

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Sixth Session
April 20, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:54 a.m. on Wednesday, April 20, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Marcus Conklin, Vice Chair
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Ocegüera

GUEST LEGISLATORS PRESENT:

Assemblyman Lynn Stewart

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Connie Davis, Committee Secretary
Cynthia Wyett, Committee Assistant

Chairwoman Smith opened the hearing on A.B. 148 (R1), previously considered by the Assembly Committee on Health and Human Services, and welcomed Assemblywoman Mastroluca to the witness table.

Assembly Bill 148 (1st Reprint): Revises provisions governing the voluntary relinquishment of an infant to a provider of emergency services. (BDR 38-589)

Assemblywoman April Mastroluca, Clark County Assembly District No. 29, advised that passage of A.B. 148 (R1) would update the Safe Haven Infant Protection Act approved in 2001. The Safe Haven Infant Protection Act allowed women to legally leave their unwanted newborn babies at police stations, fire stations, or hospitals rather than abandoning them in places such as dumpsters, parking lots, or the desert. Assemblywoman Mastroluca reported that the bill approved in 2001 was only a policy bill with no fiscal effect. She advised that community members put a plan into effect to educate the public about the program and encourage its use.

Assemblywoman Mastroluca reported that many states passed similar Safe Haven Infant Protection laws in 2001, and since that time, legislators in Nevada had reviewed laws across the country to determine whether Nevada's law could be improved. It was determined that the 2001 Act lacked provisions to determine whether an abandoned infant had been reported as a missing child. Assemblywoman Mastroluca said Nevada's law provided that anyone could leave a child at a police station or fire station, without question, as long as the child was unharmed. She said there was concern, however, that if, for example, a husband, boyfriend, ex-boyfriend, or parent had taken an infant and subsequently decided to turn the child in to a provider of emergency services, a mechanism was needed to allow law enforcement to recognize that the infant could be a missing person. Assemblywoman Mastroluca advised that A.B. 148 (R1) included provisions for local law enforcement agencies to determine whether the child had been reported as a missing child.

Additionally, Assemblywoman Mastroluca reported that A.B. 148 (R1) provided for the collection of statistical data that would allow tracking the number of newborns abandoned in Nevada. Assemblywoman Mastroluca reported that

over the last ten years she personally knew of three abandoned babies and she knew of three newborn babies personally accepted by Assemblyman Ocegüera in his position as Assistant Chief, North Las Vegas Fire Department. Assemblywoman Mastroluca advised that when A.B. 148 (R1) was considered by the Assembly Committee on Health and Human Services, there was concern about the demand the statistical data reports would place on the system. She said, however, that after discussions with representatives of the Office of the Attorney General and local law enforcement agencies, and because there was not a great number of infants that were abandoned in Nevada, the bill had a zero fiscal impact.

Chairwoman Smith advised that the Committee was assembled to focus only on the fiscal effect of the bills being considered and that it was the collection of the data for research purposes that was of interest. Chairwoman Smith called upon a representative of the Division of Child and Family Services (DCFS), Department of Health and Human Services, to discuss the fiscal effect of collecting and maintaining the data.

Amber Howell, Deputy Administrator, Family Programs, DCFS, Department of Health and Human Services, testified that A.B. 148 (R1) had no significant fiscal impact on the Division. She reported that the Division of Child and Family Services would enter the data into the Unified Nevada Information Technology for Youth (UNITY) system through information submitted on a simple form to DCFS. The information would be entered by DCFS staff and reports would be generated on a regular basis. She said the workload would not be significant for DCFS staff, and the UNITY system would only require several enhancements that had no cost.

Keith Munro, First Assistant Attorney General and Legislative Liaison, Office of the Attorney General, testified that he met with Assemblywoman Mastroluca concerning A.B. 148 (R1), and he said that the Office of the Attorney General supported the bill. Mr. Munro clarified, however, that the Clearinghouse referred to in section 1, subsection 2, paragraph (c) of the bill was the Office of the Attorney General. Mr. Munro asked that it be made clear that the language in the bill that read "The law enforcement agency shall investigate through the Clearinghouse" was not an effort by the Office of the Attorney General to have any authority over local law enforcement agencies. He said that the Office of the Attorney General would provide technical assistance to local law enforcement agencies.

Chairwoman Smith asked whether the language in the bill should be revised.

Mr. Munro indicated that the language "could be better" and reiterated he wanted to make it clear the language in the bill was not an effort by the Office of the Attorney General to exercise authority over local law enforcement agencies.

Chairwoman Smith asked Mr. Munro to work with the sponsors of the bill to ensure that the bill could be passed with the language as it was.

Hearing no response to her request for questions or testimony in support of or in opposition to the fiscal effect of the bill, Chairwoman Smith closed the hearing on A.B. 148 (R1) and opened the hearing on A.B. 123 (R1).

Assembly Bill 123 (1st Reprint): Makes various changes relating to certain facilities that provide health and related care. (BDR 40-159)

Assemblyman Lynn Stewart, Clark County Assembly District No. 22, presented A.B. 123 (R1) on behalf of the Legislative Committee on Senior Citizens, Veterans, and Adults with Special Needs.

Assemblyman Stewart advised that A.B. 123 (R1) related to inspections of certain nursing facilities that cared for elderly persons and for those persons who could not care for themselves. He reported that the bill, in its original form, required four inspections a year but explained that the language for four inspections was removed because the fiscal effect was too costly.

Assemblyman Stewart advised that section 3 of the bill provided that the Health Division would conduct onsite yearly inspections for certain healthcare facilities and follow-up inspections as deemed necessary. He also pointed out that if an inspection revealed deficiencies that affected the health of an individual, the deficiencies must be reported to the individual and to those who were responsible for the individual.

Additionally, Assemblyman Stewart advised that section 2 of the bill required nursing facilities to provide an itemized statement of charges to the person who received the care or the parent or guardian of the person who received the care.

Concluding his testimony, Assemblyman Stewart advised that the bill provided for the health and safety of individuals in healthcare facilities, and the revised language modified the fiscal effect of the bill and gave the Health Division the flexibility to carry out the inspections.

Chairwoman Smith thanked Assemblyman Stewart for his presentation and noted that the Assembly Committee on Health and Human Services spent a lot of time reviewing the bill.

Chairwoman Smith asked representatives from the Health Division to address the fiscal effect of the bill.

Marla McDade Williams, Deputy Administrator, Health Division, Department of Health and Human Services, advised that because the yearly inspections of individual residential care facilities would increase the Health Division's workload, a fiscal note for approximately \$11,000 was submitted. Additionally, Ms. McDade Williams pointed out that the language in section 3, subsection 2 of the bill said that "An inspection, conducted pursuant to subsection 1 must determine whether the facility or home is in compliance with all applicable laws and standards." Ms. McDade Williams said that the language added inspection time primarily to approximately 343 group facilities with an anticipated cost of \$230,000 to \$300,000. Ms. McDade Williams advised that *Nevada Revised Statutes* (NRS) 449.230 required yearly inspections for group homes to ensure compliance with standards for health and sanitation, a narrower focus than the language in the bill that said "all applicable laws and standards."

Assemblyman Stewart advised that he would be willing to delete the language that required "compliance with all applicable laws and standards."

Chairwoman Smith asked Assemblyman Stewart to meet with Assemblywoman Mastroluca, Chair of the Assembly Committee on Health and Human Services, and Ms. McDade Williams to work on the language in section 3, subsection 2 with the intention that the bill could be moved out of Committee.

Chairwoman Smith asked for public comment or testimony for or in opposition to the bill.

Bob Johnston, representing Retired Public Employees of Nevada (RPEN), and an advocate for all Nevada senior citizens, commented on the language on page 2, lines 21, 22, 23, 24, and 25 of the bill and referred the Committee to the following:

Section 2, subsection 2, paragraphs

- (b) Identify the amount of payment allocated to each charge;
- (c) Be provided in a manner that is understandable to an ordinary person;
- (d) Be provided at no additional cost; and
- (e) Be provided in a timely manner.

Mr. Johnston advised that difficulties were encountered in assisting senior citizens because some had not "kept up with the times" and were unable to understand, for example, insurance terminology. He said information seniors received from insurance companies was not provided timely or in a manner seniors could understand.

Concluding his remarks, Mr. Johnston asked for a clarification of the language in terms that senior citizens could understand.

There being no additional questions or testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on A.B. 123 (R1) and opened the hearing on A.B. 480.

Assembly Bill 480: Makes an appropriation to the Division of Health Care Financing and Policy of the Department of Health and Human Services for the completion of the takeover phase of the Medicaid Management Information System. (BDR S-1244)

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services, presented A.B. 480. The bill requested an appropriation of \$175,710 to the Division of Health Care Financing and Policy (DHCFP), Department of Health and Human Services, to assist with the completion of the takeover phase of the Medicaid Management Information System (MMIS).

As part of the MMIS takeover project, Mr. Duarte advised that DHCFP initiated a request for proposal (RFP) for a vendor to provide project management and quality assurance services. He testified that such services were essential during a project of the magnitude of the MMIS to ensure that any risk of failure and potential cost to the state could be mitigated.

The contract was awarded to PUBLIC Knowledge Inc. (PK) in July 2009. Mr. Duarte advised that PK had been working with the Division on the takeover project since 2009, and they needed to continue their work through at least August 2011.

Mr. Duarte pointed out that the request for an appropriation was not a request for new monies. He advised that the funds, currently budgeted for the project in the Department of Information Technology (DoIT), would be reverted to the General Fund. Additionally, Mr. Duarte pointed out that funding for the PK contract was split between DHCFP (75 percent federal share) anticipated at about \$520,000 and DoIT/Administration (25 percent General Fund).

Assemblyman Grady asked whether the appropriation was included in The Executive Budget.

Mr. Duarte advised that the appropriation was not included in The Executive Budget.

Chairwoman Smith called upon Rick Combs to provide clarification concerning the request for the appropriation.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, clarified that the appropriation was not included in DHCFP's budget, but the appropriation was included in The Executive Budget, and that was the reason the bill was requested by the Budget Division.

In response to a request for additional clarification from Assemblyman Kirner, Mr. Combs reiterated that what Mr. Duarte had indicated was that the funding was not included in DHCFP's budget but was reflected in the Governor's budget through A.B. 480.

Chairwoman Smith noted that the fiscal note for the bill reflected that the appropriation was included in The Executive Budget.

Hearing no response to her request for questions or testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on A.B. 480 and opened the hearing on A.B. 484.

Assembly Bill 484: Makes an appropriation to the Interim Finance Committee for allocation to the State Treasurer for interest payments due the Federal Government for the loan that was made available to the State upon depletion of Nevada's Unemployment Compensation Fund. (BDR S-1245)

Stephanie Day, Deputy Director, Budget Division, Department of Administration, identified herself for the record and introduced Cindy Jones, Administrator, Employment Security Division (ESD), Department of Employment, Training and Rehabilitation (DETR).

Ms. Day presented A.B. 484, which requested an appropriation to cover the projected interest costs on loans from the federal government because of the depletion of the state's Unemployment Insurance Compensation Fund. The original appropriation in The Executive Budget totaled \$66,355,000. Ms. Day testified, however, that because the benefit payments were less than originally projected, the Budget Division requested an amendment to the bill for a total

appropriation of \$64 million. Ms. Day advised that Ms. Jones would provide testimony on DETR's proposed amendment ([Exhibit C](#)).

Chairwoman Smith noted that DETR's proposed amendment had been uploaded to the Nevada Electronic Legislative Information System (NELIS).

Cindy Jones, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation, identified herself for the record and advised that Assembly Bill No. 469 of the 75th Session amended the state's unemployment compensation statute to allow for a broader "trigger on" mechanism for the State Extended Benefit (SEB) program, which provided the ability to maximize federal dollars to support the SEB. Since that time, Ms. Jones advised that there were additional amendments to federal law to continue the 100 percent funding of extended benefits to the state's unemployed workforce. Ms. Jones advised that the extended benefits were normally paid for with a combination of 50 percent funding from the state Unemployment Compensation Fund and 50 percent funding from the federal government.

Ms. Jones advised that another extension to the program was authorized in December 2010 and through the reauthorization of those provisions and through Public Law 111-312, a change to the mechanism was made at the federal level which required an amendment to state statutes to continue to maximize the benefits. Ms. Jones explained that if a change to the triggering mechanism within *Nevada Revised Statutes* (NRS) was not made, the state would "trigger off" of benefits about the middle of August rather than the end of December. Ms. Jones advised that adopting the change would allow approximately \$49 million of federally-paid unemployment benefits to be available to Nevada's eligible unemployed workers.

Additionally, Ms. Jones advised that ESD requested a technical amendment to modify NRS, which recommended that the "trigger off" mechanism be adjusted to four weeks before the last week of full federal funding of the SEB program, which would save Nevada's Unemployment Insurance Compensation fund approximately \$1.6 million.

Ms. Jones advised that the slight technical adjustments in the proposed amendment would benefit Nevada's unemployed workers and infuse the economy with approximately \$50 million in federal funds.

Ms. Jones pointed out that she had failed to include language in the proposed amendment concerning the Public Law 111-312 citation and suggested that the reference to Public Law 111-312 be placed in the title of the bill.

Chairwoman Smith advised that DETR's proposed amendment could be viewed on the Nevada Electronic Information System (NELIS) under A.B. 484 Exhibits. Chairwoman Smith noted, for the record, that the request for the appropriation was reduced from \$66,355,000 to \$64 million and asked for confirmation that the proposed amendment did not place Nevada in a situation of paying for benefits for which it was unprepared to pay.

Ms. Jones confirmed that the proposed amendment had no fiscal effect for the state. She said that the amendment, in fact, saved the state's Unemployment Insurance Compensation Fund approximately \$1.6 million because of the timing of trigger notices and also allowed the state to access approximately \$49 million of benefits because of the continuation of the program for long-term unemployed workers.

Chairwoman Smith asked for a brief update on Nevada's unemployment numbers and financial status.

Ms. Jones reported that numbers published earlier in the week showed that Nevada's unemployment rate was currently at 13.2 percent compared with a high of 14.9 percent. Ms. Jones pointed out that while the unemployment rate was headed in the right direction, Nevada still led the nation in unemployment.

Additionally, Ms. Jones advised that as of April 20, 2011, the Unemployment Compensation Fund was "in the red" by about \$759 million but projected to owe a little less than \$1 billion by the end of the fiscal year compared with earlier projections of \$1.2 billion.

In response to a question from Chairwoman Smith, Ms. Jones advised that the Unemployment Compensation Fund currently paid between \$11 million and \$12 million a week in state unemployment benefits down from a peak of \$18 million a week. Ms. Jones said, however, that the federal portion of the benefits was approximately \$14 million a week.

Assemblyman Hambrick asked for statistics on the number of unemployed workers who had exhausted their extended benefits.

Ms. Jones advised that as of the previous week, the number of unemployed workers who had exhausted their benefits for the current fiscal year was 14,551, and since 2009, 36,721 unemployed workers had exhausted all available benefits.

In response to Assemblyman Goicoechea, who asked whether any of the interest payment might be forgiven, Ms. Jones advised that federal legislation,

U.S. Senate Bill 361, had been introduced. The bill contained both a waiver of interest for two years and loan principal forgiveness. Ms. Jones advised that although there had been no movement on the bill, she remained hopeful that at least the interest would be waived.

Hearing no response to her request for questions or testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on A.B. 484 and opened the hearing on A.B. 487.

Assembly Bill 487: Makes an appropriation to the State Board of Examiners for employee retirement buyouts and terminal leave payments for eliminated positions. (BDR S-1242)

Andrew Clinger, Director, Department of Administration, presented A.B. 487, which requested an appropriation of \$7 million to the State Board of Examiners for employee retirement buyouts and terminal leave payments for eliminated positions in The Executive Budget.

Mr. Clinger advised that a budget amendment was submitted that reduced the appropriation from \$7 million to \$4.5 million. Mr. Clinger explained that the reduced appropriation came about because the Division of Parole and Probation presentence investigator positions were originally scheduled for elimination in The Executive Budget. A subsequent amendment retained the positions with the cost to be reimbursed by county governments.

Assemblyman Goicoechea recalled dialogue that some counties could not afford to pay for presentence investigation services.

In response to Assemblyman Goicoechea who asked how the budget would be affected by some counties opting out of the service, Mr. Clinger explained that the appropriation was requested for the purpose of paying for Public Employees' Retirement System (PERS) buyouts or terminal leave. Mr. Clinger agreed, however, that the Division of Parole and Probation budget would be affected if the Division could not collect the county billings for presentence investigation services.

Assemblyman Goicoechea indicated that if the counties could not pay for the service, the presentence investigators might be laid off, which would affect the budget.

Mr. Clinger confirmed there was a potential fiscal effect not accounted for in the revised budget.

Assemblywoman Carlton expressed concern that the appropriation did not appear to be enough to fund the number of retirement buyouts and terminal leave payments for eliminated positions that had been discussed during the budget process. Assemblywoman Carlton asked whether the methodology could be shared on how the appropriation amount was determined.

Mr. Clinger advised that positions that were eligible for the PERS buyout were identified and analyzed to determine the effect on the budget. Additionally, Mr. Clinger advised that the calculations included only positions funded from the General Fund.

In response to Assemblywoman Carlton who asked that the information be shared with the Committee members, Mr. Clinger advised that a spreadsheet was available and that he would make it available to the Committee's staff.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that Fiscal Analysis Division staff had a spreadsheet that totaled the \$7 million appropriation in the original version of the bill. He indicated that staff would analyze the spreadsheet and provide the information Assemblywoman Carlton requested.

Hearing no response to her request for questions or testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on A.B. 487 and opened the hearing on A.B. 500.

Assembly Bill 500: Temporarily revises distribution of revenue from certain licensing fees for slot machines. (BDR 41-1165)

Andrew Clinger, Director, Department of Administration, presented A.B. 500. The bill proposed to revise the distribution of revenue, from licensing fees for slot machines, to the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling within the Department of Health and Human Services. Mr. Clinger advised that currently licensing fees, equal to \$2 per slot machine, were deposited to the Revolving Account, and the bill proposed to reduce the fees from \$2 to \$1. Mr. Clinger reported that the savings over the biennium of \$1.5 million was used to help balance the budget.

Chairwoman Smith indicated that discussions about the revision had taken place in budget hearings as well.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, pointed out that the revenue the revision could generate for the General Fund could change dependent upon the Economic Forum projections.

Mr. Combs recommended that the Committee not consider processing the bill until after the Economic Forum's scheduled meeting on May 2, 2011.

Chairwoman Smith asked whether there were questions or testimony in support of or in opposition to the bill.

Denise Quirk, CEO and Clinical Director, Reno Problem Gambling Center and a member of the Governor's Advisory Committee on Problem Gambling, identified herself for the record. Ms. Quirk advised that Dr. William Eadington, Chair of the Advisory Committee on Problem Gambling (ACPG), could not attend the meeting and asked that the March 26, 2011, letter he wrote be read into the record.

Ms. Quirk read Dr. Eadington's letter ([Exhibit D](#)) into the record. The following excerpt included key points from the letter:

- The Advisory Committee on Problem Gambling (ACPG) was created in *Nevada Revised Statutes* (NRS) in 2005, and the following statements were in regard to the 2011-2013 biennium budget proposal related to the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling.
- The Legislature was currently considering a 50 percent reduction of the revenue for problem gambling activities. The ACPG supported full funding as the Legislature intended in 2005 and reaffirmed in 2007 at \$2 per slot machine per quarter.
- Nevada was viewed as a leader concerning regulation in the casino and gaming sector, and many jurisdictions looked to Nevada for guidance concerning problem gambling. Nevada's current model was emulated since it involved public-private partnerships and cooperation between gaming companies and helping organizations.
- In a March 1, 2011, poll of 23 states that funded problem gambling activities, Nevada was the only state that proposed to reduce funding for the prevention of problem gambling in the 2011-2013 biennium. The finding was noteworthy because all states were affected by the recession, and all states had proposed reductions in many program areas. Yet, Nevada was the only state that proposed a significant reduction for problem gambling treatment and prevention.
- Nevada had one of the highest rates of problem gambling in the country with about 68,000 adult Nevadans estimated to meet the criteria for

pathological gambling, and for each problem gambler, approximately seven others were affected.

- The ACPG developed a five-year Problem Gambling Prevention Strategic Plan published in February 2009. The progress toward plan goals was halted when the previous funding reduction eliminated all monies for prevention in fiscal year 2011.
- The ACPG encouraged the 2011 Legislature to fund the Revolving Account to Support Programs for the Prevention and Treatment of Problem Gambling at the full \$2 per slot machine as directed within NRS 463.320, subsection 2, paragraph (e).
- Recognizing the state's current economic status and if a decrease in revenue for the education and prevention of problem gambling activities could not be avoided, the ACPG encouraged the Legislature to enact only temporary legislation to reduce funding. Preserving the \$2 slot tax for a time when the economy rebounded was critical to mitigate the harmful social effects of problem gambling and its negative financial impact.

Chairwoman Smith noted that section 2 of the bill included language that the act would expire by limitation on June 30, 2013. Chairwoman Smith asked how problem gambling programs were sustained and clientele served during periods of funding reduction.

Ms. Quirk advised that she was in a unique position at the Reno Problem Gambling Center of running a nonprofit treatment center solely devoted to treating problem gamblers and their families. She discussed spending a great deal of time seeking income from other sources, such as charitable contributions and grants. Ms. Quirk said that she as well as others who operated treatment programs understood they needed to depend on more than one source for funding. She advised, however, that in the current economy, treatment center operators were grateful for any income that could be provided from the revolving account.

In response to a question from Chairwoman Smith concerning whether the treatment caseload numbers had to be reduced because of the income reduction, Ms. Quirk advised that the Reno Problem Gambling Center "stretched" resources and continued to see whoever walked in the door. Ms. Quirk advised that although the Center had to lay off individuals across the state, the Reno Problem Gambling Center currently operated without a waiting list.

Chairwoman Smith expressed her appreciation for the continuation of services to the public with the available resources.

Hearing no response to her request for questions or additional testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on A.B. 500 and opened the hearing on A.B. 519.

Assembly Bill 519: Makes various changes relating to the Office for Consumer Health Assistance. (BDR 18-1157)

Mary Liveratti, Deputy Director, Programs, Department of Health and Human Services (DHHS) presented A.B. 519, which would transfer the Office for Consumer Health Assistance (CHA) from the Office of the Governor to the Department of Health and Human Services.

Ms. Liveratti advised that A.B. 519 included the following changes to the Office for Consumer Health Assistance:

- Revised the qualifications of the Director of the Office for Consumer Health Assistance and renamed the title of "Director" to "Governor's Consumer Health Advocate."
- The Advocate would be appointed by the Director of DHHS.
- The Office of Minority Health (OMH) would be placed under the Office for Consumer Health Assistance (CHA) but would retain its own identity as the Office of Minority Health.
- Salary and per diem expenses would be paid for the Office for Minority Health Advisory Committee if funding was available for that purpose.

Chairwoman Smith advised that Ms. Liveratti's testimony ([Exhibit E](#)) and proposed amendments ([Exhibit F](#)) had been uploaded to the Nevada Electronic Legislative Information System (NELIS).

Continuing her presentation, Ms. Liveratti provided the following information:

- The Governor's Office for Consumer Health Assistance currently worked with DHHS' agencies including the Division of Health Care Financing and Policy (Medicaid), State Health Insurance Assistance Program (SHIP), and Nevada Check Up. Because the mission and activities of the Office for Consumer Health Assistance and DHHS were related, the transfer would promote and coordinate consumer advocacy.

- Implementation of healthcare reform would provide new opportunities to expand Office for Consumer Health Assistance services, which the DHHS would support and enhance. The Office for Consumer Health Assistance currently had seven staff members. A grant received under federal healthcare reform would allow the addition of two full-time ombudsmen and two part-time ombudsmen, all of whom would be contract employees.
- The DHHS would provide "more" day-to-day assistance, information technology and fiscal assistance, and oversight.
- The transfer was recommended by the Legislative Committee for the Fundamental Review of the Base Budgets of State Agencies.
- The current provisions of the Consumer Health Assistance Director's position required a medical field degree, such as physician, physician assistant, nurse, or advanced practitioner of nursing.
- New qualifications were proposed for the selection of the Governor's Consumer Health Advocate based on training, experience, capacity and interest in health-related services.

Ms. Liveratti advised that a survey of 34 states with Offices for Consumer Health Assistance revealed that 21 states did not require a healthcare practitioner. Ms. Liveratti provided the following information:

- Preference would be given to applicants with a degree in a healthcare field, public administration, business administration, or social science.
- The position would require at least three years of experience in the administration of health care or insurance programs.

Ms. Liveratti noted that administration of health care or insurance programs was applicable to the job because of the work related to filing grievances and appeals for denied benefits.

- Experience and expertise in the field of advocacy.
- Other desirable skills and abilities, which included:
 - Ø Experience in resource development and grant management
 - Ø Presentation and public speaking
 - Ø Fiscal management
 - Ø Supervisory experience
 - Ø Partnership and collaboration building

Ms. Liveratti provided the following information concerning the intent of moving the Office of Minority Health (OMH) to the Office for Consumer Health Assistance (CHA):

- Currently the OMH had no state-funded positions and one federally funded position. Combining the OMH under the Office for Consumer Health Assistance would allow leveraging of additional resources.
- The OMH had a Las Vegas office that was closed because of budget reductions. The Consumer Health Assistance Office was located in Las Vegas, the grant position was located in the north, and moving the OMH to the Consumer Health Assistance Office would provide statewide visibility.
- Under the provisions of the healthcare reform grant, outreach efforts were being intensified to benefit both OMH and CHA.
- Revitalization of the OMH Advisory Committee. The grant for the Office for Consumer Health Assistance was used to promote cultural competency, and the Advisory Committee could assist in developing that initiative. The grant for the Office for Consumer Health Assistance would also be used to improve advocacy for underserved populations on healthcare access.
- The OMH and CHA had a number of community partnerships that would benefit both offices:
 - Ø CHA – Nevada Hospital Association, Nevada Medical Board, Medicaid, Access to Healthcare Network
 - Ø OMH – Health Division, Clark and Washoe County Health Departments, and community organizations.

Ms. Liveratti advised the Committee members that the bill inadvertently deleted language in *Nevada Revised Statutes* (NRS) 232.471 that defined the Manager of the Office of Minority Health and NRS 232.477, which related to the appointment of the Manager. The proposed amendment ([Exhibit F](#)) provided suggested language to be reinserted into the bill, which defined "Manager" as the Manager of the Office of Minority Health. Ms. Liveratti also advised that the proposed amendment provided that language concerning the appointment of the Manager be revised to "appoint or designate" a Manager of the Office, if funding was available. Ms. Liveratti explained that the unclassified position was currently vacant because of a lack of funding, and although the Office had a federal grant program manager, the appointment language would allow the

Director to designate someone to continue the responsibilities of the Office and ensure that the duties were carried out.

Additionally, Ms. Liveratti advised that the proposed amendment suggested deleting sections 13, 14, 15, and 17 of the bill, which would leave NRS 232.478, 232.479, and 232.481 as currently written and retain the language for the title "Manager" rather than "Advocate."

Lastly, Ms. Liveratti advised that the proposed amendment suggested language to clarify salary and reimbursement for per diem and travel expenses of the OMH Advisory Committee only when funding was available for that purpose.

Chairwoman Smith asked why the Consumer Health Assistance Director title had been proposed to change from Director to Advocate.

Ms. Liveratti responded that the reference to the Director of the Department of Health and Human Services and the Director of the Office for Consumer Health Assistance became confusing during general discussion. Additionally, retaining the portion of the title that referred to the Governor in Governor's Consumer Health Advocate was thought to "open a number of doors."

Chairwoman Smith questioned the change in the requirements for the position and whether any problems had occurred concerning the manner in which the Office had been staffed in the past.

Ms. Liveratti indicated that there had been no problems, and advised that in fiscal year 2010, for example, the Office for Consumer Health Assistance received over 15,000 inquiries, of which 3,000 were worked on by the staff. She said very few cases required a medical opinion, although the Office always had a continuing contract for consultation with doctors to provide medical review, if needed. Currently, Ms. Liveratti advised that the Office had perhaps 12 to 20 cases a year that needed medical oversight. Additionally, she pointed out that physicians would be unwilling to work for the salary. Ms. Liveratti also advised that the State Health Officer, Dr. Tracey Green, was interested in the Office for Consumer Health Assistance and was willing to provide support when needed.

In response to Chairwoman Smith, who asked about the background of the current Director, Ms. Liveratti advised that the Interim Director, Marilyn Wills, had strong management and advocacy skills and a background in health insurance. She previously worked as the Deputy Director of the Division of Aging and Disability Services and as the Director of SHIP, where counseling was provided for Medicare and Medicaid eligibility, appeals, and benefits.

In response to Chairwoman Smith, who asked whether statutory requirements were met, Ms. Liveratti confirmed requirements were not met by the Interim Director's background.

Assemblywoman Mastroluca indicated it was her understanding that the Office for Consumer Health Assistance worked on a variety of cases for members of the public from workman's compensation to general insurance problems. She asked why an individual who was a physician's assistant or nurse would not be considered more valuable in the position than a contractor.

Ms. Liveratti explained that the bulk of the work in the Office for Consumer Health Assistance was related to insurance company appeals rather than medical problems, which made an individual with an insurance background more qualified for the position.

Assemblywoman Mastroluca recalled interest by the federal government in Nevada's Office for Consumer Health Assistance as a program other states could replicate because it operated so well.

Ms. Liveratti indicated she was proud of Nevada's program and the excellent work of the staff and recalled recent email messages from two long-time employees, who indicated that the Office was operating better than ever. Additionally, Ms. Liveratti advised that other states had placed their offices for consumer health assistance within their departments of insurance.

Assemblywoman Mastroluca advised that she believed most legislators had referred constituents to the Office for Consumer Health Assistance and received an excellent response. Assemblywoman Mastroluca also advised that although there were some initial concerns about moving the office to DHHS, she was comfortable with the move and appreciated Ms. Liveratti's response to the questions.

Chairwoman Smith agreed with Assemblywoman Mastroluca and advised that the Office for Consumer Health Assistance had also provided good service to a number of her constituents, who, for example, could not access medication or had a problem with a hospital bill that the Office helped negotiate with the provider. Chairwoman Smith indicated that the discussions concerning the bill would help to ensure that the good work of the Office for Consumer Health Assistance continued.

Hearing no response to her request for questions or additional testimony in support of or in opposition to the bill, Chairwoman Smith closed the hearing on A.B. 519 and opened the hearing on A.B. 529.

Assembly Bill 529: Revises provisions relating to the Fund for Hospital Care to Indigent Persons. (BDR 38-1194)

Mike Willden, Director, Department of Health and Human Services, on behalf of the Budget Division, presented A.B. 529, which would revise provisions related to the Fund for Hospital Care to Indigent Persons (Fund).

Mr. Willden provided the following information on the bill:

- Sections 1 and 2 of A.B. 529 expanded the way the proceeds from the 1.5 cents per \$100 of ad valorem tax for the Fund and the 1 cent per \$100 of ad valorem tax for the Indigent Supplemental Account could be used. The bill provided that the revenue fund could be used for the purposes described in *Nevada Revised Statutes* (NRS) 428.115 to 428.255, inclusive and ***any other purpose authorized by the Legislature***.

Mr. Willden noted that the phrase, ***any other purpose authorized by the Legislature***, was the same language used during past special legislative sessions when funds were swept from the Indigent Supplemental Account.

- Section 3 of the bill directed the State Controller to transfer from the Indigent Supplemental Account to the State General Fund \$19,617,508 in fiscal year 2012 and \$19,779,105 in fiscal year 2013 for unrestricted State General Fund use.

Mr. Willden noted that the amount for fiscal year 2013 would be amended in accordance with Budget Amendment No. 243 (Exhibit G), which was discussed in the Joint Subcommittee on Human Services and Capital Improvements on April 5, 2011.

Mr. Willden advised that funds had been swept from the Indigent Supplemental Account for three years beginning in the 25th Special Session held in December 2008, when A.B. No. 1 of the 25th Special Session transferred \$25 million to the General Fund. Additionally, approximately \$25.2 million was transferred from the account to the General Fund in fiscal year 2010 and approximately \$23 million would be transferred in fiscal year 2011. Mr. Willden advised that A.B. 529 would sweep the account for fiscal year 2012 and fiscal year 2013.

Chairwoman Smith provided clarification that the Indigent Supplemental Account, budget account 3244, had been discussed in Subcommittee, but the budget was not yet closed. Chairwoman Smith noted that the bill had no sunset provision and asked for information concerning intent.

Mr. Willden advised that the bill's provisions covered the period for the 2011-2013 biennium only. He said, however, there had been some discussion concerning how the account would interact with health care reform in fiscal year 2013.

Chairwoman Smith requested additional clarification.

Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau, advised that the language in NRS was being revised to include language *for any purpose authorized by the Legislature*. Additionally, he said that section 3 of the bill included a transitory provision that would only be in effect for fiscal year 2012 and fiscal year 2013, and although the bill did not include an expiration date, the transitory provision would be in effect for those two years only. Mr. Combs pointed out that if the funds were to be swept in the future, new legislation would be required.

Noting that the purpose for which the Fund was created was being changed to be used for any purpose, Assemblyman Grady asked what would happen if the counties refused to collect the tax.

Mr. Willden advised that NRS 428.185 and 428.285 required the counties to collect the tax and deposit the taxes into the Fund.

Assemblyman Grady pointed out, however, that the Fund was created for purposes of funding health care for indigent persons.

Mr. Willden explained that the language, *for any purpose authorized by the Legislature*, expanded the way the ad valorem tax could be used and indicated that the county assessors would be in violation of state law if they did not collect the tax.

Robert Hadfield representing Carson City, Storey, Lyon, and Douglas Counties, testified in opposition to the bill. Mr. Hadfield advised that in 1983, when he served as the Douglas County Manager, he was involved in creating and helping to pass the indigent accident legislation. After becoming the Executive Director for the Nevada Association of Counties (NACO), he processed claims and administered funds from the Fund.

Mr. Hadfield advised that all counties agreed to levy the property tax to solve a problem of "extensive" litigation between hospitals and healthcare providers because the counties could not pay the bills for injured or sick indigent persons. Prior to enactment of the legislation, Mr. Hadfield reported that county representatives negotiated with the hospitals and paid 50 cents on the dollar or

whatever was negotiated that could be paid. He said, however, that the point was finally reached when the hospitals could no longer accept the reduced reimbursements and needed a guarantee that payments would be made.

Mr. Hadfield recalled the past legislation that swept the funds indicated that the sweeps would not become permanent. He said, however, that section 2, subsection 2, paragraph (b) of the bill indicated that the Fund would become a tax to be used for Nevada government for any purpose authorized by the Legislature but not for the specific purpose for which it was created.

Mr. Hadfield pointed out that despite the funds being swept, the counties could not ignore the hospital bills, and he said that health insurance costs, in general, would increase because costs had to be passed on to those persons with insurance.

Concluding his testimony, Mr. Hadfield said sweeping the funds again for fiscal year 2012 and 2013 was wrong and should not be done. Recalling the struggle to create the Fund, Mr. Hadfield said it was created for a good reason and the money was being taken for the wrong reason.

Chairwoman Smith thanked Mr. Hadfield for his testimony and said that his institutional knowledge was valued.

Robin Keith, Vice President, Government Relations, Nevada Rural Hospital Partners, speaking on behalf of the Nevada Hospital Association, testified in opposition to A.B. 529, which she said appeared to be "a permanent policy change in a budget bill."

Ms. Keith said that the Fund was created to fund health care. Ms. Keith recalled that in 2009, the Medicaid budget totaled \$443 million. Of that amount, the state paid 16 percent, the federal government paid 38 percent, and the hospitals contributed 46 percent, including the sweep of the Fund.

Ms. Keith told the Committee members that costs could not continue to be transferred to hospitals and not expect hospitals to increase costs to the public. She said that approximately \$125 million had been taken from the hospitals during the period of the funding transfers from the Fund, and although objected to at the time, the transfers were thought to be temporary. Ms. Keith said, however, that it appeared A.B. 529 permanently allowed the state to use the funds for any purpose and while appreciative of questions and comments that the intent was temporary, the language appeared to be permanent.

Concluding her remarks, Ms. Keith said that health care was already "grossly underfunded by the state" and that the Nevada Rural Hospital Partners and Nevada Hospital Association "strongly opposed" A.B. 529 because it was permanent and contravened the purposes for which the underlying tax rates were put into place.

Jeff Fontaine, Executive Director, Nevada Association of Counties (NACO), also expressed concern about the ongoing sweep of funds from the Fund. Mr. Fontaine recalled that in December 2008 when the state needed the funds to help balance the budget, the idea, while objectionable, was generally accepted based on the transfer being a onetime occurrence.

Mr. Fontaine pointed out that the Fund paid for all procedures associated with treating the medically indigent who did not qualify for Medicaid, had no private health insurance, assets, or family members that could help pay for their medical needs. Additionally, he noted there appeared to be some misconception that the Fund largely benefited rural counties, which was not the case. Mr. Fontaine reported that hospitals across the state submitted over \$120 million in claims in 2010. He said that approximately \$103 million of those claims were from Clark County hospitals, and \$62 million in claims were from University Medical Center (UMC), the state's largest public hospital. Mr. Fontaine pointed out that historically the benefits received by Clark County, Washoe County, and the rural counties from the Fund were proportionate to the revenue generated by the taxpayers in those counties, making it an ideal program that benefitted the counties and the hospitals equally.

Concluding his remarks, Mr. Fontaine said that passage of A.B. 529 would extend the transfer for another two years with less money for the hospitals, and more confusion and pressure on the counties to meet their statutory obligation to pay for indigent-care costs.

Chairwoman Smith expressed concern because the transfer would affect hospitals trying to survive the current economy as well as members of the public whose insurance costs would increase. She said it was equally frustrating that a solution that worked for an existing problem would no longer be used for what it was intended.

Kevin Schiller, Director, Washoe County, Department of Social Services, spoke in opposition to A.B. 529 and reported that Washoe County currently allocated approximately \$22 million to services for the indigent. He said Washoe County accommodated the past sweeps based on planning and recognition of budgetary reductions.

Mr. Schiller advised that while county representatives recognized budgetary gaps continued to exist and that counties needed to work in partnership with the state, the reality appeared that the transfers had become permanent. As previously indicated by Mr. Hadfield, Mr. Schiller said that the Fund was an effective collaborative process that paid for health care for the indigent. The issue he said facing a social services entity that provided those mandated services was that in addition to the \$25 million loss, the hospitals would be significantly affected.

Concluding his testimony, Mr. Schiller said the legalities of the effects of the sweep could become complicated and increased the overall effect to the budgetary process for the counties.

Alex Ortiz, representing Clark County and University Medical Center (UMC), testified in opposition to A.B. 529 and advised that UMC, owned and operated by Clark County, had been serving indigent southern Nevadans since 1931.

Mr. Ortiz said that UMC was the first and only hospital in Nevada to achieve Level 1 Trauma and Level 2 Pediatric Trauma designations by the state. In 2009, he said the Trauma Center cared for over 12,000 patients and had over 2,000 admissions. The Trauma Center service area consisted of 1,500 square miles including southern Nevada and parts of California, Utah, and Arizona. Additionally, he said that UMC had the state's only burn-care facility and operated a comprehensive free-standing unit devoted solely to physical medicine and rehabilitation. Mr. Ortiz pointed out that if A.B. 529 passed, UMC would be required to cut those vital services or close its doors, which would have major implications for the community.

Mr. Ortiz said that in August 2010, the Clark County Board of Commissioners worked with a private consulting firm to conduct a study of UMC's liability in the community. The consultant concluded that the "uninterrupted negative trend in volume net revenue and unsustainable expenses will lead to increased annual operating deficits of over \$10 million per year to an operating deficit of over \$100 million by 2014." Additionally, Mr. Ortiz said that only limited funding was available from Clark County to support the operating deficit in capital reimbursement of UMC, and if major changes were not made, UMC would be forced to significantly reduce clinical scope or close within three years.

Hearing no response to her request for additional public comment,
Chairwoman Smith adjourned the meeting at 10:23 a.m.

RESPECTFULLY SUBMITTED:

Connie Davis
Committee Secretary

APPROVED BY:



Assemblywoman Debbie Smith, Chairwoman

DATE: September 29, 2011

EXHIBITS

Committee Name: Committee on Ways and Means

Date: April 20, 2011

Time of Meeting: 8:54 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 148			
A.B. 123			
A.B. 480			
A.B. 484	C	Cindy Jones, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation	Proposed Amendment to A.B. 484
A.B. 500	D	Dr. William Eadington, Chair Advisory Committee on Problem Gambling	March 26, 2011, Letter
A.B. 519	E	Mary Liveratti, Deputy Director, Department of Health and Human Services	Testimony
A.B. 519	F	Mary Liveratti, Deputy Director, Department of Health and Human Services	Proposed Amendments to A.B. 519
A.B. 529	G	Mike Willden, Director, Department of Health and Human Services	Budget Amendment No. 243