of care diminishes. Doctors are forced to treat people below cost. Medical decisions often shift from the patient and doctor to bureaucrats who run the programs. They decide if you are eligible for certain tests and treatment. No thanks. I do not want some state bureaucrat deciding my medical fate. Government-run health care programs are money sinks. Treatment quality is poor while costs skyrocket. It is estimated that the Public Option health insurance program will cost Nevadans \$77 million in its first two years and nearly \$200 million in the following two years. Costs will continue to rise. What percentage of our state's budget will be gobbled up by this wasteful program?

In 2010 in Ontario, Canada, government-run health care took up 46 percent of their budget. By 2030, that number is projected to be 80 percent. Not much money is left for anything else. As Nevada Families for Freedom explained, this bill will ask more doctors to treat people below cost, undermining care for everyone and forcing those who have insurance or pay out of pocket to subsidize those who are on Medicaid or receive the Public Option. This bill, if passed, will fail miserably for the citizens of Nevada. Let us save ourselves the headache and high costs and oppose it now.

**Chair Carlton:**

That is going to be our last caller in opposition to the bill. It is 10:43 a.m., and we started the opposition testimony at 10:20 a.m. Please submit any further comments in opposition in writing.

[[Exhibit S](#) is a packet of letters submitted by various individuals in opposition to Senate Bill 420 (2nd Reprint) but not discussed and is included as an exhibit of the hearing.]

Is there any testimony in neutral on the bill?

**Jim Sullivan, Political Director, Culinary Workers Union Local 226:**

I was having technical difficulties earlier, and I was not able to get through on the support side. Could I please give a support statement here?

**Chair Carlton:**

If you would make two sentences and then send a letter in that would be fair to everyone who had been on the line and in the queues.

**Jim Sullivan:**

We are in support of this bill for all the reasons that people in the support section brought forth. I would also like to thank the Majority Leader for working with us to alleviate the concerns we originally had on this bill.

**Chair Carlton:**

Please submit the rest of your comments in written form, and we will be sure to include them in the support section of the bill. We understand technical difficulties. Is there anyone else with neutral testimony on the phone line? [There was no one.] I will invite the Majority Leader to make any closing comments. Then we do have some budget bills to work through this morning.

**Senator Cannizzaro:**

I want to make a couple of points because it is some of the same points we have heard about why this is not a good option. I want to preface that with we live in a state where we have a perpetually high uninsured rate, an uninsured rate that has remained untouched with the expansion of Medicaid here in the state and an uninsured rate that has been persistently right around that 11 percent, despite the fact that we have enacted provisions of the Affordable Care Act and have plans on the Silver State Health Exchange. For me, so much of what is voiced as opposition I think is addressed in a couple of factions.

First, we cannot ignore the fact that we are going to do an actuarial analysis that is required as part of the waivers we are seeking to get. The actuarial analysis will provide us with some data—if we need to make adjustments such that this was not going to get at those individuals who we are attempting to get and those small groups, then we can make those adjustments. This body is smart enough to be able to do that with two intervening legislative sessions and being able to take a look at it.

Simply saying that we should just continue to keep studying this—and I know I made this point in the Senate as well—when there have been studies, and there have been studies prior to my entering this building in 2017, there were bills proposed to solve those problems found by the studies. Those bills were vetoed, and we were asked to look at it again. That happened yet again. Then last session the concept was brought forward, and it said we should study it again. We have, we have data, we know where there are people who are uninsured. Frankly, I think that is even supported by the fact that we are seeing the federal government come in and give some money in order for people to be able to afford health insurance. The idea that it is okay, and we should still oppose something like S.B. 420 (R2), which is seeking to utilize federal dollars to do the same thing to get people insured, to me does not make any sense.

I hear the idea that we should just expand Medicaid as the only option but we continually hear that is a burden for providers, hospitals, and the argument that accompanies S.B. 420 (R2) is this is going to cost the state a significant amount of money. I would venture to guess that placing people on Medicaid also does all of those things, yet that seems to be an appropriate solution in order to solve this problem rather than trying to find affordable health insurance for individuals who simply are underinsured, cannot get insurance, or fall into gaps where they do not qualify for insurance. For us to be able to put forward something that does that, I do not think puts the state at risk for having to spend millions and millions of dollars over time such that we are in a fiscally precarious position.



Nor do we see even now that it would not work because we have people who, when they can afford health insurance, are going to get that.

I cannot stress this enough, and it will be my last point—built into this not only in the actuarial pieces which require us to not only look at the premiums, premium reduction, market adequacy, and what effect this would have on that, are incentives for value-based health care that is going to provide for the actual ability for individuals to get the kind of health care they need and to make sure that what they are paying for is something that is going to help with long-term health outcomes. I am grateful for allowing me to indulge and rebut some of the points that were made and look forward to having further discussions and hopefully earning your support.

**Chair Carlton:**

I will close the hearing on S.B. 420 (R2). We have some budget bills we need to move. I have Senate Bill 409, Senate Bill 421, Senate Bill 422, and Senate Bill 446. We are going to try to get through those if we can. I will open the hearing on Senate Bill 409.

**Senate Bill 409: Revises provisions relating to state governmental administration. (BDR 23-1074)**

**Laura E. Freed, Director, Department of Administration:**

Senate Bill 409 is a budget implementation bill for the Division of Human Resource Management, Department of Administration. To give you a brief bit of background, when Senate Bill 135 of the 80th Session was passed, it contained an assessment to support the Government Employee-Management Relations Board, known to everybody as EMRB, to support their new workload of adjudicating disputes and certifying exclusive representatives for bargaining units. However, no assessment was provided for supporting work of human resource management in coordinating the collective bargaining process that included working with the Governor's designated representative, keeping records of class codes with exclusive representation, putting together the bargaining teams, scheduling the negotiation sessions, and otherwise interfacing with the union personnel in implementing the collective bargaining agreements. The existing personnel assessment was expected to be utilized during the current biennium to support the work of the labor relations unit and indeed it has been.

The Committee might remember that we returned to the Interim Finance Committee to support the labor relations unit position. This bill takes the personnel assessment previously used to support labor relations and puts it into a collective bargaining assessment in an equal amount. What that does is establish a policy nexus between the assessment paid and the benefit to the agencies that have represented employees. The assessment is per FTE [full-time-equivalent] per year for each position that has an exclusive bargaining representative or could in the case of no exclusive representative having been certified by the EMRB yet. With that, I am happy to take your questions.

**Chair Carlton:**

If I understand this correctly, basically the individuals who are in a collective bargaining unit and benefit from the collective bargaining unit will be paying the assessment for participation in that. It is not being spread across all employees; it is being picked up by those individual units receiving the benefit. I want to make sure that is clear because there have been conversations about individuals paying for something that they are not getting.

**Laura E. Freed:**

Yes, I want to note that the assessment cannot be passed on to the employees. That is part of the bill. That is true of the EMRB assessment as well. Yes, you are correct. The agencies that have those employees in those units will pay it, and then they will get a substitute for what they used to pay for the personnel assessment in this biennium.

**Chair Carlton:**

We are trying to reconcile how this is being handled. Are there any questions on Senate Bill 409?

**Assemblywoman Titus:**

I am reading here that there is a new fee. It is going to change an annual fee as opposed to a new fee. Can you clarify?

**Chair Carlton:**

This is a budget implementation bill. Basically, the fee that they would have been paying through our normal rate to Human Resources will now be adjusted to go in a different direction. This is reconciling how those rates will be addressed for those agencies that have collective bargaining units. With it being in the budget, it is a shift that way. It is not a new fee which would require a two-thirds majority vote notation. Are there any other questions? [There were none.] This is the hearing for Senate Bill 409. At this time, I will open it for testimony in support of the bill. [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] I do not believe that there are any closing comments that need to be made. I will close the hearing on this bill and open the hearing on the next bill Senate Bill 421.

**Senate Bill 421: Revises the employment status of the Director of the Office of Science, Innovation and Technology in the Office of the Governor. (BDR 18-1071)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 421 changes the employment status of the Director of the Office of Science, Innovation and Technology in the Office of the Governor from nonclassified to unclassified status. This is a budget implementation bill.

**Brian Mitchell, Director, Office of Science, Innovation and Technology, Office of the Governor:**

I will be brief. When OSIT [Office of Science, Innovation and Technology, Office of the Governor] was created, all employees were in the nonclassified service like those of the

Governor. The decision was made to bring the agencies that are not in the unclassified/classified service into the unclassified/classified service. The Executive Budget recommends the conversion of the nonclassified staff positions into the classified and unclassified positions. That is what the bill does. I am happy to answer any questions.

**Chair Carlton:**

I believe we had these conversations when we were hearing the budget. This is the implementation portion of that discussion point. Are there any questions at this time? [There were none.] This is the hearing for Senate Bill 421. At this time, I will open it for testimony in support of the bill. [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] I do not believe that there are any closing comments that need to be made. I will close the hearing on this bill and open the hearing on the next bill Senate Bill 422.

**Senate Bill 422: Revises provisions relating to governmental administration.  
(BDR 18-1081)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 422 establishes a new Mail Services Division in the Department of Administration. This is a budget implementation bill.

**Matthew Tuma, Administrator, Administrative Services Division, Department of Administration:**

This is a budget implementation bill. It would create a new Mail Services Division in the Department of Administration. It would transfer the responsibilities of the central mail room from the Division of State Library, Archives and Public Records, Department of Administration, to the new Division. It would continue the same services but create a separate division due to the unique responsibilities of the mail room. I am open for any questions.

**Chair Carlton:**

I am remembering when we moved it from where it was to the Division of State Library, Archives and Public Records, Department of Administration and now we are moving it back.

**Matthew Tuma:**

It was not an independent division. It used to be under the Buildings and Grounds Section, State Public Works Division, Department of Administration. About a decade ago, it was moved from the State Public Works Division, Department of Administration, to the Division of State Library, Archives and Public Records, Department of Administration. It has never been a standalone division. The unique roles and responsibilities are what is prompting this request.

**Chair Carlton:**

I do remember it was moved. Are there any questions at this time? [There were none.] This is the hearing for Senate Bill 422. At this time, I will open it for testimony in support of the

bill. [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] I do not believe that there are any closing comments that need to be made. I will close the hearing on this bill and open the hearing on the next bill Senate Bill 446.

**Senate Bill 446: Revises provisions relating to the Western Regional Education Compact. (BDR 18-1072)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 446 removes the Office of the Western Regional Education Compact from the Office of the Governor. The bill further specifies among other things that the three Nevada Commissioners of the Western Interstate Commission for Higher Education shall appoint a Director who serves at the pleasure of the Commission.

**Jennifer Ouellette, Director, Nevada Western Interstate Commission for Higher Education (WICHE) Program:**

This is a budget implementation bill. In closing budgets, the Committee approved the transfer of the WICHE Program from the Office of the Governor to NSHE [Nevada System of Higher Education]. This resulted in federal fund savings of approximately \$85,000 over the biennium. Senate Bill 446 repeals the provisions that have the WICHE Program and our budgets in the Office of the Governor. The bill changes the appointing authority for my position from the Governor to the three Nevada Commissioners of the Western Interstate Commission for Higher Education. I am happy to take any questions.

**Chair Carlton:**

Are there any questions at this time? [There were none.] This is the hearing for Senate Bill 446. At this time, I will open it for testimony in support of the bill. [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] I do not believe that there are any closing comments that need to be made. I will close the hearing on this bill and open the hearing on the next bill Senate Bill 447. Then it is the Chair's intention to move the budget implementation bills after that.

**Senate Bill 447: Revises provisions relating to deceptive trade practices. (BDR 18-1094)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 447 eliminates the Consumer Affairs Division of the Department of Business and Industry and makes the temporary Consumer Affairs Unit in the Department permanent. This is a budget implementation bill.

**Terry J. Reynolds, Director, Department of Business and Industry:**

The Consumer Affairs Division has been in the Department of Business and Industry since 2011. It has had a sunset provision for each biennium. This removes that sunset provision. It also changes the name from Division to Unit. It is now the Consumer Affairs Unit as

indicated in the bill. I want to thank you for the passage of the budget for this. We think this is a good step forward, and it gives the staff some security in terms of knowing they are going to be continuing with that Unit subject to an appropriation. We have 6.6 staff members. We are a small but mighty Unit. Last year, in 2020, the agency recovered \$330,000 in restitution and products for the general public. They have done well with approximately a 92 percent to 93 percent resolution rate for the cases they hold. We worked 2,500 cases during the pandemic time. We average about 2,000 cases a year. We appreciate your support going forward with this bill.

**Chair Carlton:**

I know this Unit has had a lot of history and a lot of moves, but they have always stepped up and done a good job for the citizens of the state. Thank the staff for me for being able to help the citizens who needed help. Are there any questions at this time? [There were none.] This is the hearing for Senate Bill 447. At this time, I will open it up for testimony in support of the bill. [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] I do not believe that there are any closing comments that need to be made. I will close the hearing on this bill. I am going to open a work session on the bills that we just heard and send them to the Assembly floor. Our most important responsibility for the Committee other than the big five budget bills is to make sure all the budget implementation bills are processed. We will work them in the same order that we just heard them. The first bill is Senate Bill 409.

**Senate Bill 409: Revises provisions relating to state governmental administration.  
(BDR 23-1074)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 409 requires the Division of Human Resource Management, Department of Administration to charge an annual fee to the Executive Branch agencies related to the collective bargaining for state employees. This is a budget implementation bill. Laura E. Freed, Director, Department of Administration presented this bill. There are no amendments proposed.

**Chair Carlton:**

Committee members, are there any questions on the bill? [There were none.] The motion would be to do pass. I will accept a motion.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS  
SENATE BILL 409.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE  
MOTION.

Are there any questions or comments on the motion? [There were none.]

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

We can move to the next bill.

**Senate Bill 421: Revises the employment status of the Director of the Office of Science, Innovation and Technology in the Office of the Governor. (BDR 18-1071)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 421 changes the employment status of the Director, Office of Science, Innovation and Technology, Office of the Governor from nonclassified to unclassified. This is a budget implementation bill. Brian Mitchell, Director, Office of Science, Innovation and Technology, Office of the Governor presented this bill. There are no amendments proposed.

**Chair Carlton:**

Committee members, are there any questions on the bill? [There were none.] The motion would be to do pass. I will accept a motion.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS  
SENATE BILL 421.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE  
MOTION.

Are there any questions or comments on the motion? [There were none.]

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

**Senate Bill 422: Revises provisions relating to governmental administration. (BDR 18-1081)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 422 establishes the new Mail Services Division in the Department of Administration. Matthew Tuma, Administrator, Administrative Services Division, Department of Administration presented the bill. This is a budget implementation bill. There are no amendments proposed.

**Chair Carlton:**

Committee members, are there any questions on the bill? [There were none.] The motion would be to do pass. I will accept a motion.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS  
SENATE BILL 422.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Are there any questions or comments on the motion? [There were none.]

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

We can go to the next bill.

**Senate Bill 446: Revises provisions relating to the Western Regional Education Compact. (BDR 18-1072)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 446 removes the Office of the Western Regional Education Compact from the Office of the Governor. The bill further specifies, among other things, that the three Nevada Commissioners of the Western Interstate Commission for Higher Education shall appoint a Director who serves at the pleasure of the Commission. Jennifer Ouellette, Director, Nevada Western Interstate Commission for Higher Education (WICHE) Program presented this bill. This is a budget implementation bill. There are no amendments proposed.

**Chair Carlton:**

Committee members, are there any questions on the bill? [There were none.] The motion would be to do pass. I will accept a motion.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS SENATE BILL 446.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Are there any questions or comments on the motion? [There were none.]

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

We will go to the next bill.

**Senate Bill 447: Revises provisions relating to deceptive trade practices. (BDR 18-1094)**

**Sarah Coffman, Assembly Fiscal Analyst:**

Senate Bill 447 eliminates the Consumer Affairs Division of the Department of Business and Industry and makes the temporary Consumer Affairs Unit in the Department permanent.

Terry J. Reynolds, Director, Department of Business and Industry presented the bill. This is a budget implementation bill. There are no amendments proposed.

**Chair Carlton:**

Committee members, are there any questions on the bill? [There were none.] The motion would be to do pass. I will accept a motion.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO DO PASS  
SENATE BILL 447.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE  
MOTION.

Are there any questions or comments on the motion? [There were none.]

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

I believe our responsibilities for this morning are complete. We do have some bills left on our agenda to address. We plan to return this evening, depending on the policy committees' schedules this afternoon. I hope to be back in the room at approximately 6 p.m., but I cannot guarantee that. We need to let the policy committees get their work done today.

The Committee is in recess [at 11:14 a.m.].

The Committee reconvened with all members present [at 8:17 p.m.].

**Chair Carlton:**

This evening we need to make sure that the appropriate bills get in the right spot, and we have an Assembly bill referred to us. It was not agendized, but those rules have been waived at this moment. There was notice that we had control of the bill. It was moved from the Assembly Committee on Legislative Operations and Elections and brought to the Assembly Committee on Ways and Means. We were waiting for the amendment, which came out this morning after today's agenda had already been posted. Because it is an Assembly bill and there is a time crunch, we need to address the bill this evening to make sure it gets processed and gets to the Assembly floor. We have the appropriate people in the room. The Chair of the Assembly Committee on Legislative Operations and Elections is presenting in another committee, but we do have a representative from the Commission on Ethics, and Kevin C. Powers is available to walk us through this bill. With the time constraints that we have, that is the first bill we will consider this evening. We will open the hearing on Assembly Bill 65. We have a proposed amendment 777 to the bill. I will ask the Commission on Ethics to give us a high-level overview and Mr. Powers to address the amendment. We will talk about them both together and then ask our questions so we can have a comprehensive conversation. The amendment may address some of the concerns the members have.



**Assembly Bill 65: Revises provisions relating to ethics in government. (BDR 23-257)**

**Tracy Chase, Acting Executive Director, Commission Counsel, Commission on Ethics:**

Our bill basically presents a lot of streamlining on behalf of the Commission on Ethics (Commission). It goes through our processes from beginning to end, and it provides additional due process and whistleblower protection to those public officers and employees who are entitled to have their identity protected under the Nevada Ethics in Government Law (Ethics Law). The bill has been heard before the Assembly Committee on Legislative Operations and Elections. It was headed to a work session, and then it was redirected to the Assembly Committee on Ways and Means based on the amendment. The Commission has already agreed to two amendments to the bill. I do not see that in the amended bill, so I wanted to highlight those for the record.

Section 8 adds an exclusion for any public attorney representing a subject of an ethics complaint so they would not have a duty to cooperate with the Commission because their duty is to their client and their representation. Section 22 was originally drafted requiring the Executive Director to be an attorney. Based upon indications from the Assembly Committee on Legislative Operations and Elections, the Commission determined that we are fine if the Executive Director is not an attorney. The bill includes a lot of definitions at the front. It revises *Nevada Revised Statutes* (NRS) 281A.400 to include an additional code of conduct for a gross or unconscionable abuse of process.

By way of background, the Commission received a number cases over the years, and we have dismissed some based upon the lack of jurisdiction because allegations at issue did not relate to a subject's pecuniary interest or a commitment in a private capacity as those terms are defined in the ethics law. This expansion of NRS 281A.400 has been reviewed by the Legislative Counsel Bureau (LCB) to make sure it is constitutional, and it would capture very high-level unconscionable conduct. In addition, there is a requirement in section 11 that institutes a requirement that is consistent with already imposed duties that the Secretary of State has for government entities. I wanted to highlight this because it is the subject of the fiscal note on the bill. There is currently no mechanism for the Commission to check and secure compliance with our ethics acknowledgement forms. The Commission receives ethics acknowledgement forms from all public officers, whether appointed or elected, that are under its jurisdiction. The acknowledgement form indicates that they have read and understand the application of the ethics law to their public duties. But there is no way the Commission had to make sure that people were getting the forms to the right people or to secure other compliance for the acknowledgement forms. What this does is institute a requirement on the government entities to provide us a list of their public officers whether elected or appointed. That is the same list they provide to the Secretary of State.

You will see a lot of language clarification. Part of the bill in section 21 is important to the Commission because it establishes a mediation and settlement process that is consistent with a court case that was going through the system. For example, we have three phases of our ethics complaint cases. The first phase is the jurisdictional and the investigative phase. Then there is a review panel, comprised of a three-member panel of the Commission who reviews

the case to determine whether there is just and sufficient cause for the case to go to the full Commission for further proceedings. If that occurs, those three members of the panel are not able to participate in the adjudication before the Commission. This bill helps us because it establishes a mediation and settlement program where we can confidentially meet with the parties and have one of those Commissioners who served on the panel assist us with settlement negotiation, much like a court would use another judge to assist in the resolution of cases.

Section 28 permits the Commission to accept requests for advice as a referral on behalf of the public officer or public employee from the entity itself. That would assist us in providing guidance on the application of the ethics law.

Section 29 clarifies the policy provisions of the limited use exception and applies to NRS 281A.400 subsection 7, which makes it improper for a government officer or public employee to use government property and resources unless it falls within the limited use exception. The small change in this area is if a public entity has a policy that allows such use, the change in the law just requests that the use policy be in writing before the conduct in question.

Section 31 clarifies NRS 281A.420 and does not require the disclosure of otherwise confidential information if the disclosure is made on a nonconfidential matter and the public officer recuses himself from the item they are considering. That is helpful because if we have public officers who are also lawyers or accountants, they may have confidential information. This was an important provision that assists both our public officers when they do have conflicts to not have to disclose confidential information that would not be disclosed otherwise under law.

Section 33 is consistent with the feedback from the Legislature on the cooling-off provisions. Under the cooling-off provisions of the ethics law are restrictions for one year after leaving public service to be privately employed with an agency contract vendor. The bill brings that up to a higher level. Before, every public employee above the clerical level would be subject to the law. But now it brings it up to certain management-level employees.

Section 35 allows the Commission to gather additional information when we receive a request for an advisory opinion. Advisory opinions are the main function of the Commission in rendering preventative advice to public officers and public employees. In doing so, we only have a 45-day deadline to render that advice once they file the request. However, like any request, the person seeking the information and the guidance from the Commission may not have put together all the facts that the Commission needs to render an opinion properly and reasonably. What this does is allow the Commission to gather additional information and will extend or toll that 45-day period until the information is received.

Section 36, along with granting additional time, provides statutory discretion for the Commission to grant appropriate extensions, which are based upon good cause and must have defined deadlines in their establishment. Examples of good cause are emergency

situations such as the COVID-19 pandemic we had in the last year, family medical leave, or vacancies in positions. It is difficult when you are a small agency like us to meet short timelines without the ability to extend those for good cause. In addition, it allows us to stay advisory opinions when we receive an ethics complaint on the same matter because the ethics complaint itself is more of a process that has representation, and it is not unilateral. Advisory opinions are unilateral only based upon the subject's information provided to the Commission. A complaint case has full due process, establishment with the complainants who are entitled to be represented by a lawyer, and the ethics complaint is a party system just like a court case.

Section 36 also establishes a process for us to provide informal advice to our public officers and public employees. The informal advice is handy. We often get questions on the phone from our public officers about a meeting that is coming up that day or the next day. The advisory opinion process is a more formal process and takes time to complete those opinions on behalf of the Commission. This would allow the Commission's counsel or the Executive Director to provide limited advice to the requestor so that they have somewhere they believe they can perform their duties with some advice from the Commission as a body. In doing so, we cannot extend Commission precedent or change opinions issued by the Commission. There is an appeal process to the Commission if there is a concern.

Section 38 indicates the Commission will hold its hearings on ethics complaints in public but is not subject to the notice requirements of the Open Meeting Law. Most of the Commission's proceedings at this time are not subject to the Open Meeting Law requirements. There have been no concerns from stakeholders to us. It would help us in functioning because of our short deadlines. We have a 60-day deadline to put the adjudicatory hearing together unless there is a waiver from the subject. In that case, to comply with long notice requirements under the Open Meeting Law was becoming problematic.

Sections 41 through 42 allow the ability of the Commission to conduct a preliminary investigation back at the jurisdictional stage. Often we will get a request related to a complaint and there are limited facts, but there is a public record that we could take a look at to see if there is information to determine whether there is enough evidence to substantiate the Commission taking jurisdiction over that matter. Section 43 authorizes the presiding officer to grant good cause extensions, which have to have a reasonable deadline set and would be subject like the court if there is good cause presented, extensions could be granted. That goes both ways. During the COVID-19 pandemic, we had many people asking for requests for extensions. What happened for those cases is another case would come in for which the subject did not want an extension, and we were bound and determined to meet the statutory deadlines in that case, which put older cases in the queue farther behind. That is one of the reasons the Commission has a backlog right now. We hope this bill will help us cure that backlog.

As part of the notice system under the ethics law, we could receive complaints from requestors who work in the same agency or are entitled to other confidentiality protections.

We try to redact those complaints. We believe and the Commission directed that we pursue a bill where we can send a notice of complaint rather than sending what a requestor provides to the Commission itself. That would detail the extent of the charges but also provide whistleblower protection to that requestor. For example, if they send us in some notes that are handwritten and the subject figures out who wrote those notes, the whistleblower protection could not be afforded properly to that person. Throughout the bill, that notice system is carried forward. It is at the beginning when we accept jurisdiction, we will do a formal notice. If it goes to a review panel for a three-person member panel to determine whether there is just and sufficient cause for it to go to the Commission, there is another notice at that point in time. That will be the charges that the three-member panel determines to send forward. They could dismiss some. Section 47 adds a schedule for discovery.

**Chair Carlton:**

Thank you for walking us through all the sections, but we really did not need a section by section review. We need to just finish up and give us a high-level overview to get us to section 56 and we will go from there. I will be happy to have that conversation about amendments with the Chair of the Assembly Committee on Legislative Operations and Elections. We do have another proposed amendment, which we need to get to this evening. If you could get us through the end of the bill, we will go from there.

**Tracy Chase:**

At the end, we do have the ability for the Commission to treat comparable situations in a comparable manner. On the safe harbor protections under the ethics law, the bill will now extend those safe harbor provisions to the informal advice that the Executive Director or the Commission Counsel renders to a public officer or public employee. That is a real high-level synopsis. I tried to go really fast, and I appreciate your patience.

**Chair Carlton:**

The Chair of the Assembly Committee on Legislative Operations and Elections is not here, but I will be sure to get those other issues on the record. Mr. Powers will you address amendment 777?

**Kevin C. Powers, General Counsel:**

The Legal Division, Legislative Counsel Bureau (LCB) is a nonpartisan legal agency. We do not support or oppose any policy, viewpoint, or legislation. Instead, we provide the Legislature and its members with objective legal analysis and advice including the effects of legislation. In addition, because this piece of legislation and its proposed amendment affects the LCB, the statute governing the LCB also authorizes the LCB officers, including the General Counsel, to provide recommendations to the Legislature on that type of legislation.

Keeping in mind the Chair's request that we provide a high-level overview, we are going to now deal with sections 55 through 112 of the mock-up amendment [[Exhibit T](#)]. The *Nevada Constitution*, Article 4 § 6 provides each House with the power to prescribe the rules of its proceedings and to discipline its members. Each House has the power to discipline its members for ethical violations. Each House now has a rule, Senate Standing Rule 23 and

Assembly Standing Rule 23 that provides during the session and during the interim that those two bodies—the Senate Committee on Ethics and the Assembly Committee on Ethics—can review ethics complaints under the provisions of the Standing Rules. Statutorily at the moment, there is a division of power where certain core legislative functions are exclusively within the jurisdiction of each House. If an ethics complaint involves a core legislative function, only the House can deal with that ethics complaint. For matters that are not core legislative functions, there is concurrent jurisdiction. The House can still discipline for those types of complaints. But at the same time currently, the Commission on Ethics has jurisdiction over legislators for noncore legislative functions. Some of those noncore legislative functions are the prohibitions on entering into certain contracts with state and local governments, receiving an honorarium payment for a speech, and certain other matters that are not part of the core legislative function.

What sections 55 through 112 propose is to put all jurisdiction over a legislative ethics matter in the Houses, and under this bill, create a Senate Commission on Ethics and an Assembly Commission on Ethics and when necessary to deal with legislative employees, a Joint Commission on Ethics, which would be made up of legislators and other appointed members. The overarching goal of the proposed amendment is to remove legislators and legislative officers and employees from the Ethics Commission jurisdiction and provide that all ethics jurisdictions would be with the Houses and the Senate and Assembly and Joint Ethics Commissions created by the proposed legislation.

This bill would create in section 56 the Nevada Legislative Ethics Law. Section 57 sets forth the declaration of intent that the purpose of the law is to establish the high standards of ethical behavior, prohibit any conduct that creates the appearance of impropriety, and prohibit any improper or dishonorable conduct that is unbecoming to the legislative process. Sections 59 through 77 are establishing definitions. A lot of these definitions repeat what is in the existing ethics law. What will happen in this mock-up is we have taken a lot from the existing ethics law that applies to state and local government and moved it into this chapter. The prohibitions will be the same and the ethics standards will be the same, but they will be administered by the Legislative Branch.

Sections 78 through 82 establish the jurisdictional requirements and a statute of limitations, which is similar to existing statute of limitations in NRS Chapter 281A for the ethics law and that is a two-year statute of limitations. It also provides that the respective Commissions created by the bill will have jurisdiction to investigate any legislative officer, employee, or former officer or employee for any violation of the ethical standards established by this legislation.

Sections 83 through 89 are important. They establish statutory ethical standards for the Legislative Branch of government. They mirror the existing ethical standards that are in the ethics law in NRS Chapter 281A. What you see looks like a lot of new language. All of it consists of existing prohibitions and standards from the ethics law in NRS Chapter 281A. It will now be in NRS Title 17 governing the Legislative Branch. There is no need to go through all of these new sections because they are repeating all the ethics prohibitions that

exist now, and all legislators are familiar with the prohibitions because we provide training on those standards.

Sections 90 through 102 establish the three bodies that I mentioned, the Senate Commission on Ethics, the Assembly Commission on Ethics, and the Joint Commission on Ethics. The Senate Commission on Ethics will have authority to hear ethics complaints against all officers and employees of the Senate. The Assembly Commission on Ethics will have jurisdiction to hear all ethics complaints against all officers and employees of the Assembly. The Joint Commission on Ethics will have jurisdiction to hear ethics complaints against all other legislative officers and employees, which would mostly be those officers and employees of the Legislative Counsel Bureau. The reason we are creating the Joint Commission on Ethics is so that one House is not required to enforce ethics provisions against the Legislative Counsel Bureau, which is a nonpartisan agency that supports both Houses. The three members of the Senate Commission on Ethics and the three members of the Assembly Commission on Ethics form the Joint Commission on Ethics. If there is an ethics complaint against an LCB employee, then the Joint Commission on Ethics would hear that ethics complaint.

Sections 103 through 112 provide for the mechanism of filing an ethics complaint, having an adjudicatory hearing if necessary, before the respective commission, and providing for remedies and penalties if a violation of the legislative ethical standards was found. That is an overarching global view of this piece of legislation and its proposed amendment. One last thing I wanted to mention was the ethical standards in this proposed legislation would be statutory ethical standards, but they would be in addition to ethical standards that are in the Joint Rules. The Legislative Code of Ethical Standards are in the Joint Rules. This would be in addition to it and would not supplant it. Legislators, officers, and employees would be subject to the statutory provisions and the rule provisions dealing with ethical standards. There is a provision that if there was any conflict between the rules and the statutes, the rules would take precedence. That is because under the *Nevada Constitution* Article 4 § 6, the rule making power of each House takes precedence over statutory provisions. I am open for any questions.

**Chair Carlton:**

Are there any questions at this time on the proposed amendment? [There were none.] We need to get the Chair of the Assembly Committee on Legislative Operations and Elections back. Mr. Powers, are you aware of any conceptual amendments proposed in the original policy committee on this bill? We were notified that there were some conceptual amendments proposed that were not encapsulated in this amendment.

**Kevin C. Powers:**

At the time of the hearing, the Commission on Ethics presented those two conceptual amendments. I looked under the Assembly Legislative Operations site, and it does not appear that those amendments were presented in writing. They did present them at the hearing. I am familiar with those proposed amendments. They were not included in the mock-up because the LCB Legal Division was not provided with that direction. I believe we

need to consult with the Chair of the Assembly Committee on Legislative Operations and Elections to determine whether we are going forward with those proposed amendments. One other alternative is that if the Assembly Committee on Ways and Means wants to move the mock-up as it is tonight, the Commission on Ethics could propose those amendments to the other House. That is another way for those amendments to continue along in the process if we need to move this bill quickly during this hearing if we do not have access to the Chair of the Assembly Committee on Legislative Operations and Elections.

**Chair Carlton:**

We know this is an Assembly bill, and there is a time crunch on it. We know there are two Houses for a reason. We will hope the Chair of the Assembly Committee on Legislative Operations and Elections gets back in time. If not, we do not want to slow this bill down, and there are other ways to address those conceptual amendments as they move forward. Are there any questions or comments from the Committee members? [There were none.] This is the hearing for Assembly Bill 65. At this time, I will open it for testimony in support of the bill.

**Steven Cohen, Private Citizen, Las Vegas, Nevada:**

I am in full support as amended subject to any future amendments that may be brought forward.

**Chair Carlton:**

Is there any other testimony in support of this bill? [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] I do not believe that there are any closing comments that need to be made. I will close the hearing on this bill. It is the Chair's intent to move this bill this evening, but I will investigate to see if the amendments are available or if the Chair of the Assembly Committee on Legislative Operations and Elections provides input. I will open the hearing on the next bill Senate Bill 76 (2nd Reprint). Please give us a high-level overview.

**Senate Bill 76 (2nd Reprint): Revises provisions relating to education. (BDR 34-297)**

**Jhone Ebert, Superintendent of Public Instruction, Department of Education:**

I will provide you a brief background regarding the Department of Education's support of boards, commissions, and councils. In February 2016, Todd Butterworth of the Research Division, Legislative Counsel Bureau published an issue paper that included the components of Nevada's elementary and secondary education governance structure. At that time, there were ten commissions the Department staffed and supported using 184.5 full-time-equivalent (FTE) staff members.

Today, we are supporting 21 boards, commissions, and councils with 170 FTE staff. The 21 boards, commissions, and councils the Department currently staffs and supports include the Advisory Council for Family Engagement, the Committee to Oversee the Charter School Audit List, the Commission on Educational Technology, the Commission on Professional Standards in Education, the Commission on School Funding, the Council to Establish

Academic Standards for Public Schools, the English Mastery Council, the Nevada Advisory Commission on Mentoring, the Nevada Early Childhood Advisory Council, the State Financial Literacy Advisory Council, the Special Education Advisory Council, the Statewide Council for the Coordination of the Regional Training Programs, the Teachers and Leaders Council of Nevada, the Title I Committee of Practitioners, the Competency-Based Education Network, the NSEA Advisory Group, the State Council for the Coordination of the Interstate Compact on Educational Opportunity for Military Children, the Perkins V Governance Committee, the Statewide School Safety Task Force, the Nevada State Teacher Recruitment and Retention Advisory Task Force, and the State Board of Education.

After taking inventory of all the boards, commissions, and councils the Department supports, we conducted an analysis to determine which commissions would benefit from doing work differently. We looked at how long each has been established and why they were established, the need based upon our context, and how the Department of Education is already doing this work. It is important to reiterate the work that we have and the responsibility for this work is not going away. We are thinking differently about how to do the work so we can continue to serve our students, our educators, the community members, and other stakeholders in the most efficient and productive manner.

Senate Bill 76 (2nd Reprint) aims to maximize the Department's advisory group structure. Ideally planning for boards, commissions, and councils includes making sure the right people with the right expertise are at the table, including diverse representation of all stakeholders, having streamlined, productive meetings as the work requires, and facilitating work with urgency to improve student outcomes and educator effectiveness. This bill references 11 of the 21 boards that we serve and support. Of those 11, we are asking that 4 remain under the current structure, 3 are repealed, and 4 are structured differently to maximize their work. The four that we are asking to maintain in the current structure are the Statewide School Safety Task Force, the State Financial Literacy Advisory Council, the Nevada Advisory Commission on Mentoring, and the governing boards of the Statewide Council for the Coordination of the Regional Training Programs.

The Department's request to repeal a board, commission, or council, was made because of the work that the body is already conducting through stakeholder engagement. The one out of the three that I would provide as an example is the Commission on Educational Technology, which I served on over 20 years ago. That was started under Governor Miller. The Legislature started it and funded \$60 million to be overseen for the purpose of placing at that point in time, one computer in every classroom. We needed the expertise across our state to develop networking, provide computers and professional development, and there was a great purpose for that Commission at that point in time.

Our state has grown. Our school districts have great support from the Department and the collaborative work across our state. We are the only state in the nation that provides every single child who participates in distance education with a device and internet connectivity. We moved quickly, and we know how to support educational technology in our state. That



Commission at this point in time has served its purpose, and we would like to move forward without that work added in this way.

We also have looked at the Family and Parent Engagement Council. In that way, we are not changing any of the transparency that is required, or any reports or expectations for having family engagement. We know how important student success is and number one is an engaged family. We, as the Department, need to continue that work with the Council but in a different way. We also learned during the COVID-19 pandemic, that we do not have a formal link for our connection to the regional professional development programs at this time. Looking at the construct, we have three programs that are successful that provide support for our teachers, educators, and administrators across the state. They work right now with a statewide council. Matters go from the three governing councils to the statewide council. We would like to remove the statewide council and have the three family and parent professional development programs work directly with the Department.

In the development of this bill, we had countless meetings with stakeholders and advocates, including the Nevada Association of School Superintendents, the Nevada Commission on Mentoring, the Nevada Parent Teacher Association, the School Safety Task Force, the Clark County Education Association, the Statewide Council of Regional Professional Development, and the Statewide Council on Financial Literacy. Because of those meetings, you will see that we had two different amendments to this bill. It is a great partnership.

The additional highlights to the bill are there are no fiscal notes. The reason why this bill was pulled into the Money Committees to begin with is there is actually a cost savings. What we are recommending in this bill is the removal of the end of course exams that we have as a state. They too have served their purpose over time. Because of the Every Student Succeeds Act, we are required to have a college and career ready high school assessment. Our state has selected the ACT [American College Testing], and that is administered for our high school students. Yesterday, there were conversations in the Assembly Committee on Education about the Department of Education doing analysis and removing unnecessary assessments when they are duplicative to allow more instructional time in our classrooms. That is a cost savings of approximately \$900,000 annually. You cannot put a price tag, or you can put a price tag, on the time that is saved for teachers to be able to now engage more deeply in instruction.

Sections 11 and 12 of Senate Bill 458—the education funding bill—refer to Senate Bill 76 (2nd Reprint). That is in regard to the \$100,000 that currently goes to the Statewide Council on Professional Development Programs. We have worked on the alignment of the budget decisions that were made to restore the funding for the external evaluations. External evaluations are critical to the work. We internally work with our school districts. We also have a plethora of federal compliance. The Department of Education went through massive audits in January and February during the COVID-19 pandemic of all of our Title I, Title II, Title III, Title IV, and Title IX components as well as special education. We still feel it is important to have evaluations through the Pupil-Centered Funding Plan. We are shifting from the Zoom and Victory school-based

models that we know were successful to providing those funds across the entire state to all students who are English language learners as well as our students who are defined at risk. Those evaluations are also in this bill.

In closing, I would like to thank the Legislative Counsel Bureau (LCB). This bill is 76 pages. Mr. Asher Killian [Asher A. Killian, Senior Principal Deputy Legislative Counsel, Legal Division, LCB] has been amazing to work with. We at the Department of Education are thankful for his work. My team is here this evening, and I am thankful for them as well. This bill, if you choose to move it forward, will provide transparency, agility, and accountability. We want to ensure that we are meeting the needs of our constituents with the resources that we have in the most effective way. I am available for any questions you may have.

**Chair Carlton:**

I have one brief question to start. You just mentioned transparency. I have noticed in a couple of places where some reporting is taken out. I will mention on page 17, section 10, subsection 5, line 21 we are changing a quarterly report to an annual report. I am not going into exactly what the report is. I am curious what the thought process is behind that, because I am sure the legislators that put the quarterly report in there had a reason to do it because they wanted to keep their finger on it and wanted to know what is going on. It is better to know progress rather than learn at the end of a year that there was a problem. I am curious why you would want to get rid of quarterly and go to annual reporting.

**Jhone Ebert:**

When you look over the last five or six years at that specific report, the quarterly reports are very similar. They are reports in regard to the specific construct that exists within school districts, and there is not a lot of movement once the school year starts. Those constructs within the classroom do not change. The reports say the same thing. The work is done on the front-end. We put that as an annual report that they must look at the class size report submitted to the Department of Education and also to the State Board of Education. They appear to be duplicative because once the year starts, it does not do a major shift.

**Assemblywoman Benitez-Thompson:**

I wanted to make a comment on section 3. I felt like this is appropriate. I have served on the Advisory Council for Family Engagement throughout the course of my legislative career. I know that my attendance depended largely on the other legislative commitments I had. There was a year when every meeting was scheduled the same day as the Interim Finance Committee. I remember one time trying to run back and forth between this building and the Department of Education to keep a quorum for that meeting. I think that committee works well and will work better. We do not want legislators, as well intentioned and big hearted as they are, to hold up a quorum. I wanted to make sure I put that on the record because I think it is the right direction to go.

**Chair Carlton:**

I understand it can be difficult to get a quorum. But whenever I see that legislators are being excluded from a conversation, I need to know the reason why they are being excluded or why they are not going to be appointed to a committee because ultimately whatever happens ends up with us. I would like to understand the real thought process and the reason why legislators are being told we do not need you anymore.

**Jhone Ebert:**

The bill is to create agility in this work. The example that I would use is most recently we had a blue-ribbon commission to address the needs of the COVID-19 pandemic. The people who I called to spin up included the Speaker for nominees. He nominated a member of this Committee to serve. I called Assemblywoman Titus and she asked Assemblywoman Tolles to serve. You are right, and I agree with you completely. The Legislature needs to be involved in the work. That is not the intent to not involve people. It is not a blanket component of removing legislators. We looked at different commissions and committees that could benefit from the ability to move quickly, be agile, and meet the intent of the group.

I will go back to the Advisory Council For Family Engagement that was just noted. All the components and the expectations of the group are still there. The quorum changed. After the last legislative session, we could not get the appointments for the State Financial Literacy Advisory Council until almost six months after this body finished meeting. We would have loved to have started the work within a few months of the end of session. But because of the construct that is currently in place, we could not start meeting until six months later. Time is of the essence. We want to be able to react quickly. But the current construct on some of these does not make it easy for us to move the work forward.

**Assemblywoman Tolles:**

Along the same line in section 1, I know we are moving the reporting from every year in regard to the State Board preparing a plan to improve the achievement of pupils. Currently in statute, we have that plan that is collaboratively put together every year. Instead, we are changing it to every five years. I was wondering why we would extend it that long, particularly when the Legislature meets every two years, and the information in that plan could be helpful.

**Jhone Ebert:**

The plan itself is a master plan in which we set goals. We did research and looked at best practices for an overarching plan. Most of the reports are on a biannual basis that we produce for the State Board of Education and the other reports that we produce for this body. The ones that I mentioned earlier include the evaluations of components. We also have our Nevada Report Card that is made available 24 hours a day, 7 days a week for mining data and providing information. The thought process behind that shift is the overarching setting the master plan and setting that vision and those goals that we are going to strive for in five years and progress monitoring along the way.

**Assemblywoman Monroe-Moreno:**

Since the introduction of this bill on the Senate side, I know my phone and emails have been blowing up with community members afraid of so many changes going on. The changes we are making with the funding structure and what we are doing is a huge thing. Then making changes with the commissions that they felt they had a voice on is an issue. But the biggest call that I have gotten is about the Nevada Advisory Commission on Mentoring. Section 4.5 subsection 7 is the deletion of the support for that Commission. Why was that struck out, and what exactly are the supports that are being removed? Please let us know that.

**Jhone Ebert:**

Every commission that the Department of Education supports starts with the gathering of all the members, making sure they understand the constructs and ethics which we talked about a little bit ago, and making sure that we have the meetings posted, minutes, and all of those components are there. When I returned home two years ago, the bill was moving forward for the Nevada Advisory Commission on Mentoring. Assemblyman Thompson pulled me into his office and said we need to get this going. It had not been moving in the right direction. I worked with the staff and found out that it was a lack of adequate staffing issue. At that point in time we tried to add staff getting it through a bill, but we could not. This commission was never staffed and still has not gotten staffed. I have been able to marry federal funds for support, but we can only use a certain portion of federal funds before being out of compliance. It is truly that we do not have the staff to support it properly. Mentoring is a massive undertaking if you are going to do it right. This is the only place in statute where the Nevada Advisory Commission on Mentoring exists. If it had been removed as initially proposed, it would not exist and that is not the intent. We do not have the staff to do it is why support was removed.

**Assemblywoman Monroe-Moreno:**

It is sad to hear that we do not have the staff for that Commission. Perhaps that is where we need to be adding staff. As we are looking at all the changes that we are going through with our education system right now as we are transitioning into this new funding structure for education, I am not comfortable with having less reporting. I want to make sure the Department of Education has the staffing that they need to properly address the commissions that we have created. If you have not had the staffing and that was the resource that you needed, I apologize for that, and I will be fighting to help you get that. The issue of less reporting that is in the bill is concerning to me. I was able to make it to a few of those blue-ribbon meetings, but not all of them because of conflicts with other meetings. I know legislators want to be involved, and I want to make sure we are involved as much as possible. As we go through these bills, I know we are going to have to report back to our constituents about the changes that were made. Keeping us involved is key. The reporting is not just to us, but we are going to have to report back to our constituents and that is key, and they are your constituents as well. Making sure that the community is involved is important. Making sure that you have the staffing you need, especially for the Nevada Advisory Commission on Mentoring, is important because that is where I am getting calls from my community.

**Assemblywoman Titus:**

I am curious about that process in section 13. In section 13 it says the Department of Education shall, and then you strike out "in consultation with the Commission," and the Department shall adopt regulations that establish a program whereby school districts and charter schools may apply to the Department for money from the Trust Fund. In the past, there was some oversight or consultation with the Commission on Educational Technology on how this money should be dispensed. Now the Department of Education is the only one to decide how this money is to be spent. Is there any oversight on that? I am curious about where that transparency is going to be?

**Jhone Ebert:**

I believe there are no funds in that Trust Fund for Educational Technology and there have not been funds there in over a decade. That being said, I do agree with you that oversight for anyone needs to happen at all points in time. That was removed because we are requesting the Commission on Educational Technology be removed.

**Assemblywoman Titus:**

If that Commission on Educational Technology will no longer exist, will that Trust Fund for Educational Technology money be moved to the State General Fund and will there be oversight there?

**Jhone Ebert:**

The Trust Fund for Educational Technology is not going away, it is there if people would like to contribute to the Fund. We always would like to have additional funds. But the shift is moving because the Commission on Educational Technology itself would no longer exist so that is where we put the Department of Education in its place.

**Assemblywoman Titus:**

It would be interesting to see what the original charter of that Trust Fund for Educational Technology was and the original mandate when that Trust Fund for Educational Technology was created. Who was in charge of the Trust Fund for Educational Technology? How would this process work? I do not know but I am sure we can find out what the obligations of the Trust Fund for Educational Technology were initially.

**Jhone Ebert:**

I would be more than happy to do that research. I do know it was part of NERA [Nevada Education Reform Act of 1997] back in the late 1990s.

**Chair Carlton:**

I have concerns with section 1. Currently, a plan is to be submitted on the achievements of pupils enrolled in public schools in the state. I am not sure if that is because we have the Commission now. But the bill instead is going to change that to the plan being submitted once every five years instead of every year. That means two whole legislative sessions will go by before the Legislature gets an update on the plan to improve achievement. If that could be addressed, please?

**Jhone Ebert:**

I hear you and what you are saying. The intent is not for you to not have the information. The intent is to set the goals for the five years and for us to progress monitor those goals. We hold ourselves accountable at every single meeting with the State Board of Education. We report specifically on those goals. That is the process that we are currently working on with the new State Board of Education in place. All of that information will be publicly available. I hear you indicating the desire to have specific reports.

**Chair Carlton:**

We do not want to have to subpoena you. I have done that before, and I do not want to have to do it again. I think it is important that the Legislature gets the information it needs. When you are talking about once every five years, that is two legislative sessions that go by depending on how it is staggered. Ultimately, we have the responsibility to fund education. We ultimately have the responsibility to monitor how that achievement happens. To me, that is the most concerning thing. Yes, the State Board of Education had that responsibility to monitor. There has been a lack of communication, and we want to make sure that communication remains. If it is not required in statute, it does not seem like it will keep going on. That is a concern because ultimately, we are the ones who get the responsibility and accountability for making sure that education is funded correctly. If we do not have the data we need to make the decisions and if we are not going to get it every year but once every five years, how are the individuals who are sitting in these chairs supposed to make decisions if there is no communication between the State Board of Education and the Legislature on the progress of achievement in the schools?

**Jhone Ebert:**

I think the problem is with the way that it is worded and the intent of best practices for developing strategic plans. The intent is to make sure you have information to be able to make those decisions. I think the way we have it worded was because we were thinking strategically about how those goals are developed, but we can go back and revisit that.

**Chair Carlton:**

Without a statutory reporting component, we would have to request it every time, and we have been down this road with other agencies and directors and had to fight to get information. I do not want to see that happen with the Department of Education when we already have a current system in place that allows for us to have that information and not have to go digging for it in the future. There are a couple of other components in here, but I do not want to take the time at this moment and will take my other questions offline. I want to make sure other Committee members have the chance to ask questions. Are there any further questions? [There were none.] This is the hearing for Senate Bill 76 (2nd Reprint). At this time, I will open it for testimony in support of the bill.

**Jim Frazee, Vice President, Clark County Education Association:**

The Clark County Education Association (CCEA) represents more than 18,000 licensed professionals in the Clark County School District [[Exhibit U](#)]. We are the largest independent education association in the country. We are the exclusive bargaining unit for

the Clark County School District, which is the fifth largest school district in the country. We promote and engage in bipartisan advocacy in advancing public education in Nevada.

The CCEA would like to voice our support for Senate Bill 76 (2nd Reprint) as amended. With the change in structure of the Teachers and Leaders Council of Nevada, educators who are part of our bargaining unit will be represented in an equitable manner. The CCEA thanks Deputy Superintendent Gonzales and Superintendent Ebert for their collaboration on this bill, and we look forward to continuing to develop our relationship with the Department of Education, this Legislature, the Governor, and mining and gaming to ensure that we adequately fund education in Nevada. Lastly, CCEA would like to thank this Committee for your hard work on the Pupil-Centered Funding Plan and the addition of \$500 million to education.

**Brenda Pearson, Director, Strategic Policy Initiatives, Clark County Education Association:**

The Clark County Education Association (CCEA) would like to voice our support for Senate Bill 76 (2nd Reprint) [[Exhibit V](#)]. As citizens of Nevada have witnessed over the last year, it is important that our K-12 education system be both responsive to emerging needs and efficient in carrying forth needed adjustments. The CCEA believes that the removal of committees that are duplicative will increase the Department's responsiveness to addressing the needs of our students and our educators. The CCEA believes that the importance of educator representation of the largest employee organization in the state on the Teachers and Leaders Council of Nevada will be made a priority in Nevada. Additionally, CCEA thanks the Department for their continued support and partnership in bringing the amended language to fruition.

The CCEA looks forward to the implementation of this bill, and we thank this Committee for their hard work this legislative session. Most importantly, we thank this Committee for the historic investment in education that has taken place, and we are committed to continue our work with this Legislature, leadership, the Governor, mining and gaming to ensure that the Pupil-Centered Funding Plan receives funding aligned with the Commission on School Funding's recommendations. Thank you again for your hard work, our members and students greatly appreciate your investment in the K-12 education system.

**Kenny Belknap, Acting Secretary, Clark County Education Association Executive Board:**

I want to echo some of the words spoken by the Vice President of the Clark County Education Association (CCEA) and Dr. Pearson. We at CCEA work collaboratively across the board, and we greatly appreciate the investment that this body is making in our education system. The \$500 million will make a significant impact on the experience of our students in our classrooms and this bill as well. Senate Bill 76 (2nd Reprint) will remove the end of course exams and will not only improve our students' experience, but it will also allow our educators to spend more time working with our students on their mental health and ensuring and building those connections and relationships that we so desperately missed over this last school year. I wanted to say thank you once again. The work that this body is doing this

session cannot be understated, along with this impact that you are making in the lives of our children and the experiences of our educators and students in the classroom.

**Chair Carlton:**

Typically, we do not have three individuals from the same organization come forward. If in the future, you could pick one representative to come forward to make your statement, we would appreciate it.

**Karl Catarata, Chairman, Nevada Advisory Commission on Mentoring:**

I wanted to provide comments today that the Nevada Advisory Commission on Mentoring is in support of the friendly amendment made in the Senate when it comes to making sure that the Nevada Advisory Commission on Mentoring is intact with Senate Bill 76 (2nd Reprint). We would like to thank Superintendent Ebert for her leadership, work, and her work with the Nevada Advisory Commission on Mentoring.

**Jason Trevino, Chair, Statewide State School Safety Task Force Committee:**

The Statewide State School Safety Task Force Committee is thankful for the Department of Education and staff for working with us in particular on this bill. I appreciate them hearing our concerns with the original bill and the way it was written and ultimately adding the last amendment that was introduced that restored the Statewide State School Safety Task Force Committee back to its original language. At this time, we are in support of this bill. I want to say thank you for all of your hard work on it.

**Steven Cohen, Private Citizen, Las Vegas, Nevada:**

Ditto.

**Chair Carlton:**

Is there any further testimony in support of this bill? [There was none.] Is there any testimony in neutral on the bill? [There was none.] Are there any closing comments?

**Jhone Ebert:**

We appreciate your support.

**Chair Carlton:**

I will close the hearing on this bill and open the hearing on the next bill Senate Bill 96 (2nd Reprint).

**Senate Bill 96 (2nd Reprint): Makes various changes relating to services provided to persons with autism spectrum disorders. (BDR 38-89)**

**Senator James Ohrenschall, Senate District No. 21:**

With your permission, I would like to say Assemblywoman Benitez-Thompson has been helpful on this bill, and I cannot thank her enough. The reason I introduced this bill is last session I introduced Senate Bill 174 of the 80th Session because I believed children on Medicaid were not getting the same opportunity for treatment if they were on the autism



spectrum as kids who had private insurance. Senate Bill 174 of the 80th Session sought a rate increase for the registered behavior technicians (RBTs) who work with kids on Medicaid to \$48 an hour. Unfortunately, that bill did not survive the Senate Committee on Finance. What did survive was a request for an audit of autism services provided to children in the state, both on Medicaid and covered by private insurance through the ATAP program [Autism Treatment Assistance Program].

**Chair Carlton:**

I have to stop you for a moment. I believe I skipped the opposition testimony on the last bill. I will close the hearing for a moment on Senate Bill 96 (2nd Reprint) and reopen the hearing on Senate Bill 76 (2nd Reprint). Is there any testimony in opposition to Senate Bill 76 (2nd Reprint)?

**Senate Bill 76 (2nd Reprint): Revises provisions relating to education. (BDR 34-297)**

**Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association:**

I am in opposition to Senate Bill 76 (2nd Reprint). I will try to be brief. We opposed the bill in the Senate Committee on Education. We have an exhibit [[Exhibit W](#)] that you can review. I will point out a couple of outstanding issues. One is the consolidation of too many councils and commissions in education that provide opportunities for input. I will mention the Council to Establish Academic Standards for Public Schools. We are glad they restored the RPDs [Regional Professional Development Programs] and the Nevada Advisory Commission on Mentoring but taking away supports for the Nevada Advisory Commission on Mentoring is difficult.

Finally, the class size issue and the reporting going from quarterly to annually is a problem. That quarterly reporting gives an opportunity at the State Board of Education for Board members and the public to engage on that issue, which we have done. Finally, NSEA [Nevada State Education Association] has submitted an amendment for your consideration if you choose to move forward. The amendment would restore the four appointments by NSEA to the Teachers and Leaders Council of Nevada. We have been an active participant there from the beginning. We are responsible for putting forward names that represent a geographic diversity for the state, and those four appointments do the state justice.

**Chair Carlton:**

Is there any other testimony in opposition to Senate Bill 76 (2nd Reprint)? [There was none.] I will close the hearing on this bill and reopen the hearing on Senate Bill 96 (2nd Reprint).

**Senate Bill 96 (2nd Reprint): Makes various changes relating to services provided to persons with autism spectrum disorders. (BDR 38-89)**

**Senator James Ohrenschall, Senate District No. 21:**

Last session I sponsored Senate Bill 174 of the 80th Session. I sought a rate increase for children on Medicaid who were receiving services because they are on the autism spectrum. That part of the bill was amended out, but an audit of autism services provided to children in the state, both on Medicaid and covered by private insurance through the ATAP program [Autism Treatment Assistance Program] survived. About a year ago, with the work I do in my normal life and what I see with kids not getting services or treatment, I felt the need was still there. I requested a bill for a rate increase again. Fast forward six months, the audit came out, which is one of the most thorough audits that I have seen the Audit Division, Legislative Counsel Bureau (LCB) put together. I think a lot of what I and many other activists and parents believed was proven by the audit in terms of the shortcomings of what we are doing serving children who do not have private insurance in the state who are on the spectrum.

Senate Bill 96 (2nd Reprint) started out as a request to move up to a \$48 an hour rate increase from where we are for registered behavior technicians (RBTs) who work with kids on Medicaid from where we are now which is quite low. Majority Leader Benitez-Thompson provided an amendment and was tremendous help on the bill. Now I believe it is something that will help get services to those children on Medicaid, make sure we have a rate that is comparable, and make sure that some of the deficiencies in the audit are addressed. I am happy to answer any questions. I also have Senator Dondero Loop, Bailey Bortolin, Commissioner Julia Ostrovsky, and DuAne Young who will help provide information.

**Assemblywoman Benitez-Thompson:**

I am here today as the Vice Chair of the Audit Subcommittee of the Legislative Commission. We heard this audit in January just before the beginning of this session. The audit gave us lots of information including an analysis of the fiscal note, payments, and expenditures for all the different types of programs from 2016 forward. On the Senate side, the fiscal note that we saw was coming from Medicaid for the autism service programs. What you see presented today is a fiscal note from the Aging and Disability Services Division, Department of Health and Human Services for the ATAP program with their costs for this particular piece. You will see they believe it will be \$454,000 in fiscal year (FY) 2022 and about \$900,000 in FY 2023 and an ongoing cost of \$1.8 million effect on future biennia.

There are a couple of things that we want to keep in mind. The bill overall enacts a number of pieces and recommendations from the audit. We will see there is a lot of the cleanup work that we are doing on billing, the collection of data from the managed care organizations regarding claims, and some of the new guard rails that we are putting in around providers. I imagine we are going to end up in a good place.

We have gone back and forth about what this rate needs to be for the last four to five sessions. Every session we come in and we have this back and forth about what the rate

might be. This is a refresher. There are three different types of providers in this world. Two of them the analysis found have rates comparable to market rates. It is one particular kind of provider, the RBT provider, that was substantially lower than commercial market rates. Because the Medicaid rate and the state rate were substantially lower, that population is not getting access and is not being seen, and the rate is a huge parity issue. I think we need to take a run at this, and we will come back and look in two years to see if this is our best thinking with audits and studies and are we getting it right. I think we are heading in the right direction.

**Bailey Bortolin, representing the Nevada Coalition of Legal Service Providers:**

I want to thank the three legislators that have been working so hard to get us here. I am here to answer questions if you have any.

**Julie Ostrovsky, Commissioner, Nevada Commission on Autism Spectrum Disorders:**

I have nothing to add at this time and am here to answer questions. I submitted testimony [[Exhibit X](#)] in support of Senate Bill 96 (2nd Reprint), and the Nevada Commission on Autism Spectrum Disorders submitted a letter [[Exhibit Y](#)] in support of Senate Bill 96 (2nd Reprint). It is our responsibility to monitor Medicaid rates and work with ATAP. We believe it is time for this rate increase, and we can make it work with the agencies we work with.

**Chair Carlton:**

We will consider your remarks as testimony in support, and we will make sure they are noted that way for the Committee minutes. Are there any other questions at this time?

**Assemblyman Leavitt:**

I heard you talk about children. Does this extend beyond when they are a child? I have a relative who is in his 20s now but still needs services beyond 18 years of age. When do these services end?

**Bailey Bortolin:**

I believe the funding mechanism we are looking at is specific for children.

**DuAne Young, Deputy Administrator, Division of Health Care Financing and Policy,  
Department of Health and Human Services:**

The autism services covered by Medicaid are only to age 21 years, and they are covered under what we call EPSDT [Early and Periodic Screening, Diagnosis and Treatment] that covers those through age 21.

**Chair Carlton:**

I believe Assemblyman Leavitt's follow up question is going to be are there services for individuals over 21, and how do they access them?

**DuAne Young:**

No, adults over the age of 21 are diverted to other rehabilitative behavioral health services for long-term services and supports depending on their need and the progression and diagnosis. The ABA [applied behavioral services] is not reimbursed by Medicaid for those over the age of 21.

**Bailey Bortolin:**

These services are really targeted to early intervention. That is a huge part of the reason that we are seeking this access because the rates have created waitlists and kids have languished on those waitlists for a long time. What we know from the science and the research behind this specific type of treatment is that the earlier we can get access to services for kids, the more successful they will be later in life. It is key in this particular area to do early intervention. We believe this rate increase will allow kids to access services earlier so that they are able to successfully transition into adulthood without needing those services.

**Chair Carlton:**

Are there any other questions at this time? [There were none.] This is the hearing for Senate Bill 96 (2nd Reprint). At this time, I will open it for testimony in support of the bill.

**Senator Marilyn Dondero Loop, Senate District No. 8:**

I have to say thank you Madam Chair, you have been amazing for 24 years, and we are going to miss you. Thank you for all you have done for the state of Nevada. I think it is important to note there is nothing I can think of in my lifetime as an educator, as a parent, as a community member that if we do not do it earlier with children, they do not succeed better. It does not matter what it is. Reading, autism services, dental care, I do not care what it is. If we do things earlier with children, it is better for them. This is one of those things that is important, and I wanted to make sure that went on the record.

**Steven Cohen, Private Citizen, Las Vegas:**

Ditto.

**Doralee Martinez, Nevada Disability Peer Action Coalition:**

Ditto to what Senator Dondero Loop said. You are a true MVP [most valuable player], and I appreciate all you do. We support Senate Bill 96 (2nd Reprint).

**Molly Halligan, Private Citizen, Las Vegas, Nevada:**

I am in full support of this bill. I am a provider here in Las Vegas. I have been a behavioral analyst here in the state for approximately 20 years. Children in the state are going without services at an early age because this rate is so low. Commercial providers are also matching this rate, which is impacting services at a global level. There are thousands of children who are not getting services. The lack of services at an early age is impacting the way they are going to develop later and causing a much greater financial burden to the state. I hope the legislators will consider this bill and ensure the bill passes so we can get these services provided to these children.

**Randy Gabe, Board Chair, Grant A Gift Autism Foundation:**

The Grant a Gift Autism Foundation is in partnership with the University of Nevada, Las Vegas School of Medicine to offer the Ackerman Autism Center, which is an ATAP provider. I am speaking in support of Senate Bill 96 (2nd Reprint). Given the lateness of the hour, I will be brief. I wanted to inform the Committee that as an ATAP provider of these RBT services, we have thousands of families on our waitlist. That is just in southern Nevada. There are more statewide. Increasing the Medicaid reimbursement rates for the RBT services will help us make a big dent in that waitlist and allow more children to be seen. As one of the individuals testifying mentioned, early intervention is the key. If you have somebody on a waitlist, they are not getting the early intervention they need to help them to become mainstream members of society.

**Lenise Kryk, Clinic Director, the Lovaas Center:**

It is imperative and life-changing for children with autism to receive ABA [applied behavioral analysis] [Exhibit Z]. Senate Bill 96 (2nd Reprint) would allow access to services. The wage for an RBT is significantly increased with experienced RBTs receiving between \$25 and \$27 per hour, while the Medicaid reimbursement rate in Nevada has remained stagnant, being one of the lowest in the nation. We have been asking legislators for six years for an increase, and this latest increase is long overdue. The low rate is devastating for Nevada as the providers servicing children with Medicaid and ATAP dwindle. The waitlists are astronomical with some children waiting years, costing them time that they simply do not have. The current requested rate would allow children on the waitlists to begin receiving services as well as children receiving minimal services and more evidence-based levels of treatment.

**Janelle Saunders, Private Citizen, Henderson Nevada:**

I am a BCBA [Board Certified Behavioral Analyst] here in the state of Nevada. I am fully in support of Senate Bill 96 (2nd Reprint) in order to improve access to critical services for children with autism in the state of Nevada.

**Yesenia Gonzales, Assistant to the Director, Azulblue United by Autism:**

I am a member and also assistant to our Director and founder of Azulblue United by Autism, a nonprofit organization serving our community for over ten years [Exhibit AA]. I come to you representing the many who are on the autism spectrum in our community and also as a mother of an amazing son who also has autism. Many do not know how important it is when a child receives services outside of school, nor how it plays a key role in a special needs child's education and development. This can be whether it is using ABA, "Applied Behavior Analysis," which helps with social skills, communication, reading, and academics, as well as adaptive learning skills such as fine motor dexterity, hygiene, grooming, domestic capabilities, punctuality, job competence, occupational therapy to help them write better, speech therapy to help them to respond to verbal prompts or social cues, and the list goes on. Many have had these and many other services cut back, and we cannot allow that to continue. My son and myself personally have suffered from the cutbacks in hours or termination in these dire services due to the very limited availability of providers.

My son has regressed immensely after years of his hard work. In 2019 we encountered this problem, and his therapists would not stop apologizing and saying, "it is not us it is Medicaid." Ironically, the same thing happened with my services later that same year and have been slowly reduced even more so. I have been on a waiting list also for my son for ABA for three years now, and that is just unacceptable. The COVID-19 pandemic has caused many like my child to regress, and the behaviors affect many at school and at home. You have many parents taking courses to be RBTs to help their children, but not many have the means or ways of doing this. The tools are there, but unattainable due to there not being enough providers in our state. This is also a problem for those who are limited in English proficiency who do not know where they can turn to ask for help for their child in need of these vital services and also families with limited to no income. In fact, this need has not discriminated against even those with a higher income as they themselves have been affected. I implore you as a mother of a special needs child whom I spend my whole life advocating tirelessly for and also for those in my community. I plead with you to pass this bill for my son's sake and the sake of many others like him who have been impacted by this. I thank you all for allowing me to share my testimony with you. I and Azulblue United by Autism fully support Senate Bill 96 (2nd Reprint).

**Jan M. Crandy, Former Chair of the Nevada Commission on Autism:**

I appreciate the passion Senate Bill 96 (2nd Reprint) has been given. I am grateful to the sponsors and cosponsors. I do believe S.B. 96 (R2) with its most recent amendment is the solution we needed to address access barriers. When I testified in 2016, I indicated Nevada would need approximately 3,200 RBTs to serve all of the Medicaid and ATAP children. The recent audit indicated there were only 598 providers serving Medicaid children. Real access can only happen when there is sufficient provider capacity. This rate will bring providers to Nevada. It is the encouragement providers need to enroll and grow their businesses to deliver sufficient weekly treatment hours. More provider companies are good for everyone and every child.

Madam Chair, knowing this is your last session, makes me sad. I want to express my gratitude to you especially. I know you have been there for the autism community in Nevada in a huge way. We are going to miss you. I wish you rest and grand adventure in your retirement. Thank you for listening and voting for S.B. 96 (R2).

**Jon Paul Saunders, Private Citizen, Las Vegas, Nevada:**

I want to express nothing but gratitude to all the people who worked so hard on this bill [\[Exhibit BB\]](#).

**Michele Tombari, Private Citizen, Las Vegas, Nevada:**

I will be short. I just wanted to let you know I support S.B. 96 (R2). As a parent of a recovered child, I know this life-changing ABA therapy for autism needs to be accessible for all children in Nevada, not just the ones who have good health insurance or the ones in wealthy families. Senate Bill 96 (2nd Reprint) will increase the number of providers so that improvement and possible recovery can become a reality for children whose families rely on Medicaid or ATAP. Money spent at an early age will reduce or eliminate the millions of

dollars necessary for each child's long-term care and also reward the state with a successful tax paying citizen. My son is proof of this. Senate Bill 96 (2nd Reprint) is morally and fiscally the right thing to do. Thank you for all your past and future support for families affected by autism. Please approve S.B. 96 (R2).

**Ashlyn Frits, Private Citizen, Reno, Nevada:**

I would like to express my support for Senate Bill 96 (2nd Reprint). I would like to thank the Senator for bringing his leadership to help children enrolled in Medicaid experience the same services for autism that their counterparts with private insurance experience without significant barriers. Please support S.B. 96 (R2).

**Chair Carlton:**

We will take one more person if they are waiting and then please send in your written comments. Is there any further testimony in support of this bill? [There was none.] Is there any testimony in opposition to the bill? [There was none.] Is there any testimony in neutral on the bill?

**DuAne Young, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:**

I want to make a clarification on the record. When we discussed this in the Senate, the Division of Health Care Financing and Policy, Department of Health and Human Services had not had time to accurately calculate the fiscal note based upon the amendment. There is a \$2.9 million State General Fund impact. This was appropriate on the Senate side. However, that appropriation is \$107,339 short. We would need an appropriation to make that up to meet this note. I also wanted to put on the record that the effect on future biennia is \$20 million total computable, with a \$7 million General Fund impact on the next biennium.

**Chair Carlton:**

Please repeat the number again for staff so we can make sure as we move forward that we have the right number.

**DuAne Young:**

Yes, the appropriation is short \$107,339. We have sent Ms. Coffman the updated documents which clarify this as well as the impact for future biennia.

**Chair Carlton:**

Is there any other testimony in neutral on the bill? [There was none.] I will invite Senator Ohrenschall back for any closing comments. We received an unsolicited fiscal note which will have to be addressed and it is approximately \$454,000 in fiscal year (FY) 2022 and \$909,000 in FY 2023. The price tag went up a little bit. We will have to have some conversations, and we will go from there.



**Senator Ohrenschall:**

In 2009, Senator Maggie Carlton and Assemblywoman Dondero Loop cosponsored Assembly Bill 162 of the 75th Session. Everyone told us it will never happen. Our Governor will never sign it even if you get it passed. You were a staunch ally as Chair of the Senate Committee on Commerce and Labor. We got it through. Governor Gibbons waited, and we all thought we would get a veto message after we adjourned, but he signed it. The bill mandated private insurance for kids on the autism spectrum. Thank you for being such a champion then and cosponsoring Senate Bill 96 (2nd Reprint). I know the price tag is high, but I think it will make a huge difference in the lives of children on Medicaid to try to get these services. Congratulations on your retirement. Thank you for everything you have done for so many people.

**Bailey Bortolin:**

I did want to mention that there was a new fiscal note on the 2nd Reprint. We feel that it is appropriate and necessary to fund the ATAP as well so there is parity for all of these kids trying to access services. I know that it is a crazy session to ask for money, so I really want to thank you and the three legislators who have been helping wrestle this through. I tried everything and this is the only solution. We would not ask for money if we did not need it for these kids, but it is going to really change their lives.

**Chair Carlton:**

I will close the hearing on S.B. 96 (R2). This will be the last bill for this evening. We need to get some work done on the Assembly floor. The four bills that are left on the agenda are Senate Bill 274 (2nd Reprint), Senate Bill 310 (2nd Reprint), Senate Bill 455 (1st Reprint), and Senate Bill 390 (3rd Reprint). When you see the bills on the agenda, they will be in numerical order, but I will bump those four bills to the top tomorrow when we roll them forward.

**Senate Bill 274 (2nd Reprint): Revises provisions relating to commercially sexually exploited children. (BDR 38-705)**

**Senate Bill 310 (2nd Reprint): Makes an appropriation to the Nevada System of Higher Education and authorizes the disbursement of certain federal money in certain circumstances to enable the College of Southern Nevada to assist and carry out the NV Grow Program. (BDR S-570)**

**Senate Bill 455 (1st Reprint): Revises the qualifications to perform computed tomography and fluoroscopy. (BDR 54-1167)**

**Senate Bill 390 (3rd Reprint): Revises provisions relating to behavioral health. (BDR 39-635)**

[The above listed four bills were agendized but not heard and will be placed on the agenda and heard tomorrow on May 29, 2021.]



**Chair Carlton:**

We need to address Assembly Bill 65 before we close this evening. Give us a moment and we will address that bill. We have to address Assembly Bill 65 this evening and get it out so that we can get the amendment drafted tonight and keep this moving.

**Assembly Bill 65: Revises provisions relating to ethics in government. (BDR 23-257)**

**Chair Carlton:**

Committee members, I will take you back to the conversation around Assembly Bill 65. We had the presentation from the Commission on Ethics. Mr. Powers walked us through the amendment. The Commission on Ethics had mentioned the other conceptual amendments that had been addressed in the Assembly Committee on Legislative Operations and Elections. The Chair of the Assembly Committee on Legislative Operations and Elections is back with us now. If you would like to address those conceptual amendments and how you would like to proceed then we will go from there.

**Assemblywoman Miller:**

What the conceptual amendments do to Assembly Bill 65 is they create a new chapter and Title 17 of the *Nevada Revised Statutes* for ethics provisions related to the Legislative Branch of government. Three of the main things that it does under that is it creates a Senate Commission on Ethics...

**Chair Carlton:**

We had gone through that particular amendment. We were talking about proposed amendments during the Assembly Committee on Legislative Operations and Elections hearing that had come from the Commission on Ethics. The Commission on Ethics had proposed some small amendments at the committee level. I may have them here. If I understand them correctly, it was in section 8.2 to specify a duty to cooperate that does not apply to attorneys representing parties involved in that section. Section 22.2 removes the requirement that the Executive Director be a licensed attorney and instead make it a preferred qualification. The third proposed amendment was section 27.3 to place conferees under seal. Do I have the correct information?

**Assemblywoman Miller:**

Yes, that is correct.

**Chair Carlton:**

Those particular amendments would be encapsulated in moving this forward. Committee members, there would be two proposed amendments, the conceptual amendments that we just discussed that were discussed at the policy committee level and the second proposed amendment would be the one that Mr. Powers walked us through as amendment 777 to Assembly Bill 65 [[Exhibit R](#)].

Committee members, are there any questions on the bill at this time?

**Assemblyman Roberts:**

I did not get a chance to digest the tail end of this amendment. I had concerns about the insular nature of us policing ourselves completely without any outside oversight. I will vote yes to get it out of the Committee, but I have some concerns, and I may change my vote on the Assembly floor. I will let you know.

**Chair Carlton:**

I am sure there are some individuals who would be happy to have that conversation with you to give you some of the history and the reasons why we are moving in that direction. Are there any other questions or comments? [There were none.] The motion would be amend and do pass. I will accept a motion.

ASSEMBLYWOMAN MONROE-MORENO MOVED TO AMEND AND  
DO PASS ASSEMBLY BILL 65.

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

Are there any questions or comments on the motion? [There were none.]

THE MOTION PASSED UNANIMOUSLY.

I will open public comment. [There was none.] There being no further business before the Committee, this meeting is adjourned [at 10:14 p.m.].

RESPECTFULLY SUBMITTED:

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Kareen Prentice  
Recording Secretary

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Janice Wright  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Maggie Carlton, Chair

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

## EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is mock-up proposed amendment 3408 to Senate Bill 380 (1st Reprint), dated May 23, 2021, presented by Senator Julia Ratti, Senate District No. 13.

[Exhibit D](#) is written testimony dated May 27, 2021, presented by Tom McCoy, Executive Director, State Government Affairs, Nevada Chronic Care Collaborative regarding Senate Bill 380 (1st Reprint).

[Exhibit E](#) is a letter to the Assembly Committee on Ways and Means, presented by Shenakwa Hawkins, Care with Purpose Medical Center, regarding Senate Bill 420 (2nd Reprint).

[Exhibit F](#) is mock-up proposed amendment 3463 to Senate Bill 420 (2nd Reprint), dated May 27, 2021, presented by Senator Nicole J. Cannizzaro, Senate District No. 6.

[Exhibit G](#) is a proposed amendment dated May 28, 2021, presented by Jim Penrose, Private Citizen, Carson City, Nevada, regarding Senate Bill 420 (2nd Reprint).

[Exhibit H](#) is a letter to Assemblywoman Maggie Carlton, Chair, Assembly Committee on Ways and Means, dated May 27, 2021, presented by Jim Penrose, Private Citizen, Carson City, Nevada, regarding Senate Bill 420 (2nd Reprint).

[Exhibit I](#) is a copyrighted article prepared by the Michigan Department of Health and Human Services Newborn Screening Program, presented by Jim Penrose, Private Citizen, Carson City, Nevada, regarding Senate Bill 420 (2nd Reprint).

[Exhibit J](#) is written testimony dated May 28, 2021, presented by Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, regarding Senate Bill 420 (2nd Reprint).

[Exhibit K](#) is written testimony dated May 27, 2021, submitted by Cecia Alvarado, State Director, Mi Familia Vota Nevada, presented by Maria Nieto Orta, Nevada State Coordinator, Mi Familia Vota Nevada, regarding Senate Bill 420 (2nd Reprint).

[Exhibit L](#) is written testimony dated May 4, 2021, signed by Dr. Faisal A. Suba, Alliance Mental Health Specialists and others, and a letter dated May 27, 2021, signed by Duy Nguyen, Executive Director, One APIA [Asian Pacific Islander American] Nevada & COO, Asian Community Development Council, presented by Amy Koo, Deputy Political Director, One APIA Nevada, regarding Senate Bill 420 (2nd Reprint).

[Exhibit M](#) is written testimony presented by Annette Magnus, Executive Director, Battle Born Progress, regarding [Senate Bill 420 \(2nd Reprint\)](#).

[Exhibit N](#) is written testimony dated May 28, 2021, presented by Jennifer Fleischmann, Co-Director of Organizing, Make the Road Nevada, regarding [Senate Bill 420 \(2nd Reprint\)](#).

[Exhibit O](#) is written testimony dated May 28, 2021, presented by Reverend Michael Willoughby, regarding [Senate Bill 420 \(2nd Reprint\)](#).

[Exhibit P](#) is a packet of letters submitted by various individuals in support of [Senate Bill 420 \(2nd Reprint\)](#) but not discussed and is included as an exhibit of the hearing.

[Exhibit Q](#) is a copyrighted article published by American Medical Association titled "2021 and Beyond: AMA's Plan to Cover the Uninsured," submitted by Jaron Hildebrand, Executive Director, Nevada State Medical Association, regarding [Senate Bill 420 \(2nd Reprint\)](#).

[Exhibit R](#) is written testimony dated May 28, 2021, presented by Janine Hansen, State Chairman, Independent American Party of Nevada, regarding [Senate Bill 420 \(2nd Reprint\)](#).

[Exhibit S](#) is a packet of letters submitted by various individuals in opposition to [Senate Bill 420 \(2nd Reprint\)](#) but not discussed and is included as an exhibit of the hearing.

[Exhibit T](#) is a mock-up proposed amendment 777 to [Assembly Bill 65](#), presented by Kevin C. Powers, General Counsel, Legal Division, Legislative Counsel Bureau.

[Exhibit U](#) is written testimony dated May 27, 2021, signed by Marie Neisess, President, Clark County Education Association, presented by Jim Frazee, Vice President, Clark County Education Association, regarding [Senate Bill 76 \(2nd Reprint\)](#).

[Exhibit V](#) is written testimony dated May 27, 2021, presented by Brenda Pearson, Director, Strategic Policy Initiatives, Clark County Education Association, regarding [Senate Bill 76 \(2nd Reprint\)](#).

[Exhibit W](#) is written testimony dated May 26, 2021, presented by Christopher Daly, Deputy Executive Director, Government Relations, Nevada State Education Association, regarding [Senate Bill 76 \(2nd Reprint\)](#).

[Exhibit X](#) is written testimony dated May 27, 2021, presented by Julie Ostrovsky, Commissioner, Nevada Commission on Autism Spectrum Disorders, regarding [Senate Bill 96 \(2nd Reprint\)](#).

[Exhibit Y](#) is a graph titled "Behavior Technician 2021 Medicaid Reimbursement Rates," presented by Julie Ostrovsky, Commissioner, Nevada Commission on Autism Spectrum Disorders, regarding [Senate Bill 96 \(2nd Reprint\)](#).

[Exhibit Z](#) is written testimony dated May 27, 2021, presented by Lenise Kryk, Clinic Director, the Lovaas Center, regarding Senate Bill 96 (2nd Reprint).

[Exhibit AA](#) is written testimony presented by Yesenia Gonzales, Assistant to the Director, Azulblue United by Autism, regarding Senate Bill 96 (2nd Reprint).

[Exhibit BB](#) is a letter presented by Jon Paul Saunders, regarding Senate Bill 96 (2nd Reprint).