

CHAPTER.....

AN ACT relating to public health; requiring a portion of the money in the Fund for a Healthy Nevada to be used to provide certain services to certain senior citizens who reside in certain assisted living facilities; requiring the Housing Division of the Department of Business and Industry to certify certain assisted living facilities for the purpose of providing services pursuant to the home and community-based services waiver authorized by the Federal Government; requiring the Department of Human Resources to apply to the Secretary of Health and Human Services to amend its waiver to provide certain home and community-based services in certain assisted living facilities; and providing other matters properly relating thereto.

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

Section 1. NRS 439.620 is hereby amended to read as follows:
439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) Fifty percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Fifty percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. Upon receiving a request from the State Treasurer or the Department for an allocation for administrative expenses from the

Fund pursuant to this section, the Task Force for the Fund for a Healthy Nevada shall consider the request within 45 days after receipt of the request. If the Task Force approves the amount requested for allocation, the Task Force shall notify the State Treasurer of the allocation. If the Task Force does not approve the requested allocation within 45 days after receipt of the request, the State Treasurer or the Department, as applicable, may submit its request for allocation to the Interim Finance Committee. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund, whether allocated by the Task Force or the Interim Finance Committee must not exceed:

(a) Not more than 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and

(b) Not more than 3 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging Services Division of the Department, to carry out its duties set forth in NRS 439.625 to 439.690, inclusive.

➔ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to the Department and, except as otherwise provided in paragraphs (c), (d) , (e) and ~~((h))~~ (i) of subsection 1 of NRS 439.630, may only be expended pursuant to an allocation made by the Task Force for the Fund for a Healthy Nevada. Money expended from the Fund for a Healthy Nevada must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Task Force for the Fund for a Healthy Nevada shall:

(a) Conduct public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

- (1) Promote public health;
- (2) Improve health services for children, senior citizens and persons with disabilities;
- (3) Reduce or prevent the use of tobacco;

(4) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(5) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities.

(c) Reserve not more than 30 percent of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Department to pay for prescription drugs and pharmaceutical services for senior citizens pursuant to NRS 439.635 to 439.690, inclusive, and to fund in whole or in part any program established pursuant to NRS 422.274 or 422.2745. From the money reserved to the Department pursuant to this paragraph, the Department may subsidize all of the cost of policies of health insurance that provide coverage to senior citizens for prescription drugs and pharmaceutical services pursuant to NRS 439.635 to 439.690, inclusive, and fund in whole or in part any program established pursuant to NRS 422.274 or 422.2745. The Department shall consider recommendations from the Task Force for the Fund for a Healthy Nevada in carrying out the provisions of NRS 439.635 to 439.690, inclusive, and administering any program established pursuant to NRS 422.274 or 422.2745. The Department shall submit a quarterly report to the Governor, the Task Force for the Fund for a Healthy Nevada and the Interim Finance Committee regarding the general manner in which expenditures have been made pursuant to this paragraph and the status of the program.

(d) Reserve not more than 30 percent *minus \$50,000* of all revenues deposited in the Fund for a Healthy Nevada each year for allocation by the Aging Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of family caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➔ The Aging Services Division of the Department shall consider recommendations from the Task Force for the Fund for a Healthy Nevada concerning the independent living needs of senior citizens.

(e) *Reserve not more than \$50,000 of all revenues deposited in the Fund for a Healthy Nevada each year for allocation by the Director to:*

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in section 3 of this act; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in section 3 of this act and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to section 4 of this act.

↪ The Director shall develop policies and procedures for allocating money which is reserved pursuant to this paragraph.

(f) Allocate, by contract or grant, for expenditure not more than 20 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco.

~~[(f)]~~ (g) Allocate, by contract or grant, for expenditure not more than 10 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that improve health services for children.

~~[(g)]~~ (h) Allocate, by contract or grant, for expenditure not more than 7.5 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Task Force shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite for persons caring for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

~~[(h)]~~ (i) Reserve not more than 2.5 percent of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Department to fund in whole or in part any program established pursuant to NRS 422.2745. The Department shall consider recommendations from the Task Force for the Fund for a Healthy Nevada in administering any program established pursuant to NRS 422.2745.

~~[(i)]~~ (j) Maximize expenditures through local, federal and private matching contributions.

~~[(j)]~~ (k) Ensure that any money expended from the Fund for a Healthy Nevada will not be used to supplant existing methods of funding that are available to public agencies.

~~[(k)]~~ (l) Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state

agencies, political subdivisions of this State, nonprofit organizations, universities and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

~~[(d)]~~ (m) To make the allocations required by paragraphs ~~[(e)], (f) and (g)]~~ (f), (g) and (h):

- (1) Prioritize and quantify the needs for these programs;
- (2) Develop, solicit and accept applications for allocations;
- (3) Conduct annual evaluations of programs to which allocations have been awarded; and
- (4) Submit annual reports concerning the programs to the Governor and the Interim Finance Committee.

~~[(m)]~~ (n) Transmit a report of all findings, recommendations and expenditures to the Governor and each regular session of the Legislature.

2. The Task Force may take such other actions as are necessary to carry out its duties.

3. The Department shall take all actions necessary to ensure that all allocations for expenditures made by the Task Force are carried out as directed by the Task Force.

4. To make the allocations required by paragraph (d) of subsection 1, the Aging Services Division of the Department shall:

- (a) Prioritize and quantify the needs of senior citizens for these programs;
- (b) Develop, solicit and accept grant applications for allocations;
- (c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;
- (d) Award grants or other allocations;
- (e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and
- (f) Submit annual reports concerning the grant program to the Governor and the Interim Finance Committee.

5. The Aging Services Division of the Department shall submit each proposed grant which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging Services Division of the Department shall not expend or transfer any money allocated to the Aging Services Division pursuant to this section to subsidize any portion of the cost of policies of health insurance that provide coverage to senior citizens for prescription drugs and pharmaceutical services pursuant to NRS

439.635 to 439.690, inclusive, or to pay for any program established pursuant to NRS 422.274 or 422.2745.

6. The Department, on behalf of the Task Force, shall submit each allocation proposed pursuant to paragraph ~~[(e), (f) or (g)]~~ (f), (g) or (h) of subsection 1 which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the contract or grant is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money.

Sec. 3. Chapter 319 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Division shall certify an assisted living facility for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to section 4 of this act if the facility:

(a) Provides assisted living supportive services to senior citizens of low or moderate income;

(b) Provides or arranges for the provision of case management services for its residents;

(c) Guarantees affordable housing for a period of at least 15 years after the facility is certified;

(d) Is financed through tax credits relating to low-income housing or other public funds; and

(e) Satisfies any other requirements set forth by the Division in any regulations adopted by the Division.

2. The Division shall adopt regulations concerning the certification of assisted living facilities pursuant to this section.

3. As used in this section:

(a) "Assisted living facility" has the meaning ascribed to it in paragraph (a) of subsection 3 of section 4 of this act.

(b) "Assisted living supportive services" has the meaning ascribed to it in paragraph (b) of subsection 3 of section 4 of this act.

Sec. 4. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall apply to the Secretary of Health and Human Services to amend its home and community-based services waiver granted pursuant to 42 U.S.C. § 1396n. The waiver must be amended, in addition to providing coverage for any home and community-based services which the waiver covers on the effective date of this act, to authorize the Department to include as medical assistance under Medicaid the funding of assisted living supportive services for senior citizens who reside in assisted living facilities which are certified by the Housing Division of the

Department of Business and Industry pursuant to section 3 of this act.

2. The Department shall:

(a) Cooperate with the Federal Government in amending the waiver pursuant to this section;

(b) If the Federal Government approves the amendments to the waiver, adopt regulations necessary to carry out the provisions of this section, including, without limitation, the criteria to be used in determining eligibility for the assisted living supportive services funded pursuant to subsection 1; and

(c) Implement the amendments to the waiver only to the extent that the amendments are approved by the Federal Government.

3. As used in this section:

(a) "Assisted living facility" means a residential facility for groups that:

(1) Satisfies the requirements set forth in subsection 7 of NRS 449.037; and

(2) Has staff at the facility available 24 hours a day, 7 days a week, to provide scheduled assisted living supportive services and assisted living supportive services that are required in an emergency in a manner that promotes maximum dignity and independence of residents of the facility.

(b) "Assisted living supportive services" means services which are provided at an assisted living facility to residents of the assisted living facility, including, without limitation:

(1) Personal care services;

(2) Homemaker services;

(3) Chore services;

(4) Attendant care;

(5) Companion services;

(6) Medication oversight;

(7) Therapeutic, social and recreational programming; and

(8) Services which ensure that the residents of the facility are safe, secure and adequately supervised.

Sec. 5. NRS 422.240 is hereby amended to read as follows:

422.240 1. Money to carry out the provisions of NRS 422.001 to 422.410, inclusive, and 422.580, **and section 4 of this act**, including, without limitation, any federal money allotted to the State of Nevada pursuant to the program to provide Temporary Assistance for Needy Families and the Program for Child Care and Development, must, except as otherwise provided in NRS 422.3755 to 422.379, inclusive, and 439.630, be provided by appropriation by the Legislature from the State General Fund.

2. Disbursements for the purposes of NRS 422.001 to 422.410, inclusive, and 422.580 **and section 4 of this act** must, except as otherwise provided in NRS 422.3755 to 422.379, inclusive, and

439.630, be made upon claims duly filed and allowed in the same manner as other money in the State Treasury is disbursed.

Sec. 6. This act becomes effective upon passage and approval.