MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES
Seventy-Third Session
April 4, 2005

The Committee on Health and Human Services was called to order at 1:35 p.m., on Monday, April 4, 2005. Chairwoman Sheila Leslie presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Sheila Leslie, Chairwoman
Ms. Kathy McClain, Vice Chairwoman
Mrs. Sharron Angle
Ms. Susan Gerhardt
Mr. Joe Hardy
Mr. William Horne
Mr. Garn Mabey
Ms. Bonnie Parnell
Ms. Peggy Pierce
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Mrs. Ellen Koivisto (excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara Buckley, Assembly District No. 8

STAFF MEMBERS PRESENT:

Barbara Dimmitt, Committee Analyst
Joe Bushek, Committee Attaché

OTHERS PRESENT:

- Carla Sloan, State Director, American Association of Retired Persons; and Co-Chair, Model Assisted Living Advisory Committee, Las Vegas, Nevada
- Julie Murray, Co-Chair, Model Assisted Living Advisory Committee, and Special Projects Consultant, Harrah's Entertainment, Inc., Las Vegas, Nevada
- Wendy Simons, Member, Assisted Living Advisory Council, Las Vegas, Nevada
- Tina Gerber-Winn, Chief, Continuum of Care Services, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada
- Jon Sasser, Legislative Advocate, representing Washoe Legal Services; and Member, Strategic Plan Accountability Committee, Reno, Nevada
- Robert Desruisseaux, Chairman, Nevada Strategic Plan Accountability Committee, Reno, Nevada
- Constance E. Anderson, Chief, Medical Services, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada
- David Luke, Associated Administrator, Developmental Services, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada
- Jennie Shipp, Community Nurse, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada
- Linda Suzanne, Registered Nurse, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada
- Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center, Las Vegas, Nevada
- Lynne Bigley, Attorney, Nevada Disability Advocacy and Law Center, Sparks, Nevada
- Leslie Spracklin, Director, Fallon Industries; and Director, Churchill ARC, Fallon, Nevada
- Mary Liveratti, Deputy Director, Department of Human Resources, State of Nevada
- Thomas Fronapfel, Administrator, Field Services Division, Department of Motor Vehicles, State of Nevada

Chairwoman Leslie:
[Meeting called to order and roll taken.] If you remember, we only passed the part of A.B. 84 that concerned work cards. For the balance of the bill, we requested a bill draft to do an interim study for the homeless. It is BDR R-1377.

- BDR R-1377—Creates interim study on services provided to homeless persons. (Assembly Concurrent Resolution 15)

  ASSEMBLYMAN HORNE MOVED FOR COMMITTEE INTRODUCTION OF BDR R-1377.

  ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

  THE MOTION PASSED. (Assemblywoman Koivisto was not present for the vote.)

Chairwoman Leslie:
We will begin today with A.B. 248.

Assembly Bill 248: Makes various changes concerning assisted living facilities. (BDR 40-814)

Assemblywoman Barbara Buckley, Assembly District No. 8:
[Handed out Exhibit B, Exhibit C, and Exhibit D.] I'm pleased to be here today. On my far left is Carla Sloan, who is the head of the Nevada AARP office, and to my immediate left is Julie Murray, who is a consultant for Harrah's Entertainment, Inc. She works for Agassi Enterprises and does a great deal of work in the community.

I worked with a great group of individuals on affordable assisted living. We have a number of beautiful assisted living projects to serve our aging population in this state, but a number of them cost anywhere from $3,000 to $4,000 a month, and so people like my parents and some of my constituents could not afford that. Most of my constituents earn anywhere from $600 to $1,200 a month on Social Security and possibly also have a small pension, but that's it. Their choices—when they age—are very limited. If they don't have children who can take them in, their choices are few. Most of the seniors I represent live in fear of having to go to a nursing home. They feel as though their only choice is to stay, perhaps, in an unsafe place, or to go into a nursing home. What we tried to do—this small group—was look at the problems of affordable assisted living in our community. We started by asking for an appropriation last session

to do a nonprofit assisted living project to see what barriers there are for more nonprofit groups to enter into the affordable assisted living market. We have nonprofit groups all over the state right now that provide affordable housing. They use low-income housing tax credit dollars, but none of them wanted to venture into assisted living, because it was unknown and risky. We decided to help facilitate one nonprofit project to see if we could learn what barriers existed to entice more nonprofits to build affordable assisted living.

[Assemblywoman Buckley, continued.] First, we examined the needs. Nevadans 85 years and older have had the largest increase in population growth of any group—a 30 percent increase in the last three years. By 2030, there may be more than 34,000 seniors in Nevada over the age of 85.

Most monthly rental rates for assisted living range from $800 for a four- to six-bedroom house you're in with other seniors, to $3,900. In Nevada, over 18 percent of seniors ages 65 to 74, and 27 percent of seniors are 75 or older, head households with annual incomes less than $15,000. Very few properties in the market offer units for very low income or low-income elders. We did not look at assisted living options for those able to afford it. That was not our market, and it wasn't really of concern to our group. None offered the private apartment, the independent living setting, or the amenities offered by the project we sponsored.

We created our group in 2002, and our goals were to examine the need for affordable assisted living facilities in Nevada, to develop a model project that would reveal any barriers to developing more facilities, and to recommend policies that would promote additional affordable assisted living facilities in our state. More than 60 individuals participated from public and private sectors and from senior organizations. I had the honor of chairing it. Our working group—the folks that really did the work—are the people sitting next to me. Carla [Sloan] and Julie [Murray] were our co-chairs. On our executive committee, we had Claudia Collins, with the University of Nevada Cooperative Extension; Bruce McAnnany, State of Nevada Aging Services Division; Charlene Peterson, Fannie Mae; and Orlando Sanchez, Director of the Neighborhood Services Department for the City of Las Vegas.

Very early on, we put out an RFP [request for proposal] for any nonprofit to apply. Southern California Presbyterian Homes operates many affordable assisted living facilities in California and wanted to try their hand in Nevada. David Ennis, President of Affirmative Investments, was part of the development team. They were the gurus who really did all the work on the financing and the building. Nevada Housing and Neighborhood Development (Nevada HAND) builds a lot of great affordable housing in Las Vegas, but they had never done

assisted living. The Nevada nonprofit was the Affordable Housing Resource Council. Ernie Nielsen, Washoe County Legal Services, and Jonnie Pullman, from the Affordable Housing Resource Council, were also involved.

[Assemblywoman Buckley, continued.] Silver Sky is a model assisted living project that's both affordable and nonprofit. There are 84 one-bedroom apartments and 6 two-bedroom accessible and adaptable apartments. It will be adjacent to another 80-unit development for the independent elderly, so it will provide a continuum of care, offering both assisted living and independent living. It is located in the Summerlin area of Las Vegas. We want to dispel the notion that the only place you put affordable housing is in the inner core, and not everywhere in the community.

It offers all the amenities: a dining room, beauty shop, laundry rooms, recreation room, and a commercial kitchen. It's a beautiful facility. Funding consisted of:

- A private donation from Harrah's Entertainment, Inc. of over $800,000. I think it's the largest casino contribution ever received for a project of this type in the history of the state of Nevada.
- The state spent $800,000 from its low-income housing trust fund. Charles Horsey and his staff were wonderful.
- We received over $800,000 in tax credits. This is an affordable housing financing source that already exists.
- The City of Las Vegas dedicated $1 million in home dollars.
- We received a grant from the Federal Home Loan Bank.
- We received free land from the BLM [U.S. Bureau of Land Management]. It's the first project in the United States to use BLM land for assisted living housing. The land was transferred from the feds through two acts of Congress that Senator Reid helped pass.

The funding for room and board comes from Medicaid. Because this project was built with affordable housing dollars, tax credit investors were very leery of the first affordable assisted living nonprofit project in Nevada. They wanted a guarantee, but guarantees would have forced the rents to go up in the project. Mary Liveratti, Deputy Director of the State of Nevada Department of Human Resources came up with a brilliant idea that allowed us to use a little bit of the independent living grant money to guarantee it, so we could keep the rents low. Of course, the residents will pay some of their SSI [supplemental security income] or Social Security for their room and board. These are the traditional sources that are used if the person has that income.

Our ground-breaking ceremony was held on January 14, 2005. The reason for this project was not to build 90 units. It was to figure out what we could do to see similar projects continue to be built. I analogize it to the affordable housing

market. We have so many wonderful homes being built for people who can afford them, but what do you do about folks who can't? The same is true with assisted living. One of the best ways to do that is to develop capacity in the nonprofit sector to be able to help fill the need. It does end up needing philanthropic, charitable, and public resources to make the numbers work, in order to make the rents low enough. We tried to do that with this project, and we learned a lot. We now know how to make this happen for projects numbered two, three, four, and five, whether those next ones are done in Reno, Elko, Ely, or another one in Las Vegas. We know how to make it work, and what we are recommending to you in A.B. 248, are ways to help make those next projects possible. We are recommending a portion of tobacco settlement funds that go for senior independent living purposes, be permanently set aside to be used as money for these projects. We picked $50,000, because this money is currently used for different purposes, and everyone thought this met the original intent of the bill and could easily be put aside.

[Assemblywoman Buckley, continued.] I have an amendment to the bill (Exhibit C). At the top of page 4 are some of the purposes that the $50,000 a year could be used for, and includes guaranteed funding to help with financing, such as we used for Silver Sky. It could be used to basically fill in any holes on the project.

Our last recommendation was to permanently include in our waiver that nonprofit projects are eligible, so that they can continue to receive Medicaid waivers. That's the reason for the introduction of A.B. 248. I also received an email from Larry Fry with the Coalition of Assisted Residential Environments (Exhibit D), and I'll quickly address the issues that were posed in it. The first question: "Is it fair for monies, such as the Fund for a Healthy Nevada, to be available for just this new group?" Yes. We need to encourage and incentivize nonprofits to provide more affordable assisted living. We need to provide subsidies for very low-income people, or else they will have no choices.

Number two: "Given the fact that this new class of affordable housing would receive public funding, how many existing facilities qualify?" Well, one would now: Silver Sky. This will just be the beginning of many more to come. We need this. We did this as a nonprofit to see what we could do to have more affordable assisted living. There's nothing nefarious about this.

Number three: "The Medicaid group waiver was designed to broaden living choices. If this group makes it harder for the rest of the industry to continue to attract waivers, then choices for seniors are less, not more." There are really no choices now for low-income seniors. That's what we're trying to do, and that's why we need to get the nonprofit industry involved, as they are in most

other states. Nevada is one of the few states where we don't have anything going in the nonprofit world for assisted living. It's not to take away from existing providers; it's to add more choices and add more independence for seniors who need help. So with that, I'll pass it over to the rest of our panel.

Carla Sloan, State Director, American Association of Retired Persons; and Co-Chair, Model Assisted Living Advisory Committee, Las Vegas, Nevada:
I'm speaking on behalf of both organizations in support of A.B. 248. My remarks are very brief, because I believe Assemblywoman Buckley has given you a very comprehensive look at the need for this legislation, and the need for us to be able to incentivize new, affordable assisted living projects throughout the state of Nevada.

I would just reinforce that assisted living is truly the missing link in the housing continuum. The low- to moderate-income people who cannot afford to pay the market rates for assisted living have no choice. They don't have the choice of remaining independent with dignity. They are looking at affordability being available to them only through shared living circumstances or through a nursing home. The Silver Sky project and the incentives in A.B. 248 will provide for the independence and dignity that people of all income levels deserve. The modest reserve of $50,000 from the Fund for a Healthy Nevada will provide a significant incentive for developers to build and operate affordable assisted living developments. This is consistent with the intent of the Independence for Seniors Grants, which place a priority on allowing senior citizens to remain at home, instead of going to an institutional care setting. An amendment of the Home and Community-Based services waiver will add yet another important resource to make future affordable assisted living a reality in Nevada.

Eighty-two percent of AARP [American Association for Retired Persons] members surveyed in 2004, were concerned about remaining independent. AARP Nevada supports A.B. 248, and we urge you to pass it without delay.

Assemblywoman Weber:
This is a very cool concept. Based on the income of the folks we're trying to serve in this population, what kind of mix do you see in the community of the for-profit model versus the nonprofit? If it's like three-to-one, how many of these do we need to be able to serve this underserved community?

Assemblywoman Buckley:
We can glance through our materials and try to get the actual number. The practical number is more than we'll ever provide in our lifetime. It's so incredibly high, even just taking 27 percent of seniors 75 years of age and over with incomes less than $15,000 annually.

Chairwoman Leslie:
Thousands might be a good answer.

Assemblywoman Weber:
I would like to encourage the building of the facilities. How many are needed? Is there a master plan around the valley? Will they be placed so that they're near families? Does this also include Alzheimer's care as a continuum of aging in place, or would those folks need to be placed elsewhere?

Assemblywoman Buckley:
Ours did not include Alzheimer's care, because it was yet another experiment in terms of additional staffing that's needed under current law. We felt we had enough challenges; we didn't want to do that, too. But you're absolutely right; that's needed. I believe that there is a proposal for an interim study on affordable housing, and it's my hope that affordable assisted living and Alzheimer's facilities could be part of that study.

Chairwoman Leslie:
I think it really is about cost, as you pointed out in your testimony. If people are living on fixed incomes, they quickly move into the unaffordable realm.

Julie Murray, Co-Chair, Model Assisted Living Advisory Committee; and Special Projects Consultant, Harrah's Entertainment, Inc., Las Vegas, Nevada:
I'm here today to show support for A.B. 248. In 1999, Harrah's Entertainment shifted its charitable focus nationwide to senior citizens. We noticed throughout the nation, and particularly in Nevada, that many senior citizens' golden years weren't so golden. We looked at where to focus our community outreach and our charitable giving at about the same time Assemblywoman Buckley was looking at assisted living. We thought this was a wonderful place to show our support.

Silver Sky is our model project. We made a financial gift, but more exciting than that is the support we're giving with volunteerism. When the facility opens, we're going to have our teams of chefs, line employees, and anyone else we can get to go to the seniors, read with them, visit with them, and we're using this as our model project. As Assemblywoman Buckley referenced, there is so much need in the state for affordable living for seniors. We intend to look at this model. We've been working on this for several years. We intend to, where possible, help replicate this. And to your question, Assemblywoman Weber, wherever we can. We need to continue to move forward. As such, Harrah's Entertainment is in support of A.B. 248.

Chairwoman Leslie:
We certainly appreciate Harrah's involvement in this project. I hope you will look here next, because we sure need it in northern Nevada, too. Thank you for your involvement.

Assemblywoman Parnell:
About ten years ago, my mom became ill, and I started looking into different options, such as somebody coming into the home, assisted living, or convalescent homes. What I did not know prior to that experience— and I think a lot of people still don't know—is that Medicare doesn't help with assisted living. We now have some lovely facilities, but unless you can afford that, you have no option but to go directly to a convalescent nursing home. I applaud every attempt we can make to make it affordable, to have at least a middle ground before the end of someone's life.

Assemblyman Mabey:
I think this is a great idea. My concern is a long-term concern. People know that one day they'll be elderly, and they're going to need housing. What does AARP do to help people plan, so that one day, maybe, they won't have to worry about where they're going to live? It seems like they live and then they reach a point, and then they don't have the money to pay for their last years of life. As our community ages, this is going to be more and more of an issue. It seems like we need to address that more, and I would just like your input.

Carla Sloan:
AARP has been a leader in trying to educate people on retirement issues. We have 286,000 members here in Nevada, and 35 million members nationwide aged 50 and older. About one-half of our members are still working. We believe this is a really good time to offer education to people and help them plan for their retirement years. Assisted living and residential homes for groups can be paid for by long-term care insurances. I think the product has probably been out for 20 years. I wrote the first guide to long-term care insurance in Nevada when I worked for the Health Systems Agency in 1985, and it does pay for these services. Currently, we're looking at a generation where that resource was not available, because there was no such product in the marketplace, or it was too expensive to purchase when it became available. Long-term care insurance is affordable when you are in your 50s and 60s, not when you're in your 70s and 80s. I think we will see a generation coming along that, hopefully, will be able to plan resources and provide some insurance. Longevity is a wonderful thing, but it doesn't mean that we aren't still going to need a continuum of care.

The issue Ms. Buckley has championed for the last many years, is really one of providing adequate steps within that continuum, and it's both a housing and a

services continuum. If we can stay in our own home, or if we can rent a home, we can have services brought in to us, but when we can no longer afford that, there's no alternative but to go to a nursing home, because Medicaid will pay for our care in a nursing home. Medicare does not pay assisted living, nor does Medicaid, unless it's under a waiver. When the boomers age, whether they're paying themselves or whether they need to seek the resource through a nonprofit, we will need a lot more assisted living, and we need a lot more affordable assisted living, because there are few families that can invest $2,000 to $4,000 a month in care.

Chairwoman Leslie:
Especially in Nevada, with our growing population. One of the best things about serving in the Legislature for me, was serving on the Long Term Care Interim Committee. After serving on that committee, I realized I had not adequately planned. There are a lot of great insurance products on the market, but people my age aren't paying much attention. So, there is more work to be done.

Assemblyman Hardy:
The Task Force to Fund a Healthy Nevada has decreasing monies coming into it. So, is your $50,000 per year—or reserve not more than $50,000 per year—structured so that it can go down as well?

Assemblywoman Buckley:
The $50,000 is a set amount. It's a very modest amount that the department supported. It should not be affected by declining tobacco revenues in this particular bubble downwards.

Wendy Simons, Member, Assisted Living Advisory Council, Las Vegas, Nevada:
It's safe to assume that legislators can't know everything about everything that comes before you. As a result of the efforts of the Assisted Living Advisory Council, over the last few months we developed a legislative information sheet explaining assisted living as it exists in Nevada (Exhibit E). In the back, there is a flow chart that shows what the components are for licensure for assisted living facilities in the state of Nevada. The brochure in the front is put out by the National Center for Assisted Living. It serves as a consumer guide for assisted living facilities nationwide. It was the belief of the Assisted Living Advisory Council—which is comprised of members of the assisted living operators and Nevada State Health Divisions Bureau of Licensure and Certification—that this might be helpful background information for you on any assisted living subjects.

Assemblywoman Angle:
I'm looking at my e-mail from Mr. [Larry] Fry (Exhibit D), and I'm wondering if you could respond to some of these questions, just from the perspective of your organization. Do you have a copy of these questions?

Wendy Simons:
I'll be very brief. On the question, "Is it fair that monies from the Fund for a Healthy Nevada be available for just this new group," I believe Assemblywoman Buckley answered that clearly when she said that it's not intended to be just this new group, but encouraging other entities to go forward and do such a project. Number two, "How many facilities currently qualify?" Again, Assemblywoman Buckley answered that there is currently one, and that is the project in Las Vegas. Number three, the Medicaid group waiver program was designed to broaden living choices. I think Tina [Gerber-Winn] can answer that.

The industry is concerned that there may be a need to have a better clarification of the exact number of slots currently available in the state, as far as the Medicaid waiver for assisted living, and if those would be locked up to a specific project or a subsequent project that might be developed somewhere else. Many of the providers have expressed concern that they would lose existing slots, and the only places where individuals would be able to go would be if they're deemed to go to a different entity. So, I think it has to do with the slot number. I know we have a limited number of Medicaid dollars available for assisted living waivers or group care waivers. If it's going to add, I think you would have 100 percent support. If it's going to take away from existing options, then there are concerns.

Chairwoman Leslie:
Actually, it's up to the consumer to choose.

Wendy Simons:
Exactly.

Assemblywoman Angle:
Do you see a place where we might amend or make the language clearer, so we could allay those fears?

Wendy Simons:
I think so. I would defer to Larry Fry.

Tina Gerber-Winn, Chief, Continuum of Care Services, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada: [Handed out Exhibit F.] I'm here to provide information regarding A.B. 248. We understand that passage would require an amendment to our current waiver for the elderly and group care, or adult residential care. When we initially read the bill, we interpreted the proposal to require all providers of assisted living services under the waiver to meet this requirement as listed in A.B. 248, in addition to whatever requirements are already under the waiver. After the Department of Human Resources staff completed discussion with Assemblywoman Buckley, it was clarified that the legislation is not intended to be exclusionary in regard to eligible providers.

Our staff has worked with the Legislative Counsel Bureau to propose an amendment to this bill—under Assemblywoman Buckley's advice—that clarifies that this legislation does not limit assisted living service providers to only those classified under this bill. Of context, I believe there was an amendment submitted.

All Medicaid waiver programs and amendments are subject to federal approval by the Centers for Medicare and Medicaid Services (CMS). Additional requirements in A.B. 248, are related to funding sources for the provider facility, provider guarantees to offer affordable housing for 15 years, and then the certification from the Housing Division of the Department of Business and Industry. These aren't specifically related to the health and safety and quality-of-care requirements that our waiver applications cover. Our staff believes that CMS will be more likely to approve a waiver amendment based on A.B. 248, if the final wording does not appear to limit providers to only those that meet the bill's requirements.

In response to a U.S. Government Accountability Office survey outlining the effectiveness of waiver programs, CMS has been updating their waiver requirements and quality assurance programs. We received a second draft of an updated waiver requirement on March 29, 2005. In this draft, if it's made effective, our state can only establish provider qualifications that are necessary to ensure services are performed in a safe and effective manner. So, our Division can't assure that the Department will be able to meet the obligation of amending the waiver and adopting regulations necessary to carry out the provisions of this bill, if the changes that we ask in the amendment aren't related to the assurances of safety and effective service delivery.

I wanted to make one clarification regarding room and board. Our waiver program covers services. It does not cover room and board. The individual pays

for room and board out of their income, and we supplement the cost of personal care or assisted living.

Chairwoman Leslie:
That's a good clarification. The only way this program works is by having the services go with housing. Have you had a chance to look at the amendment that Ms. Buckley handed out to the Committee (Exhibit C)? You said that you worked on it with Legal. Does it meet all the requirements from CMS?

Tina Gerber-Winn:
I'm assuming it's the same one we received from LCB [Legislative Counsel Bureau]. If it says in Section 4, subsection 2(c), then we've talked to our legal counsel. What would alleviate our concern is under (c), I believe it says, "Implement the amendments to the waiver only to the extent that the amendments are approved by the federal government."

Chairwoman Leslie:
Yes, that's in there.

Tina Gerber-Wynn:
To make sure there is no concern about providers being excluded—which, I believe, was Mr. Fry's concern—new language did work around that to recognize the current providers we have under the waiver, and we do have quite a few.

Chairwoman Leslie:
Thank you for that clarification. We'll give the Committee a chance to look at this amendment, but I think we'll probably bring it back for a work session on Wednesday and see if we can't move it. We need to start moving some bills. Please take the amendment to A.B. 248 and take a good look at it for Wednesday.

We'll close the hearing then on A.B. 248 and move to A.B. 350.

Assembly Bill 350: Requires Division of Health Care Financing and Policy of Department of Human Resources to provide medical assistance to working persons with disabilities who satisfy certain eligibility requirements. (BDR 38-932)

Assemblywoman Bonnie Parnell, Assembly District No. 40:
I'm excited about the bill before you. I want you to imagine that you're a disabled person and really want to work. It completes your life and makes you feel more worthy. There are so many positive things that can be gained from going to work and having responsibility during the day. Then you find that your income goes up slightly—say, you get a two percent increase—and that throws you off any kind of Medicaid health insurance coverage. We had this discussion in 2001, and again in 2003. This bill addresses our disabled population. It increases the amount of money that they can earn—unearned income—and continue to work without losing those benefits.

Currently, if you make more than $699 in unearned income a month, you no longer qualify for Medicaid. Under the provisions of A.B. 350, the amount of unearned income one can earn will be $1,236, which represents 155 percent of the federal poverty level. This fills a huge gap for many who are falling through the cracks, often by just a few dollars. So, then you say, "Okay, I'm not going to continue to work." And that's a disincentive, I think, for what we all believe in.

Assembly Bill 350 is both humane and responsible. I urge your support. I'll just go through the bill very quickly. On the first page, Section 1, it identifies that we shall establish a program for the provision of medical assistance to certain persons who are employed and have disabilities. On page 2, line 13 has a gross unearned income of not more than 155 percent of the federally designated level signifying poverty. That's really the gist of it. I think you're going to be pleased to see that we can implement this program, and not create a new fiscal burden for the Division. When Ticket to Work legislation passed in 2003, they set aside money for X number of population in the program, and they have not reached that. So, they feel that even by expanding the poverty level up to 155 percent, we will most likely not exceed the money that has already been set aside for this program.

Chairwoman Leslie:
This is an important bill. We appreciate you bringing it forward.

Jon Sasser, Legislative Advocate, representing Washoe Legal Services; and Member, Strategic Plan Accountability Committee, Reno, Nevada:
Assembly Bill 350 expands the eligibility criteria for what's known as the HIWA [Health Insurance Work Advancement], or the Medicaid buy-in program. Its purpose is to allow people who are disabled and at home, to return to work and retain their Medicaid. Frequently, the cost of health insurance, even if someone were to get a job that had private health insurance, does not work for folks in these situations, and personal care attendant (PCA) services are often necessary

just to help somebody get out of bed to get to work. Almost no private insurance offers that type of care under their health insurance programs.

[Jon Sasser, continued.] When the program was set up, there was a concern about how much money it was going to cost. The Division was concerned that if we raised the income limits to more than $599 a month in unearned income, we'd have too many people in the program. When the program first started, it was at $599 a month. We basically had nobody in the program. We then went back and asked them, through a regulation, to increase it to $699 a month, where it is today. I understand the Division believes that if you raise the unearned income test up to 155 percent of poverty, they can still do that within the number of slots that are in the budget, without adding any additional slots. It's a beautiful program on paper, but the sad reality is that nobody today is being able to utilize the program. Ms. Parnell's bill, hopefully, would open the door wide enough that some people could actually come through it.

Just to clarify, this is a limit on someone's unearned income. Typically, that is a Social Security disability check. So, if their Social Security disability check today is larger than $699 a month—even $1 over that—then they cannot retain their Medicaid when they go back to work, because their unearned income would put them over the earned income limits. This would increase that up to $1,236 a month. We believe by opening the door a little bit wider, we could actually fill the slots already budgeted for the program.

Robert Desruisseaux, Chairman, Nevada Strategic Plan Accountability Committee, Reno, Nevada:
I'll say me too. Jon did a pretty good job of covering the issue, but I did want to throw out my own personal experience. I became disabled 15 years ago. I trained as a carpenter prior to my injury. After my injury, I had to find a new line of work. In getting off of the rolls of Social Security disability benefits and getting back into the workforce, we have to venture into areas where we don't have training, or the skills necessary to just step into a job. We have to build our way back into working society. I had to make the choice to go back to work and put my family at risk, basically, just to go back to work, because in doing so, I was going to lose my health coverage.

Ultimately, I had to do it if I was ever going to get back into the workforce. That's a very tough decision for people to make. I think the lack of health care coverage for these individuals is a big determining factor in taking that step to get back into the workforce and off the rolls of disability. So, we are in full support of A.B. 350.

Constance E. Anderson, Chief, Medical Services, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada: [Read from Exhibit G.] I am here to testify on A.B. 350, which, as you know, proposes increasing the unearned income level for eligible recipients in the Health Insurance for Work Advancement program from its current 88 percent of the federal poverty level (FPL), which is $699 a month, to 155 percent of the federal poverty level, which is currently just over $1,233 a month.

The Health Insurance for Work Advancement, or HIWA, program is Nevada's Medicaid Buy-In program. This program provides a critical conduit for Nevadans who are disabled, as determined by the Social Security Administration, and allows employees to buy into Medicaid health coverage by paying a monthly premium. The HIWA program encourages Nevadans who meet the Social Security disability requirements, to return to work by resolving the barrier of losing their valuable Medicaid benefit.

Increasing the unearned income amount to allow this potential population in the HIWA program provides an opportunity for Nevada to decrease the number of uninsured employed individuals with disabilities. It also promotes the ability for people with disabilities who are employed, to increase their self-sufficiency, independence, and support their productive and competitive employment. Increasing the unearned income amount also allows the existing program to reach a population that was not anticipated during the original program design.

As written, A.B. 350 would broaden the eligibility requirements related to unearned income, which would increase the potential participant pool by up to 18.4 percent. This estimate is derived from statistics pertaining to the population of employed adults with disabilities who receive Social Security disability insurance (SSDI) benefits and the amount received. That is, 18.4 percent of the entire SSDI adult population receives benefits ranging from $699 a month to $1,199 a month, or 150 percent of the FPL. However, it is not known what percentage of this new potential pool of applicants would participate in HIWA.

National statistics indicate that in 2003, seven million tickets were distributed by the Social Security Administration with the Ticket to Work Program. The number of working people with disabilities participating in Medicaid buy-in programs—like HIWA—nationally was only 60,000. In 2004, a total of 64,478 tickets were distributed to Nevadans. If this ratio is used for comparison purposes, enrollment in the HIWA program as a result of Ticket to Work could conceivably total about 550 participants. However, while enrollment is anticipated to accelerate with increased outreach efforts, current enrollment is still very low. The Division believes that there would be no fiscal impact to the

State in the 2006-2007 biennium, unless the projected caseloads used in the Governor's recommended budget are reduced.

Chairwoman Leslie:
Let me see if I have this right. The potential increase would be 18.4 percent, but you're guessing that the most that would translate into, if the national average holds, would be 550 participants. I'm going to guess that it would actually be much lower than that. Based on the participation so far, would you agree?

Constance Anderson:
I would agree. The potential participant pool, as I said, would be about 550, but the unknown factor is, how many of those would actually be interested in and apply for the program?

Chairwoman Leslie:
We will close the hearing on A.B. 350 and bring it back to Committee. Any concerns from the Committee? Do you need to think about this one, or are we ready to vote?

Assemblywoman McClain:
We don't have any amendments on it, right?

Chairwoman Leslie:
No, there are no amendments.

> ASSEMBLYWOMAN McCLAIN MOVED TO DO PASS ASSEMBLY BILL 350.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblywoman Koivisto was not present for the vote.)

Chairwoman Leslie:
We'll go ahead and move to A.B. 454.

Assembly Bill 454: Makes various changes concerning provision of supported living arrangement services. (BDR 39-236)

David Luke, Associate Administrator, Developmental Services, Division of Mental Health and Developmental Services [MHDS], Department of Human Resources, State of Nevada:
[Handed out Exhibit H.] Assembly Bill 454 was requested by our Division as a means to improve our ability to help people with mental retardation and/or related conditions live in our community. Our Division's mission is to be able to support people to live as independently and integrated a life as possible.

Currently, we support about 1,400 individuals in that manner in the community. Of this group, about 490 receive what we call intensive support, which means they might need 24-hour care of one type or another. This bill defines supported living arrangement (SLA). The supported living arrangement program has been in Nevada since 1990. It actually doesn't exist in the statutes yet, so this is a step to get this clearly in the statute. This is our primary service model.

The supported living arrangement is a flexible, individualized service provided in the person's home, for compensation, to a person with mental retardation or related condition. It's a service provided by a community provider, and it's coordinated to assist the person in maximizing their independence. It includes training and ongoing assistance in participating in daily life.

Assembly Bill 454 also gives the MHDS the assignment to adopt regulations governing supported living arrangements that are funded by our Division. It establishes requirements whereby we would issue certificates for SLA providers. The holders of a certificate can then receive funding for those services when they are provided through our Division. This bill covers only our Division, and only those services funded by our Division. This bill allows supported living staff who are trained to assist people with routine medications or tube feedings.

Under our primary goal to assist people to live in the community, we're serving and fulfilling part of the State's Olmstead Plan. This was a U.S. Supreme Court decision [*Olmstead vs. L.C.,* 119 S. Ct. 2176 (1999)] that interpreted the Americans for Disabilities Act, and essentially said that people with disabilities have the right to live in community settings. We're working to build a support system and provider network that can make that vision a reality.

As more people move into community settings or stay in community settings, a greater proportion of them have medical needs, and the ability to support them has become more limited. This has become more of a critical issue now because of nursing shortages. We're having difficulty finding nurses, even in our more stable regular programs, let alone for community-based care. While provider staff can provide some assistance by reminding individuals and prompting them,

it's often unclear exactly how far they can go to help an individual with their medication regimen. This bill would establish standards and monitoring of that assistance. Rural areas have a particularly difficult time in fulfilling this mandate of community service, primarily because of locating nursing staff and nursing professionals.

[David Luke, continued.] We want people to have community support, but we want to also ensure that there's quality built into that assistance model. Through certificates, we want to ensure continuing quality of services, and ensure that the state has the ability to continue to obtain federal financial assistance through the home and community-based waver that we have, and Tina [Gerber-Winn] mentioned earlier the additional quality requirements that the feds or CMS is looking at.

After learning about many other states that have similar programs, we have been meeting with the Nursing Board over the past year and working through how this might be implemented in the various types of standards. They reviewed training modules and oversight methods that could be used to ensure safety and quality of care. The proposal is reviewed by the State's strategic plan group called SPAC [Strategic Plan Accountability Committee], for consistency with our overall human resources and disability strategic plan.

So, what would be the impact? The bill only applies to those services provided through MHDS to people with developmental conditions, such as mental retardation, or related conditions, and it would only apply to those who are unable to handle their own medication. This might be a fairly small population at this time, but it's critical for those people to be able to remain in community settings. As the state continues to grow, the standards of community care and training would be in place. So that would be a very positive aspect of this.

We have five technical amendments (Exhibit H). A couple of these were brought to our attention by the LCB [Legislative Counsel Bureau] staff. The first of these removes, in the introduction of the bill, the mention of penalty. There are no penalties in this bill. That was carried over from a prior version. The second, page 2, Section 8, removes the term "facilities and premises." For this program, some of the wording was taken from the group home licensure section, so that got carried over. This is a certificate for people providing services in individuals' own homes, so those terms were a little bit misleading.

The third type of technical amendment—and it's the same amendment and occurs in three places—was based on our Deputy Attorney General's interaction with the Health Division, and that is to clarify, adding a phrase to make sure that there isn't any confusion with the people providing home health care

through the Bureau of Licensure and Certification. We worked with them to agree on that wording.

Chairwoman Leslie:
As I understand it, people are doing this service now. This bill will codify the practice into law, and also provide additional protections for consumers of these services. Do the provider groups themselves pay the cost of the regulation or the certificate?

David Luke:
We already have a way of qualifying providers, so there is really no cost. It's already built into our quality assurance practices. We are coming out with a new set of standards this month that have been constructed in cooperation with CMS. To respond to the earlier question, currently what's happening is a little bit ambiguous. People doing this, in many cases, were also hiring nurses, but it has become almost critical in a couple of cases, I think. It costs hundreds of dollars a day to have a nurse come into someone's home to administer or help them take a routine medication. This can have some impact on the cost of care provided.

Chairwoman Leslie:
So you're not providing the services in the same way now as you would under the bill? I didn't realize that.

David Luke:
In cases where there is a nurse doing that service now and it could be provided by another trained individual, under this bill it would be handled by a trained individual.

Chairwoman Leslie:
I'm getting a little uncomfortable. Maybe the nurses could address this. I wouldn't want us to get into the area of the practice of nurses, or substituting nurses by less qualified personnel.

Jennie Shipp, Community Nurse, Division of Mental Health and Developmental Services; Department of Human Resources, State of Nevada:
As institutions are downsizing and people are moving into communities, more supported living services will be required to assist them with attaining maximum independence. Currently, 36 percent of those receiving supported living services have intensive supports in place. Approximately 13 percent of those may require medication administration and/or tube feedings.

[Jennie Shipp, continued.] A professional license is required to administer medications or tube feedings to those supported by the Division who are not living in their natural home or foster home. Barriers to individuals receiving services include the current nursing shortage. There are children and young adults living in extended care facilities solely because of their need for medication administration and/or tube feedings. Also, individuals with disabilities such as blindness, autism, severe to profound mental retardation, or severe cerebral palsy live in homes which may be overly stressed and potentially unsafe, or they live in intermittent care facilities because of the lack of nursing resources for supported living in their communities. A limitation of nursing support is ever increasing, especially in our rural communities.

This proposal includes an exemption from nursing law for a person who is certified to provide supported living services, or an employee of a certified provider of supported living services. This would allow for training of the unlicensed person in medication administration and tube feedings for those routine medications and daily feedings. This person would then be able to provide those needed supports of medication administration and/or tube feedings, specifically tailored to the needs of the individual, which would be in their individual support plan.

Providers of supported living services would then be able to meet the ever-increasing needs of persons served by the Division in supported living arrangements. States which are using unlicensed persons to assist with nursing tasks, such as medication, administration of routine meds, and tube feedings, include Arizona, California, Oregon, Washington, Connecticut, Illinois, Maryland, Montana, North Dakota, Oklahoma, Virginia, New York, Florida, and Ohio.

Within and outside the developmental disabilities agencies, there are many levels of oversight, also with regard to supported living arrangements. This may include any or all of the following:

- The family or person's guardian provides specific written consent for medications, assistance with medication administration, or tube feedings.
- Provider case manager or the SLA provider quality assurance administrator.
- State service coordinators.
- The state RNS consultant.
- State regional quality assurance administration and monitoring through our statewide database for specific incidents.
- State Mental Health and Developmental Services Division administration.
- State Medicaid waiver reviews are annual, and are specific to safety, health, and welfare.

- The Council on Quality and Leadership in Supports for People with Disabilities. The University Center for Excellence in Disabilities.

[Jennie Shipp, continued.] We have had several discussions and have approached our State Nursing Board with regard to any of their concerns, and have considered many of their recommendations in developing regulations that would apply. They have been very beneficial and have educated us with their concerns. Their executive director emailed us with regard to the fact that we have worked very hard with the Nursing Board, and she feels that we have generally been able to address any concerns that the Board has with regard to the exemption that's requested for the nursing law.

Chairwoman Leslie:
If you could provide the Committee with a copy of that email, I'd like to see exactly what it does say, because that would be of concern. It sounds like they haven't necessarily taken a position on the bill.

Jennie Shipp:
They have not.

Chairwoman Leslie:
Can you point me to the part of the bill that gives the exemption—what page that's on—so I can mark that? Section 12, maybe?

Jennie Shipp:
It's Section 21, addressing NRS [*Nevada Revised Statutes*] 632.340, subsection 9.

Linda Suzanne, Registered Nurse, Division of Mental Health and Developmental Services, Department of Human Resources, State of Nevada:
I recently retired in October from the rural regional facility that serves Elko, Winnemucca, Carson City, and points in between. I only want to summarize the same presentation that my colleague here has made. It's very difficult to find nurses, and we have people that are unable to take their own medications. I have a lady in Elko that has to find things tactically. I have a lot of autistics who are unable to follow prompts for taking their own medication. This really has to do with a limited number of people being served. That would be very cost efficient and also help maintain their independence in the community.

Assemblyman Hardy:
On Section 21, subsection 9, where it talks about this certificate: could these people be the parents, or do these people have to be employed by or retained as an independent contractor? Could parents be trained to do this?

Chairwoman Leslie:
I think the question might be whether they could be paid. I think it's only for paid people. Dr. Luke, can you address that?

David Luke:
I think I can, and someone can correct me if I'm wrong, but I think families and parents are already one of the exemptions under the nursing law. So, they already can do that, and they also can be trained.

Assemblyman Hardy:
This doesn't take them away?

Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center, Las Vegas, Nevada:
We were just talking in the audience, because some of the stuff that came up is of concern to us. We didn't see this stuff addressed and cleared out in the bills. I've asked Lynn to prepare our testimony. Originally, our position was to come out in favor of this bill, but we really need to re-evaluate and have further discussions with Mr. Luke about his intent.

Lynne Bigley, Attorney, Nevada Disability Advocacy and Law Center, Sparks, Nevada:
The concerns that were raised during the testimony of Dr. [David] Luke and the others, really dealt with those exemptions related to the administration of medication and G-tube [gastrostomy tube] feeding. That's not to say that we would be in support of this bill after further discussions, but it's something we do need to discuss. For the record, I have submitted some written testimony (Exhibit I).

At this point, I would like to clarify that we cannot be totally in support of A.B. 454, but we would like to discuss the suggested amendments to this bill that we've proposed. There are just two points we would like included in the bill in Section 6.1. Basically, that involves language that would require the Division to set forth standards for the provision of quality services, regulations setting forth standards for the provision of quality care by providers, and regulations that would include a statement of consumer rights, with respect to the provision of supported living arrangement services, and procedures for consumer complaints. It's really an articulation of those standards of care that we're going to hold these providers to, as well as complaint procedures. Currently, if a consumer has a complaint—let's say they've been told that the services will be withdrawn in ten days, five days, things of that nature—the client has no way to redress. There's no complaint procedure in place to hear those concerns. Those suggested amendments are in my written testimony (Exhibit I).

Chairwoman Leslie:
Have you discussed this potential amendment with the Division?

Lynne Bigley:
I did mention it to Dr. [David] Luke prior to the hearing today, and he has indicated that he did not have a problem with the amendment suggested.

Jack Mayes:
I saw Dr. [Carlos] Brandenburg and I shared with him what our issues were, and he had no concerns about that. In the past, I've had direct discussion with Dr. Luke about our concerns about including some procedural safeguards for consumers.

Chairwoman Leslie:
Seems like a good idea. I'm going to ask you to have those conversations immediately with the Division about it. I'm going to contact the Nurses Association myself. We'll hold this bill for a few days.

Jack Mayes:
We'll get right back to you.

Leslie Spracklin, Director, Fallon Industries; and Director, Churchill ARC, Fallon, Nevada:
[Handed out Exhibit J.] My colleagues and I put in a couple of letters and I hope those were distributed to you. We just want to reiterate that as people are moving into the communities and living on their own, people that need medication are having a severely hard time with the nurse administrating their regulations for the nurse administrating all those things. On a daily basis, people can't get out and go on all-day trips, because they may miss their medication administration. As providers with SLA services, we want you guys to take a good look. I think it's workable with the certificate and the oversight of the nurse.

Chairwoman Leslie:
I do appreciate the position, and I don't want you to take my comments as meaning that I'm against the bill. I just wanted to make sure that people are adequately protected, as you do.

We'll hold it for a future work session and close the hearing. We'll open the hearing on the last bill of the day, A.B. 524.

Assembly Bill 524: Makes various changes concerning Fund for a Healthy Nevada and provision of prescription drugs and pharmaceutical services by this State. (BDR 40-169)

Mary Liveratti, Deputy Director, Department of Human Resources, State of Nevada:
[Handed out Exhibit K.] With me is Jane Smedes, our program manager for the Senior Rx program. Assembly Bill 524 is a bill that was requested by our Department that would make various changes to the Senior Rx program. There are three main things that this bill does: first, it would increase the administrative cap from 3 percent to 5 percent. The bill would also allow us to coordinate with the new Medicare Part D prescription drug benefit. Third, we have some minor technical changes to the bill.

I'll start with the first, the increase in cap from 3 to 5 percent. As you may or may not know, we changed our system from an insurance-based model to a self-insured program on January 1, 2005. This change resulted in increased responsibility for our Senior Rx program staff. Currently we have Jane, who is our program manager, and we have two clerical positions that support the program. An increase in the cap will allow us to pay the associated cost of those added responsibilities. A review by the Internal Audit Division in 2004, recommended that the Department request a statutory change to increase the administrative spending cap when we moved from an insured model to a self-insured model. Without this increase, we would need General Fund dollars to cover the administrative costs. We did approach the Task Force for the Fund for a Healthy Nevada in September of 2004 with our BDR, and they did vote to support this change.

Other changes in A.B. 524 will allow us to coordinate with the Medicare Part D benefit when it takes effect January 1, 2006. I believe you should have received by now a handout regarding the Medicare prescription drug plan benefit (Exhibit K). This is a complex bill. If you are glancing at the first page, you'll notice that Part D enrollment is voluntary. It's available for people entitled to Part A, which is hospitalization under Medicare, or they are enrolled in Part B, which is for doctors and other services. We anticipate approximately 274,000 Nevadans are currently receiving either Part A or Part B and would be eligible for the new Part D benefit. Out of those, approximately 237,000 people are 65 years of age and older, and 37,000 are people with disabilities that are younger than 65 years of age. Also, part of the Part D will have a low-income subsidy to help people pay for their premiums and deductibles. We believe that about 141,000 people in Nevada may be eligible for low-income subsidy assistance. We will be helping people apply for those low-income subsidies.

[Mary Liveratti, continued.] The Social Security Administration has sent out a test mailing. Las Vegas is one of the ZIP codes in the country that received the test mailing of the application, to see what kind of questions people raise in trying to fill out that application. They will not start actually enrolling people in that benefit until July 1 of this year. However, they will start accepting the applications in May and June. We did receive a grant from the federal government, which we call our outreach and education grant, to help people understand what this benefit is all about and how to apply for it. There is some additional information about that.

If you'll turn to page 2 (Exhibit K), there's a timeline. It basically goes through what I've just said. What I want to point out to you is that we're thinking of this program in two phases. The first phase is to get people who are eligible to enroll in the low-income subsidy. The second phase will come in the fall. In September, we believe we will be notified about the prescription drug plans (PDPs). We have no way to really estimate how many plans we will have in Nevada, although every state or every region must have at least two plans. Our region is our state. We may have as many as 30 to 40 plans, which will make it somewhat confusing for people to determine which plan is best for them to use.

There will be help available through the Social Security Administration. There will be help through our State Health Insurance Advisory Program, which is under the Division for Aging Services. AARP [American Association of Retired Persons] has also offered to enroll or recruit volunteers that will help people fill out and understand those benefits. We're anticipating some confusion with the second phase, and we will have to be providing quite a bit of assistance.

We are trying to keep Senior Rx currently as it is. With the program as it exists now, people won't be eligible for Part D. For people right now, if you are 62 years of age or older, you can participate in the Senior Rx program if you meet our income requirements. We expect some of those people will not be eligible for Part D. Some people over 65 may not be eligible for Part D benefits, so we continue to have our Senior Rx program as it exists now, for those folks not able to get the Medicare benefit.

We also foresee that we'll have a program under Senior Rx that would wrap around the Part D benefit. How exactly we would wrap around, we don't really know at this point. As you noticed on that front page, people will be paying premiums. Some people will be paying deductibles, some will have a copayment, and some will fall into the donut hole that you probably heard of already.

[Mary Liveratti, continued.] We have a diagram on the second-to-last page (Exhibit K). You can see that under the new benefit, for people that are not eligible for the low-income subsidy, just the people that would be eligible for the basic benefit will have to pay an annual premium. That's estimated at $420 a year. In addition, they'll have to pay a deductible of $250 a year, and then up to $2,250 they'll pay a copayment, which would be 25 percent of the drug costs. When they get to $2,250, you notice they fall into this little hole, which means at that point they have to pay 100 percent of the costs for their medications. When they get to $5,100, they fall into what is called catastrophic coverage. When they get to that point, they would only have to pay 5 percent for their medications, and the government would pay 95 percent.

With Senior Rx, we have the opportunity to consider how we're going to wrap around this benefit—whether we're going to pay for the premiums, the deductibles, help with the co-pays, help with the donut hole coverage, or whether we're going to pick up prescriptions that may not be on the formulary of the PDP that a person selects. There are some excluded drugs that the PDPs do not have to cover. There are a variety of ways we could be wrapping those benefits around the Part D benefit. What A.B. 524 would do, is allow us to come up with a plan for coordinating these benefits, and bring it to either IFC [Interim Finance Committee] or a subcommittee under IFC prior to this program rolling out in the fall of 2005, and determine what would be the best use for our money.

Mike Willden [Director, Department of Human Resources] has said on numerous occasions that we don't want anybody to be out of pocket more than they are now. We're trying to keep expenditures at the point where what people would be paying will be close to what they're paying now, and we'll be able to assist them in not having additional costs. We would have to adopt regulations to carry out the provisions of a wrap-around program. I just want to point you quickly to the last page (Exhibit K), which explains the low-income subsidy. It's a little flow chart, so you can go through to see what the eligibility criteria would be if someone would be eligible for that low-income subsidy assistance.

The bill will clean up language and omit the terms "policy of health insurance" that are currently in the bill. Additionally, there is some mention of the Department of Taxation that needs to be eliminated, because the senior tax program was transferred over to the Division for Aging Services in 2001, but somehow, we didn't clean up that language. When Senior Rx was established back in 1999, it was the hope that it was modeled similarly to the senior tax assistance program, in the hopes that we could have one application and people could apply for two benefits at one time. The Department of Taxation no longer oversees that program, so we just want to do a little housecleaning on that.

Chairwoman Leslie:
This is the fourth time I've heard the presentation, and I'll spare the Committee my tirade. I wish we could send this back to the feds and say, "Please do this over." What the Committee may not realize—and you kind of have it hidden in there with the clawback savings—is that there is a $15 million hole in the budget right now because of the clawback. When we heard this in Ways and Means the other day, I added up all the extra costs that it will take just for our seniors to stay where they are today, and there's $44 million in additional dollars to the State. This is going to cost our state a tremendous amount of money, and our seniors aren't going to get anything better than what they have today. That's my frustration.

Assemblywoman McClain:
Explain to me the $44 million.

Chairwoman Leslie:
It has to do with the basic benefits the State chooses to cover, and what the State doesn't cover. It depends on the formularies—which aren't out yet—and what drugs are on it, and the choices the State will make to pay for the drugs that seniors are getting now, which may or may not be on the formularies.

Assemblywoman McClain:
But this particular bill only refers to people that are in Senior Rx, or would qualify to sign up. We're not talking about every senior in the state?

Mary Liveratti:
That's correct.

Chairwoman Leslie:
Lots of low-income seniors. One of the best charts in here is on the very last page (Exhibit K), even though it's somewhat complicated. You can see the poverty levels by which people would qualify, and they're pretty low. But a lot of our seniors have very low incomes.

Mary Liveratti:
Our eligibility for the Senior Rx Program is higher. Right now, I think it's $22,000 for a single person and about $29,000 for a couple. That does increase every year based on the CPI [Consumer Price Index], so it will increase in July of this year.

Chairwoman Leslie:
Which is higher than these rock-bottom prices, but not a whole lot. It's still hard to live on $22,000 a year. Basically, this is the technical bill that goes along with the money plan.

Carla Sloan, State Director, American Association of Retired Persons (AARP), Las Vegas, Nevada:
AARP is a nonprofit, nonpartisan membership organization for people age 50 and older. We provide information and education. We advocate on legislative, consumer, and legal issues, and assist our members in serving their communities. AARP Nevada supports A.B. 524, which revises provisions of the Fund for a Healthy Nevada regarding the provision of prescription drugs and pharmaceutical services for senior citizens. AARP Nevada is engaged in an advocacy campaign that we call "A Prescription for Nevada" that is centered on the affordability and accessibility of prescription drugs. Assembly Bill 524 is a critical component of this campaign. The bill will provide the Department of Human Resources with the necessary additional resources to administer the Senior Rx Program, and for the Aging Services Division to administer the Independence for Seniors grant program.

Assembly Bill 524 will authorize the Department to coordinate benefits for seniors who are enrolled in both Medicare and Senior Rx, to maximize coverage under both programs, while taking full advantage of the federal funding for prescription drugs and pharmaceutical services. Assembly Bill 524 provides for approval by the Interim Finance Committee of the Department's plan for coordinating the state programs with the Medicare Part D benefit before the plan is implemented.

Affordability and availability of prescription drugs was rated as a high priority for state legislative issues by 90 percent of AARP Nevada members surveyed in our 2004 members' opinion survey. AARP Nevada supports A.B. 524, because it is a prescription that is good for Nevada.

Chairwoman Leslie:
This person, who is about to turn 50 this year, is not going to join AARP because of this. I still do not understand why you supported the Medicare bill that says you can't negotiate with drug companies.

Carla Sloan:
Our members have been telling us for many years that they need a prescription drug benefit, and that they need it sooner rather than later. Our board of directors endorsed the Medicare Modernization Act of 2003, and said at the time that it was a foundation on which to build. Without that, I believe our

leadership felt there may not be another opportunity for many years to come where the funds would be available and the political will was there. We are working very hard—both at the federal and the state level—to improve the bill, because we know it needs some improvements. But we also believe that the very low income people and those with catastrophic health care needs will be well served by the Medicare Modernization Act. It was a difficult decision.

Chairwoman Leslie:
I won't get into a debate, but sitting on the money committee knowing how much this is going to cost our state, and that we're not getting anything more for our seniors, is very difficult. You can take it back that we are feeling the money crunch of this, and many of us are not happy.

Assemblywoman McClain:
I'm with you.

Chairwoman Leslie:
I think we'll hold this until Wednesday, and give you a chance to review it. It is difficult to understand the first couple of times, so don't feel bad if you have questions. Ask them, and then we'll bring the bill back.

We'll close the hearing on A.B. 524 and we'll go to our Work Session Document (Exhibit L).

Assembly Bill 234: Revises various provisions relating to anatomical gifts. (BDR 40-860)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
The bill on work session today is A.B. 234. It transfers duties relating to an anatomical gift education and encouragement program, from the Bureau of Consumer Protection of the Office of the Attorney General to the University of Nevada School of Medicine. In addition, it requires the Department of Motor Vehicles, which currently provides certain information about anatomical gifts to people who have indicated an intention to be an organ donor, with some additional educational materials.

During the discussion, the sponsor, Assemblywoman Gansert, proposed an amendment. She wanted to give the transfer of these duties about six months to be accomplished, and so she amended the effective date to January 2006. This change will apply to both the transfer of duties from the Office of the Attorney General to the University of Nevada School of Medicine, and also give

the Department of Motor Vehicles time to prepare its materials. Thomas Fronapfel, with the Field Services Division of the Nevada Department of Motor Vehicles, has submitted an amendment. You have a copy of that attached (Exhibit L). The Department was mainly concerned with language that would have eliminated a reference to the Living Bank International and any other organ donor registries. Right now, they contract with a donor registry, and they feel that the contract contains adequate confidentiality provisions with the way the bill is worded, to require them to furnish information to a number of different organizations. They didn't feel these confidentiality protections would be maintained. Apparently, some of the information that is given is a full legal name, address, Social Security number, and so forth. If there are any questions on that amendment, let me know, but the language is just to indicate that the Department will provide this personal information regarding organ donors only to the State-contracted organ donor registry.

Chairwoman Leslie:
Mr. Fronapfel is in the audience if anybody needs clarification on the amendment. I have discussed the amendments with Mrs. Gansert, and she's in full support of them.

Assemblyman Hardy:
This proposed amendment then, as I understand it, would keep confidential the information that needs to be confidential. Does it require the people that we send the information to likewise keep it confidential?

Chairwoman Leslie:
I believe it does, but Mr. Fronapfel, would you like to put that on the record?

Thomas Fronapfel, Administrator, Field Services Division, Department of Motor Vehicles, State of Nevada:
Yes. Those contracts stipulate what can and cannot be done with that personal information. As was mentioned, it contains full legal name, Social Security number, address, date of birth, and so forth. They are required to maintain that information confidential as well.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS ASSEMBLY BILL 234 WITH THE AMENDMENT LAID OUT IN THE WORK SESSION DOCUMENT.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Koivisto was not present for the vote.)

Chairwoman Leslie:
This meeting is adjourned [at 3:20 p.m.].

RESPECTFULLY SUBMITTED:

_____
Julie Morrison
Committee Manager

APPROVED BY:

_____
Assemblywoman Sheila Leslie, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 4, 2005 **Time of Meeting: 1:35 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
A.B. 248	B	Assemblywoman Buckley	Silver Sky packet
A.B. 248	C	Assemblywoman Buckley	Proposed Amendment
A.B. 248	D	Assemblywoman Buckley	Email from Larry Fry
A.B. 248	E	Wendy Simons	Legislative information sheet and brochure
A.B. 248	F	Tina Gerber-Winn/ Nevada State Division of Health Care Financing and Policy	Written testimony
A.B. 350	G	Constance Anderson/Nevada State Division of Health Care Financing and Policy	Written testimony
A.B. 454	H	David E. Luke and Jennie Shipp/ Developmental Services	Written testimony/proposed amendments
A.B. 454	I	Lynne Bigley/Nevada Disability Advocacy & Law Center	Proposed Amendment
A.B. 454	J	Leslie Spracklin/Fallon Industries	Testimonials
A.B. 524	K	Mary Liveratti/Department of Human Resources	Medicare Prescription Drug Plan
A.B. 234	L	Barbara Dimmitt/Research Division	Work Session Document