

SENATE BILL NO. 419—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

MARCH 19, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to services for persons with disabilities. (BDR 38-978)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to persons with disabilities; creating the Nevada ABLE Savings Program as a qualified ABLE program under the federal Achieving a Better Life Experience Act of 2014; authorizing the creation of a program within the Aging and Disability Services Division of the Department of Health and Human Services to provide services of independent living and assistive technology for persons with disabilities who need independent living services; revising the terms of members of the Nevada Commission on Services for Persons with Disabilities; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Recently enacted federal law allows for the creation of tax-advantaged savings  
2 accounts for persons who have certain qualifying disabilities. Under the program,  
3 any person, including family members, may make a contribution to the account of a  
4 person with a qualified disability. Any interest or other growth in the value of the  
5 account and distributions taken from the account are tax free. The maximum  
6 amount that can be contributed tax free to the account of a qualified person is  
7 \$14,000 per year. Distributions from the account may only be used to pay expenses  
8 related to living a life with a disability and may include such things as education,  
9 housing, transportation and employment training and support. Money in the  
10 account or distributions from the account do not affect the eligibility of a person for  
11 certain public benefits such as Social Security disability payments, Supplemental  
12 Nutrition Assistance Program benefits and Medicaid. To qualify for these benefits,  
13 the savings account into which contributions are made on behalf of a qualified  
14 person must be established and maintained by the qualified person’s state of  
15 residence. If a state chooses not to establish its own program, it may contract with  
16 another state that has adopted a qualified program. (Achieving a Better Life



\* S B 4 1 9 R 1 \*

17 Experience Act of 2014, 26 U.S.C. § 529A) **Sections 2-15** of this bill require the  
18 Aging and Disability Services Division of the Department of Health and Human  
19 Services, in cooperation with the State Treasurer, to establish the Nevada ABLE  
20 Savings Program as a qualified program pursuant to 26 U.S.C. § 529A.

21 Existing law creates the Aging and Disability Services Division within the  
22 Department of Health and Human Services and requires the Division to work with  
23 persons with disabilities, persons interested in matters relating to persons with  
24 disabilities and state and local governmental agencies to develop and improve  
25 policies of this State concerning programs and services for persons with disabilities.  
26 (NRS 427A.040) **Sections 18 and 19** of this bill authorize the Division to establish  
27 a program to provide services of independent living and assistive technology for  
28 persons with a disability who need independent living services.

29 Existing law creates the Nevada Commission on Services for Persons with  
30 Disabilities, which consists of 11 members appointed by the Director of the  
31 Department of Health and Human Services. (NRS 427A.1211) **Sections 21 and 22**  
32 of this bill make revisions to the terms of the members of the Commission to ensure  
33 that the terms of the members of the Commission are staggered.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 38 of NRS is hereby amended by adding  
2 thereto a new chapter to consist of the provisions set forth as  
3 sections 2 to 15, inclusive, of this act.

4 **Sec. 2.** *As used in sections 2 to 15, inclusive, of this act,*  
5 *unless the context otherwise requires, the words and terms defined*  
6 *in sections 3 to 7, inclusive, of this act have the meanings ascribed*  
7 *to them in those sections.*

8 **Sec. 3.** *“Department” means the Department of Health and*  
9 *Human Services.*

10 **Sec. 4.** *“Division” means the Aging and Disability Services*  
11 *Division of the Department.*

12 **Sec. 5.** *“Nevada ABLE Savings Program” means the*  
13 *program established by the State Treasurer pursuant to section 8*  
14 *of this act.*

15 **Sec. 6.** *“Qualified ABLE program” has the meaning*  
16 *ascribed to it in the Achieving a Better Life Experience Act of*  
17 *2014, 26 U.S.C. § 529A, as amended.*

18 **Sec. 7.** *“Trust Fund” means the Nevada ABLE Savings*  
19 *Program Trust Fund created by section 11 of this act.*

20 **Sec. 8. 1.** *The State Treasurer shall adopt regulations to*  
21 *establish and carry out the Nevada ABLE Savings Program which*  
22 *must comply with the requirements of a qualified ABLE program*  
23 *pursuant to 26 U.S.C. § 529A, as amended.*



1       2. *The regulations must be consistent with the provisions of*  
2 *the Internal Revenue Code set forth in Title 26 of the United*  
3 *States Code, and any regulations adopted pursuant thereto, to*  
4 *ensure that the Nevada ABLE Savings Program meets all criteria*  
5 *for federal tax-deferred or tax-exempt benefits, or both.*

6       3. *The regulations must provide for the use of savings trust*  
7 *agreements and savings trust accounts to apply distributions*  
8 *toward qualified disability expenses in accordance with 26 U.S.C.*  
9 *§ 529A, as amended.*

10      4. *The regulations may include any other provisions not*  
11 *inconsistent with federal law that the State Treasurer determines*  
12 *are necessary for the efficient and effective administration of the*  
13 *Nevada ABLE Savings Program and the Trust Fund.*

14      **Sec. 9.** *The Division may delegate any of its administrative*  
15 *powers and duties specified in sections 2 to 15, inclusive, of this*  
16 *act if the Division determines that such delegation is necessary for*  
17 *the efficient and effective administration of the Nevada ABLE*  
18 *Savings Program and the Trust Fund.*

19      **Sec. 10.** *Savings trust accounts used and savings trust*  
20 *agreements entered into pursuant to sections 2 to 15, inclusive, of*  
21 *this act are not guaranteed by the full faith and credit of the State*  
22 *of Nevada.*

23      **Sec. 11. 1.** *The Nevada ABLE Savings Program Trust*  
24 *Fund is hereby created.*

25      2. *The Trust Fund is an instrumentality of this State, and its*  
26 *property and income are exempt from all taxation by this State*  
27 *and any political subdivision thereof.*

28      3. *The Trust Fund consists of:*

29      (a) *All money deposited in accordance with savings and trust*  
30 *agreements; and*

31      (b) *All earnings on the money in the Trust Fund.*

32      4. *Money in the Trust Fund:*

33      (a) *Is not the property of this State, and this State has no claim*  
34 *to or interest in such money; and*

35      (b) *Must not be commingled with money of this State.*

36      5. *A savings trust agreement or any other contract entered*  
37 *into by or on behalf of the Trust Fund does not constitute a debt or*  
38 *obligation of this State, and no account owner is entitled to any*  
39 *money in the Trust Fund except for that money on deposit in or*  
40 *accrued to his or her account.*

41      6. *The money in the Trust Fund must be preserved, invested*  
42 *and expended solely pursuant to and for the purposes authorized*  
43 *by sections 2 to 15, inclusive, of this act and must not be loaned or*  
44 *otherwise transferred or used by this State for any other purpose.*



1       **Sec. 12. 1. The Trust Fund and any account established by**  
2 *the State Treasurer pursuant to this section must be administered*  
3 *by the State Treasurer.*

4       **2. The State Treasurer shall establish such accounts as he or**  
5 *she determines necessary to carry out his or her duties pursuant to*  
6 *sections 2 to 15, inclusive, of this act, including, without*  
7 *limitation:*

8       **(a) A Program Account in the Trust Fund; and**

9       **(b) An Administrative Account and an Endowment Account in**  
10 *the State General Fund.*

11       **3. The Program Account must be used for the receipt,**  
12 *investment and disbursement of money pursuant to savings trust*  
13 *agreements.*

14       **4. The Administrative Account must be used for the deposit**  
15 *and disbursement of money to administer and market the Nevada*  
16 *ABLE Savings Program.*

17       **5. The Endowment Account must be used for the deposit of**  
18 *any money received by the Nevada ABLE Savings Program that is*  
19 *not received pursuant to a savings trust agreement and, in the*  
20 *determination of the State Treasurer, is not necessary for the use*  
21 *of the Administrative Account. The money in the Endowment*  
22 *Account may be expended for any purpose related to the Nevada*  
23 *ABLE Savings Program or in any other manner which assists*  
24 *residents of this state who are eligible individuals as defined in 26*  
25 *U.S.C. § 529A, as amended.*

26       **Sec. 13. The State Treasurer may accept and expend on**  
27 *behalf of the Trust Fund money provided by private entities for*  
28 *direct expenses or marketing. Such money is not a part of the*  
29 *Trust Fund.*

30       **Sec. 14. The Division may endorse insurance coverage**  
31 *written exclusively to protect the Trust Fund, and account owners*  
32 *and beneficiaries of the Trust Fund, which may be issued in the*  
33 *form of a group life policy. The provisions of title 57 of NRS are*  
34 *not applicable to the Division in carrying out the provisions of this*  
35 *section.*

36       **Sec. 15. 1. The Division shall establish a comprehensive**  
37 *investment plan for the money in the Trust Fund.*

38       **2. Notwithstanding the provisions of any specific statute to**  
39 *the contrary, the Division may invest or cause to be invested any*  
40 *money in the Trust Fund, including, without limitation, the money*  
41 *in the Program Account described in paragraph (a) of subsection*  
42 *2 of section 12 of this act, in any manner reasonable and*  
43 *appropriate to achieve the objectives of the Nevada ABLE Savings*  
44 *Program, exercising the discretion and care of a prudent person in*  
45 *similar circumstances with similar objectives. The Division shall*



1 *consider the risk, expected rate of return, term or maturity,*  
2 *diversification of total investments, liquidity and anticipated*  
3 *investments in and withdrawals from the Trust Fund.*

4 *3. The Division may establish criteria and select investment*  
5 *managers, mutual funds or other such entities to act as investment*  
6 *managers for the Nevada ABLE Savings Program.*

7 *4. The Division may employ or contract with investment*  
8 *managers, evaluation services or other services as determined by*  
9 *the Division to be necessary for the effective and efficient*  
10 *operation of the Nevada ABLE Savings Program.*

11 *5. The Division may employ personnel and contract for goods*  
12 *and services necessary for the effective and efficient operation of*  
13 *the Nevada ABLE Savings Program.*

14 *6. The marketing plan and materials for the Nevada ABLE*  
15 *Savings Program must be approved by the Division.*

16 *7. The Division may prescribe terms and conditions of*  
17 *savings trust agreements.*

18 *8. The Division may contract with one or more qualified*  
19 *entities for the day-to-day operation of the Nevada ABLE Savings*  
20 *Program as the program administrator for the management of the*  
21 *marketing of the Nevada ABLE Savings Program, the*  
22 *administration of the comprehensive investment plan established*  
23 *pursuant to subsection 1 and the Trust Fund, the selection of*  
24 *investment managers for the Nevada ABLE Savings Program and*  
25 *the performance of similar activities.*

26 **Sec. 16.** Chapter 427A of NRS is hereby amended by adding  
27 thereto the provisions set forth as sections 17-20, inclusive, of this  
28 act.

29 **Sec. 17.** *As used in sections 17 to 20, inclusive, of this act,*  
30 *unless the context otherwise requires, "person with a disability*  
31 *who needs independent living services" means a person with a*  
32 *physical disability, as that term is defined in NRS 427A.791,*  
33 *including, without limitation, a person who is blind, as that term is*  
34 *defined in NRS 426.082, who is in need of independent living*  
35 *services and who does not have a vocational goal.*

36 **Sec. 18.** *1. The Division may, pursuant to this section and*  
37 *section 19 of this act, establish a program to provide services of*  
38 *independent living and assistive technology for persons with*  
39 *disabilities who need independent living services.*

40 *2. If the Division establishes a program pursuant to*  
41 *subsection 1, the Division shall adopt regulations:*

42 *(a) Establishing the procedures for a person to apply for*  
43 *services of independent living and assistive technology;*

44 *(b) Prescribing the criteria for determining the eligibility of*  
45 *such an applicant;*



1 (c) Prescribing the nature of the services of independent living  
2 and assistive technology which may be provided and the  
3 conditions imposed on the provision of such services; and

4 (d) Setting forth such other provisions as the Division  
5 considers necessary to administer the program.

6 3. The decision of the Division regarding the eligibility of an  
7 applicant to participate in the program is a final decision for the  
8 purpose of judicial review.

9 **Sec. 19.** 1. The services of independent living that the  
10 Division may, pursuant to this section and section 18 of this act,  
11 provide to a person with a disability who needs independent living  
12 services may include, without limitation, assistance and training  
13 as to how to perform skills of daily living, including, without  
14 limitation:

15 (a) The preparation and eating of meals;

16 (b) Home management, including, without limitation, paying  
17 bills;

18 (c) Communication, including, without limitation, the use of  
19 services of assistive technology;

20 (d) Orientation and mobility; and

21 (e) Any other skills that will allow a person who has recently  
22 become disabled to function and live in a more independent  
23 manner.

24 2. The services of assistive technology that the Division may,  
25 pursuant to this section and section 18 of this act, provide to a  
26 person with a disability who needs independent living services may  
27 include, without limitation:

28 (a) Large-print signs and reading materials;

29 (b) Voice recognition or Braille technology installed on a  
30 computer or handheld device;

31 (c) Global positioning satellite technology with voice output;

32 (d) Mechanical lifts or similar mobility enhancing devices;

33 (e) Telecommunications devices specially designed for persons  
34 with impaired vision, speech or hearing; and

35 (f) Any other technology that provides significant assistance in  
36 performing daily tasks to a person with a disability who needs  
37 independent living services.

38 **Sec. 20.** The Division may:

39 1. Periodically research and determine the cost of providing  
40 services in this State for people who are blind or visually impaired  
41 and who do not have a vocational goal; and

42 2. Present a report of the findings of the research to the  
43 Nevada Commission on Services for Persons with Disabilities  
44 created by NRS 427A.1211.



1     **Sec. 21.** NRS 427A.1211 is hereby amended to read as  
2 follows:

3     427A.1211 1. The Nevada Commission on Services for  
4 Persons with Disabilities, consisting of 11 voting members and 2 or  
5 more nonvoting members, is hereby created within the Division.

6     2. The Director shall appoint as voting members of the  
7 Commission 11 persons who have experience with or an interest in  
8 and knowledge of the problems of and services for persons with  
9 disabilities. The majority of the voting members of the Commission  
10 must be persons with disabilities or the parents or family members  
11 of persons with disabilities.

12    3. The Director and the Administrator shall serve as nonvoting,  
13 ex officio members of the Commission and each may designate an  
14 alternate within his or her office to attend any meeting of the  
15 Commission in his or her place.

16    4. The Director may appoint as nonvoting members of the  
17 Commission such other representatives of State Government as the  
18 Director deems appropriate.

19    5. After the initial term of an appointed member, the term of an  
20 appointed member is 3 years. An appointed member may be  
21 reappointed for an additional term of 3 years. An appointed member  
22 may not serve more than two terms ~~or~~ *or 6 years, whichever is*  
23 *greater.* A vacancy on the Commission must be filled in the same  
24 manner as the original appointment. An appointed member who  
25 serves for more than 1 year of a term to which another person was  
26 appointed may be appointed to serve only one additional full term as  
27 an appointed member. *However, at the completion of the additional*  
28 *full-term, the member may be appointed to the remaining term of*  
29 *another member who has resigned or otherwise left the*  
30 *Commission before completing his or her term if the total*  
31 *combined service of the member being appointed, after serving the*  
32 *remaining term of the member who resigned or otherwise left the*  
33 *Commission, will not exceed 6 years.*

34    6. The Director may remove an appointed member of the  
35 Commission for malfeasance in office or neglect of duty. Absence  
36 from two consecutive meetings of the Commission constitutes good  
37 and sufficient cause for removal of an appointed member by the  
38 Director.

39     **Sec. 22.** 1. Notwithstanding any provision of subsection 5 of  
40 NRS 427A.1211, as amended by section 21 of this act, to the  
41 contrary, the existing terms of the voting members of the Nevada  
42 Commission on Services for Persons with Disabilities whose terms  
43 have not expired before July 1, 2015, must expire as follows:

44     (a) The terms of four voting members of the Commission must  
45 expire on June 30, 2016;



- 1 (b) The terms of four voting members of the Commission must  
2 expire on June 30, 2017; and  
3 (c) The terms of three voting members of the Commission must  
4 expire on June 30, 2018.  
5 2. The Director shall, at his or her sole discretion, determine  
6 the allocation of existing members of the Commission to the  
7 particular groupings established for the expiration of terms in  
8 subsection 1.  
9 3. The terms of members of the Commission appointed after  
10 the expiration of the terms of the existing members of the  
11 Commission pursuant to subsection 1 must begin on July 1 of the  
12 year in which the member was appointed.  
13 **Sec. 23.** This act becomes effective on July 1, 2015.

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