MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-Third Session
April 6, 2005

The Committee on Health and Human Services was called to order at 1:35 p.m., on Wednesday, April 6, 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
Mrs. Ellen Koivisto
Mr. Garn Mabey
Ms. Bonnie Parnell
Ms. Peggy Pierce
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County
Assemblyman David Parks, Assembly District No. 41, Clark County

STAFF MEMBERS PRESENT:

Barbara Dimmitt, Committee Analyst
Joe Bushek, Committee Attaché

OTHERS PRESENT:

- Liliana Loftman, Attorney, Clark County Legal Services, Las Vegas, Nevada
- Steve Hiltz, Directing Attorney, Children's Attorneys Project, Las Vegas, Nevada
- Theresa Anderson, Deputy Administrator, Division of Child and Family Services, Nevada Department of Human Resources, State of Nevada
- Les Gruner, Program Manager, Northern Nevada Child and Adolescent Services, Division of Child and Family Services, Department of Human Resources, State of Nevada
- Mike Capello, Director, Department of Social Services, Washoe County, Nevada
- Susan Klein-Rothschild, Director, Department of Child and Family Services, Clark County, Nevada
- Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada
- Dr. Donald Kwalick, Chief Health Officer, Clark County Health District, Clark County, Nevada
- Gary Reese, Mayor Pro Tem, Las Vegas, Nevada, and Chairman, Board of Health, Clark County Health District, Clark County, Nevada
- Van Heffner, President, Nevada Hotel and Lodging Association, Reno, Nevada
- Dr. Lawrence Sands, Director, Division of Community Health Services, Clark County Health District, Clark County, Nevada
- Norine Clark, Registered Nurse, Clark County Health District, Clark County, Nevada
- Debra G. Martin, Registered Nurse, Clark County Health District, Clark County, Nevada
- Michael Alastuey, Legislative Advocate, representing Clark County, Nevada
- Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada
- Mary Liveratti, Deputy Director, Department of Human Resources, State of Nevada

Chairwoman Leslie:
[Meeting called to order and roll called. Opened hearing on A.B. 369.]

Assembly Bill 369: Establishes certain procedures and requirements for admission of children who are in custody of agencies which provide child welfare services to mental health facilities. (BDR 38-717)

Assemblywoman Chris Giunchigliani, Assembly District No. 9, Clark County: [Handed out Exhibit B.] The purpose of this bill is to make it clear that children and young adults who are wards of the state and in foster care should not be deprived of their liberty, and it means that they should not be placed in the least restrictive environmental setting without due process of law, simply because the state doesn't have a placement for them. The bill simply sets out the procedure for making sure that children in foster care or in another out-of-home placement, who were admitted for evaluation, treatment, training, or behavior modification, shall have the right to an independent evaluation as to the necessity for the placement by a psychiatrist or psychologist not connected with the facility.

Several years ago, I established a law similar to the procedure for adults, realizing that children and youth didn't have the same opportunity for independent evaluation and, if warranted, a least restrictive environment. Prior to commitment, each child should have a judicial review of the commitment where the evidence will be presented. For those who, due to an emergency nature, are not afforded a pre-commitment judicial review within 72 hours, the child shall have a judicial review to decide if the emergency commitment should continue or to be placed in the least restrictive environment. If it is found that commitment is not warranted, the child shall immediately be released and placed in a least restrictive environment. If it is determined that they should remain in the facility, the order will be in effect initially for 90 days and reviewed by a judge every 3 months. At the review, the child shall be able to put forth additional evidence to show why they should remain in the restricted environment. I wanted to make it clear that due process needs to be afforded, that restrictive placement should be the last resort, that educational instruction should not be interrupted, and that licensed staff should instruct this young person.

Just because a child has a mental illness does not mean they have fewer rights than anyone else. When non-delinquent children must be deprived of their liberty, it must be as a last resort, and then only used to treat a mental illness that requires such intensity that it cannot be provided in a community-based setting. If there are not enough least restrictive environment settings, then the State has the responsibility to set them up and not involuntarily commit a child to an institution. That is the intent of A.B. 369. Attached to my handouts (Exhibit B) I do have a court case, just to try to show some examples of what

happened in a particular case in district court in southern Nevada, where a young person was inappropriately placed.

[Assemblywoman Giunchigliani, continued.] About 6 years ago, we changed the law. We found out in Nevada that individuals can be involuntarily committed, and what we found out at that time is that in many instances, these individuals were spouses who were going through a divorce. In certain domestic-type issues that came about, they were not afforded any kind of a hearing. I put in a law to at least give them a hearing. I tried for 24 hours and couldn't get the judges to agree, so we went with 72 hours. I did not realize that I did not capture for youth at that time. I didn't realize we were segregating it; I didn't look at the numbers in the statute. What this bill is anticipating is that these young people, especially because they're wards of the state, are entitled at least when they act up in a foster care home, that it does not necessarily mean they're mentally ill, and if they're going to just automatically put them into an institution without any psychiatric or judicial review, this is trying to set up a standard for them.

Hopefully, there won't be very many children, but we will have to hear from the Division. I think the excuse that we don't have the setting is improper. I would rather find the funding to assist with creating least restrictive environments than to place a young person in a mental institution, when that is not the treatment that is called for.

Chairwoman Leslie:
You also gave us some amendments, Ms. Giunchigliani. Did you want to address those at this time?

Assemblywoman Giunchigliani:
They are fairly simple. It's just really more wording, trying to get it as closely connected to Legal as I possibly could. In Section 3, I wanted to delete the language on lines 8 and 9, and 1 and 6, and properly define what a facility is. We already have a facility definition in NRS [*Nevada Revised Statutes*] 433.461, so I didn't think we needed to create a whole other definition that may have caused more problems.

Chairwoman Leslie:
What is the basic difference, where it says that facility means "a public or private mental health facility in the State of Nevada?" Do you happen to know, in NRS 433.461, how they define a facility?

Assemblywoman Giunchigliani:
No, I don't. It is fairly similar, but it almost created a whole other standard, and I didn't want to go there.

Chairwoman Leslie:
Do you have a preamble that you would like to have?

Assemblywoman Giunchigliani:
I thought that it might be important to state up front, for the purposes of the initial section right at Section 3, that the whole point of this is that it is presumed that in cases—except in a case where it is an emergency—prior to placing a child who is a ward of the state, pursuant to NRS 432B, in a treatment facility for evaluation for behavior modification, they shall petition the court for an order for commitment. So, if it is an emergency situation, it has a different standard, but I am trying to do a pre-justification. They can't just arbitrarily do it; they need to make sure they have a judicial review and initiate the psychiatric review, especially when it is not an emergency situation.

Chairwoman Leslie:
What does the third amendment do?

Assemblywoman Giunchigliani:
It just simply amends Section 5. A least restrictive appropriate environment would serve the needs of the child is not available to it.

Chairwoman Leslie:
I see it. Can you tell the Committee whether this only applies to children in the custody of the state, or to a child welfare agency? So, a parent could voluntarily commit their child. This doesn't give us any jurisdiction over that?

Assemblywoman Giunchigliani:
That is correct.

Chairwoman Leslie:
What is the rationale for that?

Assemblywoman Giunchigliani:
This is the area that was brought to my attention. Because they are wards of the state, I felt that it was important that we at least have a standard for judicial review. We'll see how this works; that tends to happen when we do legislation. If there are problems with parents or individuals improperly or involuntarily committing children into wards of the state, then we need to know

about it. I didn't want to be proactive in a situation where I didn't think there was a problem.

Chairwoman Leslie:
Which court would have jurisdiction? The court where the child is placed, or the court where child is coming from?

Assemblywoman Giunchigliani:
I will ask Liliana [Loftman] to answer that.

Assemblyman Mabey:
If this child is a ward of the state, they could be living in a foster home or a facility. If they act out, instead of putting them in an institution, where will they go?

Assemblywoman Giunchigliani:
Generally, what you have is a treatment plan for any children—especially if they already have a behavior modification plan—and the foster care parents should be initiating that plan. Sometimes what happens, then, is their case manager should intervene first and say, "You know what? The plan that we have for this young person is not working." Maybe the parents weren't properly trained; maybe they were just overwhelmed with the number of kids they now had in their home. We are trying to segregate parents that are dealing with children that are more emotionally disturbed or have mental illnesses. Believe me, they are not easy to deal with, so I understand that part of it.

So, the case manager says, "You are right. Maybe the treatment plan is not correct. Maybe they are on certain medications, plus X, Y, and Z. Let's try that." If that still doesn't work, then they can create another setting. There could be another setting with another home; maybe there is only one child in it. It is tied to least restrictive environment. You scale down; you don't automatically say, "I have a problem," and take them out and commit them. Fortunately, due to lack of settings, that is part of what is happening here. The State needs to know about that. Then, we have an obligation to help them find the funding for those programs, rather then locking a kid up.

Assemblyman Mabey:
Where do they go then? Where are these institutions?

Assemblywoman Giunchigliani:
In the old days, before Montevista closed, you had private institutions or places that they can go. They can go to the State mental hospital. I actually had a student that was placed in the State mental hospital because she was acting

out. Now, she had other emotional problems, and that was probably the proper placement, but at least they did have a psychiatric evaluation that was done that justified the placement. The key is having the evaluation done so you can say, "Wait a minute. Maybe they are out of control; maybe there is another mental illness that we did not anticipate or had not found; maybe they are having a reaction to the medications." That was not intended to happen.

Assemblyman Mabey:
Where are they institutionalized in Las Vegas?

Assemblywoman Giunchigliani:
In Las Vegas, they are either in WestCare or they are placed into the State mental health hospital. That is my understanding.

Chairwoman Leslie:
I'm also wondering whether this is a struggle between the courts wanting certain things for kids and child welfare agencies maybe wanting something else.

Assemblywoman Giunchigliani:
Not that I'm aware of, but the folks down south should be able to give you more information on that.

Liliana Loftman, Attorney, Clark County Legal Services, Las Vegas, Nevada:
[Handed out Exhibit C.] Overall, A.B. 369 addresses the need for judicial process and procedural due process prior to placing children into locked institutional facilities. Specifically, it addresses three major areas. First, it addresses the right of children in foster care to be placed in the least restrictive setting suitable to meet their needs and the right to be afforded full due process protections prior to being deprived of their liberty. Second, it addresses the right of children to be discharged from these locked facilities in a timely manner. Third, it addresses certain rights that children have while they are in locked treatment facilities.

Assembly Bill 369 is needed because children in foster care usually have problems as a result of abuse that they have suffered. These problems can manifest as children being resistant to authority, skipping school, running away, alcohol abuse, drug abuse, or many other problems. As a result of these problems, the case worker unilaterally can decide that this child needs a higher level of care and get this child committed to a locked institutional facility.

The child can be placed in the facility without judicial oversight, or without oversight of almost any sort. Once placed into one of these facilities, it is really

hard for a child to get out in less than six months, and the average length of stay is nine months.

[Liliana Loftman, continued.] While in these facilities, these children are often denied rights that are afforded to other foster children, such as the right to contact their family members, the right to collect their State-allocated allowance, the right to continue their education, and the right to wear their own clothes. To further complicate the matter, children who are placed in these facilities are often in the facilities past the recommended discharge date, because an appropriate placement has not been located for these children. Because the court only reviews these cases twice a year, a child can be locked into one of these facilities for six months or more before the court is even aware of it. Assembly Bill 369 is needed to prevent children in foster care from being placed into locked institutional facilities when they can be effectively treated in less restrictive settings.

I have attached examples of recommended cases to my testimony (Exhibit C) that I think that you've been given, so I won't go over them in detail. Let me just briefly illustrate a couple of examples for you. We had a client who was admitted to a locked treatment facility as a result of throwing a chair in a classroom, and the case worker said that as a result of the throwing the chair, the child was a danger to the community. The anticipated length of stay for this child was one year. In no other setting can I think of a situation where a person or a child can be locked up for one year for throwing a chair. There was no oversight by a judge or any sort of judicial authority, and there was no evidence presented that this child needed to be locked up for this amount of time for this behavior.

We had another child who went for a walk. He was angry with his foster parents, went for a walk on a busy highway, and his foster parents said, "He walked on the highway. He must be suicidal." This child was locked up into a psychiatric hospital because he walked on a busy road.

In another case, we had a client who was very upset about being separated from his mother, and so he ran away back to his mother. His mother kept him for several months. They finally did find the kid and decided that he needed to be locked up to be stabilized, but they had no evidence that he was acting erratically. His only diagnosis was that he had ADHD [Attention Deficit Hyperactivity Disorder]. Finally, in the last case that I have illustrated for you here today, we had a client who was nine years old, and he was in a locked institutional facility for 13 months. This was a nine-year-old child. When he was finally released from that facility, it was to go to another locked treatment facility out-of-state. That facility at least said, "This child is not appropriate for

this intense level of treatment," and sent him back, but our case workers weren't prepared for that. So, he was put into a third locked facility for another month, until finally we were able to argue to get this child placed into a foster home, where he has been residing for nearly a year now, and he's doing very well. Clearly, this is an example of a child who should not have been locked up for more than 13 months.

[Liliana Loftman, continued.] Unfortunately, these examples illustrate the rule of what happens, at least in southern Nevada, rather than the exception. Assembly Bill 369 would address these problems, because it would require the agency seeking commitment of children to present evidence to the court that the child actually needed to be placed into the locked institutional facility.

The court would most likely consider testimony of the treating professionals, the therapists, and the social worker. There's nothing to preclude input from the mental health professionals, but the proceeding would also allow the child to present evidence from an independent evaluator, stating that the child could be effectively treated in a less restrictive setting.

As in the adult mental health setting, after reviewing all of the evidence, the court would decide if the agency had made its burden. For children who are in the care and control of their parents, there is a presumption that the parent acts in the best interests of the child, but for children who are in foster care, it's the 432B Court—the abuse and neglect court—that is charged with acting in and protecting the best interests of the child. Therefore, it's appropriate for that court to decide if the commitment is in the best interests of the child after considering input from everyone involved. Assembly Bill 369 would ensure that children are released from a locked facility as soon as it's appropriate. This would happen in two ways. First, it would require the agency to begin discharge planning for the child within five days of being admitted. This would give the case worker an idea of when the child is going to be discharged and what placement they're going to need, so they can start looking right away, so that we don't run into this problem of the child being ready to be discharged and then staying in the facility for another month or six weeks.

The other thing that A.B. 369 would do is it would require the agency to go back before the court at regular intervals to justify the continuing detention of the child. Again, that would ensure that when the child is ready to be released, the child would be released. Finally, A.B. 369 would ensure that the rights of children are respected while the children are in the locked facilities, simply by requiring that the children and the workers are made aware of the rights of the child. These are rights to such things as family contact, clothes, and education—very basic things.

[Liliana Loftman, continued.] Assembly Bill 369 is good because it makes good sense. If you look at the way we treat delinquent children—children who have shoplifted or children who have committed violent crimes—these kids can't be locked up for a year or more without judicial review, without the court deciding that this child can benefit from being locked up, and yet we don't afford abused and neglected children those same protections. Abused and neglected children, if anything, should be afforded more protection, not less. Assembly Bill 369 would ensure that these children are not re-victimized by the system that's supposed to protect them.

Chairwoman Leslie:
Those examples, I think, were what we needed to get a better idea of what the bill is about. One question I have: doesn't the judge who's overseeing the child's case review the case every six months anyway? So how could we have kids locked up for a year with no judicial oversight?

Liliana Loftman:
You're correct that the judge does review the case every six months. So, it isn't true that the child would be locked up for a year without oversight, but we could be in court on one day reviewing a case, and the next day we have another hearing, and we have another six months before the judge hears the case again.

Chairwoman Leslie:
I can understand that. And so your position is, I think, that this bill would put in more specific safeguards so that that judicial oversight would happen sooner rather than later, that the discharge planning would occur very soon after, and kids would probably get out of those treatment facilities when it's appropriate at a better time.

Liliana Loftman:
That's exactly it, Madam Chairwoman. It would ensure that only children who are appropriate to be placed in locked institutional facilities are placed there, and then only children who are appropriate to remain there, remain there. So once they're appropriate to be released, they are.

Chairwoman Leslie:
There's also very strict federal law about locking up status offenders in locked facilities and when you can and can't do that. Is there no similar federal law around mental health issues?

Liliana Loftman:
Not that I'm aware of.

Assemblyman Mabey:
Let's say this child is committed, but the psychiatrist or the professional that is taking care of him or her decides that they don't need to be there. So why would they stay for six months before they would get a hearing?

Liliana Loftman:
Most often in the situation that you describe, if a child remains in the locked facility past the date that the treating psychiatrist says the child should be discharged, it is because the case worker can't, is unable, or is unwilling to locate a different placement for the child.

Chairwoman Leslie:
Explain to me again: how these children are your clients? How does that work? Are you the agency that has enough attorneys to be assigned to every abused and neglected child? That would be great if it's true.

Liliana Loftman:
Unfortunately, we don't have enough attorneys to be assigned to every abused and neglected child. We do get the majority of our cases through court appointment. We have a very active pro bono component, where we have volunteer attorneys represent these children as well, but the fact is that we represent only 30 percent to 40 percent of the children who are abused and neglected, which is another reason why this bill is so important. It provides protections for the kids who aren't represented as well.

Chairwoman Leslie:
That's a good point. Have you run this idea by the Judicial Council, the family court judges, or any judges to get an idea of how they feel about it?

Liliana Loftman:
The judges are aware of the bill; however, we have not had specific discussions with them.

Steve Hiltz, Directing Attorney, Children's Attorneys Project, Las Vegas, Nevada:
I am an associate of Mrs. Loftman and have worked with her on this, and she has said it, I think, much better than I can. There are a few things I want to stress. When I started this project about five years ago, this was one of the first issues that I saw that I thought needed remedy. It's a very arbitrary process, and it's so important because these children—who are citizens—are denied their fundamental liberties. They are denied their freedom without any due process of law. It's often at the whim of the case worker, and at times it's even at the whim of a well-meaning case worker who is just trying to protect the child.

[Steve Hiltz, continued.] As the other member just mentioned, even status offenders can be locked up with due process. Most of these children are being locked up "for their own good," for running away, for cursing at teachers, for being defiant, for doing what victims of child abuse do. Some of them do need these facilities, but we feel it's so important that the court make that decision, just like a court makes a decision before any citizen is denied their freedom.

I don't know if you are going to hear opposition here, but the opposition I received, whenever I would raise this for the last five years, is that these children aren't committed. It's just a placement, and it's not a mental health facility; it's not a psychiatric hospital. It's a residential treatment facility. And this just isn't true. You can call something whatever you want, but the fact remains that the most important factor of all these places is that they are locked. And these children—these victims—in these facilities need basic due process.

You asked about the judicial opinion about this bill. We have not run it by our juvenile judges here. I don't want to speak for our juvenile judge, but I have heard him from the bench for five years now just rant and rave about the inadequacies of these facilities and the damage they do. That's pretty much what I have to say. These kids need due process.

Assemblywoman McClain:
I'm well aware of the children's advocacy program. I'm just wondering if it's still you and Steve.

Liliana Loftman:
We are now up to five attorneys, and we're hiring a sixth.

Assemblywoman Giunchigliani:
I do want to point out to Assemblyman Mabey some of the other names of the facilities: Desert Willow, Montevista, and Olive Crest. I went through the judges to see if I could find some answers for you about other placements they may have in there. I have to tell you, as a special education teacher, that the key thing was always the least restrictive environment. That's how we tried to approach it with them in their planning and IAP [intensive aftercare program]. This is a very similar situation; it makes sure to make sure the plan fits the kid, and if we have a problem with lack of funding or services, we deal with that and we don't use the easy way out.

Theresa Anderson, Deputy Administrator, Division of Child and Family Services, Nevada Department of Human Resources:
[Handed out Exhibit D.] We did prepare written testimony today, but I'm not going to look at that. After hearing Ms. Giunchigliani's explanation, I think we weren't clear about the intent of the bill, so I'm going to divert a little bit from the testimony here.

I think Chairwoman Leslie knows that we're all aware of our issues, particularly in the southern region, in getting children into least restrictive levels of care. So we acknowledge that issue. I am concerned, though, and I do want to make the Committee aware of some issues, particularly around children who are placed into acute treatment facilities, and I'm hoping Les [Gruner] will assist me here a little bit.

First and foremost, those children cannot enter into those facilities on the basis of a child welfare worker's assessment. They have to have a clinical assessment. They usually have already had a psychologist or some type of psychological assessment. And the Division is not responsible for determining whether or not a child enters an acute facility. First Health, which is a contractor through Medicaid, actually does the utilization management for those facilities. Les, can you tell me how often they have to review that?

Les Gruner, Program Manager, Northern Nevada Child and Adolescent Services, Division of Child and Family Services, Department of Human Resources, State of Nevada:
When they do the initial review, First Health will do a clinical review that involves the child meeting the medical necessity for being placed in that treatment facility. They have to meet that standard, which that committee will evaluate. And once that child is placed, if it's an acute setting, they have to meet that standard of being acute. I believe they review those every two weeks for acute settings. For a residential treatment center, normally, those authorizations go from 60 to 90 days, and then those reviews take place. Those kids have to demonstrate the need to continue to require that level of care in order for that facility to be able to receive the reimbursement for providing the treatment.

Chairwoman Leslie:
Does the bill conflict with what happens right now? It talks about when the evaluations have to occur. Is that in conflict with what the practice is for First Health and the quality assurance?

Les Gruner:
I'd have to look at that, but I believe one part of the bill says 60 days and another says 90, so I think it's a little confusing to us.

Chairwoman Leslie:
I'd like to know. If you see a conflict with that, maybe we can straighten that part out.

Les Gruner:
I know with our own Division-contracted facilities, our technical prior authorizations are for 90 days normally.

Theresa Anderson:
It's also for residential treatment facilities. The Division doesn't do utilization management for those. Again, it's done by First Health, and children are maintained in there based on the assessment, typically by a psychiatrist.

Chairwoman Leslie:
I think, Theresa, that's what the bill is getting at. We just want to make sure that the proper evaluation is done and redone at certain times and that the judge is made aware of it, so I don't think we're talking about two different things.

Theresa Anderson:
The other thing that struck me in listening to Assemblywoman Giunchigliani is that the court really does have the ability—and maybe Mike [Capello] will want to speak to this—to do more frequent reviews now. We've actually had some courts—just due to the Aspen permanency issues—do reviews every 90 days, or if there have been issues with getting children into lower levels of care, there have been courts around the state who will decrease the amount of time for reviews or require that they come forward for approval of the placement.

Chairwoman Leslie:
So although the testimony seemed to be that, sometimes these kids get placed and the judge doesn't even know about it.

Mike Capello, Director, Department of Social Services, Washoe County, Nevada:
I think clearly there are placements that are made where the actual scheduled review hearing may not happen up to six months after that, and a judge may not know that placement has changed. I think, perhaps, in having a better understanding today—hearing the testimony—that there may be some opportunity to set up some provisions where that 432B judge who has overseen that case would have cause to review it sooner. Perhaps right now the judge, when they do review, has to make a finding that the child is in the least

restrictive setting, that the child is in a setting that is safe and appropriate to meet their needs. Those are findings that the law requires that the judge make at each review hearing.

[Mike Capello, continued.] Perhaps one of the things that we could talk about is that if we move a child to a more restrictive setting, where that child was at the prior review, we must provide a notice to the court and give the court the opportunity to review that if they so chose.

I think in the north we have done a fairly reasonable job in moving kids to lower levels of care. You've heard us talk about moving from 200 children being in higher level of care to about 92, so I think we are trying to maximize those lower levels of care. I personally do not object to finding a way to have a more frequent judicial review when the level of care becomes more restrictive.

I became concerned about filing a separate petition under the commitment process when, in fact, the current family court judge has full authority to review those issues, and simply our judge can direct us to come back. That could be a local decision.

Chairwoman Leslie:
But, again, I think the issue is that it happens, and the judge doesn't even know it happened. So, I think the bill is going more towards your first alternative of finding a way to let the judge know that the placement has become more restrictive and have the review at that time.

Mike Capello:
Certainly. And I think what I'm saying is that the judges could locally impose a rule that says: "I want you to notify me any time you place a child in a more restrictive setting so that I can decide whether I need to review that or not." I think that could be done by the judge as well.

Chairwoman Leslie:
Do you object to having petitions in the law for children under these circumstances who are in custody of the State?

Mike Capello:
I don't object to having them outside the 432B proceeding. I believe they already exist. I think the issue is that the law only currently mandates a six-month review. It doesn't mandate it happen if there is a change of placement—where that placement becomes more restrictive—but I believe the protections are already there in NRS 432B.

Chairwoman Leslie:
But they're obviously not working, Mr. Capello, based on the testimony you heard earlier.

Michael Capello:
Well, I cannot speak for southern Nevada. I would argue they are working in northern Nevada, and I would argue that in my experience of trying to keep children who we believe are acute and need treatment, the rigorousness of the utilization review process is such that very often kids are being told that we have to find alternative placement, they don't need to be there, and we're moving them.

Chairwoman Leslie:
This is not an attack on child welfare. We've been doing very well about both sides not getting defensive. We have to have state law for all kids in the state's custody or in the child welfare agency, so I personally appreciate that northern Nevada is doing a better job of that, but if it's a problem, this Committee has to address it.

Theresa Anderson:
I'm not going to pull it off today, but I think we have to be careful about where we do this. There's a lot of talk in here about amending. NRS 433, and that's going to affect parental custody—families—as well. That's why Mike is directing us to look at NRS 432B, and we probably need to look more closely there. I'm also thinking about some of the changes we're looking at in another bill related to system of care work that we're working on. We might want to look there as well.

Chairwoman Leslie:
Our problem is time is running out. Friday, April 15 is our deadline for getting something out, so this Committee will have to decide on this bill by then. I'm going to ask you to work with the Clark County Attorney's Legal Services and see if we can't come to a resolution.

Assemblyman Horne:
I'd like a clarification on where you say it was going to affect parents.

Theresa Andersen:
NRS 433 deals with children's mental health, and those would apply to all families whether or not they're involved with a public entity, where NRS 432B is dealing with children and child welfare.

Chairwoman Leslie:
And the bill you are referring to—like Section 4—where it says "treatment"—has the meaning ascribed to it in NRS 433?

Theresa Anderson:
Yes.

Chairwoman Leslie:
Section 4 and Section 5.

Susan Klein-Rothschild, Director, Department of Child and Family Services, Clark County, Nevada:
We want to share that we certainly are supportive of due process and the least restrictive environment for children. The questions I raise are more asking for clarity about how we would implement this in reality. I want to acknowledge here that in southern Nevada, we've had a tremendous increase in the number of children entering the child welfare system. From 2004 to 2003—one year's difference—we had approximately 25 percent more dependency petitions filed. We have more children to serve, and I know we have to meet their needs better.

In their request for clarity, I'd like to ask for a couple things to be considered. One is that we talk about voluntary admission, and I'm not sure how a youth can make a voluntary decision for admission, and that might be clarified. Should we make the assumption that this is for every child who's being admitted?

Chairwoman Leslie:
Can you point us to the specific place in the bill that you're referring to?

Susan Klein-Rothschild:
Section 5, I believe, if the court receives a petition filed pursuant to NRS 433 for involuntary court-ordered admission. That's one area. It continues in some other areas.

Chairwoman Leslie:
But it says "involuntary court-ordered admission." I thought you just said something about a child who is admitted voluntarily, or was I mishearing you?

Susan Klein-Rothschild:
I'm asking whether we should truly make the assumption that every child is involuntary. Can a child or youth under the age of 18 voluntarily admit to admission to this type of facility on their own behalf? A second question I would raise: on Section 6, it requires the childhood agency to pay for a second

opinion, performed by two or more professionals who don't have any relationship with the acute facility or the child welfare agency. How would we pay for a second opinion without establishing a contractual relationship in practical terms? How would we make that happen?

[Susan Klein-Rothschild, continued.] A third question I would like to ask for consideration, helping to clarify how we implement this in an efficient and effective manner, regards the type of treatment facility. Section 3 describes the facility, and it refers back to NRS 433A in some places, and some of the testimony this morning has talked about a locked facility. There are mental health treatment facilities for children and youth that are locked and that are unlocked at various levels, so knowing how many children and which types of placements we're talking about would help our clarity. My understanding from the testimony this morning is that we're talking about locked facilities. It would likely be acute psychiatric hospitals or residential treatment centers, but clarification there would be very helpful.

Chairwoman Leslie:
Ms. Klein-Rothschild, I would also ask you when you look it up, that Assemblywoman Giunchigliani had an amendment (Exhibit B) that changed that section, so you might want to look at that definition that she cited. I don't know if you were in the room when she presented that amendment.

Susan Klein-Rothschild:
I have not had a copy of that, so I will certainly review it. Under Section 7, number 4, it talks about the best interests of the child and whether the court believes the child might experience any psychological trauma from the involuntary admission, which clearly is an important element. We just ask that we consider the risk of harm to the child and others in addition to that trauma to a child assessed by mental health professionals. The last issue I would raise—understanding, again, I certainly acknowledge that I may not be having full clarity about this bill—is that it looks like we're looking at a medical assessment prior to transporting the child to the psychiatric facility to rule out medical issues, as well as second opinions. So we are talking about medical assessments and second opinions by mental health professionals.

My understanding, again, is that when talking about a second opinion, it refers to psychologists, psychiatrists, or other physicians who evaluate the child. Is there a specific intention to not include mental health professionals who are licensed, or in a master's degree? This is something I raise simply in terms of the professionals in our community. Many of them are master's level professionals.

Chairwoman Leslie:
I'm just trying to understand each point as you go through. Are we talking about Section 7, subsection 1, line 12? Or what part of the bill do you want to be expanded to, say, master's level? For example, a LCSW [licensed clinical social worker] can do the evaluation, not just a psychologist or psychiatrist?

Susan Klein-Rothschild:
I am raising that not being a mental health professional myself, but understanding many of the mental health professionals are master's level on Section 7, line 13, and I believe it's elsewhere in the bill, such as Section 5, line 19.

Chairwoman Leslie:
I just happened to be looking at that line. That's the only reason I suggested that, and maybe Les can illuminate us on that point.

Mr. Gruner, do you want to comment, specifically, on Mrs. Klein-Rothschild's last point about the qualifications of the mental health professional doing the examinations in Section 7?

Les Gruner:
I think we share equally a concern that the bill limits to psychiatrists and psychologists, and when you look at the state and how we're limiting, in the two urban counties and the rural areas, the availability of psychiatrists and psychologists to provide these exams only, there are the mental health professionals—whether they be licensed clinical social workers or urgent family therapists—who at this time do provide those types of evaluations. I think it could create some real difficulty, specifically in the rural areas, where they don't have the psychiatrists and psychologists, but they do have those licensed clinical social workers and MFTs [marriage and family therapists].

Chairwoman Leslie:
And they have the residential treatment facilities they're talking about out there as well?

Les Gruner:
Not specifically, no, if we're talking about the acute psychiatric.

Chairwoman Leslie:
So, in the type of facilities that we're talking about in this bill—and I still have to go look up the amendment and see what that says—that part of the NRS, you're under the impression an LCSW and/or an MFT could do the evaluation that a psychiatrist or a psychologist would do for the involuntary commitment

piece? That's a little different, maybe? I'm not sure that works. I think you have to be a psychiatrist or psychologist. I'm not sure, but I don't know that an MFT can do that.

Theresa Anderson:
I really think we're going to have to bring our sister agency, Medicaid, in here to help us with this and get First Health and really have them analyze this. Also, the bill references MHDS [Division of Mental Health and Developmental Services] throughout it. I think it really meant to say DCFS [Division of Child and Family Services].

Chairwoman Leslie:
Okay. We'll take that into account also.

Ms. Loftman, after hearing the discussion, do you think that these are things that you could work with the DCFS and, perhaps, the Medicaid staff to work out on this bill and get back to us in a timely manner so we could make a decision next week?

Liliana Loftman:
I do think so. I think it will take some work, but I think it is workable.

Chairwoman Leslie:
Then I'm going to ask you and the folks here to try and make that happen as quickly as you can. We'll close the hearing on A.B. 369, and we will open the hearing on A.B. 380.

Assembly Bill 380: Revises provisions concerning district boards of health in larger counties. (BDR 40-953)

Assemblyman David Parks, Assembly District No. 41, Clark County:
Assembly Bill 380 makes changes to statutes related to the creation and organization of district health departments in counties with over 400,000 population. I would like to lead off, if I may, by explaining how this bill came into existence.

Approximately a year ago, I was talking with someone on another issue, and I was asked some questions regarding Clark County Health District. Following that conversation, I received several other inquiries, and the issue seemed to have snowballed. What I found was that within the local community, there were

a number of concerns expressed in various areas, with significant concern directed toward how the organization operated overall.

[Assemblyman Parks, continued.] Consequently, after many discussions and meetings, it appeared that the Health District would be better if it operated more like either the Regional Flood Control District or the Regional Transportation Commission (RTC) in southern Nevada. For those not fully aware of the composition of the Regional Flood Control District or the Regional Transportation Commission, its makeup is the same as Section 4, subsection 2, on page one of the bill. Both of these agencies in southern Nevada have operated as model agencies. The member entities that serve on these agencies seem to work very well and work very effectively.

Further in the bill, in Section 8 of A.B. 380, it addresses the creation of a health advisory committee, and this was a committee that was envisioned to be composed of public health individuals who have a broad knowledge of public health. Therefore, these would be individuals who would have a good knowledge to advise the elected officials on the board as to how those specific, highly technical, and very important issues to public health would be addressed.

Madam Chair, I believe that there are going to be a number of people who would like to testify on A.B. 380. I've also provided an amendment (Exhibit E) that further clarifies some of the specific sections, as well as one that would address the funding issue. It was worked out in conjunction with members from Clark County, and Clark County would be the source that would provide the funding.

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada:
[Handed out Exhibit E.] We appreciate the fact that Mr. Parks came to Clark County early on to discuss this issue with us. In 1962, the Health District was created through an enactment of an ordinance with legislative authority that the Clark County commission set up, but it's interesting that it's silent in statute as to actually how you change the makeup of the Health District, as to whether or not you dissolve it, or if the only thing it does allow is for cities to actually leave and create their own health districts. Obviously, that's not our intent here. We simply wanted to assist Mr. Parks in creating what we see as a better run organization, more responsive to not only elected officials but also the electorate, in terms of how they respond.

Our amendment does two things, and this was on our discussions with Mr. Parks as to what he envisioned and what we thought would be the best thing for the Health District going forward, in terms of an established funding

source. The first thing is to go ahead and allow for them to have a tax levy not to exceed $3.25 per $100 of taxable property. Now, that is simply shifting of an existing countywide rate so that there isn't any increase at all, in terms of the countywide rate. It's simply a redistribution of existing funds that would go directly to the Health District, and actually, it would help them.

[Dan Musgrove, continued.] Their current funding from Clark County is about $18.6 million. They asked the Clark County Commission this year for an 8.8 percent increase, up to $20,330,000. Under the provisions of the newly signed A.B. 489, the $3.25 would generate approximately $20,960,000, or an increase of about $600,000. We believe this provides them a designated funding stream to allow them some long-term planning, because the only thing they can really do at this point is come to the Clark County commission and ask them for additional funding. We make up only less than 50 percent. The rest of it—and maybe even less than that on a budget of $50 million—they get federal funds, as well as fees and those other kinds of issues that they use. So they really had no way of knowing whether the County Commission was going to provide them the funding from year to year, and this would give them a designated funding source.

The next thing that this amendment does is simply provide for a general manager position to be, essentially, the chief administrative officer of the Health District. We actually use the state model that exists. You have a chief administrative officer that's in charge of the Health Division under Mike Willden, and then you have the chief officer, whose primary function is to look proactively at those things that are important for the health of the citizens of Nevada. With all due respect to Dr. [Donald] Kwalick, who I count as a personal friend and someone I respect, we simply believe that the organization has gotten to the point such that it needs a chief administrative officer who has control over that agency, handles the administrative function, so that the chief health officer can function on what is in the best interests of the health of the citizens of Clark County.

We adopted the RTC model as well as looking at how the State handles things here, and that's simply all that the amendment does. It provides them a funding stream. Again, it is revenue neutral. It does not require any kind of excess or increase of taxes to the citizens of Clark County. It simply gives them a dedicated funding stream. The second thing is that the bill did not contemplate the general manager position having control over the authority. Dr. Kwalick and, actually, all of the cities had, essentially, early on in the session, met at the request of Mr. Parks, discussed this, and because at some point in time there was discussion as to whether or not maybe this should just be folded under

Clark County as we did with air quality a few years back, we took on the responsibilities of doing it.

[Dan Musgrove, continued.] We and the board of county commissioners did not want to disenfranchise our fellow cities. That's why we thought that the RTC model might be a better way to go, so that the city still had influence and a say at the table as they worked on the issues of health in Clark County. We're supportive of the actions of Mr. Parks. Our county commission yesterday voted in favor of supporting this bill.

Chairwoman Leslie:
Thank you. That's very helpful. That helps me understand what the amendment is about. Was the vote unanimous from the county commission? I'm assuming the vote was on the amended version.

Dan Musgrove:
Actually, our county commission was hearing a legislative report. They did not vote on each individual item that was presented to them, but there was full support of this as amended by our county commission.

Chairwoman Leslie:
More of a consensus type.

Dan Musgrove:
Exactly.

Assemblyman Hardy:
I have served on the Clark County Health District, and I'm on leave of absence, so I don't think this is going to affect me in one way or another—certainly not in pay, but it is an interesting concept that we're looking at. How big is the RTC? How many positions are there on the RTC?

Dan Musgrove:
There are eight. The only jurisdictions that have an extra one would be the Clark County Commission and the largest city, similar to what we're doing here.

Assemblyman Hardy:
So, this would be a board of eight?

Assemblyman Parks:
On the front page, under Section 4, it would be two representatives from the county commission, two representatives from the governing body of the largest incorporated city, Las Vegas—that makes four members—and one

representative from the governing body of each of the other incorporated cities within the county, which would be North Las Vegas, Henderson, Boulder City, and Mesquite.

Assemblyman Hardy:
So there would be a difference between the RTC and this particular one, because the county is the only one that has two in the RTC?

Assemblyman Parks:
No. Both would function the same. It would be an eight-member board, as is currently for the Regional Flood Control District and the Regional Transportation Commission.

Dr. Donald Kwalick, Chief Health Officer, Clark County Health District, Clark County, Nevada:
[Handed out Exhibit F.] I'd like to introduce the chairman of our board, the Mayor Pro Tem of the City of Las Vegas, Gary Reese.

Gary Reese, Mayor Pro Tem, City of Las Vegas, Nevada, and Chairman, Board of Health, Clark County Health District, Clark County, Nevada:
[Handed out Exhibit G.] I am opposed to A.B. 380. I have listened to the amendments. I guess I agreed to that portion of the funding mechanism.

The Clark County District Board of Health is a well-functioning board that effectively sets policy for protecting and promoting the health of Clark County residents and visitors. To our knowledge, concerns regarding the organization and effectiveness of this board were not raised prior to the introduction of this bill. Currently, each entity represented by the Clark County Health District appoints two representatives to the board. As it exists today, the membership consists of a combination of elected and selected officials. Each entity has appointed a minimum of one elected official to the board. The selected officials from each entity have either a medical or an environmental background. Additionally, the board members select one physician-at-large member, as dictated by the current statute. The proposed bill recommends decreasing representation from the smaller cities and eliminating the physician-at-large position.

The proposed bill further provides for the creation of two committees: a health advisory committee and a citizens' advisory committee. In regard to the citizen and health advisory committees, this component of citizen and health professional involvement is already built into the current structure of the board. Changing the composition of the board would only serve to eliminate the direct input of citizens and health professionals, and add permanent administrative

layers. Having citizen and health professional appointees serve as voting members assures their input is taken into account during the final decision making process of this board. Furthermore, the board has the authority to convene committees as necessary. Health District committees currently in place include the Medical Advisory Board and the Regional Trauma Advisory Committee. Additionally, the Health District has convened a number of citizen advisory committees in the past to provide input on public health-related issues.

[Gary Reese, continued.] I would also like to make a point regarding the diminished representation of the cities. I make this point as the elected representative from the largest city, which had retained both positions on the board. I am opposed to limiting representation from the cities of Boulder City, Henderson, Mesquite, and North Las Vegas. Public health matters are not quantifiable. You cannot measure whether one community would be more effective than another, and therefore, it would not be good to limit the oversight provided by the other members of our board. The Clark County Health District Board of Health is not broken, and not only does it work, it works well. Our current makeup allows us to incorporate the accountability of elected officials with the expertise of health care and environmental professionals. To break apart this process would not serve the best interest of Clark County.

Chairwoman Leslie:
I want to make sure I understand your objections. It sounds like you're fine with the funding source, because that gives you more money, and it's a designated funding source. So, your objections are more to the composition of the board and the perceived lack of citizen input. Is that correct?

Gary Reese:
No. We have plenty of citizen input. Those people that want to come to our board meetings are more than welcome. We allot time for them to come and partake in the meeting and give us their opinions on different issues, whatever issues they may have. It's never been limited. We welcome that.

Chairwoman Leslie:
I mean more as representatives on the board, and that's where I'm a little confused. Are there citizens on the board right now, along with elected officials, and this bill gets rid of them?

Gary Reese:
Yes, and we have a physician-at-large who, to me, contributes a lot to this board. We also have two members from Mesquite and two members from Boulder City that have to drive quite a distance. Some of our meetings last 15 minutes, and some of them last an hour and a half, but they're always there.

They come in on their own time. They pay the price of gas, they pay their own way in, and they're always at our meetings. And I couldn't say which one of them would be eliminated.

Chairwoman Leslie:
I see. So there's two now, and the bill would reduce that to one each.

Gary Reese:
Yes. And Mesquite is a very fast growing city, as well as North Las Vegas, and I know that Henderson deserves two representatives, just like Boulder City. Like I say, our meetings always start on time. We don't have to worry about a quorum. They're always there. I want to thank them at this time for taking their time to come in to these meetings. That, to me—if you're going to drive 50 or 60 miles one way just to attend a 15- or 20-minute meeting—means an awful lot to that city.

Assemblyman Hardy:
Mr. Reese, as a fellow colleague on the Board of Health, would you say that it's important to have a nurse appointed for Mesquite, a nurse appointed from Las Vegas, a doctor appointed from Boulder City, and an engineer appointed from Henderson, and a doctor-at-large to be there at the table when you make a decision?

Gary Reese:
Absolutely. I couldn't begin to explain to you what kind of input they put into our meetings and what they teach me.

Donald Kwalick:
I have some general comments to make. We really appreciate the sponsor's willingness to entertain some amendments to this bill. We want to work with the sponsor and others that have expressed concerns to him, while still providing the highest-quality public health services to the residents and tourists of our county. We strongly support the concept of a funding stream, the amendment offered by Mr. Musgrove. I had originally seen the rate as 3.75 percent, and I see it's 3.25 percent, depending upon the figures that are used. As far as the assessed valuation in Clark County, this could have an impact on our budget of anywhere from $100,000 to $1,000,000, depending on the figures. So I'd like to clarify what that rate would be.

Chairwoman Leslie:
I think the amendment (Exhibit E) says the rate is 3.25 cents. What would you like clarified?

Donald Kwalick:
I'd like to clarify that if it's 3.25 cents, depending upon the total assessed valuation—and there are different figures that are out there—we could be taking probably a $2 million hit than what we would be receiving through the county coffers.

Chairwoman Leslie:
I think the testimony from Mr. Musgrove said that you would be getting an increase of $600,000. Are you questioning that?

Donald Kwalick:
The increase—he's correct in the sense of what we've asked the county for—would be to the $20,300,000 level, which is I think approximately an 8 percent increase over last year. The 3.25 cents, which he says comes out to that, I'm not sure of that figure. I'll take that at face value.

Chairwoman Leslie:
Okay, because that's what we had in the testimony.

Donald Kwalick:
Just to summarize then, the Board of Health strongly supports, as you heard from Mayor Pro Tem Reese, the current integrated structure, in which medical, public health, and environmental individuals appointed by their jurisdiction are an integral part of the decision making process, not an advisor before the facts. They truly are part of the decision makers. We strongly support the funding stream, and we strongly oppose all the organizational changes that are proposed in the legislation and the amendment. I'll conclude with that.

Chairwoman Leslie:
So, you would be opposed to point 2 in the amendment (Exhibit E) that talks about hiring a general manager?

Donald Kwalick:
Yes. Every agency in Clark County is led by a person who has a unique experience related to the agency's scope of work. At the Clark County Health District, the scope of work is public health. It's imperative the person that leads the public health agency have a medical and public health background as well as proven administrative experience. I make this statement based on my experiences as a county health officer in Florida, an assistant commissioner of health for the State of New Jersey, and a former State Health Officer of Nevada. I also make these comments as someone looking forward to retirement, so I'm not saying it to protect any position or anything. I just think it's the best way to do business at this point in time.

[Donald Kwalick, continued.] The second position, the head of administrative functions, serves no purpose. We have that position already as our director of administrative services. Clark County Health District has a proven track record of fiscal accountability and responsibility. Our financial records reflect sound administration of the district. In fact, we recently received the Excellence in Financial Reporting award from the Government Finance Officers Association.

Chairwoman Leslie:
We appreciate that, and we appreciate your service also down there.

Van Heffner, President, Nevada Hotel and Lodging Association, Reno, Nevada:
On behalf of the organization—we're representing 182 hotel-casinos statewide with over 120,000 rooms—we are in support of examining this potential for change.

Chairwoman Leslie:
So, are you in support of the amendment that was presented today by Clark County?

Van Heffner:
I have not reviewed that amendment. On the surface, it sounded okay.

Chairwoman Leslie:
It sounded okay, but you're supportive of going in this direction, it sounds like.

Van Heffner:
Right.

Dr. Lawrence Sands, Director, Division of Community Health Services, Clark County Health District, Clark County, Nevada:
I just wanted to register my opposition to the bill.

Norine Clark, Registered Nurse, Clark County Health District, Clark County, Nevada:
[Handed out Exhibit H.] As a field nurse in the maternal child health program, I provide a major link between the Health District and the community. My duties take me out into the community and into the patients' homes. It is this link that, at times, provides the only source or access to health care for the underinsured, uninsured, indigent, and those who are reluctant to seek medical care on their own. I provide services that include education, early disease prevention and detection, parenting skills, family planning, assessing child's growth and development, immunization, and dental care. Not only do I deal with the infants, mothers, and children, but I also provide services to the entire family, if needed.

Whether it's a resource for food, shelter, counseling, medical care, clothing, job referrals, utility assistance, or just providing comfort, a listening ear, in some cases, I'm their only support system. My job is to care and advocate for the entire family as a unit.

[Norine Clark, continued.] I work closely with Child Protective Services, nurses, and physicians. Our common goal and mission of the Health District are to protect and promote the health, the environment, and the well-being of Clark County residents and visitors. We are concerned, because we believe that the bill eliminates the few health care voices that currently have voting powers on the board. We met with Assemblyman Parks over the weekend. At that time we asked that the bill slow down, because it is moving too fast. We would ask that the issue be tabled for this session so it could be studied and determined, with the input of nurses, doctors, and environmental health specialists, whether a board restructure is necessary and what that restructure entails, to continue the quality of services necessary to support the basic needs and welfare of our community and visitors.

In closing, I would also like to declare the nurses, environmental health specialists, and all other workers at the Health District support keeping the District fully funded. I understand there is an amendment on the floor that considers changing the current funding structure. Please consider the vital services we provide, and ensure that the work we do is fully funded so we can support a vital and growing community.

Debra G. Martin, Registered Nurse, Clark County Health District, Clark County, Nevada:
[Handed out Exhibit I.] I have worked at the District for 15 years, and I have been a nurse for 32 years. Since coming to the District, I have worked various areas with varying degrees of responsibility. My first 10 years were in HIV [human immunodeficiency virus] and AIDS [Acquired Immune Deficiency Syndrome], where I investigated newly diagnosed HIV cases, referring them into medical care and supportive counseling. They were then educated on safe sex practices, nutrition, partner notification, and living well with HIV. After many years in HIV, I left to work the Maternal Child Health Program, going out into the community to assist the new moms and babies with parenting skills, referral to Medicaid, Nevada Checkup, WIC [Special Supplemental Nutrition Program for Women, Infants, and Children] and, if appropriate, Nevada Early Childhood Intervention Services. Oftentimes, health nurses are the only medical personnel to see these infants in the first months of life.

Recently, I transitioned into nursing development and community outreach, using my nursing background and experience to coordinate the information and

resources necessary for our field nurse to, say, provide the best possible service to the people of our community. I have worked in many different areas of nursing, yet in each of these areas, community has always been the primary focus.

[Debra Martin, continued.] The workers at the Health District are concerned that A.B. 380 has implications far beyond those intended by the sponsor. This is why we urge a more thoughtful approach in order to protect the vital services we provide. If we created a study committee and tabled the bill until the 2007 Session, we could take a deeper look at the items that are promoted by this bill.

Before we move forward to alter the makeup of the board responsible for all public health decisions for our county, we should take a step back and have a deeper discussion about the ways we can improve the Clark County Health District—ways that are healthy for the community and for the people we serve.

Assemblyman Parks:
I did meet with members of the SEIU [Service Employees International Union] group on Saturday, and this bill does not address, nor would it change, nor would the Health District no longer be bound by its current collective bargaining agreement. The bargaining unit that is currently in place would certainly continue to stand in place until such time as the employees of the Health District were to seek a change in their representation. There is no change relative to that organization.

Chairwoman Leslie:
Thank you for that clarification. Would you still agree that the Health District would be getting more funds? Maybe, Mr. Musgrove, you would like to come up and address that lingering question about whether this is a good thing—more money, or they would have gotten more money without this bill.

Dan Musgrove:
In years past, again, they've always just come to Clark County for a fixed amount and then, at the whim of the Clark County Commission, would receive that or not. In years past, obviously, the County Commission has given it to them. By giving them this dedicated funding source, they have something they can count on as years go by. Granted, with the change in what's happening with A.B. 489 in the last week or so, we've been crunching the numbers to make sure that whatever assessed valuation rate we designated gave them at least the same amount or more, and our calculations indicate that at least at this point based on the rate, it would be at least $600,000, perhaps more.

Michael Alastuey, Legislative Advocate, representing Clark County, Nevada:
Based on what I've seen in next year's tax roll, it will generate slightly more than the current contribution. And as Mr. Musgrove pointed out, any change would be completely tax neutral and within the abatement mechanism that A.B. 489 contains.

Chairwoman Leslie:
So the big advantage is that it's a designated funding source, and it doesn't depend on the whim of the commission.

Assemblyman Parks:
In closing, the State has also contributed money, but it is much less in recent years than what the Health District has requested. It certainly hasn't kept pace with population numbers, but the State does also make funding contributions.

Chairwoman Leslie:
Health aid to counties is a very sore subject, so we don't want to go there. But, yes, thank you.

Kimberly McDonald, M.P.A., Special Projects Analyst and Lead Lobbyist, City Manager's Office, City of North Las Vegas, Nevada:
Currently, we have two elected council members that serve on the board, and the new proposal would restrict that to one. We feel, as the second-fastest growing city in the nation, that we should really have retained those two. We just wanted to go on record with that, and we have made that concern known to the bill's sponsor.

Chairwoman Leslie:
I think we'll go ahead and close the hearing and hold this bill until work session next week. At this point, we'll move into our work session. We have two bills to consider, and we'll begin with A.B. 248.

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

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
As you will recall, A.B 248 makes various changes concerning assisted living facilities. Assemblywoman Barbara Buckley testified regarding the Living Sky Project, a nonprofit project that was established or built in order to find out what the barriers were to this type of facility. The legislation arose out of that study.

[Barbara Dimmitt, continued.] Assembly Bill 248 defines a separate category of this type of living facility in the Housing Division, solely for the purpose of the Housing Division's activities and to identify this as separate for purposes of certain funds. The funds involved are $50,000 that would be subtracted from the Independent Living Grant category of the Fund for a Healthy Nevada, and they would be used to provide guaranteed funding to finance and fund these particular assisted living facilities and some services within them. The bill then further requires the Department of Human Resources to apply for an amendment to its Medicaid home and community-based services waiver. Currently, that waiver is being used to provide certain supportive living services for senior citizens who are living in assisted living facilities that are licensed by the Division of Health under residential facilities for groups.

It is my understanding that the new facilities would also have to meet that licensure requirement, in addition to the Housing Division certification. In addition to the testimony that was received in favor of the bill, a written statement was submitted by Larry Fry of the Coalition of Assisted Residential Environments, and he raised questions regarding targeting of the funds for one type of assisted living facility, and a concern over the possibility that the new category of assisted living facilities might reduce public funding for current facilities. Tina Gerber-Winn, Chief of Continuum Care Services for the Division of Health Care Planning and Policy, discussed the initial reading of the agency of A.B. 248, resulting in concerns that these living facilities that were currently licensed by the Bureau of Licensure and Certification would be required to meet all the criteria that would be involved with these nonprofit facilities. Ms. Buckley, I believe, addressed that question and said that the answer was no.

In addition, she noted that the DHR [Department of Human Resources] would be out of compliance if they could not get a waiver from the federal government. To address these concerns, you have an amendment before you from Ms. Buckley (Exhibit J).

The issues she addressed were the confusion over which facilities are being funded, how the amendment to the Medicaid waiver affects the currently licensed facilities, and agency concerns about being out of compliance with State law if they couldn't get the waiver.

On page 4 of the mockup (Exhibit J), you'll see in green there, amending lines 6 through 8 to add some language. This is intended to clarify that we're right now in the Housing Division section, and it is meant to clarify that these facilities to be certified by the Housing Division are these specific ones that are being targeted for the Medicaid amendment plan. They're the new facilities, so the

existing licensed facilities don't have to comply with all this Housing Division criteria. Then we'd be adding the same language on page 6, so that's just picking up that language in another area.

[Barbara Dimmitt, continued.] If you go to page 6, Section 4, subsection 1, this is the language that provides the authority given to the DHR by the amended Medicaid waiver must be in addition to providing coverage for any home and community-based services that the waiver covers on the effective date. That's to clarify that existing facilities continue to be covered under any future Medicaid waiver.

To address the Division and the Department's concern regarding being out of compliance with State law, there are some disclaimers on page 6 and page 7. That just stipulates that they can comply only if they get the approval of the federal government for the amendments.

Assemblywoman Angle:
I'm a bit concerned about the third amendment, since we don't have the language. My concern is that, rather than going forward with new facilities, it grandfathers those that are existing, but when you add new facilities, will this be available to new facilities or only the ones that are mentioned in this bill? It grandfathers the existing ones, but what about facilities that are built after?

Barbara Dimmitt:
The concern was that there was kind of an open-ended authority to amend the current waiver. The waiver says that Medicaid can do certain things that normally aren't allowed under Medicaid, including providing these supportive services. The sponsor wanted to amend this waiver to cover the new facilities. Then the concern of the existing facilities was whether these new ones are the only ones that can get what we've been getting so far. At least that's my understanding. So, the amendment clarifies that when the Department of Human Resources approaches the federal government and says, "We want to change our plan, we're going to keep what we have now, and, in addition, we're going to cover some new facilities." That is why that protective language was put in.

Assemblywoman Angle:
Some of the new facilities—does that mean all of the new facilities? This is a fairly specific piece of legislation. It's applying to, as I understand it, only one facility right now.

Chairwoman Leslie:
I believe it's because it's the only one that exists.

Assemblywoman Angle:
I am wondering how ongoing this is going to be, or if it is always just going to apply to this one new facility.

Chairwoman Leslie:
What I remember from the testimony from Ms. Buckley was that this is the first one of its kind in the state, but they want to put this bill into place to encourage more nonprofit facilities to work with the State and hook together affordable housing for seniors with the services that are needed to support them.

Mary Liveratti, Deputy Director, Department of Human Resources, State of Nevada:
Yes. Our discussion was that we would continue to have the facilities that are being funded now—those services would continue—and add another type of service, so that we'd have two types rather than just one going forward. So, the present facilities and the assisted living services they are providing would also be available in the future, and two additional facilities that would meet those requirements under the waiver.

ASSEMBLYWOMAN McCLAIN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 248.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chairwoman Leslie:
Let's go ahead and move to our next bill, 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)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill was requested on behalf of the Department of Human Resources and has two purposes. The first purpose is to make some adjustments in how the Fund for a Healthy Nevada is utilized by the Department of Human Resources to administer the Senior Rx program. It would increase the administrative cap from

3 percent to 5 percent to provide the Department with some additional funds for administration. I understand from testimony by Mary Liveratti that the reason for this is that the Department has switched from an insurance methodology to a self-insurance methodology for the Senior Rx program. In addition, the bill removes some outdated language regarding the Department of Taxation.

[Barbara Dimmitt, continued.] The second portion of the bill authorizes the Department of Human Resources to coordinate the State programs for pharmaceutical or medical assistance to persons in the state who would qualify for the Medicare Part D prescription drug benefit, establishes criteria for doing so, requires reporting of a plan to the Internal Finance Committee, and authorizes promulgating regulations. There were no amendments submitted and no testimony submitted in opposition.

Chairwoman Leslie:
Questions or concerns from the Committee? This is a complex bill. We had a whole packet, if you recall, with all those charts about how the program is going to work. It's the technical bill that goes along with the funding decisions on Ways and Means.

Assemblywoman McClain:
I'm not comfortable with this bill. I think Senior Rx is doing something they don't need to be doing, but we'll see what happens with it.

Chairwoman Leslie:
We can have them come up if you have a specific issue. My issue is that I don't like the federal program, but nobody wants to hear that anymore.

Assemblywoman McClain:
Absolutely. I think that's just pathetic what the federal government did, but I think we're trying to create something here that might not really be all that needed, and since it's only going to create the plan and have to come back to IFC [Interim Finance Committee], which I'm on, and I want to see the plan, maybe that's the appropriate time.

Chairwoman Leslie:
My intention, as the Chair of the budget subcommittee on this issue, is to push for a special subcommittee on IFC to follow this along, because the major problem is that we won't even know by the time we adjourn what the formularies are going to be, so this is not the last we're going to hear of this. I think there are going to have to be more changes.

Assemblywoman McClain:
I'll volunteer for that committee.

Chairwoman Leslie:
I think you might want to let the chairman know. I admit I'm more comfortable with it, but I've heard it four times now, so I can understand your level of discomfort. We'd like to know what happens if we don't pass the bill.

Mary Liveratti, Deputy Director, Department of Human Resources, State of Nevada:
If the bill does not pass, the program would stay as it is. Senior Rx would continue on just as it is written in the statute. We do have just to remind the Committee that in addition to the Medicare Part D, we have asked to increase the administrative cap from 3 percent to 5 percent. If this does not pass, we will need additional General Funds to administer the Senior Rx Program, and third, we were just cleaning up those two little minor technical amendments.

Chairwoman Leslie:
And if Senior Rx continues just as it is, does it run head on into the MMA [Medicare Modernization Act of 2003], and is it going to cause chaos? Are people not going to be able to wrap the services around the doughnut hole and all that?

Mary Liveratti:
Our concern would be that we would duplicate services that may be out there. Our intention is that if the federal government is going to pay make them pay first and use our monies to wrap around the holes in that benefit, we would not want to duplicate that service and stretch the federal dollars, and then stretch our dollars as a result by having some savings, by using the federal dollars first.

ASSEMBLYMAN HARDY MOVED TO DO PASS ASSEMBLY BILL 524.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Assembly Bill 544: Makes various changes to provisions governing information concerning abuse or neglect of children. (BDR 38-170)

Not heard.

Chairwoman Leslie:
The meeting is adjourned [at 3:15 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 6, 2005 **Time of Meeting: 1:30 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B	Assemblywoman Giunchigliani	Prepared testimony for A.B. 369
	C	Liliana Loftman / Clark County Legal Services	Prepared testimony for A.B. 369
	D	Theresa Anderson / Division of Child and Family Services	Prepared testimony for A.B. 369
	E	Dan Musgrove / Office of the County Manager, Clark County	Proposed Amendment to A.B. 380
	F	Donald Kwalick / Clark County Health District	Prepared testimony for A.B. 380
	G	Mayor Pro Tem Reese / City of Las Vegas	Prepared testimony for A.B. 380
	H	Norine Clark / Clark County Health District	Prepared testimony for A.B. 380
	I	Debra Martin / Clark County Health District	Prepared testimony for A.B. 380
	J	Barbara Dimmitt / Committee Policy Analyst	Proposed Amendment to A.B. 248 from Assemblywoman Buckley