

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE
Seventy-sixth Session
May 13, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 6:26 p.m. on Friday, May 13, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Steven A. Horsford, Chair
Senator Sheila Leslie, Vice Chair
Senator David R. Parks
Senator Moises (Mo) Denis
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Ben Kieckhefer

STAFF MEMBERS PRESENT:

Rex Goodman, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Charles Duarte, Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services
Harold Cook, Ph.D., Administrator, Division of Mental Health and Developmental
Services, Department of Health and Human Services
James M. Wright, Chief, State Fire Marshal Division, Department of
Public Safety
John Sasser, Washoe Legal Aid Services and the Legal Aid Center of Southern
Nevada
John Tatro, Justice of the Peace, Municipal Court Judge, Carson City
John R. McCormick, Rural Courts Coordinator, Nevada Supreme Court
Mary Walker, Carson City, Douglas County, Lyon County and Storey County

Senate Committee on Finance
May 13, 2011
Page 2

Lisa Gianoli, Washoe County

Alex Ortiz, Clark County

Dan Musgrove, Southern Nevada Mental Health Coalition

Philip Weyrick, Administrative Services Officer, Health Division, Department of Health and Human Services

Michael J. Willden, Director, Department of Health and Human Services

Jennifer Stoll-Hadayia, M.P.A., Public Health Program Manager, Washoe County District Health Department

Jeffrey Fontaine, Nevada Association of Counties

Tim Burch, Interim Director, Clark County Department of Social Services

Susan Rhodes, Long-Term Care Supervisor, Clark County Department of Social Services

Stephanie Day, Deputy Director, Budget Division, Department of Administration

CHAIR HORSFORD:

We will open the hearing on Senate Bill (S.B.) 97.

SENATE BILL 97 (1st Reprint): Extends the prospective expiration of certain provisions governing the list of preferred prescription drugs to be used for the Medicaid Program. (BDR S-940)

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):

Senate Bill 97 seeks to revise *Nevada Revised Statutes* (NRS) 422.4025 regarding the preferred drug list. The Committee has heard the preferred drug list explained and mentioned many times, so it is a familiar topic.

Associated with the budget amendments submitted in April 2011, the savings total for this item has been revised. The provisions of S.B. 97 are included in the Governor's budget. The revised biennial savings is \$1,666,673 in the State General Fund.

SENATOR LESLIE:

Are the revised savings more or less than what is in the *Executive Budget*?

MR. DUARTE:

The revised amount is slightly less than the original amount. The original savings in the Governor's recommendation was \$1,738,915. These reductions are

Senate Committee on Finance
May 13, 2011
Page 3

associated with caseload growth and Federal Medical Assistance Percentage (FMAP).

SENATOR LESLIE:

This is the first reprint of the bill. The Senate Committee on Health and Human Services amended the bill in section 1 to extend the sunset date for this item. It was not a unanimous decision.

CHAIR HORSFORD:

Seeing no further testimony on this bill, the Chair will entertain a motion on S.B. 97.

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 97 AS AMENDED.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR HORSFORD:

We will now open the hearing on S.B. 429.

SENATE BILL 429: Revises the authority of the Department of Health and Human Services to contract for transportation services for the recipients of services under the Children's Health Insurance Program. (BDR 38-1197)

MR. DUARTE:

Senate Bill 429 is a budget bill which seeks to amend NRS 422.2705. That statute requires the Department of Health and Human Services (DHHS) to provide nonemergency transportation services for Medicaid and the Nevada Check Up Program. Nonemergency transportation services have been lightly utilized under the Nevada Check Up Program. It is not a service those recipients choose to use.

The bill seeks authority to eliminate the requirement to provide nonemergency transportation for the Nevada Check Up Program. The original General Fund

Senate Committee on Finance
May 13, 2011
Page 4

savings reflected in the *Executive Budget* was \$697,199. The revised savings is \$642,376 over the biennium.

SENATOR LESLIE:

This measure was heard in a Senate Committee on Finance and Assembly Committee on Ways and Means Joint Subcommittee on Health and Human Services/CIPs. The Subcommittee was generally in favor of the provisions in S.B. 429. The Division of Health Care Financing and Policy (DHCFP) budget has not yet been closed, so the bill cannot be moved at this time.

CHAIR HORSFORD:

Seeing no further testimony, we will close the hearing on S.B. 429 and hold it until this budget is closed.

We will now open the hearing on S.B. 437.

SENATE BILL 437: Revises provisions governing assistance to parents and relatives caring for certain persons with mental retardation and related conditions. (BDR 39-1215)

HAROLD COOK, Ph.D. (Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services):

Senate Bill 437 was initiated by DHCFP in response to revenue shortfalls and an increased number of qualified individuals making application for the Family Preservation Program. Current statute mandates that we serve all eligible individuals who apply for the program. This bill allows the Division to establish a waiting list for applicants eligible for assistance once the legislatively approved funds have been allocated. We will add individuals to the program as funding becomes available. This bill is in lieu of simply reducing the monthly allotments for individuals.

CHAIR HORSFORD:

The budget has not yet closed for this Division.

SENATOR KIECKHEFER:

What specific services would be included under the provisions of S.B. 437?

Senate Committee on Finance
May 13, 2011
Page 5

DR. COOK:

The Family Preservation Program provides monthly stipends to families for any number of needs including respite care and other types of services.

SENATOR KIECKHEFER:

Is this legislation specifically for that program?

DR. COOK:

That is correct.

CHAIR HORSFORD:

We will close the hearing on S.B. 437 and open the hearing on S.B. 439.

SENATE BILL 439: Makes various changes relating to fire protection.
(BDR 42-1203)

JAMES M. WRIGHT (Chief, State Fire Marshal Division, Department of Public Safety):

Senate Bill 439 amends the membership and duties of the State Board of Fire Services and eliminates the Fire Service Standards and Training Committee.

There is currently an eight-member Board of Fire Services and an eight-member Fire Service Standards and Training Committee authorized within the State Fire Marshal regulations. This bill eliminates the Fire Service Standards and Training Committee and authorizes a new Board of Fire Services consisting of ten members.

It consolidates and revises the respective responsibilities as an advisory body to the State Fire Marshal and the Legislature regarding fire protection and fire service training matters. It also eliminates duplication of certain responsibilities previously performed by both entities.

An appeals board regarding decisions about codes and regulatory issues in the State Fire Marshal is established under S.B. 439.

These mergers reduce State Fire Marshal staff workload and associated costs by supporting one board instead of a board and a committee. The members of both entities have voted in favor of this merger. The bill enhances efficiencies of our office and we ask for support of this measure.

Senate Committee on Finance
May 13, 2011
Page 6

CHAIR HORSFORD:
What is the fiscal note on S.B. 439?

MR. WRIGHT:
I do not have any of my records at this hearing.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Senate Bill 439 is a budget implementation bill. The State Fire Marshal budget will be closed next week. A small amount of savings is associated with eliminating one of the Boards. There is a fiscal note, but it implements a budget decision that will be executed when this budget is closed.

CHAIR HORSFORD:
We will close the hearing on S.B. 439 and open the hearing on S.B. 452.

SENATE BILL 452: Eliminates the Medicaid waiver carried out pursuant to the Health Insurance Flexibility and Accountability demonstration initiative. (BDR 38-1198)

MR. DUARTE:
Senate Bill 452 seeks to amend several chapters of NRS, including sections in Chapter 428 and Chapter 422. The bill's provisions were included in the Governor's budget recommendation. It seeks to allow the Health Insurance Flexibility and Accountability Waiver, otherwise known as the Section 1115 Demonstration Waiver, to expire at the end of its five-year period on November 30, 2011.

This Waiver has allowed the Division to expand eligibility to pregnant women with incomes between 133 percent and 185 percent of the federal poverty level (FPL). We have also provided insurance premium subsidies for children of individuals regarding codes and regulatory issues who are low income and work for an employer that offers health coverage. Our current average monthly caseload of pregnant women is approximately 150 applicants. Approximately ten individuals are provided assistance under the subsidy program.

The General Fund savings associated with the waiver expiration is approximately \$364,000 over the next biennium. The Medicaid budget includes a provision to continue medical coverage for pregnant women through, and

including, two months postpartum. Women currently on the program will be allowed medical coverage through the term of their pregnancy up to two months postpartum.

JON SASSER (Washoe Legal Aid Services and the Legal Aid Center of Southern Nevada):

I understand the tough budget decisions that must be made. This one breaks my heart. I was part of the bipartisan effort in the interim study that proposed this program a number of years ago. The whole idea was to provide coverage for additional pregnant women so that they receive prenatal care; thereby, having healthier children and saving the State money in the long run.

CHAIR HORSFORD:

We will close the hearing on S.B. 452 and open the hearing on S.B. 469.

SENATE BILL 469: Revises provisions relating to programs for the treatment of mental illness or mental retardation. (BDR 14-1201)

DR. COOK:

Funding for the mental health courts in Carson City and Clark and Washoe Counties is redirected in the Governor's recommended budget to funding by the county. State funding would be replaced through county reimbursement.

Senate Bill 469 provides the authority for counties to contract with the Division for continued mental health court services. The Division would bill counties for service coordination and residential services including supported living arrangements. Billing would be based on the number of services provided.

SENATOR LESLIE:

I wish to disclose I work for the District Court and the specialty courts program in Reno, including the mental health court. However, this funding is for treatment. It has nothing to do with the court costs or county subsidies of the mental health court. The funding addressed under S.B. 469 is for treatment of those who are mentally ill and appear in the court. If this funding is removed, the court will be eliminated because the counties will not pay the costs.

All of the individuals receiving funding from this program are still eligible for assistance through the mental health agency, although funding has not been placed in their budget for this additional service.

It will effectively result in longer and longer waiting lists for treatment of the severely mentally ill. This is a terrible idea and I will not support it.

JOHN TATRO (Justice of the Peace, Municipal Court Judge, Carson City):

I am appointed a Master by the District Court judges to conduct mental health court. My court is one of three in the State to provide these services. Judge Jackie Glass and Judge John McGroarty conduct the mental health court in Las Vegas and Judge Peter I. Breen and Judge Archie Blake in Reno. They were unable to attend today's hearing but join me in opposing S.B. 469.

It has a dramatic effect on the participants and their families. The mental health courts keep many misdemeanants from becoming felons. It also keeps hundreds of participants from going to State prison.

Instead of sending these individuals to prison, they are sent to mental health courts. If the funding is diverted to the counties to pay for treatment, there will be no mental health courts and those individuals will end up in prison. That is the bottom line.

JOHN R. MCCORMICK (Rural Courts Coordinator, Nevada Supreme Court):

The Nevada Supreme Court wishes to place on the record that they are concerned with the funding elimination concept.

MARY WALKER (Carson City):

We are opposed to S.B. 469 and support the comments made by Judge Tatro.

LISA GIANOLI (Washoe County):

Washoe County is opposed to S.B. 469 for the same reasons as stated by previous speakers. We feel loss of these treatment dollars will place more individuals in the county jail. We are also in opposition to the potential cost of almost \$1.2 million. Those costs are to be redirected to the counties.

ALEX ORTIZ (Clark County):

I concur with my colleague from Washoe County. The fiscal impact to Clark County is approximately \$3.4 million. For that reason and others, Clark County opposes S.B. 469.

MR. SASSER:

I am also a member of the Commission on Services for People with Disabilities. We oppose S.B. 469 for the reasons stated by others. The rationale I have heard about why this bill makes sense is because it would keep people out of county jails, so the counties should pay. However, many of these individuals will end up in State prison so I am not sure that nexus actually exists.

DAN MUSGROVE (Southern Nevada Mental Health Coalition):

I have testified before on the importance of all these programs that work together to ensure individuals with mental health issues are being treated fairly and that they do not end up in wrong facilities such as jails and hospitals. We are opposed to S.B. 469.

CHAIR HORSFORD:

We will close the hearing on S.B. 469 and open the hearing S.B. 471.

SENATE BILL 471: Revises provisions relating to public health. (BDR 40-1200)

PHILIP WEYRICK (Administrative Services Officer, Heath Division, Department of Health and Human Services):

I will provide my written testimony for the Committee ([Exhibit C](#)). Senate Bill 471 requires the counties to reimburse the Health Division for various services. It transfers the powers and duties of the Health Division regarding communicable diseases to the health authorities in the counties and authorizes the Division to impose administrative penalties for violations of certain provisions governing emergency medical services.

Section 1 amends Chapter 439 of NRS stating that each county shall reimburse the Health Division in an amount determined by the Division for the costs of services provided in that county. The provisions apply to services of the Division's services or those of the State health officer.

If services are not provided, there is no cost. That applies to Clark County, Washoe County and Carson City, who currently provide their own services. The intent is to charge the counties for those services shifted to the counties in the legislatively approved budget.

Section 2, subsection 2, of S.B. 471 amends NRS 441A.120 and transfers the powers and duties concerning control, prevention, treatment and cure of communicable diseases, including sexually transmitted diseases (STD) and tuberculosis (TB) from the Health Division to the health authority in each county. If a county does not have a district health officer, the State health officer will serve in this capacity which will require reimbursement from the county.

Further, section 23 of the bill authorizes any funds the Health Division receives from license fees, renewals, administrative penalties it imposes or appropriations made for emergency medical services training. It is used only for the emergency medical services training program, for personnel of volunteer ambulance services or firefighting agencies. Funds do not revert to the State General Fund at the end of any fiscal year and any interest income earned on the money in the account must be credited to the account. The administrator of the Health Division shall administer the account.

As a result of these changes, the General Fund appropriation will be reduced by \$2,431,887 over the next biennium and county reimbursements will be increased by \$1,181,518. The counties will assume an additional total of \$1,250,368 for the TB and STD Programs in the next biennium.

The Division may be allowed to utilize its authority under NRS 353.349 to obtain a temporary advance from the General Fund for the payment of authorized expenses related to consumer health protection.

SENATOR LESLIE:

This budget was closed in a Senate Committee on Finance and Assembly Committee on Ways and Means Joint Committee meeting. Is S.B. 471 consistent in all provisions with the budget closing actions?

MR. WEYRICK:

Yes, it is.

SENATOR LESLIE:

The Joint Committee discussed the ability of DHHS to borrow from the General Fund through the Interim Finance Committee, for start-up funding.

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):

It is important to emphasize three provisions in this bill. The Joint Committee has closed the Environmental Health, STD and TB accounts. Those are the three accounts that have been shifted to the counties.

There has been confusion and considerable discussion regarding section 1, subsection 1, that perhaps other programs shifted to the counties. That is not the intent of S.B. 471. The intent is only to bill counties for those three services I mentioned.

There has also been confusion regarding whether some counties choose to assume programs such as environmental health provisions, our interpretation of section 1 is that if we are not providing the service and a county opts to provide the services, DHHS will not bill for any services.

Mr. Weyrick noted there have been ongoing discussions concerning what happens if a county does not pay the bill they receive from the State in a timely manner. The Agency has had discussions with the Fiscal Division Staff about access to a General Fund loan until cash flow corrects that situation.

SENATOR LESLIE:

Those are important points. Section 1 covers the four counties that have expressed interest in assuming these functions.

We are all concerned about what happens if the counties do not pay their bill. As you noted, the Agency can access a General Fund loan for start-up costs. What happens if a county never pays its bill?

MR. WILLDEN:

I have stated several times, for the record, that the statute allows DHHS to receive a 25 percent General Fund advance. Those advances must be paid prior to the end of the biennium. We will be billing the counties for those services. If they do not pay, my intent is to work with the Department of Taxation and Office of the Controller to recoup those funds. That is the only answer I have at this point in time.

Senate Committee on Finance
May 13, 2011
Page 12

SENATOR KIECKHEFER:

Emergency medical services are addressed in section 23. Does that section affect the Communicable Diseases budget? What types of violations would be issued to counties?

HUMAN SERVICES

HEALTH

HHS-HD – Communicable Diseases — Budget Page DHHS HEALTH-60
(Volume II)
Budget Account 101-3215

MR. WEYRICK:

Section 23 refers to our revenue line in Budget Account 101-3216 regarding certification fees.

HHS-HD – Health Facilities Hospital Licensing — Budget Page DHHS
HEALTH-70 (Volume II)
Budget Account 101-3216

That funding is intended to train various volunteer services. The Division has a training trailer that is sometimes sent to other locations. The volunteer services are also eligible to receive grants to purchase equipment. That section specifically refers to the ability to balance forward the funds at the end of each year without reversion to the General Fund. That provision will allow training efforts to continue.

The fines and penalties reference provides that if, for example, ambulance services fail to pay their annual licensing fee, DHHS could assess a fine to pay for the cost of collecting that debt.

SENATOR KIECKHEFER:

Is NRS 439.150 and 450B.160 referred to in Section 23?

MR. WEYRICK:

That is correct.

MR. WILLDEN:

I want to clarify for the record, "We are not shifting EMS (Emergency Medical Services) costs to the counties. That was an addback in budget closing."

JENNIFER STOLL-HADAYIA, M.P.A. (Public Health Program Manager, Washoe County District Health Department):

Our health officer has testified on this bill before. I realize the budgets have been closed, but I want the Committee to be aware of what that will mean for Washoe County.

Our concerns are specific to the sections related to the prevention, control and treatment of TB. We currently receive approximately \$128,000 to provide the services in our county. It is our understanding that the changes proposed by this bill would rescind this fund. It would also establish a mandate to continue provision of the services.

As the Committee may be well aware, our clients are severely financially challenged to pay for their care at our TB clinic. One-half of our clients live below 100 percent of the FPL. The majority pay nothing for their care because of their income level. In fact, only one of our clients this year has had health insurance that we could bill for these services. Overall, the revenue in our clinic is less than \$20,000 annually. Clearly, we have limited alternatives for the approximately \$128,000 we will lose.

In addition, our federal funding was cut by 25 percent this year. Our only immediate options at this point would be to severely limit the other TB services we provide. That would include management of latent TB cases which have always had the possibility of conversion to an active case. We would also be unable to locate all contacts to an active TB case and we could not perform outreach to high-risk populations.

The ultimate outcome of these restrictions could be an increase in TB cases in Washoe County.

I have been asked to convey to the Committee that our position on the sections of S.B. 471 is echoed by the Southern Nevada Health District. They estimate a loss of approximately \$439,000 from the provisions of this bill. In addition, it will cost approximately \$850,000 to meet the provisions of the bill.

MS. WALKER:

I want to echo the comments made by Senator Leslie and Mr. Willden to ensure the language pertains only to those services that are shifted to the counties through the budget process. I appreciate the provision that allows counties, at their discretion, to assume the services.

After their board meetings, the four counties I represent have decided unanimously to try to assist the State by assuming some of these services. Those include consumer and community health services.

JEFFREY FONTAINE (Nevada Association of Counties):

The Nevada Association of Counties (NACO) is in opposition to S.B. 471 because of the cost shifts. We support all the counties that are willing to assume these services. Our only concern with that is, if those counties do assume the services they will not be participating in the cost allocation. Will the remaining counties be expected to cover the entire cost to the Health Division? If so, the costs dramatically increase for the remaining counties.

Relating to the policy provisions, I would offer my comments based on my background in environmental health programs during my time in State service. These are fee-based programs. The fees are charged to property owners and businesses for inspection of restaurants, septic systems, swimming pools and similar infrastructure. These fees are charged by the State. Therefore, those counties that are unable or unwilling to assume the programs, without additional revenue, will likely begin charging similar fees and that does not make sense.

CHAIR HORSFORD:

We will close the hearing on S.B. 471 and open the hearing on S.B. 477.

SENATE BILL 477: Authorizes the Administrator of the Division of Health Care Financing and Policy of the Department of Health and Human Services to administer oaths, take testimony and issue subpoenas for the purposes of recovering Medicaid benefits paid on behalf of certain recipients.
(BDR 38-1195)

MR. DUARTE:

Senate Bill 477 requests a modification to NRS 422.2366, section 1, which will allow the administrator of the Division to administer oaths, take testimony and issue subpoenas requiring the attendance of witnesses and for the production of

books, papers and records related to eligibility for Medicaid or continued eligibility for Medicaid and Nevada Check Up.

It also allows verification of payments to a provider of medical care. Additionally, it includes authorization for verification of information specifically related to the recovery of medical benefits paid on behalf of a recipient of medical care in these programs.

Historically, the subpoena authority we utilized was through the Division of Welfare and Supportive Services. However, a number of banking institutions noted two years ago that the DHCFP does not have specific authority available to us as a Medicaid agency since the Division was split in the late 1990s.

Since that time, the banking institutions have been unwilling to provide the DHCFP with financial records for their customers related to the Medicaid Estate Recovery Program. The Division has a State recovery program which allows individuals to receive Medicaid benefits primarily for institutional care. Once they are deceased, the Division places a lien on the home or other assets of the deceased if they do not have a community property spouse or disabled or dependent child using those assets. That helps to offset costs of medical care for the deceased. The revenue from that source is used to offset State General Fund allocations.

We have estimated that, without this legislation, we will be unable to recover funds that are connected with nonreceipted banking records. The *Executive Budget* submitted by DHHS estimated a General Fund savings of \$178,398. With submittal of a budget amendment, the revised savings is \$175,128. The Division is requesting S.B. 477 be approved to allow it to effectively administer the State recovery program.

SENATOR LESLIE:

This bill was heard in the Senate Committee on Health and Human Services. It is in the Committee on Finance because it is part of the budget.

CHAIR HORSFORD:

That budget is scheduled for closure on May 14, 2011.

We will close the hearing on S.B. 477 and open the hearing on S.B. 485.

SENATE BILL 485: Revises provisions governing the payment of certain expenses for the provision of care pursuant to the State Plan for Medicaid. (BDR 38-1196)

MR. DUARTE:

Senate Bill 485 will modify NRS 422.272 which defines the requirements for payment of the nonfederal share of Medicaid costs for institutional recipients whose income is between 156 percent and 300 percent of the federal benefit rate (FBR) for Supplemental Security Income (SSI).

The 156 percent of FBR equates to an individual earning level of \$1,051 each month. The earnings level at 300 percent of FBR is \$2,012 each month. The purpose of the bill is to expand the counties' financial responsibility up to the amount allowable under the Patient Protection and Affordable Care Act (ACA). That Act has established certain caps in terms of what a local government, subsidiary of State government or county government can contribute to the Medicaid Program in a nonvoluntary fashion.

States were previously limited in the amount they could require counties to pay for administration of the Medicaid Program. This bill seeks to establish a rate up to that cap under ACA.

In review of the ACA cap, the Division worked backward from the cap amount to derive estimates of what would be necessary in terms of an income level for State fiscal year (FY) 2011-2012 and FY 2012-2013. The FBR level for the State for FY 2011-2012 would be 132 percent of the FBR, or \$891 in monthly income, and 124 percent, or \$833 a month in FY 2012-2013. The requirement would need a review each year. Therefore, the income level would change every year depending on a number of issues. The primary factor is the amount of nonvoluntary contributions the counties could place into the Medicaid Program without exceeding the cap.

Our intent is to also have the counties pay for individuals eligible for the home and community-based waiver programs other than institutional care.

The *Executive Budget* included an estimated savings amount of \$37,175,400 which has been revised through a budget amendment to \$34,614,260. I was recently told that the proposed legislation establishes an income level, but does not compel the counties to pay for the costs above the proposed FBR. There

appears to be nothing in either NRS 422 or NRS 428 that compels the counties to pay for the care of indigents above certain levels established several decades ago. If S.B. 485 moves forward without adding back these funds, it will need to be amended to compel the counties to pay the remaining amounts. It also needs to authorize the Department to seek mandatory payment in the event the counties choose not to pay those invoices. These amendments would make the program mandatory.

SENATOR KIECKHEFER:

Why are we leaving the income threshold as something that changes every year? We typically set a benchmark based on that of the federal government.

MR. DUARTE:

The reason we are proposing a floating income level to be established in statute is because ACA establishes a cap on what counties can contribute. It is based on the percentage of county contributions to the Medicaid Program established as of December 31, 2009. County contributions to administration of the Medicaid Program will float, especially nonvoluntary contributions. The cap will change; therefore, the dollar amount we can assign to the counties for care of indigents will need to be changed. To adjust that amount, the percentage of income level will need to be established each year.

It is a floating level of funding DHHS can assign to the counties. We must be authorized to assess and adjust the FBR above which the counties are responsible for care.

SENATOR KIECKHEFER:

That means it will be a floating cost to the State as well.

MR. DUARTE:

That is correct. The Agency has done its best to estimate what that amount will be throughout the upcoming biennium, but it is an estimate.

CHAIR HORSFORD:

We will now take testimony from Las Vegas on S.B. 485.

TIM BURCH (Interim Director, Clark County Department of Social Services):

Clark County Social Services has concerns regarding S.B. 485. Changing the SSI benefit rate paid by the counties would cost Clark County approximately

\$11.3 million in FY 2011-2012 and approximately \$12.8 million in FY 2012-2013. Those amounts are in addition to the \$20 million we incur providing long-term care for the citizens of the County. That is a blow the County and the community would not be able to withstand without displacing clients from nonemergency medical care, home-based care for the disabled and elderly and financial assistance for housing indigent clients.

Clark County is also concerned with the language in the bill regarding a floating annual amount at the discretion of the director of DHHS. It would inhibit our ability to budget and absorb the impacts on an annual basis.

SUSAN RHODES (Long-Term Care Supervisor, Clark County Department of Social Services):

Historically, we do not pay for those home- and community-based care clients on Medicaid under FMAP. We only pay for those clients who meet the 30-day institutional care requirement. I made estimates of the costs, but due to late notice of the meeting, I do not have all my material present at this time. We estimate a minimum of 300 to 450 additional clients for whom we would now have to assume responsibility. Although we would be paying for those home- and community-based care services, we would not know exactly what services are provided, unlike provisions for institutional clients. We would have no input or consultation opportunities with those providing the care under S.B. 485.

MS. GIANOLI:

I concur with the comments made by the Clark County representatives. Washoe County would experience costs between \$3.3 million to \$3.6 million in each year of the upcoming biennium. That will simply remove funds from our already-stretched indigent budget.

MR. FONTAINE:

The NACO is opposed to S.B. 485. This is the single largest cost shift to the counties in the *Executive Budget*. The costs are estimated to be approximately \$37 million. It affects all counties in Nevada. Many of the rural counties have large senior populations that will need these services. Therefore, the costs allocated to that particular county may be proportionately much higher in a rural county than in the urban counties.

This bill has been characterized as the counties participating in indigent care. That is incorrect. Under NRS 428, the counties are totally responsible for indigent care. Indigent care applies to those who do not qualify for Medicaid and other State or federal programs. The counties do not independently have the ability to apply, receive or prepare a State plan for Medicaid funds.

We are also concerned about the open-ended provisions of the floating requirement. I had not seen the additional responsibility for home- and community-based care provisions.

There may be a disagreement about the amount of money that is voluntarily contributed to the program from the counties versus what is involuntarily required. That has a large bearing on the ultimate outcome of this program.

Finally, this program and system is based on the requirement that all counties participate. If they do not, the program cannot go forward. It potentially means we cannot match the federal Medicaid funding and Nevada would have a serious problem on its hands.

MR. SASSER:

This seems to be perceived as a battle between the State and the counties regarding cost shifts. I will speak for the individuals who are caught in the middle of that battle. That is the people who rely upon these services.

There are several entities who may be impacted that have not been considered. The State offers optional coverage for individuals in institutions with incomes up to 300 percent of the federal SSI level. Under the Health Care Reform Act, states cannot change their eligibility criteria until 2014. The State cannot reduce that 300 percent level without a major penalty being assessed.

As Mr. Fontaine noted, the federal Medicaid laws require a program to be offered statewide. Senate Bill 485 changes the percentage it pays under the county match program. However, the county's payments are established through an interlocal agreement. If the State decreases what it pays, that does not create any legal obligation under the bill to require the counties to make up the difference.

The only funds counties can use to make up the difference under NRS 428 are the funds set aside for indigent health care and care of indigents in general

under the General Assistance Program. The amount paid by the counties under that provision is capped. Therefore, they cannot pay any more in property taxes than they do currently, unless the county declares an emergency and takes funds from other sources. I guess they could take funds from police or fire departments, but that is not likely to happen.

Who is affected? Currently in the counties, nursing home coverage is provided for all residents of a nursing home whose income is between what the State pays and the 300 percent level of Medicaid. Everyone over 300 percent whose income is less than the nursing home bill, which is approximately \$5,000 or \$6,000 monthly, is covered 100 percent by county funds, not through Medicaid.

The counties are paying for those individuals in the county match program, those who are in institutions above the FBR income level and a variety of other local government programs. For example, the University Medical Center (UMC) receives a large amount of funding through the county medical indigent fund. If about \$11 million to \$12 million is added to Clark County that they must pay out of the funding level they must not exceed, something will have to give for the clients. Either the individuals who are over the 300 percent cap and can no longer be cared for in nursing homes will be out on the street, or it may be that the county refuses to sign an interlocal agreement. Individuals who apply for SSI and receive a housing allowance for only three months of the two years previously allowed, or individuals whose bills are paid by UMC, will no longer be served.

Someone will be deeply hurt if this bill is passed, whether counties are forced to comply or through an interlocal agreement. If counties are not forced to comply and they refuse, it could cause the whole system to collapse. If counties are forced to comply, then individuals already being served will be pushed out of the program.

I strongly oppose S.B. 485 on behalf of those I represent.

SENATOR LESLIE:

Does this expose the State to federal lawsuits in any way?

MR. SASSER:

The State will be exposed to federal penalties if it does not have a statewide program. If we try to reduce eligibility under the new Health Care Reform Act, Nevada would be subject to penalties through that Act as well.

SENATOR LESLIE:

Does this proposal fall under the current lawsuit involving the inability to change Medicaid rules?

MR. DUARTE:

This is not affected by any current litigation associated with changing policies, procedures or practices that affect eligibility. Mr. Sasser mentioned that there are provisions in ACA requiring the State to maintain eligibility for adults through 2014. Some of the current lawsuits relate to maintenance of effort (MOE) requirements.

If the counties choose not to participate in the county match program, the State would still be compelled to pay the State General Fund costs associated with individuals up to the current Medicaid income standard of 300 percent of FBR for SSI.

If the counties choose not to participate, the State still needs to meet the requirements.

SENATOR LESLIE:

What about Mr. Sasser's comments about individuals who would no longer be eligible for long-term care as a result of this legislation? Will we really put these people out on the street?

MR. DUARTE:

They would continue to be eligible for Medicaid coverage because of the MOE requirements in federal law. Therefore, Nevada would need to continue to pay for their services. It would not affect current eligibility for long-term care services.

MR. SASSER:

Nursing homes have three classifications of patients: those for whom the State pays 50 percent of their care and 50 percent is paid by the counties; others whose care is paid 50 percent by the counties and 50 percent by the federal

government; and patients above the 300 percent FBR cap, for whom the counties pay 100 percent of care.

If money is taken out of a county's limited funds and we make them pay more for that middle group, that subtracts from the amount of funds available to assist those whose income is above the 300 percent level who are not covered by Medicaid and they would be at risk of being out on the street.

SENATOR LESLIE:

This sounds like another terrible idea. I know there is a large price tag to maintain the current levels, but the whole system could collapse. Nevada is fifty-first in Medicaid per capita spending and has been for a long time. Nevada's per capita spending is well below that of states above our position of fifty-first. We are at the point that if we continue with proposals such as this, things are going to collapse. There is no other safety net. What happens when the system truly collapses?

MR. SASSER:

Currently, the counties have nothing to do with community-based services. That has been a State responsibility at 50 cents on the dollar. If that responsibility is shifted to the counties, will counties now have to operate their own community-based services programs? Or is the proposal that the State will operate the program and send the counties a bill? If so, there is no legal mechanism under present law nor will this legislation provide a mechanism. Will that be rammed down the counties' throats as well?

MS. WALKER:

The 8-cent stop loss has been in effect since 2003. It was also on the Governor's restoration list. Prior to 2003, several smaller counties were not able to meet their match. They were presenting letters to the State to that effect. If one of those counties could not have paid, then the whole system and the entire match of more than \$10 million statewide would be lost.

Mr. Duarte and I worked on a NACO committee for more than a year to find a solution. Eventually, we proposed the 8-cent stop loss legislation. The counties, under NRS 428, have an 11.5-cent allocation for indigent funds. After 2.5 cents is swept for administration, it leaves 9 cents remaining in indigent funds. We proposed that a county be responsible for up to 8 cents of ad valorem tax,

Senate Committee on Finance
May 13, 2011
Page 23

keeping 1 cent in the county to assist, particularly in rural counties, hospitals and indigent ambulance costs.

However, if the Governor's original proposal were approved, that would have shifted so much to Mineral County they would have had to increase their tax rate by an additional 22 cents. They cannot generate those kinds of costs.

Senate Bill 485 contains a provision that counties will pay up to 8 cents of ad valorem taxes. It allows Mineral and other smaller counties the ability to pay for this within their indigent rates. That legislation has given this program greater stability.

Regardless of what happens with S.B. 485, it is important to retain the 8-cent cap provision.

CHAIR HORSFORD:

What about the issue of taking away the funding for counties and having the discretion to establish a new rate annually? Why not try to find another approach or compromise to that provision?

MR. DUARTE:

We can consider a fixed figure that would be slightly more predictable. We would be happy to consider that at the pleasure of the Committee.

CHAIR HORSFORD:

I would suggest DHHS consider that recommendation, otherwise this legislation may not pass out of Committee.

The argument made by the local governments is valid. Everyone needs a level of predictability. Local governments are no different. Senate Bill 485 shifts a burden and then does not even indicate how the State will help them meet their obligations. That is unfair. Please develop some options and provide those to our Staff. We will then bring the bill back for consideration.

We will close the hearing on S.B. 485 and open the hearing on S.B. 486.

SENATE BILL 486: Makes an appropriation to the Office of the State Treasurer for the Millennium Scholarship Program. (BDR S-1238)

Senate Committee on Finance
May 13, 2011
Page 24

STEPHANIE DAY (Deputy Director, Budget Division, Department of Administration):

Senate Bill 486 requests a \$10 million appropriation for the Millennium Scholarship Program. This is included in the *Executive Budget*. Based on the current projections which include this \$10 million appropriation, the Millennium Scholarship Fund will be solvent through FY 2014-2015.

SENATOR KIECKHEFER:

I thought the Governor predicted the Millennium Scholarship Fund would be solvent until approximately FY 2018-2019 in his State of the State address.

Ms. DAY:

The current projection is included in closing of the Office of the Treasurer's Millennium Scholarship Fund budget. That solvency projection is FY 2014-2015.

CHAIR HORSFORD:

Please provide the revised schedule to our Staff.

Ms. DAY:

I will provide that information.

CHAIR HORSFORD:

We will now close the hearing on S.B. 486 and open the hearing on Assembly Bill (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)

MR. DUARTE:

Assembly Bill 480 seeks to appropriate \$175,710 to assist the Division in the completion of its takeover phase of the Medicaid Management Information System. As a part of that takeover, the Division initiated a competitive request for proposal (RFP) procurement to help the Division to write the takeover RFP and provide project management and quality assurance for a major information technology project. The company, Public Knowledge, was awarded the contract in July 2009. The contract offered a fixed amount for completion of all duties described in the RFP. At the time it was estimated the project would take

one year from completion of the RFP to a contract award. Then it would be another year to complete the takeover.

The schedule was delayed because of lengthy negotiations with our vendor, Hewlett Packard Enterprise Services. As a result, parts of the schedule were pushed back. It did not result in an overpayment of funds because Public Knowledge is paid on a deliverables basis. Only the schedule was affected.

The Department of Information Technology (DoIT) has the General Fund component. This is a 75 percent federally matched request, 25 percent General Fund allocation. We are reverting the General Fund allocation and DoIT is reverting the federal portion. We are requesting an appropriation for the completion of this project.

CHAIR HORSFORD:

Seeing no further testimony, the Chair will entertain a motion for this one-shot appropriation.

SENATOR DENIS MOVED TO DO PASS A.B. 480.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Senate Committee on Finance
May 13, 2011
Page 26

CHAIR HORSFORD:

Seeing no further business before the Committee, this meeting is adjourned at 7:34 p.m.

RESPECTFULLY SUBMITTED:

Cynthia Clampitt,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Phillip Weyrick, Health Division, Department of Health and Human Services	Written Testimony