



**NEVADA LEGISLATURE**  
**LEGISLATIVE COMMITTEE ON SENIOR CITIZENS,**  
**VETERANS AND ADULTS WITH SPECIAL NEEDS**  
*(Nevada Revised Statutes [NRS] 218E.750)*

**SUMMARY MINUTES AND ACTION REPORT**

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The fourth meeting and work session of the Nevada Legislature’s Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs was held on Friday, August 15, 2014, at 9 a.m. in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. A copy of this set of “Summary Minutes and Action Report,” including the “Meeting Notice and Agenda” ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature’s website at <http://www.leg.state.nv.us/interim/77th2013/committee/>. In addition, copies of the audio or video record are available through the Legislative Counsel Bureau’s Publications Office (e-mail: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775/684-6835).

**COMMITTEE MEMBERS PRESENT IN CARSON CITY:**

Assemblywoman Teresa Benitez-Thompson, Chair  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS PRESENT IN LAS VEGAS:**

Senator Mark A. Hutchison  
Senator Mark A. Manendo  
Assemblywoman Ellen B. Spiegel

**COMMITTEE MEMBER ATTENDING VIA TELECONFERENCE:**

Senator Patricia (Pat) Spearman, Vice Chair

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

Kirsten Coulombe, Senior Research Analyst, Research Division  
Heidi A. Chlarson, Principal Deputy Legislative Counsel, Legal Division  
Maysha Watson, Senior Research Secretary, Research Division

## OPENING REMARKS

- Chair Benitez-Thompson called the meeting to order and welcomed members and the public to the fourth meeting and work session of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs.

## PUBLIC COMMENT

- David Daviton, resident of Nevada, expressed his desire to make clarifications regarding prior legislation relating to persons who are deaf or hard of hearing. He commented that the deaf or hard of hearing community has thus far been marginalized in the legislative process and would like to work together with the Legislature this coming session and in the future.
- Gary W. Olsen, President, Nevada Association of the Deaf, Carson City, opined that all meetings at the Legislature should be captioned and noted there needs to be greater involvement of the deaf or hard of hearing in the government process. He provided two lists of recommendations related to persons who are deaf or hard of hearing and persons with speech disabilities ([Exhibit B](#)).

Mr. Olsen stated in regard to Recommendation No. 13 of the “Work Session Document” ([Exhibit C](#)), clarifications need to be made and this bill draft request (BDR) should be postponed until 2017 so that there would be more time to involve deaf or hard of hearing consumers in the process.

- Brian M. Patchett, Chair, Nevada Commission on Services for Persons with Disabilities (CSPD), commended Committee members and staff for the work they have accomplished in the 2013–2014 Interim and thanked them for being receptive of recommendations proposed by the CSPD.
- Barry Gold, Director, Government Relations, AARP Nevada, Las Vegas, thanked Committee members and staff for the breadth of their work and urged the Committee to perpetuate such work during the 2015 Session.
- Kenneth Taycher, resident of Nevada, provided testimony in support of increased funding for independent living services and the request for seven new positions in the Rehabilitation Division of the Department of Employment, Training and Rehabilitation (DETR) ([Exhibit D](#)). He also shared with the Committee a list of services he felt were lacking in the Rehabilitation Division and thanked members for taking the time to listen to his comments.
- Robin Renshaw, resident of Nevada, gave testimony on proposals relating to employment of adults with special needs and voiced concerns regarding representative membership in the Governor’s Taskforce on Integrated Employment and the attention

paid to integrated or competitive employment by providers of Jobs and Day Training ([Exhibit E](#)).

## APPROVAL OF MINUTES OF THE MEETING HELD ON JULY 9, 2014, IN CARSON CITY, NEVADA

- The Committee **APPROVED THE FOLLOWING ACTION:**

**ASSEMBLYMAN WHEELER MOVED TO APPROVE THE “SUMMARY MINUTES AND ACTION REPORT” OF THE JULY 9, 2014, MEETING HELD IN CARSON CITY, NEVADA. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SPIEGEL AND PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

### WORK SESSION—DISCUSSION AND ACTION RELATING TO:

- *Employment of Adults With Special Needs*
- *Medical and Other Related Facilities*
- *Health Care Decisions*
- *Services for Senior Citizens and Adults With Special Needs*
- *Services for Persons who are Deaf or Hard of Hearing*
- *Services for Persons who are Blind or Visually Impaired*

(Please see [Exhibit C](#).)

- Chair Benitez-Thompson noted there are nine recommendations on the “Consent Calendar for Work Session” that consist solely of requested letters and a statement of support (page 9 of [Exhibit C](#)). She called for any removal of or clarification on the items by Committee members; however, no changes were made.
- Kirsten Coulombe, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), explained the process for the Committee’s work session. Ms. Coulombe then summarized the nine recommendations on the “Consent Calendar for Work Session.”

1. **Send a letter** to the Governor, the Department of Health and Human Services (DHHS), DETR, and the Department of Education in support of Executive Order 2014-16, “Establishing the Governor’s Taskforce on Integrated Employment,” for persons with intellectual and developmental disabilities.

*(Recommended by Sherry Manning, Executive Director, Nevada Governor’s Council on Developmental Disabilities)*

(Please see Tab A of [Exhibit C](#) for Executive Order 2014-16.)

2. **Send a letter** to the Governor, the Senate Committee on Finance, and the Assembly Committee on Ways and Means in support of the request for seven new positions in the Rehabilitation Division, DETR, budget for State Fiscal Year 2016–2017.

*(Recommended by Shelley Hendren, Administrator, Rehabilitation Division, DETR)*

3. **Send a letter** to the Senate Committee on Finance and the Assembly Committee on Ways and Means in support of maintaining efforts by the Rehabilitation Division, DETR, to maximize federal funding for integrated employment.

*(Recommended by Scott W. Harrington, Ph.D., Youth Transition Director, Nevada Center for Excellence in Disabilities [NCED], University of Nevada, Reno [UNR])*

5. **Send a letter** to the Governor, the Senate Committee on Finance, and the Assembly Committee on Ways and Means in support of increasing the Medicaid reimbursement rate for providers of Jobs and Day Training in the *Executive Budget* for the 2015–2017 Biennium.

*(Recommended by Lisa Foster, Principal, Lisa Foster Consulting)*

6. **Include a statement in the final report** in support of legislation similar to the Caregiver Advise, Record, Enable (CARE) Act.

*(Recommended by Barry Gold, Director, Government Relations, AARP Nevada)*

(Please see Tab B of [Exhibit C](#) for Mr. Gold’s letter in support of the CARE Act.)

8. **Send a letter** to the DHHS in support of increased positions within the Bureau of Health Care Quality and Compliance (BHCQC), Department of Public and Behavioral Health (DPBH), for the purpose of conducting inspections at medical and other related facilities.

*(Recommended by Assemblywoman Teresa Benitez-Thompson, Chair, Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs)*

9. **Send a letter** to the DHHS in support of increased funding for the State Long-Term Care Ombudsman Program in the *Executive Budget* for the 2015–2017 Biennium.

*(Recommended by Heather Korbolic, State Long-Term Care Ombudsman, Aging and Disability Services Division [ADSD], DHHS)*

11. **Send a letter** to the DHHS in support of an ADSD budget request to update the strategic plans for senior citizens and persons with disabilities, including a revised Nevada *Olmstead* plan in the *Executive Budget* for the 2015–2017 Biennium.

*(Recommended by the Nevada Commission on Services for Persons with Disabilities and the Nevada Commission on Aging)*

14. **Send a letter** to the Governor, the DHHS, the Senate Committee on Finance, and the Assembly Committee on Ways and Means to support increased funding of approximately \$500,000 in the ADSD budget for the 2015–2017 Biennium for independent living services.

*(Recommended by the Nevada Commission on Services for Persons with Disabilities)*

- The Committee **APPROVED THE FOLLOWING ACTION:**

**ASSEMBLYMAN WHEELER MOVED TO ADOPT RECOMMENDATION NOS. 1, 2, 3, 5, 6, 8, 9, 11, AND 14 ON THE “CONSENT CALENDAR FOR WORK SESSION.” THE MOTION WAS SECONDED BY SENATOR HUTCHISON AND PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

#### **Proposals Relating to Employment of Adults With Special Needs**

4. **Draft a bill** to require the ADSD, DHHS, in their application process for Jobs and Day Training providers to give preference to applicants that employ persons with disabilities at or above minimum wage.

*(Recommended by Assemblywoman Teresa Benitez-Thompson, Chair, Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs)*

- Ms. Coulombe provided an explanation of Recommendation No. 4 relating to employment of adults with special needs and stated there was discussion at the July 9, 2014, meeting regarding the wage level provided to persons with disabilities employed through Jobs and Day Training programs.
- **SENATOR MANENDO MOVED TO APPROVE RECOMMENDATION NO. 4. THE MOTION WAS SECONDED BY ASSEMBLYMAN WHEELER.**

There was discussion among Chair Benitez-Thompson, Senator Hutchison, and Heidi A. Chlarson, Principal Deputy Legislative Counsel, Legal Division, LCB, regarding the legality of employing individuals with disabilities at rates below the minimum wage. Ms. Chlarson explained there is an exception to the federal minimum wage laws in which providers of Jobs and Day Training programs receive certification to offer employment opportunities below the minimum wage.

In response to Senator Hutchison’s inquiry about the federal exemption, Chair Benitez-Thompson clarified that Recommendation No. 4 is specific to the State dollars contributed by the General Fund to urge providers to reconsider the level of wages they pay in context of the exemption.

- The Committee **APPROVED THE FOLLOWING ACTION:**

**THE PREVIOUS MOTION BY SENATOR MANENDO AND SECONDED BY ASSEMBLYMAN WHEELER PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

### **Proposals Relating to Medical and Other Related Facilities**

#### **7. Draft a bill to improve resident care in skilled nursing facilities by:**

- a. Establishing staffing ratios in skilled nursing facilities of 4.1 hours of direct care per resident, comprising 2.8 hours for certified nursing assistants and 1.3 hours for licensed staff, as recommended by the National Consumer Voice for Quality Long-Term Care; and
- b. Establishing a maximum time of 20 minutes by which staff of a nursing facility must respond to a resident's request for assistance through the use of a call light.

*(Part a. recommended by Heather Korbolic, State Long-Term Care Ombudsman, ADSD, DHHS, and parts a. and b. recommended by Assemblywoman Teresa Benitez-Thompson, Chair, Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs)*

- Ms. Coulombe explained the two points included in Recommendation No. 7 and provided background on the proposal. She also made note of supporting documentation regarding recommended staffing ratios by the National Consumer Voice for Quality Long-Term Care.

(Please see Tab C of [Exhibit C.](#))

- **ASSEMBLYMAN WHEELER MOVED TO APPROVE RECOMMENDATION NO. 7. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SPIEGEL.**

Discussion ensued among Chair Benitez-Thompson, Assemblywoman Spiegel, and Kyle Devine, Chief, BHCQC, DPBH, DHHS.

Responding to Assemblywoman Spiegel's questions about what would happen to facilities that do not meet staffing levels, Mr. Devine stated there are certain sanctions that can be applied in such situations. The BHCQC would work with the facility to develop a corrective plan of action to resolve the deficiency, and if the deficiency continues, the Center for Medicare and Medicaid Services (CMS) also has a number of sanctions they could apply, such as limiting admission to facilities or revoking certification and licensure.

In response to Assemblywoman Spiegel's concerns about staffing requirements not coming from CMS, Chair Benitez-Thompson pointed out that the numbers mentioned in part (a) of Recommendation No. 7 were proposed by CMS. Mr. Devine added that the BHCQC has several sanctions under State licensure they can put in place that are consistent with CMS sanctions.

- Assemblyman Wheeler commented that, although he has some reservations regarding this BDR, it should be put forward so that there can be a full committee hearing on the subject matter.
- Senator Hutchison offered his support of the motion but voiced concerns about cost issues and the policing of skilled nursing facilities in order to provide the best care possible.
- The Committee **APPROVED THE FOLLOWING ACTION:**

**THE PREVIOUS MOTION BY ASSEMBLYMAN WHEELER AND SECONDED BY ASSEMBLYWOMAN SPIEGEL PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

### **Proposal Relating to Health Care Decisions**

- 10. Draft a bill** to create a Power of Attorney for Health Care Decisions for persons with intellectual or developmental disabilities. This form would be different from the Power of Attorney for Health Care Decisions form set forth in NRS 162A.860. The new form would enable adults over 18 years of age with intellectual or developmental disabilities to receive assistance in making medical decisions.

*(Recommended by Mary Bryant, Project Coordinator, Self-Determination, Advocacy and Families, NCED, UNR)*

- Ms. Coulombe summarized Recommendation No. 10 relating to health care decisions and called attention to the proposed language of the new Durable Power of Attorney for Health Care Decisions form submitted by Ms. Bryant. (Please see Tab D of [Exhibit C.](#)) She clarified to Committee members that they will not be voting to approve the proposed form but to create a new form, which the Legal Division of LCB would then draft as needed to comply with current statute.
- Chair Benitez-Thompson reiterated the goal of this recommendation, which is to allow family members of adults with intellectual or developmental disabilities to be involved in their care without having to establish guardianship.

- **ASSEMBLYWOMAN SPIEGEL MOVED TO APPROVE RECOMMENDATION NO. 10. THE MOTION WAS SECONDED BY SENATOR HUTCHISON.**
- Assemblywoman Spiegel noted she would like the new form that will be drafted by the Legal Division to have some flexibility in regard to the choice of primary caregivers.

There was discussion between Senator Hutchison and Ms. Chlarson regarding any liability or standard for drafting the new Power of Attorney form. Ms. Chlarson explained that the form would not have to be in the specific format presented in the “Work Session Document” and pointed out that there is another example of a Power of Attorney for Health Care Decisions form in NRS.

Responding to Senator Hutchison’s concerns about legal flexibility, Ms. Chlarson further stated the goal is to make the existing form more understandable to the person executing the document.

- The Committee **APPROVED THE FOLLOWING ACTION:**

**THE PREVIOUS MOTION BY ASSEMBLYWOMAN SPIEGEL AND SECONDED BY SENATOR HUTCHISON PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

### **Proposals Relating to Services for Persons who are Deaf or Hard of Hearing**

**12. Draft a bill** to broaden the scope of the Program to Provide Devices for Telecommunication to Persons With Impaired Speech or Hearing by amending the statutes (primarily Chapter 427A [“Services to Aging Persons and Persons With Disabilities”] of NRS) to include assistance services and a nonexclusive list of activities in which the service centers may engage. Following are examples of the list of activities.

- Assist consumers in accessing resources such as hearing aids, electrolarynx, and other assistive devices;
- Expand and build service capacity in areas where need exists but services do not;
- Provide orientation and transition assistance to newly deafened or speech-impaired individuals, including veterans and seniors;
- Support telecommunications equipment distribution; and
- Provide classes in sign language for consumers.

*(Recommended by the Nevada Commission on Services for Persons with Disabilities)*



- Ms. Coulombe read Recommendation No. 12 and explained that the Committee heard testimony at the May 21, 2014, meeting regarding funding for two of the regional service centers through a surcharge on all wired and wireless phone lines.
- Chair Benitez-Thompson commented that she had a number of people contact her, namely from the deaf or hard of hearing community, with concerns about this proposal. She made note that this recommendation is merely the beginning of the process and whatever BDR language is moved forward would be subject to amendments and further conversation during session.
- The Committee **APPROVED THE FOLLOWING ACTION:**

**ASSEMBLYWOMAN SPIEGEL MOVED TO APPROVE RECOMMENDATION NO. 12. THE MOTION WAS SECONDED BY SENATOR MANENDO AND PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

**13. Draft a bill** to establish an advisory board to assist the ADSD in the oversight of interpreters set forth in Chapter 656A (“Interpreters and Realtime Captioning Providers”) of NRS. The board would have nine members and the following composition and duties:

- One nationally certified interpreter with five or more years of certified interpreting status;
- One Educational Interpreter Performance Assessment (EIPA) and Registry of Interpreters for the Deaf, Inc. (RID) certified interpreter (Educational Certificate: K-12) with five or more years of certified experience;
- One RID consumer of interpreting services with five or more years of certified experience as such a consumer;
- One provider of American Sign Language interpreting services with interpreting experience in one of the following settings: (1) educational; (2) medical; or (3) legal;
- One consumer of interpreting services who is deaf;
- One RID certified interpreter;
- One attorney with experience in the Americans with Disabilities Act and business law;
- One Interpreter Preparation Program postsecondary representative; and
- One representative from the ADSD.

a. Duties of the board shall include:

- i. In consultation with the ADSD, processing new applications for registering interpreters in Nevada;
- ii. Monitoring and encouraging additional training opportunities for interpreters;
- iii. Establishing standards for waiver of registration requirements in NRS 656A.100;
- iv. Reviewing and resolving complaints or making recommendations to the ADSD regarding disciplinary action;

- v. Reviewing and evaluating the feasibility of the board becoming a licensing authority over interpreters; and
  - vi. Reporting recommendations to the Legislature prior to the 2017 Legislative Session.
- b. The board will be subject to the Open Meeting Law; ethics provisions and auditing and budgeting requirements applicable to occupational boards; and the general provisions in Chapter 232A (“Boards, Commissions and Similar Bodies”) of NRS, regarding residency, vacancies, etc.
  - c. The Governor shall make the appointments and, after the initial staggered terms, each member shall serve a term of four years.

*(Recommended by Kimberlee J. Holloway, Member, NVRID)*

- Ms. Coulombe summarized Recommendation No. 13. She noted that although Chapter 656A of NRS gives the ADSD responsibility for registration and discipline of interpreters in Nevada, the interpreting community is seeking a board to assist the ADSD with its regulatory responsibilities and to work toward increasing the number and qualifications of interpreters.
- Chair Benitez-Thompson reiterated the proposal that moved forward today would be merely the beginning of the process and she anticipated further conversation on the subject during session.
- **ASSEMBLYWOMAN SPIEGEL MOVED TO APPROVE RECOMMENDATION NO. 13. THE MOTION WAS SECONDED BY SENATOR HUTCHISON.**
- Assemblyman Wheeler offered his support but commented that this proposal would benefit from discussion at a full hearing to clear up remaining issues.
- The Committee **APPROVED THE FOLLOWING ACTION:**

**THE PREVIOUS MOTION BY ASSEMBLYWOMAN SPIEGEL AND SECONDED BY SENATOR HUTCHISON PASSED UNANIMOUSLY BY THOSE PRESENT. VICE CHAIR SPEARMAN WAS ABSENT FOR THE VOTE.**

## **PUBLIC COMMENT**

- Robert (Bob) Brown, President, Opportunity Village, Inc., Las Vegas, referred to Senator Hutchison’s previous questions regarding Recommendation No. 4 and federal minimum wage laws. He cited Section 14(c) of the Fair Labor Standards Act (FLSA) of 1938 as the outset of the federal exemption. Mr. Brown explained that if

the subminimum wage is eliminated, individuals with disabilities would be placed in adult day care centers and would no longer receive any paychecks.

- Senator Hutchison thanked Mr. Brown for his explanation and offered his appreciation for the work that Opportunity Village does for persons with intellectual and developmental disabilities.
- Mr. Brown indicated that testimony from Edward R. Guthrie, Executive Director, Opportunity Village, Inc., Las Vegas, regarding requested clarifications from the July 9, 2014, meeting was provided to the Committee ([Exhibit F](#)).
- Alex Cherup, resident of Nevada, also commented on Section 14(c) of the FLSA and noted that, nationally, the momentum is moving away from segregated subminimum wage employment. He referenced the Governor’s Taskforce on Integrated Employment as an example of this evolution at the State level and the Fair Wages for Workers with Disabilities Act of 2013 as an example at the federal level. He described Section 14(c) of the FLSA as “archaic” and opined that having a disability does not preclude a person from receiving wage rates at or above the minimum wage.
- David Daviton, previously identified, reiterated that the deaf or hard of hearing community needs more representation in the legislative process. He noted that there are more people who are deaf or hard of hearing working at the federal level than at the State level and informed the Committee that the community is frustrated.
- Scott W. Harrington, Ph.D., Youth Transition Director, NCED, UNR, added to the remarks relating to Section 14(c) of the FLSA and how the State is evolving with integrated employment. He offered the example of customized employment to illustrate how persons with significant disabilities can work in the community and earn minimum wage.
- Senator Manendo pointed out, in regard to the fiscal impact presented in Mr. Guthrie’s written testimony, losses may be taken on certain things but compensation can be sought in other areas. (Please see page 2 of [Exhibit F](#).)
- Chair Benitez-Thompson thanked the Committee and all presenters for their diligence, contributions, and active participation during the 2013–2014 Interim.

**ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 10:25 a.m.

Respectfully submitted,

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Maysha Watson  
Senior Research Secretary

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Kirsten Coulombe  
Senior Research Analyst

APPROVED BY:

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Assemblywoman Teresa Benitez-Thompson, Chair

Date: \_\_\_\_\_

## LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda,” provided by Kirsten Coulombe, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is a compilation of two lists of recommendations related to persons who are deaf or hard of hearing, submitted by Gary W. Olsen, President, Nevada Association of the Deaf, Carson City, Nevada.

[Exhibit C](#) is the “Work Session Document,” dated August 15, 2014, prepared by Kirsten Coulombe, Senior Research Analyst, Research Division, LCB.

[Exhibit D](#) is the written testimony of Kenneth Taycher, resident of Nevada.

[Exhibit E](#) is the written testimony of Robin Renshaw, resident of Nevada.

[Exhibit F](#) is testimony provided by Edward R. Guthrie, Executive Director, Opportunity Village, Inc., Las Vegas, Nevada, regarding additional clarification for questions posed at the July 9, 2014, meeting of the Committee on Senior Citizens, Veterans and Adults With Special Needs.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits and other materials distributed at the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at [www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm](http://www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm) or telephone: 775/684-6827.