MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-sixth Session
March 31, 2011

The Senate Committee on Health and Human Services was called to order by Chair Allison Copening at 3:37 p.m. on Thursday, March 31, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 Allison Copening, Chair
Senator Valerie Wiener, Vice Chair
Senator Sheila Leslie
Senator Ruben J. Kihuen
Senator Ben Kieckhefer
Senator Greg Brower

COMMITTEE MEMBERS ABSENT:

Senator Joseph (Joe) P. Hardy (Excused)

GUEST LEGISLATORS PRESENT:

Senator James A. Settelmeyer, Capital Senatorial District

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Risa Lang, Counsel
Stephanie Robbins, Committee Assistant
Annette Ramirez, Committee Secretary

OTHERS PRESENT:

Lynn Hettrick, Executive Director, State Dairy Commission
Anna Vickrey, Environment Health Specialist, State Dairy Commission

Rod Cooper, Branch Manager, Granite Construction Incorporated
Heidi Smith
Ken Richardson, Executive Director, Nevada Donor Network, Incorporated
Dan Musgrove, Valley Health System
Ed Guthrie, Executive Director, Opportunity Village
Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
James L. Wadhams, Attorney, Nevada Hospital Association
Morgan Baumgartner, University Medical Center
Marla McDade Williams, B.A., M.P.A., Deputy Administrator, Health Division, Department of Health and Human Services
George Ross, Sunrise Hospital & Medical Center

CHAIR COPENING:
We will open the hearing on Senate Bill (S.B.) 301.

SENATE BILL 301: Makes various changes to provisions governing dairy products and dairy substitutes. (BDR 51-702)

SENATOR JAMES A. SETTELMEYER, (Capital Senatorial District):
This bill will correct outdated regulations that exist in regard to dairy products and dairy substitutes. Lynn Hettrick will walk you through the changes in S.B. 301.

LYNN HETTRICK (Executive Director, State Dairy Commission):
The changes in this bill address some parts of the law from as far back as 1955. We no longer do a great deal of what is in statute. We provided a section-by-section description of changes (Exhibit C) and an explanation of those changes. I can go through the bill by section, or I can answer questions, whatever you prefer.

CHAIR COPENING:
I would like to have you walk us through the bill so we will have a complete understanding of it.

MR. HETTRICK:
I will start on the first page, Exhibit C, and continue through page 30, section 36. Nevada allows for the sale of raw milk; however, there are regulations in place. We have seen some instances of individuals mislabeling

milk. It is labeled for animal use only, shipped across state lines, and sold for human consumption. This is a violation of federal and State laws. We are looking to address that directly. A person will buy a partial interest in a cow. That person can say they are not buying milk; they own a part of the cow and can ship the milk. Raw milk can be perfectly safe and healthy. It can also be a risk, and people need to know what they are getting. That is what is in section 2, page 1, Exhibit C.

CHAIR COPENING:
We have a couple of questions, so we will ask them as we go along.

SENATOR WIENER:
I am reading section 2, subsection 3, paragraph (c), Exhibit C. Can you give me an example of how you barter?

MR. HETTRICK:
You can trade milk for hay or some other commodity.

SENATOR WIENER:
It is what I thought it was.

MR. HETTRICK:
Section 3 addresses violations previously left out of the dairy regulations in 2002. I would like to point out there was some concern about a $1,000 fine. It says " ... may be recovered by the Commission in a civil action in a court of competent jurisdiction." So it is not a matter of us just levying a fine. We would need to take somebody to court. These are the same fines we have for other provisions within the chapter and are nothing unusual or different. In section 4 and section 5, the definition has been simplified.

Section 6 is important to us. It is required that one member of our commission be an agricultural economist. In Nevada, there are few of those. We also have a provision in statute stating members cannot be directly or indirectly tied to the dairy industry. The few existing agricultural economists may have those ties. We fear we will get to a point when we cannot appoint an agricultural economist to the commission. We have changed this, with the agreement of the current agricultural economist, to say " ... have a background in agriculture." Section 7 clarifies our ability to receive and expend various sources of funding for entering into agreements for the promotion of economic viability of Nevada's

dairy industry. The existing law provides that we ensure there is a stable and affordable supply of milk. We have simply changed some of the wording. We have allowed for gifts, grants, donations or contributions from any source to promote and develop the economic viability of the dairy industry in the State. Section 8 removes the word "nonrancid." Right before that it is says "weight of sound nut meats or candy." The word "nonrancid" was unnecessary, and we simply struck it. The explanation for section 9 is all sanitation practices should be included in the language regardless of where the product is to be consumed. In the existing language you see " ... labeling and sale of all mix and frozen desserts sold ... ." It says "for ultimate consumption within the State of Nevada." We are removing the words "for ultimate consumption." We have products manufactured in Nevada that get sold outside the State, and we are responsible for ensuring they are safe and properly packaged.

The Legislative Counsel Bureau (LCB) is updating the language in section 10. They are re-numbering sections 11, 12, and 13. In existing statute, sections 14 and 15 reference "the American Association of Medical Milk Commissions," and they no longer exist. So we are striking that. Sections 16 and 17 have updated language. Outdated language in section 18 is being removed. The language being entered establishes a limit for issuing and renewing a milk tester's license. Section 19 is LCB updated language. Section 20 changes the definition of fluid cream to coincide with the federal government definitions as does section 21. Section 22 explains that chocolate drinks do not always contain milk. Sour cream is not regulated by the Dairy Commission (DC); however, eggnog, yogurt and butter are regulated dairy products, and we need to add them in specifically.

We are changing the language in section 23 to clarify that all lactating mammals are covered under applicable health regulations. We are seeing more unusual animals being milked for consumption for commercial sale. Section 24 clarifies that all dairy products are included in the statement and we have updated our mission statement. We have a concern. California is huge, and we sell milk produced in Nevada to California to a co-op there. Without a stabilized marketing plan in Nevada, we would be a bug that could be squashed. We do not want our producers or processors squashed, so we are looking to protect them with any economical and viable marketing plan. Section 25 puts in the language " ... promote the economic viability of the dairy industry in this State by developing and maintaining satisfactory marketing conditions ... ." Section 26 clarifies that all dairy products are included in the statement.

Section 27 combines language in *Nevada Revised Statutes* (NRS) 584.555 and 584.560. One place referenced fluid milk and another fluid cream.

In section 28 we removed the wording "substitute dairy products." The DC does not regulate substitute dairy products, so we are removing that wording and the provision that allowed for it which is NRS 584.176.

Section 29 allows retailers to discount dairy products just before their expiration date. It has been in statute since 1955 that dairy products cannot be sold at less than cost. That is an attempt to protect the smaller dairymen. A big processor could come across the State line and decide to sell below cost and so we do not allow below-cost sales. We see products sit on the shelf with an expiration date about to expire and nobody wants to buy them. Everybody looks for the carton with the earliest date. The package with the later date sits on the shelf and on the last day the retailer or processor takes that milk and throws it out. We could have discounted that product to the elderly, a senior center, children or a family. It is still a fine product and we would like to make that a possibility. The rest of this section is being modified to simplify the cost determination process to accurately reflect how we determine cost during an audit. In section 30, we combined butter, fresh dairy products, fluid milk or cream to dairy products. At the end of the section we removed an outdated process. An interesting thing we do in Nevada is to make every processor provide a bond guaranteeing they will pay the producer. The only problem is the dairyman does not sell to the processor. The dairyman sells to a co-op that turns around and sells back to the processor. The bond is useless, and we are charging the cost of the bond to the processor every day. This is added to the cost of milk and makes it more difficult to be profitable in business. We are eliminating that bond in section 31 by changing the wording to " ... directly from a producer ... ." If you purchase directly from a producer, you need a bond to guarantee that you will pay him. When we adopt this language, a lot of processors in Nevada will eliminate the need to have to buy bonds and their costs will be lowered. Section 32 is LCB updated language.

In section 33, we change wording to reflect direct sales. In section 34, we remove the word "fresh." Section 35 claries the assessment requirement and removes the "3 month" clause. If individuals have minimal payments due to the DC, we let them send us one check and we do the bookkeeping for them. We deduct what they owe us every month and then when it is time for them to send us another check, we let them do it. We still need for them to tell us

whether or not they sold product, because it is the only way we know. Otherwise, we do not know if they owe us money or not. Section 36 is a list of all of the sections repealed. On page 30, under "Leadlines of Repealed Sections," is a list and descriptions of why we are doing away with these sections.

SENATOR KIECKHEFER:
The hundredweight price for milk is set in accordance with what is happening in California. Does that impact the total cost of production and the true cost of milk as would be determined under the statute? Or is that not a factor?

MR. HETTRICK:
The price is set monthly by using a formula to determine what they get paid for milk. It takes into account things like the cost of corn, fuel, etc., and this goes into the formula to determine the price for milk. Dairy producers do not get to determine their own sales prices. They must work within those prices. Does it have an impact? Yes. Cost wise it is not huge, because there are approximately 12 gallons in a hundredweight weight of milk. When you divide that cost down to 1/2 gallon of milk, you will not see a huge amount of fluctuation in the price. It is more dependent on the type of milk, like organic milk. When you certify milk as organic, it is very expensive. It is very high quality, and people will pay extra for it.

ANNA VICKREY (Environment Health Specialist, State Dairy Commission):
I want to clarify the issue about the mammals. Water buffalo are being milked for cheese production, and camels are being milked. There are a lot of sheep being milked. We only have cows and goats being milked in the State; however, we had some calls about a possible camel dairy.

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 301.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will open the hearing on Senate Bill (S.B.) 337.

SENATE BILL 337: Revises provisions governing persons who may receive an anatomical gift. (BDR 40-1055)

SENATOR BEN KIECKHEFER (Washoe County Senatorial District No. 4):
I would like to compliment our Chair for working with me as cosponsor on this bill. We came together to do something to help promote organ donation in the State. The result of our discussions is before you as S.B. 337.

This bill outlines the process which people who work in organ procurement will follow when there is an organ available to be transplanted. One major part is at the bottom of page 3, lines 38 through 40. We recognized that the likelihood of this scenario playing out is not all too great. We also recognized that often people are dying because there are not enough organs available for transplant. Our goal is to offer another incentive for people to become donors. That is the heart behind this. It is the purpose for which this bill is being brought forward.

I spoke with Ken Richardson, of the Nevada Donor Network, and there was some initial concern about whether or not this legislation would conflict with federal regulation over direct donation. I have prepared a proposed amendment to show that is not the intent and effect of this legislation. I know Ms. Lang, Counsel, has reviewed the issue and I would like her to speak to whether or not there is a potential conflict between the legislation as drafted and the federal regulation regarding direct donation.

RISA LANG (Counsel):
We did not feel there was a conflict. There was some language put together to ensure that. It is the opinion of the Legislative Counsel Bureau's Legal Division that is what the language already says. It would be a clarification, but I do not know that it is necessary. Where the conflict would be is whether or not there is a need to specify that if a natural person has been designated to receive a gift, that person would take precedence. But, it seems that is already the case in this statute.

SENATOR KIECKHEFER:
I would be happy to submit the amendment if it is needed. But, if everyone is comfortable that this would not trump a directed donation, it may not be necessary, based on our legal counsel's advice.

CHAIR COPENING:
I would go with that advice. I do not think it would be necessary, based on what Ms. Lang has offered us.

SENATOR KIECKHEFER:
We can work that out as we move forward. I would like to invite up a couple of people who would like to speak on this matter.

SENATOR WIENER:
If you are here long enough, you will hear a lot of different references to the degree of relationship connection and consanguinity. I have seen second, third, and fourth degrees of consanguinity and am not sure if I have ever seen fifth. I am curious why you went to the fourth degree.

SENATOR KIECKHEFER:
We decided to reach out to first cousins, and that is in the fourth degree of consanguinity. The fourth degree also includes grandnephews and grandnieces, granduncles and grandaunts and great-great grandparents.

To my right is Rod Cooper, who is a friend of mine. He is the person who originally brought organ donation, as a subject matter, to my attention. He was recently the recipient of a transplant and learned about the need for more donors. To my left is Heidi Smith, who is another friend, and currently in need of a donor. In Las Vegas, Ken Richardson, Executive Director, Nevada Donor Network, would like to speak as well.

ROD COOPER (Branch Manager, Granite Construction Incorporated):
I want to share a condensed version of my personal story. About one and a half years ago, I would get an executive physical at a local hospital in northern Nevada. I had one about one year before I was diagnosed with kidney failure and everything was fine. I was strong and healthy with no issues. Around Thanksgiving of 2009, I started to develop headaches and thought they were coming from the way I sat in front of my computer monitor. On Thanksgiving, I had an extreme headache, and my wife convinced me to go to the local pharmacy to have my blood pressure taken. When I did, I thought the machine was broken. My blood pressure was 200 over 100, and that was not normal. I had not had high blood pressure or any other symptoms such as that. What I am sharing can happen to anyone.

I went to my doctor the following Monday. He drew blood and called me back a few days later. He had set up an appointment with a local nephrologist in Reno. After several visits, I was informed I needed a kidney transplant. It took a while to understand what this meant to my family, my employees and to me. I started sharing my story with other people. A lady I do business with offered to take a donor test. You do not know what that feels like, when someone offers you the gift of life. As time went on, I got onto two donor lists. One was at University of California, Davis and one at California Pacific Medical Center (CPMC), San Francisco.

I learned, when you are on a donor list, the average time is five to seven years before you receive a kidney. During that five to seven years, you will be on dialysis, and you could possibly die. I went to my first visit at CPMC, and my wife joined me. The nurse asked my wife if she had ever thought to test as a possible donor. My wife tested, and she proved to be a match. My wife is my hero and provided me the gift of life. My kidney transplant was five months ago, in October 2010. I am very healthy and I feel good. I was away from work for about one month. I feel wonderful. What I learned along the way was disturbing. I met a lot of people in need. I felt it was my responsibility to pay back to somebody, whoever that might be, to help push forward a way to get more organs. That is when I started talking to Senator Kieckhefer about the need to do something. I appreciate his support and help. I am very grateful that I have been given the gift of life. Thank you for considering this bill. It is the beginning of different ways to provide more organs to those in need. My diagnosis of kidney failure was related to hypertension. Hypertension is the number two leading cause of kidney failure, right behind diabetes.

HEIDI SMITH:
I am the person who is waiting for a kidney transplant. Years ago, I had a late-term miscarriage. I went to the hospital, and it was my luck to receive a transfusion of bad blood. It started destroying my body. It attacked my liver and kidneys. In 2005, I received a liver transplant. I had to wait ten years before I received the liver transplant. At that time, they had considered doing a kidney-liver transplant together; however, they did not do that. Now my kidneys have gone bad. I am on a waiting list for a kidney transplant, along with 78,000 other people. It was no fault of mine that this happened. It was a mistake at the hospital and they did not know at the time. It is very important you pass this bill because there are so many of us in need.

SENATOR KIHUEN:
How long have you been waiting for a kidney transplant?

MS. SMITH:
Three years ago they determined the kidneys could not sustain function. They have given me about one year. That was six months ago. I feel pretty good, so I think I can do the full year. I have a woman who says she would like to donate; however, under "Obamacare" I am considered too old.

KEN RICHARDSON (Executive Director, Nevada Donor Network, Incorporated):
We are the federally designated organ bank serving southern Nevada. We are responsible for coordinating organ donation throughout the south. We support S.B. 337 and very much appreciate the efforts to promote organ donation in our community and throughout the State. Our biggest concern has been addressed. We were worried this bill might be in conflict with existing federal regulations which we, as a Medicare provider, are required to follow. It sounds like Senator Kieckhefer has graciously and thoroughly examined the situation and the conflict does not exist. We appreciate your efforts and hope this bill will help improve donation.

DAN MUSGROVE:
It is very rare I get to speak on my own behalf. I have a personal story to share with you about how important organ donation is. We had a family member, in the last year, who had a traumatic brain-stem injury. She was very young and in incredible shape; therefore, we turned her body over for organ donation. She requested that we do that. There were 55 people who received something from her. I never realized there could be that many people impacted. In a very tragic situation, we felt really good that 55 people benefited from the loss of our family member. It is an amazing gift that you can give to someone.

SENATOR WIENER MOVED TO DO PASS S.B. 337.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will open the hearing on S.B. 415.

SENATE BILL 415: Revises provisions governing the recovery of certain benefits paid under the State Plan for Medicaid. (BDR 38-1133)

ED GUTHRIE (Executive Director, Opportunity Village):
As a preface, I have provided an executive summary of a "Community Impact Assessment" (Exhibit D) done by Applied Analysis for Opportunity Village (OV). We also submitted a handout "Special Needs and Pooled Trusts" (Exhibit E).

Opportunity Village serves about 1,500 people every year. We provide vocational training, employment and other services for individuals and support for their families. It is our passion to do this. When you come to tour OV, you will see a lot of high-energy people. You also see a lot of people who have certain disabilities that could be preventable if we had some funding for this. You will see people without teeth. With Medicaid, after you turn 21 years old, we no longer provide preventative dentistry; however, we can pull teeth when they are rotten. You will see people who have outlived their families, who are living in group homes and who wear tattered clothes. The clothing allowance for people in group homes is relatively low in Nevada and in most states. There are people limping because they have foot problems and podiatry is not a covered service for Medicaid in Nevada. The State will not have money to take care of these issues any time soon.

We have tried to come up with a solution allowing us to look for money to be able to do these things for the individuals. We checked on some of the other states to see what they are doing. Indiana and New Mexico have developed a special-needs, pooled-income trust so families of modest means are able to designate certain monies be placed in a trust. This money is placed in the trust for the benefit of the individual, to provide services that Medicaid would not provide to that individual. We could pay for the preventative dentistry, podiatry services, buy clothes and those types of things. Federal law allows two possibilities for the balance of that trust when the individual dies. You can either liquidate the trust and pay back Medicaid for all of the services Medicaid has provided the individual, or you can leave the money in the trust and it can be used to provide those same types of services for other individuals in need of them. Individuals whose families do not have the means to be able to put money into a trust would have the ability to get podiatry services, dental

services and other services like that. Nevada law does not allow that. Nevada law provides that, "thou shalt liquidate the trust," and you will pay back Medicaid for all of the services provided to the individual while the trust was in force. We think we should change our law to reflect a law similar to those in New Mexico and Indiana. There are no pooled trusts of this nature I am aware of in Nevada. I understand from talking with Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services, that Medicaid will put a fiscal note on this. I think it will be a hypothetical fiscal note rather than a fiscal note of revenue that is in actuality lost by changing the law and pool trusts. I would suggest if we want an actual idea of what the lost revenue would be for the fiscal note, we contact the state of New Mexico. They have been operating this way for at least ten years now. Our goal with S.B. 415 is to allow organizations like OV to put together a pooled special-needs trust for individuals with disabilities. This will allow us to purchase goods or services for those individuals who would not be covered by Medicaid or other sources of revenue.

CHAIR COPENING:
I want to put on the record, and Senator Schneider shared this in the Senate Committee on Commerce, Labor and Energy, that he is a board member of Opportunity Village. I know he would want to have that disclosed here as well.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):
I am here to express concerns related to S.B. 415. Nevada Medicaid established its eligibility for its programs and continued to allow individuals to retain certain assets: a home, a car for their own use, $2,000 in the bank, etc. These individuals could still be Medicaid-eligible and have their medical services paid for by the taxpayer. The caveat is the Division of Health Care Financing and Policy has a Medicaid Estate Recovery program, mandated by federal law, to pursue the recovery of costs paid for medical services for recipients during their time on Medicaid. Upon death of the recipient, if there is no community spouse or children using the assets, then those assets become available to repay the taxpayers for medical expenses incurred on their behalf. Every year, we pull in about $2 million. We do have one or two pooled special-needs trusts in Nevada. They are not very popular right now. We also have numerous qualified investment trusts where individuals place their assets.

Medicaid operates in Nevada that you can retain those trust assets until the death of the recipient. The trustee can continue to receive administrative costs. If there are no beneficiaries, Medicaid needs to be repaid upon the death of the recipient. Any remainder, after Medicaid has been repaid, can be used by the trust. The concern we have is that it will reduce our ability to maintain a Medicaid State Recovery program and will provide additional venues for people to shelter assets and continue to become eligible for Medicaid. I had a telephone conversation last week with the National Governors Association and Medicaid directors. They expressed concerns about the growth and use of these types of trusts for sheltering assets. These schemes are being used more often to shelter these assets from recovery. Even if you have a trust, we can still get repaid. On average, we recover $4,300 from each recipient who has a trust. A full fiscal impact analysis has not been completed, but we do intend to submit a fiscal note. If we allow these trusts to be expanded, our ability to recover monies that are a direct offset to the General Fund will continue to be limited. We would have to fill the hole otherwise with General Fund monies. We appreciate the bill and know the intentions. We understand the concerns that Medicaid does not pay for everything. In the case of recipients who have assets, we ask for those assets to be made available to repay the taxpayer because we have allowed them to be on the program.

There may have been a handout, Exhibit E, to suggest that the Medicaid Assistance for the Aged, Blind and Disabled Program Manual is incorrect. That is not correct. I want to put on the record that we had the Office of Attorney General review this and our manuals are correct. If this bill were to pass, we would revise the manuals.

SENATOR WIENER:
In regard to becoming Medicaid-eligible and the assets you are allowed to have, is there an asset ceiling?

MR. DUARTE:
There are caps on different types of assets. There are also limits on what you can have available through insurance policies, death policies, etc. I am not familiar with those caps; however, I can get that information for you.

SENATOR KIECKHEFER:
What is currently available for sheltering assets? What type of process does that entail? Is that a problem we are seeing in Nevada or is it an emerging problem nationwide?

MR. DUARTE:
There are a number of different vehicles. Essentially, qualified investment trusts are one vehicle for sheltering money. Pooled special-needs trusts are another. There are varieties of other schemes in place and used by estate planners to get people on Medicaid. They are a growing concern across the nation. In 2005, Congress enacted the Deficit Reduction Act which gave the State the ability to do a five-year, instead of a three-year, look back for assets. This was to make sure people were not inappropriately sheltering assets.

SENATOR WIENER:
In the 2009-2010 interim, we were hoping to get more information about Medicaid through studying the base budgets. Of the five areas we wanted to look at, one was Medicaid, and one was Medicaid fraud. How substantial is Medicaid fraud in Nevada?

MR. DUARTE:
This is a very difficult question to answer. We know that it is there, and we identify problems. It is mainly provider fraud. We have situations of recipient fraud where there is inappropriate sheltering of assets. But, provider fraud is something that is present and we do our best to identify it and prevent it on a go forward basis. We have some front-loading we are doing on services to make sure we are not reenrolling providers who have a history of defrauding the State, federal government or other federal programs. We have been able to increase the number of cases we investigate from about 60 to over 680 per year.

SENATOR KIECKHEFER:
With the trusts we are talking about, are these disabled persons whose relatives have assets they choose to put into a trust for this individual? I am not sure what the legal process is on something like this. If a person has legal guardianship, does that relative's assets get reviewed as a component of Medicaid eligibility?

MR. DUARTE:
I am not sure I am qualified to answer the legal question specifically. Those assets do get reviewed, if they are available to the beneficiary. I cannot speak to the specific process they go through or the legal issues.

CHAIR COPENING:
We will close the hearing on S.B. 415 and open our work session. Consulting the work session documents, we will begin with S.B. 10.

SENATE BILL 10: Requires approval for the establishment of certain services by a health facility in larger counties. (BDR 40-344)

MARSHEILAH LYONS (Policy Analyst):
The Committee should have the work session document (Exhibit F) for S.B. 10. This bill was heard on February 10, 2011, and the bill as written is listed in the work session document. There is a proposed amendment that would replace the bill being presented.

CHAIR COPENING:
Mr. Wadhams and Ms. Baumgartner, would you like to walk us through the proposed amendment?

MS. LYONS:
Just so the Committee understands, there is a proposed amendment in the work session document, Exhibit F, page 2; however, a subsequent proposed amendment was received today and you should have it (Exhibit G).

JAMES L. WADHAMS (Attorney, Nevada Hospital Association):
We have brought this proposed amendment, Exhibit G, as a joint effort as a solution to the problem identified before this Committee at the original hearing. The issue was making sure the State agency responsible for granting these specific kinds of certifications and the amendment of license is doing so in the awareness of statistically available procedures. We believe the language we have arrived at avoids the problem of creating a fiscal impact and an additional system for the agency to go through. The agencies currently have the data sets necessary to determine the number of procedures performed. When an application is presented to the agency, it should be reviewed in the broader context of the population and the statistics that are currently being reported for other facilities performing these services. The purpose is to have a legislative

direction for the Executive Branch to take notice of the broader community. The bill was brought on behalf of University Medical Center (UMC) and I will defer to my colleague.

MORGAN BAUMGARTNER (University Medical Center):
I would like to add that a lot of these standards are already in place and referenced in current regulations, including some patient volume numbers. There are additional national objective standards, and if these need to be referenced, they are readily available. The idea was to give some objective standards to look at so it does not cause a lot of complicated analysis. University Medical Center feels this is a nice tightening of the statute already in place and will relieve some of the problems UMC and other hospitals are facing as Las Vegas Valley population continues to grow.

MR. WADHAMS:
We are available to work with your staff on this.

SENATOR KIECKHEFER:
In Exhibit G, paragraph 4, is that the State Board of Health? It says " ... shall adopt by reference standards adopted by appropriate national organizations for the approval of the provisions of services pursuant to this section, which shall include, where applicable, standards related to patient or case volume." Would the standards be numerically the same as what the requirements would be for a certificate of need? Will there be any difference?

MR. WADHAMS:
The intent was not to create any new standards that would not come out of a certificate-of-need process. It is simply to substitute that kind of a system by allowing the State Board of Health to have the criteria in front of them. As the physicians from UMC brought forward on the day this bill was heard, there are certain case numbers necessary for properly supporting residencies housed in the hospitals. It is a standardization of those numbers as a percentage of population to population statistically. That kind of data is available, and we are suggesting that criteria be considered. It is really a reverse of a certificate of need.

MARLA MCDADE WILLIAMS, B.A., M.P.A. (Deputy Administrator, Health Division, Department of Health and Human Services):
The proposed amendment will amend an existing statute. Under existing statute we already have the authority to prove the services outlined in the original bill. We have a set of regulations that go forward to guide us on how to do that process. Those regulations lead us down a path to make a decision based on criteria that do not allow us to make an independent decision of whether or not someone should or should not come into the system. For example, under neonatal we rely on the guidelines for perinatal care. For cardiac, we rely on standards set forth by the American Medical Foundation. So for different services, there are outside entities that set the standards, and our review is really dependent on those agencies coming in to do the review. We do not have a high level of independence in independent decision making in that process.

SENATOR WIENER:
We have these bodies who are recognized for their expertise. They tell you what you need to have a success with those services. There is a reason you reference them, because they have the credibility and the history of knowing these things. Can you explain what the changes would be with the proposed amendment?

MS. WILLIAMS:
As indicated, the proposed amendment completely replaces the bill that the Committee heard before. It does not get codified into the certificate-of-need process. Under our current regulatory and licensing authority, we have the responsibility to license services such as the intensive care of newborn babies, treatment of burns, transplant of organs, performance of open-heart surgery and centers for the treatment of trauma. We currently have that responsibility under chapter 449 of the NRS, and it is a licensing responsibility. Part of the criteria for the licensing assessment includes these other organizations and what standards they set for their applicants. Those entities come to visit the applicant onsite. They do their own assessment of that system and whether or not they believe that applicant can be successful with what they are asking. Those organizations give a recommendation back to us as to whether or not they believe the application should be approved.

CHAIR COPENING:
What would this amendment do to change your current process?

MS. WILLIAMS:
I think substantively, it does not change a lot. It reinforces that the organizations' criteria meet the communities' needs. Ultimately, the Health Division (HD), Department of Health and Human Services, does not independently determine whether or not the communities' needs are met.

CHAIR COPENING:
Is this amendment necessary in order for you to do the job you have been given?

MS. WILLIAMS:
I think there is value in specifying that the HD is looking at somebody else's standards in making the decisions they are making. This way, we are not putting ourselves in a position of making a decision and then having somebody say we had no authority to make that decision. Clarifying the standards that are driving the process does help clarify the responsibility.

SENATOR WIENER:
In your earlier explanation, I heard you say the HD would be not as great of a participant in the process. If this proposed amendment is passed, what would be the role of the HD in regard to the process being sought to ensure certain programs can shore up?

MS. WILLIAMS:
Our role will not change because, based on this statute, we already engage these other entities. When a hospital makes application to us, and that is what the law requires, we engage one of these other entities to come in and make an assessment to decide if they can meet the criteria. Once that assessment has been completed, they let us know of their decision. We then amend the license to allow for the service.

SENATOR KIECKHEFER:
Does this cure your fiscal note?

MS. WILLIAMS:
The proposed amendment itself does not carry a fiscal note.

SENATOR KIECKHEFER:
Does it cure your fiscal note?

MS. WILLIAMS:
Yes, it cures the fiscal note.

SENATOR LESLIE:
I am persuaded that it does help for some of the reasons you have laid out. From my knowledge of the certificate of need and from the hearing, I think this does help. I think you did a good job.

CHAIR COPENING:
I have one last question. Why did we have concerns about an oversaturation of the market from UMC?

MS. BAUMGARTNER:
Part of this is a recognition that we need to look outside the application a bit to see what is going on in the health community as a whole. An applicant can meet the licensure standards and the national standards. But, what is the impact on other hospitals? It is not just UMC, it is the other hospitals as these other programs come online. And how does it affect the delivery of health care as a whole, in the Valley, for those particular services? You heard all of the arguments the physicians made on behalf of UMC about residents' training and how a lot of these services need numbers to be successful and to have positive outcomes. I think this looks at it more holistically.

MR. WADHAMS:
This really complements what the State does. Obviously, the national standards have to be met. That is a quality of facility, staffing, equipment, etc. That is not the issue. We want to make sure as the HD has the organization perform their review, it is also cognizant of our population and the number of incidents.

GEORGE ROSS (Sunrise Hospital & Medical Center):
We find this new version of the bill to be entirely acceptable.

DAN MUSGROVE (Valley Health System):
We are supportive of the proposed amendment. We appreciate all of the parties working together.

> SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 10.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will move on to S.B. 113. Ms. Lyons will walk us through the bill.

SENATE BILL 113: Revises provisions relating to the care of certain children during disasters. (BDR 38-198)

MS. LYONS:
Senate Bill 113 is in the work session document (Exhibit H). It was heard in Committee on February 21, 2011. Senator Leslie has a proposed amendment (Exhibit I). Several different parties submitted amendments, and Senator Leslie worked with them to incorporate as many changes as possible.

SENATOR LESLIE:
These were developed with the interested parties. I had a telephone conference with the National Commission on Children and Disasters, and several of these suggestions came from them and are intended to strengthen the bill.

The new section really is not new. Our Division of Child and Family Services, Department of Health and Human Services, which includes child welfare and juvenile justice, felt we should specifically mention juvenile justice in the bill. After talking this over with legal counsel, we came up with this language. Looking to the future, we think it is important to specifically name "juvenile correctional and detention facilities."

CHAIR COPENING:
We will get the amendment drafted, and you will be working with legal counsel to ensure the intent is there.

SENATOR LESLIE:
I would be delighted to do that.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 113.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We have some bills we want to rerefer to the Senate Committee on Finance. The following seven measures directly relate to budget considerations. As such, I believe it would be best to rerefer these measures to the Senate Committee on Finance so they may be deliberated together with the budgets the measures address. We have S.B. 423, S.B. 429, S.B. 437, S.B. 447, S.B. 452, S.B. 471 and S.B. 480.

SENATE BILL 423: Revises provisions concerning assistance to certain older persons and persons with physical disabilities. (BDR 38-1167)

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)

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

SENATE BILL 447: Makes various changes concerning the administration of child welfare services. (BDR 38-1218)

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

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

SENATE BILL 480: Provides for the collection of costs for providing child protective services in certain less populated counties. (BDR 38-1219)

CHAIR COPENING:
If the Committee is in agreement, I would accept a motion to rerefer all seven of the previously mentioned measures to the Senate Committee on Finance.

SENATOR BROWER MOVED TO REREFER S.B. 423, S.B. 429, S.B. 437, S.B. 447, S.B. 452, S.B. 471 AND S.B. 480 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
There being no further business to come before the Senate Committee on Health and Human Services, the meeting is adjourned at 5:15 p.m.

RESPECTFULLY SUBMITTED:

Annette Ramirez,
Committee Secretary

APPROVED BY:

Senator Allison Copening, Chair

DATE:

EXHIBITS			
Bill	**Exhibit**	**Witness / Agency**	**Description**
	A		Agenda
	B		Attendance Roster
S.B. 301	C	Lynn Hettrick	Nevada State Dairy Commission Proposed Amendment
S.B. 415	D	Ed Guthrie	Community Impact Assessment
S.B. 415	E	Ed Guthrie	Special Needs and Pooled Trusts
S.B. 10	F	Senate Committee on Health and Human Services	Work Session Document
S.B. 10	G	Marsheilah Lyons	Proposed Amendment
S.B. 113	H	Senate Committee on Health and Human Services	Work Session Document
S.B. 113	I	Marsheilah Lyons	Proposed Amendment