

BULLETIN 19-15

**Legislative Committee on Senior Citizens,
Veterans and Adults With Special Needs
(NRS 218E.750)**



Legislative Counsel Bureau

OCTOBER 2018

REVISED

**LEGISLATIVE COMMITTEE ON SENIOR CITIZENS,
VETERANS AND ADULTS WITH SPECIAL NEEDS**

Nevada Revised Statutes 218E.750

Members

Assemblywoman Lesley E. Cohen, Chair
Senator Patricia (Pat) Spearman, Vice Chair
Senator Joseph (Joe) P. Hardy, M.D.
Senator David R. Parks
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lisa Krasner

Staff Contacts

Research Division:

Melinda (Mindy) Martini, Principal Policy Analyst
Megan Comlossy, Principal Policy Analyst
Deborah (Debbie) Gleason, Research Policy Assistant
(775) 684-6825

Legal Division:

Eric Robbins, Principal Deputy Legislative Counsel
(775) 684-6830

This report was prepared by the Research Division of the Legislative Counsel Bureau. For additional copies of this report, please contact the Research Library at (775) 684-6827 or library@lcb.state.nv.us.

The Research Division provides objective policy analysis, research, and assistance to the Nevada Legislature—its members, committees, and constituents.

TABLE OF CONTENTS

	<u>Page</u>
<i>Nevada Revised Statutes</i> 218E.750.....	iii
Executive Summary	1
Summary of Recommendations	2
I. Introduction.....	7
II. Background.....	8
III. Discussion of Testimony and Recommendations	10
IV. Suggested Legislation	20

Nevada Revised Statutes

NRS 218E.750 Creation; membership; budget; officers; terms; vacancies.

1. The Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs, consisting of six members, is hereby created. The membership of the Committee consists of:

(a) Three members of the Senate appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party; and

(b) Three members of the Assembly appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

3. The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. After the initial selection, each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

4. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.

5. A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term. (Added to NRS by [2009, 2412](#); A [2011, 3235](#))

EXECUTIVE SUMMARY

The Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs, in compliance with [Nevada Revised Statutes \(NRS\) 218E.745 through 218E.760](#), is authorized to review, study, and comment on issues including, but not limited to: (1) initiatives to ensure financial and physical wellness; (2) abuse, exploitation, isolation, and neglect; (3) public outreach and advocacy; (4) programs to ensure services are provided in the most appropriate setting; (5) programs that provide services and care in the home; (6) the availability of useful information and data, as needed, for the state to make effective decisions, plan budgets, and monitor costs and outcomes of services; (7) laws relating to the appointment of a guardian, including the improvement of investigations relating to guardianships and systems for monitoring guardianships; and (8) the improvement of facilities for long-term care (LTC) in Nevada.

In addition to its general powers, [Assembly Bill 299](#) of the 2017 Session requires the Committee to conduct a study during the 2017–2018 Interim concerning standards of training for unlicensed persons who provide care at certain facilities or homes or through certain agencies. Further, the bill requires the Committee to study the creation of a competency evaluation for a person who receives such training concerning the provision of care.

The Committee held four meetings during the 2017–2018 Interim. The following summarizes the main issues considered at each meeting:

1. On February 27, 2018, the Committee discussed the AB 299 study relating to training requirements, training models, and accountability models for unlicensed employees and contractors who provide care at certain facilities or homes; provisions relating to out-of-home placements for adults with special needs; and veterans services.
2. On April 12, 2018, the Committee discussed the AB 299 study and veterans services.
3. On June 19, 2018, the Committee discussed the AB 299 study, services for senior citizens, guardianship programs, and services for adults with special needs.
4. On July 19, 2018, the Committee discussed Medicaid reimbursement rates, veterans' services, guardianship programs, and work session recommendations.

The Committee voted to forward ten recommendations as bill draft requests (BDRs) to the 2019 Legislature that address the following topics: (1) state employment, higher education, and dental programs for veterans; (2) sick leave flexibility; (3) provisions relating to out-of-home placements for adults with special needs; (4) the study required by AB 299 relating to the training of unlicensed employees and contractors who provide care at certain facilities or homes; and (5) guardianship programs. In addition, the Committee voted to send several letters expressing support for a specific issue or encouraging certain action.

SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations approved by the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs at its July 19, 2018, meeting. The Committee voted to forward ten recommendations as BDRs to the 80th Session of the Nevada Legislature and send several letters expressing support for a specific issue or encouraging certain action.

During the drafting process, specific details of the following proposals for legislation and letters may be further clarified by staff in consultation with the chair or others, as appropriate.

Recommendations for Legislation

1. The Committee voted to request legislation to amend subsection 7 of [NRS 284.015](#) to remove the requirement that the meaning ascribed to “veteran” includes being a resident of Nevada. This proposal relates to [AB 309](#) (2017) to provide that both in-state and out-of-state veterans who submit an application for state employment will receive ten additional points to the passing grade. This would make the provisions consistent between veterans and the widow or widower of a person killed in the line of duty while on active duty in the Armed Forces of the United States. Currently, only veterans who are residents of Nevada are eligible for the additional points. **(BDR 23–162)**
2. The Committee voted to request legislation to:
 - a. Create a workforce development program where eligible veterans who have completed an undergraduate degree and have remaining federal benefits would be authorized to use the remaining federal benefits toward a postgraduate degree and have the remaining costs waived. In return for the waiver of fees, the eligible veteran would be required to seek a postgraduate degree in a science, technology, engineering, arts, and mathematics critical need occupation field. Critical need occupation fields would be determined by the Department of Employment, Training and Rehabilitation (DETR); and
 - b. Make appropriations in the amount of \$250,000 from the State General Fund in each fiscal year (FY) of the 2019–2021 Biennium to support the Adopt a Vet Dental Program (AAVD). **(BDR –168)**
3. The Committee voted to request legislation to require a private employer that provides sick leave benefits to allow the employees to use such accrued leave, in accordance with company policy, for absences due to illness, injury, medical appointment, or other authorized medical need of a member of the employees’ immediate family. This would be a redraft of [AB 394](#) (a failed measure from the 2017 Session). **(BDR 53–169)**
4. The Committee voted to request legislation to:
 - a. Clarify that the provisions of [NRS 449.03005](#) (license to operate employment agency that contracts with persons to provide certain nonmedical services) apply any time contracted services are provided in this state, regardless of where the employer resides;

- b. Relocate provisions regarding community-based living arrangement (CBLA) services ([NRS 433.605](#)) under [Chapter 449](#) of NRS This would provide that the entities would be licensed, regulated, and monitored by the Bureau of Health Care Quality and Compliance (HCQC), Division of Public and Behavioral Health (DPBH), Department of Health and Human Services (DHHS). The training program would be specified by *Nevada Administrative Code* (NAC). The transition would be effective upon approval;
 - c. Require the Nevada 2-1-1 program, established pursuant to [NRS 232.359](#), to specify the licensing status of all licensed or certified facilities or homes under Chapter 449 of NRS. The Nevada 2-1-1 program must be reviewed and updated at least quarterly; and
 - d. Require the Committee to continue the study, as required by [AB 299](#), to review and study the training programs implemented by certain homes and facilities. The goal of the study during the 2019–2020 Interim would be to compare and contrast the content of the training programs offered by supported living arrangement (SLA) services ([NRS 435.3315](#)), CBLA services, and programs under Chapter 449 of NRS. The goal of the study would be to determine whether a minimum set of competencies should be mandated in Nevada to be taught, measured, and monitored across all programs. In addition, the number of hours of annual continuing education would be determined. If the study determines that minimum competencies should be mandated, the Committee would determine which employees and contractors should not be subject to learning the competencies. **(BDR 40–170)**
5. The Committee voted to request legislation to require the legislative auditor of the Audit Division, Legislative Counsel Bureau (LCB), to conduct an audit of SLAs during the 2019–2020 Interim. The purpose of the audit would be to determine whether all certified SLAs provide services as described in [NRS 435.3315](#) as:

... flexible, individualized services provided in the home, for compensation, to a person with an intellectual disability or a person with a developmental disability who is served by the [Aging and Disability Services] Division that are designed and coordinated to assist the person in maximizing the person's independence, including, without limitation, training and habilitation services.

The findings of the audit would be presented to the Committee.

Following the work session, the chair of the Committee requested to be included on the agenda of the August 30, 2018, meeting of the Legislative Commission ([NRS 218E.150](#)) to request that the audit of SLAs be completed as soon as practicable by the Legislative Auditor. If the audit is approved by the Legislative Commission to occur during FY 2018–2019, the BDR approved by the Committee may contain recommendations based upon the findings of an audit of SLAs. **(BDR –178)**

6. The Committee voted to request legislation to:
 - a. Expand the authority of the Office of the State LTC Ombudsman, Aging and Disability Services Division (ADSD), DHHS, to include advocating for recipients of CBLA services, SLA services, adult day care centers, and rehabilitation centers for acute illnesses. The BDR would require the ombudsman or an advocate to conduct quarterly inspections of the facilities and investigate or review such facilities, as needed. This would be a redraft of [Senate Bill 97](#) (a failed measure of the 2017 Legislative Session) with the addition of expanding the authority of the ombudsman to include advocating for recipients of rehabilitation centers for acute illnesses and conducting quarterly inspections of facilities; and
 - b. Require all CBLAs, SLAs, adult day care centers, and rehabilitation centers for acute illnesses to post the Ombudsman's hotline number for reporting complaints. The Office of the State LTC Ombudsman would address the complaints. **(BDR 38-171)**
7. The Committee voted to request legislation to implement supported decision-making agreements as a recognized means to support and accommodate adults with disabilities in making life decisions. The BDR would include provisions and direction for nonparties to the agreement, including, but not limited to, medical and financial professionals, to rely on the supported adult's decisions, not unlike provisions in laws governing powers of attorney. **(BDR -164)**
8. The Committee voted to request legislation to support parental rights for the blind. The legislation would prohibit discrimination against the blind in adoption, custody, guardianship, or visitation proceedings. **(BDR -172)**
9. The Committee voted to request legislation to revise primarily [NRS 159.0805](#) (Nevada guardianship laws relating to the sterilization of a protected person) requiring:
 - a. A burden of proof to establish when sterilization would benefit or prevent serious mental or physical impairments;
 - b. An appointment of either an attorney to represent the ward and/or a guardian ad litem;
 - c. An evidentiary hearing to take place before the court orders an involuntary sterilization; and
 - d. Consideration of less irrevocable and intrusive means of contraception, other than sterilization. **(BDR -173)**
10. The Committee voted to request legislation to revise, primarily [NRS 427A.896](#) to remove the duties relating to the Nevada ABLE Savings Program required or authorized of ADSD and to clarify that the state treasurer is solely responsible for implementing the following duties:

- a. The state treasurer may employ personnel and contract for goods and services necessary for the effective and efficient operation of the Program (revise subsection 5 of NRS 427A.896);
- b. The state treasurer shall implement an outreach and education program designed to create awareness of and increase participation in the Program. Any marketing plan and materials for the Program would no longer require ADSD's approval (revise subsection 6 of NRS 427A.896); and
- c. The state treasurer may contract with certain qualified entities for certain services (revise subsection 8 of NRS 427A.896). **(BDR –177)**

Recommendations for Committee Letters

1. The Committee voted to send a letter to ADSD to request an audit of SLAs during FY 2018–2019. The purpose of the audit would be to determine whether all certified SLAs provide services as described in [NRS 435.3315](#) as:

. . . flexible, individualized services provided in the home, for compensation, to a person with an intellectual disability or a person with a developmental disability who is served by the [Aging and Disability Services] Division that are designed and coordinated to assist the person in maximizing the person's independence, including, without limitation, training and habilitation services.

The findings of the audit would be presented to the Committee.

NOTE: Following the work session, the chair of the Committee requested to be included on the agenda of the August 30, 2018, meeting of the Legislative Commission ([NRS 218E.150](#)) to request that the audit of SLAs be completed as soon as practicable by the legislative auditor. The audit was approved by the Legislative Commission to occur during FY 2018–2019; therefore, this letter is no longer necessary.

2. The Committee voted to send a letter to DPBH expressing the Committee's desire for the Division's webpages to include a user-friendly way for the public to determine the licensing status of a program.
3. The Committee voted to send a letter to the governor of the State of Nevada to evaluate the adequacy of current Medicaid reimbursement rates and determine whether the rates should be raised during the 2019 Legislative Session. The letter should urge the governor to increase the rates for Nevada's support specialists so that persons, especially children, will not be required to seek services out of state. The letter should also specify that low Medicaid reimbursement rates lead to high levels of staff turnover, which is a concern when it comes to adequately training staff. Finally, it should be noted in the letter that rate studies indicate the reimbursement rate for vocational services and SLAs for persons with intellectual and developmental disabilities is up to 25 percent below other similar states.

4. The Committee voted to send a letter to the Office of the State LTC Ombudsman requesting that when the Office reviews its caseload ratio for submission of the biennial agency budget request, the Office should take into account the acuity and ability level of its consumers and adjust the current 1:60 ratio, as needed, to account for the potential of more challenging cases.
5. The Committee voted to send a letter to the governor of the State of Nevada and copy the chair of the Interim Finance Committee ([NRS 218E.400](#)) urging an increase in funding to support the independent living needs of visually impaired adults. Increased funding of \$500,000 in each fiscal year of the 2019–2021 Biennium is estimated to be needed to support five key areas:
 - a. Consumer service outreach;
 - b. Orientation and mobility training;
 - c. Assistive technology;
 - d. Paratransit service areas; and
 - e. Driver awareness training regarding the needs of visually impaired pedestrians.
6. The Committee voted to send a letter to the governor of the State of Nevada urging that the governor's *Executive Budget* include sufficient state matching funds so that all federal funding allocated to the state for vocational rehabilitation services for visually and/or hearing impaired adults may be drawn.
7. The Committee voted to send a letter to the Director's Office of the LCB; the administrators of the Fiscal Analysis Division, LCB; and the director of the Office of Finance, Office of the Governor, to review and revise the provisions of the measure that authorizes expenditures of state government. The letter would specifically request that consideration be given to revise the measure to authorize the Bureau of Services to Persons Who Are Blind or Visually Impaired and the Bureau of Vocational Rehabilitation, both of the Rehabilitation Division, DETR, to expend appropriations from the State General Fund before all other fund sources in order to meet federal funding matching requirements.

I. INTRODUCTION

The powers and duties of the Committee are codified in [NRS 218E.750](#). The Committee is charged with reviewing, studying, and commenting on issues relating to senior citizens, veterans, and adults with special needs, including, but not limited to, the following:

- Initiatives to ensure the financial and physical wellness of senior citizens, veterans, and adults with special needs;
- The abuse, exploitation, isolation, and neglect of senior citizens and adults with special needs;
- Public outreach and advocacy;
- Programs for the provision of services to senior citizens, veterans, and adults with special needs and methods to enhance such programs to ensure services are provided in the most appropriate setting;
- Programs that provide services and care to senior citizens in the home, thereby allowing them to remain at home and live independently, as opposed to being placed in institutional care;
- The availability of useful information and data as needed for the state to effectively make decisions, plan budgets, and monitor costs and outcomes of services provided to senior citizens, veterans, and adults with special needs;
- Laws relating to the appointment of a guardian and the improvement of laws for the protection of senior citizens and adults with special needs who have been appointed a guardian, including the improvement of investigations relating to guardianships and systems for monitoring guardianships; and
- The improvement of facilities for LTC in Nevada, including the following:
 - Reducing the number of persons placed in facilities for LTC located outside Nevada;
 - Creating units for acute care and LTC to treat persons suffering from dementia who exhibit behavioral problems;
 - Developing alternatives to placement in facilities for LTC, including units for LTC located in other types of facilities, and ensuring that such alternatives are available throughout Nevada for the treatment of persons with psychological needs; and
 - Creating a program to provide follow-up care and track the ongoing progress of residents of facilities for LTC.

In addition to its general powers, [AB 299](#) of the 2017 Session requires the Committee to conduct a study during the 2017–2018 Interim concerning standards of training for unlicensed persons who provide care at certain facilities or homes or through certain agencies. Further, the bill requires the Committee to study the creation of a competency evaluation for a person who receives such training concerning the provision of care.

The Committee held four meetings during the 2017–2018 Interim. Topics addressed include the AB 299 study; guardianship programs; Medicaid reimbursement rates; out-of-home placements for adults with special needs; and services for senior citizens, veterans, and adults with special needs.

Based upon testimony and discussion received during the hearings, the Committee voted to forward ten recommendations as BDRs to the 2019 Legislature that address the following topics: (1) state employment, higher education, and dental programs for veterans; (2) sick leave flexibility; (3) provisions relating to out-of-home placements for adults with special needs; (4) the study required by AB 299 relating to the training of unlicensed employees and contractors who provide care at certain facilities or homes; and (5) guardianship programs. In addition, the Committee voted to send several letters expressing support for a specific issue or encouraging certain action.

More information about the Committee’s activities—including minutes, recordings of meetings, and copies of presentations and other exhibits—may be accessed on the Legislature’s website for the [2017–2018 Interim](#).

II. BACKGROUND

The following provides a summary of the statutory reports, legislation, and legislative audits that affected the duties of the Committee during the 2017–2018 Interim.

A. Statutory Reports

The Committee has a duty to review certain statutory reports pursuant to [NRS 333.3368](#) and [338.13846](#). The Purchasing Division and the State Public Works Division, both of the Department of Administration (DOA), must report to the Committee, respectively, on the number and dollar amount of state purchasing contracts and contracts awarded to local businesses that are owned by service-disabled veterans. The reports were submitted to the Committee and discussed at its meeting on July 19, 2018.

B. Recent Legislation Impacting the Committee

1. [Assembly Bill 299](#) required the Committee, through a study, to:
 - a. Determine standards of training for persons who are not providers of health care but who provide care to clients;
 - b. Study the creation of a competency evaluation that each person must take and successfully complete following training;
 - c. Study those persons who work in the following services:
 - i. Agencies that provide nursing and/or personal care in the home;

- ii. Facilities for intermediate care, skilled nursing, and care of adults during the day;
 - iii. Providers of CBLA and SLA services; and
 - iv. Residential facilities for groups and homes for individual residential care; and
- d. Forward any recommendations for legislation to the 2019 Legislature.

The Committee spent a considerable amount of time carrying out the study at each of its four meetings.

2. [Assembly Bill 309](#) (2017) was approved by the Legislature and relates to state employment of veterans and certain family members. The Committee received testimony on the impact of the legislation at its meetings on February 27 and April 12, 2018. The measure provided for the following:

- a. Ten preference points are to be added to the passing grade of all veterans and to the passing grade of widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces of the United States;
- b. The administrator of the Division of Human Resource Management (DHRM), DOA, is required to certify names of veterans with service-connected disabilities on lists of eligible persons for positions, and state agencies are required to interview any such veterans whose names have been certified for positions. If this certification is not required by law for a particular position, the bill requires the state agency to interview each qualified applicant who is a veteran with a service-connected disability.

For veterans without a service-connected disability, at least 22 percent of such qualified applicants must be interviewed, or if the number of veteran applicants without a service-connected disability is below 22 percent, all such veterans must be interviewed; and

- c. The administrator of DHRM is required to ensure the percentage of officers and employees in state employment who are veterans or widows and widowers of persons killed in the line of duty while on active duty in the Armed Forces is proportional to the percentage of veterans and such widows and widowers residing in Nevada and in the labor force.
3. [Senate Bill 444](#) (2017) contained an appropriation of \$174,981 in each fiscal year of the current biennium to support the AAVD program in northern Nevada. This legislation was a BDR of the Committee during the 2015–2016 Interim. Discussion concerning the need for continued funding was provided during the meeting on April 12, 2018.
4. [Assembly Bill 108](#) (2017) requires the Division of Health Care Financing and Policy (DHCFP), DHHS, to review the adequacy of Medicaid reimbursement rates every four years. If DHCFP finds that the rate of reimbursement for a service or item does not

accurately reflect the actual cost of providing the service or item, the Division must calculate the rate of reimbursement that accurately reflects the actual cost of providing the service or item and recommend that rate to the director of DHHS for possible inclusion in the State Plan for Medicaid.

Throughout the interim, testimony from presenters and the public expressed concern that Nevada's Medicaid reimbursement rates may be low. The Committee received a report on the rates at its meeting on July 19, 2018.

C. Legislative Audit Reports

An audit report titled *Adult Mental Health Services, Community-Based Living Arrangement Homes* ([LA18-13](#)) was issued on January 17, 2018. The purpose of the audit was to determine whether controls for monitoring providers of CBLA services are adequate to ensure the safety and welfare of certain adult mental health clients. The audit report contains seven recommendations to improve controls to ensure that CBLA homes are effectively inspected. Because this audit relates to adults with special needs and to the [AB 299](#) study of the training needs of unlicensed workers in CBLAs, the Committee heard testimony relating to the audit at its meetings on February 27 and June 19, 2018.

III. DISCUSSION OF TESTIMONY AND RECOMMENDATIONS

At its final meeting and work session on July 19, 2018, the Committee approved ten BDRs and seven letters. Additional information regarding all of the recommendations considered is available in the Committee's [Work Session Document](#).

A. State Employment, Higher Education, and Dental Programs for Veterans

Recommendation 1

The Committee voted to request legislation to amend subsection 7 of [NRS 284.015](#) to remove the requirement that the meaning ascribed to "veteran" includes being a resident of Nevada. This proposal relates to [AB 309](#) to provide that both in-state and out-of-state veterans who submit an application for state employment will receive ten additional points to the passing grade. This would make the provisions consistent between veterans and the widow or widower of a person killed in the line of duty while on active duty in the Armed Forces of the United States. Currently, only veterans who are residents of Nevada are eligible for the additional points. **(BDR 23-162)**

During the 2017 Legislative Session, the Legislature approved AB 309 relating to the state employment of veterans and certain family members. The measure provides additional preference points to any open competitive examination in the classified state service by:

- Adding ten points to the passing grade of a veteran who does not have a disability; and

- Adding ten points to the passing grade of a widow or widower of a person killed in the line of duty while on active duty in the Armed Forces of the United States.

This measure became effective on June 9, 2017, for purposes of adopting regulations and performing administrative tasks. The members were interested in knowing the status of such regulations, as well as the monthly and quarterly reports required by this measure.

The Committee received testimony from Douglas (Doug) Williams, Veterans Coordinator, DHRM, DOA, at its meeting on February 27, 2018, and from Peter Long, Administrator, DHRM, at its meeting on April 12, 2018. Based upon testimony, members were concerned that AB 309, as approved, had the unintended consequence of excluding out-of-state veterans from receiving the additional preference points when applying for state employment in the classified service. Mr. Long said the definition of a veteran in AB 309 provides that the veteran must be a Nevada resident to be eligible to receive the additional preference points. The residency requirement does not pertain to the widows and widowers in the bill's provisions. Committee members discussed that the intent of the measure was not to exclude out-of-state veterans.

Recommendation 2

The Committee voted to request legislation to:

- a. Create a workforce development program where eligible veterans who have completed an undergraduate degree and have remaining federal benefits would be authorized to use the remaining federal benefits toward a postgraduate degree and have the remaining costs waived. In return for the waiver of fees, the eligible veteran would be required to seek a postgraduate degree in a science, technology, engineering, arts, and mathematics critical need occupation field. Critical need occupation fields would be determined by DETR; and
- b. Make appropriations in the amount of \$250,000 from the State General Fund in each fiscal year of the 2019–2021 Biennium to support the AAVD. **(BDR –168)**

At its meeting on April 12, 2018, the Committee heard from Maran Shaker, Member, Rebel Veterans Organization (RVO), University of Nevada, Las Vegas (UNLV); a student at the UNLV School of Medicine; and a veteran of the United States Army. Mr. Shaker provided written comments on behalf of the RVO and spoke about a [program that would benefit veterans](#) and fill Nevada's critical workforce needs. Based upon Committee discussion, the critical need occupation fields were expanded to include the arts.

Also at the meeting on April 12, 2018, Committee members received testimony concerning the need for continued funding for the AAVD in northern Nevada. The Committee supported [SB 444](#) during the 2017 Legislative Session, which provided an appropriation of \$174,981 in each fiscal year of the current biennium to support the program. Linda J. Haigh, Cofounder, AAVD, Northern Nevada Dental Health Programs, Reno, [reported](#) on how state money has been utilized, the program's successes, and future budget needs.

B. Sick Leave Flexibility

Recommendation 1

The Committee voted to request legislation requiring a private employer that provides sick leave benefits to allow the employees to use such accrued leave, in accordance with company policy, for absences due to illness, injury, medical appointment, or other authorized medical need of a member of the employees' immediate family. This would be a redraft of [AB 394](#) (a failed measure from the 2017 Session). (**BDR 53–169**)

At the Committee's meeting on June 19, 2018, Barry Gold, Director, Government Relations, AARP Nevada, provided a report on the impact of [SB 177](#) (2015), which is known as the CARE Act. This measure authorizes a patient, a legal representative of a patient who is incompetent, or a parent or guardian of a patient who is a minor to designate a caregiver upon inpatient admission to a hospital. If a patient has a designated caregiver, the hospital must attempt to notify the caregiver of the planned discharge or transfer of the patient and attempt to provide the caregiver with certain information and training concerning aftercare for the patient. Mr. Gold reported that, according to the United Health Foundation's [America's Health Rankings Senior Report 2018](#), Nevada's health rankings preventable hospitalizations decreased by 27 percent in the last five years; he posited this was in part because of the CARE Act. This report was discussed by Rutu Ezhuthachan, M.D., Medical Director, UnitedHealthcare Nevada at the meeting on June 19, 2018.

Mr. Gold reported that the companion piece to the CARE Act would allow family caregivers who are still working to use part of their sick leave to care for family members—a reconsideration of AB 394. Mr. Gold confirmed the proposed legislation would apply only to companies that already have a sick leave policy, and he noted that a fiscal note is not anticipated.

C. Care for Adults With Special Needs and the AB 299 Study of Training Needs

Recommendation 1

The Committee voted to request legislation to:

- a. Clarify that the provisions of [NRS 449.03005](#) (license to operate employment agency that contracts with persons to provide certain nonmedical services) apply any time contracted services are provided in this state, regardless of where the employer resides;
- b. Relocate provisions of [NRS 433.605](#) regarding CBLA services under [Chapter 449](#) of NRS. This would provide that the entities would be licensed, regulated, and monitored by HCQC. The training program would be specified by NAC, and the transition would be effective upon approval;
- c. Require the Nevada 2-1-1 program, established pursuant to [NRS 232.359](#), to specify the licensing status of all licensed or certified facilities or homes under Chapter 449 of NRS. The Nevada 2-1-1 program must be reviewed and updated at least quarterly; and

- d. Require the Committee to continue the study, as required by [AB 299](#), to review and study the training programs implemented by certain homes and facilities. The goal of the study during the 2019–2020 Interim would be to compare and contrast the content of the training programs offered by CBLA services, SLA services ([NRS 435.3315](#)), and programs under Chapter 449 of NRS. The goal of the study would be to determine whether a minimum set of competencies should be mandated in Nevada to be taught, measured, and monitored across all programs. In addition, the number of hours of annual continuing education would be determined. If minimum competencies should be mandated, the Committee would determine which employees and contractors should not be subject to learning the competencies. **(BDR 40–170)**

This BDR was the culmination of several hearings relating to the living arrangements and care of adults with special needs. The following summarizes the testimony that led to the approval of each component of the BDR.

At the meetings on April 12 and June 19, 2018, Committee members received verbal and [written testimony](#) from Connie McMullen, Lobbyist, Personal Care Association of Nevada, expressing concern that certain nonlicensed out-of-state Internet employment agencies are actively placing personal care aides in residential homes in Nevada and not complying with all state requirements. In order to remedy the situation, the Committee, during its work session, approved clarifying language that the provisions of NRS 449.03005 apply any time contracted services are provided in this state, regardless of where the employer resides.

Also at the meetings on April 12 and June 19, 2018, Committee members received testimony from Helen Foley, Lobbyist, Nevada Assisted Living Association, and Ms. McMullen urging legislation that would require CBLAs to be regulated under Chapter 449 of NRS. This would provide that CBLAs would be licensed, regulated, and monitored by HCQC.

At the Committee’s meeting on February 27, 2018, Rocky Cooper, Legislative Auditor, Audit Division, LCB, presented a legislative audit report titled *Adult Mental Health Services, Community-Based Living Arrangement Homes* ([LA18-13](#)). The purpose of the audit was to determine whether controls for monitoring providers of CBLA services are adequate to ensure the safety and welfare of certain adult mental health clients. Through discussion of the report, a question was raised asking whether the Nevada 2-1-1 program is an option for the public to determine whether a home or facility is licensed and/or safe. It was discovered that the Nevada 2-1-1 program does not include licensing information in a timely fashion. The BDR would require the information to be updated quarterly.

At the Committee’s meetings on February 27, April 12, and June 19, 2018, members carried out the AB 299 study and received testimony on the following topics:

- Types of employees and contractors that deliver services in agencies and providers identified in AB 299;
- Training requirements specified in NRS and NAC;
- Training models available in Nevada;

- Accountability models to monitor implementation of the standards of training; and
- Effective training models in other states.

At the Committee's meeting and work session on June 19, 2018, a [presentation](#) was given summarizing the findings for each topic. Based upon the findings, members approved the continuation of the AB 299 study in the 2019–2020 Interim to build upon the information obtained during the current interim and determine whether a minimum set of competencies should be mandated in Nevada to be taught, measured, and monitored across all programs. If minimum competencies should be mandated, the Committee would determine the number of hours of annual continuing education necessary, as well as which employees and contractors should be exempt from learning the competencies.

Recommendation 2

The Committee voted to request legislation requiring the legislative auditor to conduct an audit of SLAs during the 2019–2020 Interim. The purpose of the audit would be to determine whether all certified SLAs provide services as described in [NRS 435.3315](#) as:

. . . flexible, individualized services provided in the home, for compensation, to a person with an intellectual disability or a person with a developmental disability who is served by the [Aging and Disability Services] Division that are designed and coordinated to assist the person in maximizing the person's independence, including, without limitation, training and habilitation services.

Following the work session, the chair of the Committee requested to be included on the agenda of the August 30, 2018, meeting of the Legislative Commission ([NRS 218E.150](#)) to request that the audit of SLAs be completed as soon as practicable by the legislative auditor. The audit was approved by the Legislative Commission to occur during FY 2018–2019. The BDR approved by the Committee may contain recommendations based upon the findings of an audit of SLAs. **(BDR –178)**

At the meetings on April 12 and June 19, 2018, Committee members received testimony from Helen Foley and Connie McMullen, both previously identified, urging legislation that would require SLAs to be regulated under [Chapter 449](#) of NRS. This would provide that the SLAs would be licensed, regulated, and monitored by HCQC. However, at the meeting on July 19, 2018, Ms. Foley and Ms. McMullen clarified they are not concerned with SLAs being regulated by ADSD under [Chapter 435](#) of NRS. Rather, the issue is that some entities may have been misidentified as SLAs because they do not serve persons who have a developmental disability. It was noted that these entities should be identified appropriately and be regulated by DPBH. Ms. Foley confirmed that she believes all entities, except SLAs, should be regulated under Chapter 449. Instead of moving the SLAs under Chapter 449, Ms. Foley requested the Committee consider an audit of SLAs be conducted as soon as practicable to determine whether all entities appropriately meet the definition of an SLA.

Recommendation 3

The Committee voted to request legislation to:

- a. Expand the authority of the Office of the State LTC Ombudsman to include advocating for recipients of adult day care centers, CBLA services, rehabilitation centers for acute illnesses, and SLA services. The BDR would require the ombudsman or an advocate to conduct quarterly inspections of the facilities and investigate or review such facilities, as needed. This would be a redraft of [SB 97](#) (a failed measure of the 2017 Legislative Session) with the addition of expanding the authority of the ombudsman to include advocating for recipients of rehabilitation centers for acute illnesses and conducting quarterly inspections of facilities; and
- b. Require all adult day care centers, CBLAs, rehabilitation centers for acute illnesses, and SLAs to post the ombudsman's hotline number for reporting complaints. The Office would address the complaints. **(BDR 38–171)**

The impact of expanding the authority of the ombudsman was discussed at the Committee's meetings on April 12 and June 19, 2018. At the June meeting, Jennifer Williams-Woods, State LTC Ombudsman, ADSD, DHHS, provided a [presentation](#) that described the primary function of the program, which is to advocate for residents in LTC facilities. The LTC ombudsmen are trained to resolve problems and represent the perspective of residents in monitoring laws, regulations, and policies.

The presentation also described the program expansion considered during the 2017 Legislative Session through SB 97, which was ultimately not approved. The proposed expansion included advocacy for adult day care facilities, CBLAs, and SLAs at an estimated cost of \$3.8 million over the 2017–2019 Biennium. The estimated cost would have supported 25 additional positions to carry out the added duties.

Through the discussion of the program, the need to post the ombudsman's hotline number was considered to readily assist clients in knowing whom to call to report a complaint. The need for quarterly inspections of facilities was also discussed. During the work session for this item on July 19, 2018, Committee members discussed including rehabilitation centers for acute illnesses under the LTC ombudsman program.

Recommendation 4

The Committee voted to send a letter to ADSD requesting an audit of SLAs during FY 2018–2019. The purpose of the audit would be to determine whether all certified SLAs provide services as described in [NRS 435.3315](#) as:

. . . flexible, individualized services provided in the home, for compensation, to a person with an intellectual disability or a person with a developmental disability who is served by the [Aging and Disability Services] Division that are designed and coordinated to assist the person in maximizing the person's independence, including, without limitation, training and habilitation services.

The findings of the audit would be presented to the Committee.

Following the work session, the chair of the Committee requested to be included on the agenda of the Legislative Commission's meeting on August 30, 2018, to request that the audit of SLAs be completed as soon as practicable by the legislative auditor. The audit was approved by the Legislative Commission to occur during FY 2018–2019; therefore, this letter is no longer necessary. See Recommendation 5 for additional information.

Recommendation 5

The Committee voted to send a letter to DPBH expressing the Committee's desire for the Division's webpages to include a user-friendly way for the public to determine the licensing status of a program.

At the Committee's meeting on February 27, 2018, Rocky Cooper, previously identified, presented a legislative audit report titled *Adult Mental Health Services, Community-Based Living Arrangement Homes* ([LA18-13](#)). The purpose of the audit was to determine whether controls for monitoring providers of CBLA services are adequate to ensure the safety and welfare of certain adult mental health clients. Through discussion of the report, members questioned ways the public can determine whether a home or facility is licensed and/or safe. Ultimately, the Committee voted to approve a BDR requiring the Nevada 2-1-1 program to include licensing information and be updated quarterly. In addition, the Committee voted to send a letter to DPBH requesting the Division to update its webpages to include a user-friendly way for the public to determine the licensing status of a home or facility.

Recommendation 6

The Committee voted to request legislation to revise [NRS 427A.896](#) to remove the duties relating to the Nevada ABLE Savings Program required or authorized of ADSD and to clarify that the state treasurer is solely responsible for implementing the following duties:

- a. The state treasurer may employ personnel and contract for goods and services necessary for the effective and efficient operation of the Program (revise subsection 5 of NRS 427A.896);
- b. The state treasurer shall implement an outreach and education program designed to create awareness of and increase participation in the Program. Any marketing plan and materials for the Program would no longer require ADSD's approval (revise subsection 6 of NRS 427A.896); and
- c. The state treasurer may contract with certain qualified entities for certain services (revise subsection 8 of NRS 427A.896). (**BDR –177**)

At the Committee's meeting on June 19, 2018, Homa S. Woodrum, Esq., previously identified, shared a presentation on the [Nevada ABLE Savings Program](#), which is designed to provide a special tax advantage savings account for persons with disabilities and their family members without being disqualified for other benefits. The Program is jointly administered by the Office of the State Treasurer and ADSD.

Grant Hewitt, Chief of Staff, Office of the State Treasurer, recommended having the Office administer the entire Program, which would create a more streamlined administrative process and allow one entity to represent the state in all decisions regarding the Program. The fiscal impact of the change would be \$75,000 in State General Funds annually to support a new marketing proposal. Representatives of ADSD noted support for the recommendation.

D. Guardianship

Recommendation 1

The Committee voted to request legislation to implement supported decision-making (SDM) agreements as a recognized means to support and accommodate adults with disabilities in making life decisions. The BDR would include provisions and direction for nonparties to the agreement, including, but not limited to, medical and financial professionals, to rely on the supported adult's decisions, not unlike provisions in laws governing powers of attorney. **(BDR –164)**

At the Committee meeting on June 19, 2018, Homa S. Woodrum, Esq., Chief Advocacy Attorney, ADSD, DHHS, shared a [presentation](#) concerning the guardianship program in Nevada. Ms. Woodrum noted that SDM is a process of creating an agreement between an adult with a disability and a trusted supporter or supporters, which empowers an adult to make decisions about his or her own life matters without third parties making such decisions. The SDM program is recognized as a less restrictive alternative to guardianship. As part of the presentation, SDM programs in other states were discussed. In addition, a [sample SDM agreement](#) from the State of Texas was distributed to the Committee.

Recommendation 2

The Committee voted to request legislation to support parental rights for the blind. The legislation would prohibit discrimination against the blind in adoption, custody, guardianship, or visitation proceedings. **(BDR –172)**

At the Committee meeting on July 19, 2018, representatives of the National Federation of the Blind (NFB) presented model state legislation concerning [parental rights for the blind](#). An example of [model language](#) for the State of Nevada was presented by Dora Uchel, parent representative and Vice President, NFB, Northern Nevada Chapter.

Recommendation 3

The Committee voted to request legislation to revise, primarily, [NRS 159.0805](#) (Nevada guardianship laws relating to the sterilization of a protected person) requiring:

- a. A burden of proof to establish when sterilization would benefit or prevent serious mental or physical impairments;
- b. An appointment of either an attorney to represent the ward and/or a guardian ad litem;

- c. An evidentiary hearing to take place before the court orders an involuntary sterilization; and
- d. Consideration of less irrevocable and intrusive means of contraception, other than sterilization.
(BDR –173)

At the Committee meeting on July 19, 2018, Janet Belcove-Shalin, Rights Attorney, Nevada Disability Advocacy and Law Center, provided an [analysis](#) of NRS 159.0805 relating to the sterilization of a protected person. The analysis presented a list of criteria the statute excludes when compared to the provisions of the *United States Constitution* and case law.

E. Budget Recommendations—Medicaid Reimbursement Rates, Caseload Ratios, State Matching Funds, and Authorization of Funds Legislation

Recommendation 1

The Committee voted to send a letter to the governor of the State of Nevada requesting an evaluation of the adequacy of current Medicaid reimbursement rates to determine whether the rates should be raised during the 2019 Legislative Session. The letter should urge the governor to increase the rates for Nevada’s support specialists so that persons, especially children, will not be required to seek services out of state. The letter should also specify that low Medicaid reimbursement rates lead to high levels of staff turnover, which is a concern when it comes to adequately training staff. Finally, it should be noted in the letter that rate studies indicate the reimbursement rate for vocational services and SLAs for persons with intellectual and developmental disabilities is up to 25 percent below other similar states.

Throughout the interim, testimony from presenters and the public expressed concern that Nevada’s Medicaid reimbursement rates may be low. In response to these concerns, Marta Jensen, Administrator, DHCFF, DHHS, was invited to make a presentation at the Committee’s meeting on July 19, 2018, concerning [AB 108](#), which requires DHCFF to review the adequacy of Medicaid reimbursement rates every four years. Ms. Jensen provided an [overview of Medicaid services and rate reviews](#). Based upon the information received, the Committee voted to send a letter to the governor to evaluate the adequacy of current Medicaid reimbursement rates and determine whether the rates should be raised during the 2019 Legislative Session.

At the Committee’s meeting on June 19, 2018, Brian Patchett, President and Chief Executive Officer, Easterseals Nevada, noted that the reimbursement rate for vocational services and SLAs for persons with intellectual and developmental disabilities may be as much as 25 percent below other similar states.

Recommendation 2

The Committee voted to send a letter to the Office of the State LTC Ombudsman requesting that when the Office reviews its caseload ratio for submission of the biennial agency budget request, the Office should take into account the acuity and ability level of its consumers and adjust the current 1:60 ratio, as needed, to account for the potential of more challenging cases.

At the Committee's meeting on April 12, 2018, members received information that the retirement population in Nevada continues to increase. Through discussion, members opined that the caseload ratio for the LTC ombudsman should take into account the projected acuity and ability level of its consumers and an adjustment to the budgeted caseload ratio should be submitted, as needed. Jennifer Williams-Woods, previously identified, testified that she agrees.

Recommendation 3

The Committee voted to send a letter to the governor of the State of Nevada and copy the chair of the Interim Finance Committee urging an increase in funding to support the independent living needs of visually impaired adults. Increased funding of \$500,000 in each fiscal year of the 2019–2021 Biennium is estimated to be needed to support five key areas:

1. Assistive technology;
2. Consumer service outreach;
3. Driver awareness training regarding the needs of visually impaired pedestrians;
4. Orientation and mobility training; and
5. Paratransit service areas.

At the Committee meeting on June 19, 2018, Brian Patchett, previously identified, and Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center, shared a 2014 town hall meeting [summary report](#), which presented the needs of individuals who are blind or visually impaired and ways to address those needs. Committee members discussed the challenges and issues outlined in the report and asked that estimated funding needed to support five key areas be determined. Following the meeting, Mr. Patchett worked with staff on an estimated budget amount. He noted that in an earlier DHHS budget request, \$500,000 in each fiscal year was estimated to be needed to support the needs of visually impaired adults. This request for funding was ultimately not approved; however, he felt this amount would continue to be a reasonable budget request.

Recommendation 4

The Committee voted to send a letter to the governor of the State of Nevada urging that the governor's *Executive Budget* include sufficient state matching funds so all federal funding allocated to the state for vocational rehabilitation services for visually and/or hearing impaired adults may be drawn.

At the Committee meeting on June 19, 2018, Brian Patchett, previously identified, and Shelley Hendren, Administrator, Rehabilitation Division, DETR, discussed the amount of federal funds for vocational rehabilitation services in Nevada that is never drawn due to the lack of state matching funds. For example, it was presented that, in FY 2015–2016, \$1.2 million in State General Fund appropriations was required to be reverted, which provided for \$4.5 million in federal funds not to be drawn. In FY 2016–2017, \$953,084 in State General Fund appropriations

was reverted, which provided for \$3.5 million in federal funds not to be drawn. The reason for reverting State General Fund dollars is due to the general rule that all non-State General Fund sources must be expended prior to expending State General Fund appropriations as a match; prematching is not authorized.

Recommendation 5

The Committee voted to send a letter to the Director's Office of the LCB; the administrators of the Fiscal Analysis Division, LCB; and the director of the Office of Finance, Office of the Governor, requesting a review of and revisions to the provisions of the measure that authorizes expenditures of state government. The letter would specifically request that consideration be given to revise the measure to authorize the Bureau of Services to Persons Who Are Blind or Visually Impaired and the Bureau of Vocational Rehabilitation, both of the Rehabilitation Division, to expend appropriations from the State General Fund before all other fund sources in order to meet federal funding matching requirements.

As noted under Recommendation 6 above, at the Committee meeting on June 19, 2018, Brian Patchett and Shelley Hendren, both previously identified, discussed the amount of federal funds for vocational rehabilitation services in Nevada that is never drawn due to the lack of state matching funds. Because DETR is not authorized to prematch state funds, federal funding for vocational rehabilitation services is lost each year. According to Ms. Hendren, other agencies are exempt from the prematching prohibition. This letter would request all interested parties to look into the cost effectiveness of authorizing DETR to prematch with State General Fund appropriations for vocational rehabilitation services.

IV. SUGGESTED LEGISLATION

The following bill draft requests* will be available during the 2019 Legislative Session at the following website: <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/BDRs/List>.

- BDR 23–162 Revises provisions governing the veterans' preference for state employment.
- BDR –164 Enacts provisions governing supported decision-making agreements.
- BDR –168 Enacts provisions relating to veterans.
- BDR 53–169 Authorizes the use of leave for employee caregiving time.
- BDR 40–170 Revises provisions governing facilities and services for adults with special needs.
- BDR 38–171 Expands authority of Office of the State Long-Term Care Ombudsman.
- BDR –172 Prohibits discrimination against blind persons in certain proceedings relating to children.
- BDR –173 Revises provisions concerning sterilization of protected adults.

BDR -177 Places the Nevada ABLE Savings Program entirely under the authority of the State Treasurer.

BDR -178 Revises provisions concerning persons with intellectual and developmental disabilities.

*The following explains the numbers or letter preceding the dash in the BDR number:

BDR 40-368 A number denotes the NRS Title (i.e., Title 40), which encompasses the main subject of the bill draft.

BDR R-369 The letter "R" denotes the bill draft is a resolution.

BDR S-370 The letter "S" denotes the bill draft is a special act.