

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

**Seventy-Seventh Session
June 1, 2013**

The Committee on Health and Human Services was called to order by Chair Marilyn Dondero Loop at 3:51 p.m. on Saturday, June 1, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Dondero Loop, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Andrew Martin
Assemblyman James Oscarson
Assemblywoman Peggy Pierce
Assemblyman Michael Sprinkle
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

Assemblywoman Teresa Benitez-Thompson (excused)

GUEST LEGISLATORS PRESENT:

None

Minutes ID: 1339



STAFF MEMBERS PRESENT:

Kirsten Bugenig, Committee Policy Analyst
Risa Lang, Committee Counsel
Janel Davis, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Jeffrey Fontaine, representing Nevada Association of Counties
Mary Walker, representing Carson City, Douglas County, Lyon County,
Storey County, and Eureka County
Ken Retterath, Division Director, Adult Services, Department of Social
Services, Washoe County
Alex Ortiz, representing Clark County
Michael J. Willden, Director, Department of Health and Human Services
Bill Welch, representing the Nevada Hospital Association
Joan Hall, representing Nevada Rural Hospital Partners Foundation
Marla McDade Williams, Deputy Administrator, Health Division,
Department of Health and Human Services
Nicole Willis Grimes, representing Nathan Adelson Hospice

Chair Dondero Loop:

[Roll was called. Rules and protocol were explained.] I would like to welcome back Ms. Pierce. We are happy to have you here today. I will open the hearing on Senate Bill 3 (1st Reprint).

Senate Bill 3 (1st Reprint): Provides the maximum amount of money that a county may be required to pay for certain medical assistance to indigent persons. (BDR 38-263)

Jeffrey Fontaine, representing Nevada Association of Counties:

I am the executive director of the Nevada Association of Counties (NACO). I am here to present Senate Bill 3 (1st Reprint) which is a Mineral County bill. Jerrie Tipton, Chair, Mineral County Board of County Commissioners, is unable to be here today. She asked me to thank the Committee for hearing this bill and to present the bill on behalf of Mineral County.

For many years, Nevada's counties have participated in the state Medicaid program by providing the nonfederal match for long-term care or nursing homes for individuals who have an income level between 156 percent and 300 percent of the federal supplemental security income benefit rate. That equates to approximately \$1,100 per month to \$2,100 per month for an eligible individual.

For many counties, especially the rural counties that have a small property tax base and a large senior population who fall within this income guideline, this cost has really had a disproportionate impact on their budget. It has also had a significant impact on those counties that have a large number of nursing homes that care for these individuals.

In Mineral County, the percentage of people over the age of 65 is almost 23 percent, compared to a statewide average of 12.5 percent. The percentage of people in Mineral County living in poverty is almost 22 percent, compared to a statewide percentage of about 13 percent. The percentage of people in Mineral County who may ultimately need assistance with long-term care is very high. Unfortunately, Mineral County does not have a large tax base. In fact, one cent of property tax generates less than \$10,000. In 2002, a task force was convened to address the issue of long-term care in the rural counties. They were concerned that the state could lose millions of dollars in Medicaid funding because the counties could not pay the match. That is because the Medicaid match program is a statewide program and it requires all counties to participate.

The task force recommended that counties be held harmless for Medicaid match costs that exceeded an amount greater than what a county generates in 8 cents in property tax. Eight cents was recommended because counties are authorized by *Nevada Revised Statutes* (NRS) to levy a maximum of 11.5 cents in property tax for indigent services. Of that 11.5 cents, 2.5 cents goes to the Fund for Hospital Care to Indigent Persons, also known as the Indigent Accident Fund. That leave counties with 9 cents. An 8-cent cap allows counties that are affected to utilize the remainder of their property tax authorized for these indigent medical services that they are mandated to provide. That is why the 8-cent cap was put into place. It has been in place in the budget ever since. In 2011, when the Legislature enacted a number of cost assessments, that changed and was embodied in Senate Bill 485 of the 76th Session which assesses counties additional costs for long-term care.

For the first time, counties are now responsible for paying the nonfederal match for community- and home-based waivers. The cap is now gone. There is no limit to the amount that the counties have to pay to the state, so they are having difficulties, and it does not consider the ability of the counties to pay for this assessment. Mineral County cannot increase their property tax rate; they are already at the \$3.64 cap. I know in the Senate Committee on Health and Human Services, Commissioner Tipton testified that they had to shift 2 cents of their property tax rate from the school district to help pay for this assessment. This will increase the share of the cost for the Medicaid match program, and really, the unlimited liability is threatening the fiscal stability of some of our rural counties.

The intent of S.B. 3 (R1) is to give rural counties some assurances that their assessment will not exceed 8 cents and bring some stability to the overall Medicaid match program, because it is a program that requires participation by all counties. Based on projections prepared by the Department of Taxation, there are three counties that would benefit by an 8-cent cap and they are: Mineral County, White Pine County, and Carson City. There was a budget amendment to the state's Medicaid budget and it contains the funding to cover the 8-cent cap for the biennium.

Today we offer a friendly amendment ([Exhibit C](#)) to clarify that the cap only applies to counties with a population of less than 100,000. It also clarifies that it is all for funds paid for the program and that these are the funds that are paid pursuant to an interlocal agreement between the county and the state for the Medicaid match program.

Chair Dondero Loop:

Thank you. I discussed this bill a couple of times with you. The amendment clarifies some of the things that people were concerned with in my district. I know Hawthorne well. I spent a lot of summers there as a kid because that is where my dad was born and raised. You are right, those counties are very rural, far away from anything, and home to a lot of seniors. I understand that.

Is there anyone in support of S.B. 3 (R1)?

Mary Walker, representing Carson City, Douglas County, Lyon County, Storey County, and Eureka County:

We rise in support of S.B. 3 (R1) with the amendment that has been presented by NACO. This bill was approved in the Senate by a 21-to-0 vote. The money committees have appropriated the funds for this program. Basically, we are here today to codify a budget policy that the Legislature and the Governor have already approved. In the 25 years that I have worked for local government finance, these rural counties have always had difficulty in making the Medicaid match program. As Mr. Fontaine stated, the problem is, by federal law, it has to be a statewide program. If there is one county that is unable to make the match or does not sign the interlocal agreement, it is no longer a statewide program and we put \$50 million of federal funding at risk for long-term care patients. This bill is important; it eliminates that risk, and we would sincerely appreciate your favorable support of this bill and the amendment.

Ken Retterath, Division Director, Adult Services, Department of Social Services, Washoe County:

We also support S.B. 3 (R1) with the amendment.

Alex Ortiz, representing Clark County:

We also support S.B. 3 (R1) with the proposed amendment.

Chair Dondero Loop:

Is there anyone in opposition? [There was no one.] Is there anyone in the neutral position? [There was no one.] I will accept a motion to amend and do pass S.B. 3 (R1).

ASSEMBLYMAN EISEN MOVED TO AMEND AND DO PASS
SENATE BILL 3 (1ST REPRINT).

ASSEMBLYMAN THOMPSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BENITEZ-THOMPSON
AND HOGAN WERE ABSENT FOR THE VOTE.)

Mr. Thompson will do the floor statement.

We will move to Senate Bill 452 (1st Reprint).

Senate Bill 452 (1st Reprint): Revises provisions governing assistance provided to indigent persons. (BDR 38-1085)

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

[Mr. Willden submitted a flow chart ([Exhibit D](#)) of the Indigent Accident Fund.] Many of you have heard presentations throughout the session about the Indigent Accident Fund (IAF), the supplemental account, and about our collective desire to be able to bring in federal match. This bill is trying to accomplish that goal. I will not go into detail unless you feel the need to hear how the process works. I will simply run through the bill and let you know what we are trying to accomplish. The IAF now has two revenue sources that bring funds into that account. The 1.5 cents that you heard from Mr. Fontaine is what we call the IAF 1.5 cent which creates about \$12 million in revenue a year. There is the 1-cent supplement that creates roughly \$8 million in revenue per year. Over the last five years, that account has been swept to the General Fund and, in the Executive Budget as approved, the IAF supplemental account would no longer be swept to the fund and would be reactivated.

This bill retools the use of those funds to be able to get federal match. It also brings in a third revenue stream to the IAF process. That third revenue stream is what we call the current free-care obligation.

Section 2 of the bill changes the use of the funds in the IAF supplemental account. If you look at the top of page 3, lines 5 through 12, it indicates the Board of Trustees of the Fund can enter into an agreement with the Medicaid program to use funds in the account to do three things. We can use the funds to enhance the Medicaid rate of reimbursement for hospital care, to make supplemental payments to hospitals for such care, and we can use the funds, at the Board's direction, to offset county obligation in the county match program that Mr. Fontaine just talked about. It allows three uses of the funds in addition to the traditional uses of the funds. The rest of section 2 talks about the agreement and that it include—once we start funding a new program—enhanced rates, supplemental payments, or county match. We have to continue to do that unless we get approval from the federal government to stop. Whenever you deal with supplemental payments and rates, there are state plan amendments that we have to make in the Medicaid state plan, so there is language in the bill that basically says, once we start, we cannot stop the process, unless we all agree to stop the process.

Section 3 of the bill adds a new account into the IAF supplemental account called the Hospital Assessment Account. This needs to be created because if we make supplemental payments or enhance Medicaid rate payments to hospitals, there may be a need going forward to get some additional money back into the account to make the traditional IAF or supplemental catastrophic payments. This allows the board to assess all the hospitals that benefit from the enhanced rates or supplemental payments. They can put an assessment on those hospitals and bring money back into the account to pay the traditional IAF supplemental claims. Again, that is permissive language: "may be required by the Board." All hospitals could be assessed with the exception of critical access hospitals.

I would indicate that there are two important things in section 7 on page 5 of the bill. Section 7, subsection 3, changes the use of the 1-cent supplemental. The 1-cent supplemental has historically gone into the IAF supplemental account and was used to pay traditional types of claims. In working with the counties and the hospitals over the last several months, we are asking to hardwire the 1-cent supplemental revenue into Medicaid's intergovernmental transfer account. That hardwired \$8 million will offset Clark and Washoe Counties' current intergovernmental transfers to support the disproportionate share hospital (DSH) program. This gives relief to Clark and Washoe Counties in their traditional payments to support DSH.

Section 7, subsection 4, creates the new revenue stream that I talked about: the free-care revenue stream. Under NRS Chapter 439B, hospitals are assessed by the Department of Health and Human Services' Medicaid so that they have a

certain amount of a free-care obligation. Those who do not meet their free-care obligation write checks to the state which turns those funds over to counties. The counties use those funds to fund hospitals and indigent care to the hospitals that essentially over-provide care. That process will stay the same, but under this section, what the counties would agree to is, for however much money in free-care obligation, the hospitals write checks to the counties, the counties will, in turn, write a similar amount of money for the supplemental account. We will use that money in addition to the 1.5 cent money that is in the account to use as leverage to get federal funds to make the increased payments to hospitals. It is another revenue stream that we are federalizing—or getting the enhanced match for.

Section 8 does two things. On line 38, page 5, we eliminate the word "medical." There is already a broader provisional use of the term "medical" in the process that we use now. Washoe County has testified before that they use the 6- and 10-cent funds for group home-type stuff. We have to stay out of long-term care or medical placement, so it is more of a technical change. Section 8, subsection 3, is an amendment requested by Clark County that allows counties with populations over 100,000 to use the 6- to-10 cent funds to make their intergovernmental payments for the DSH program.

The last change is in section 9, subsection 5. It relates to the free-care obligation dollars. Historically, the money that is collected in free care—if it is collected in Clark County—has to be spent in Clark County, and the same for Washoe County. This language would amend the statute to say that it could be used for statewide purposes. It can be collected in Clark County, paid into the supplemental account, and be used to make statewide hospital rate increases or supplemental payments. It does not have to remain in the county that it is collected in.

Chair Dondero Loop:

Are there any questions from the Committee?

Assemblywoman Spiegel:

Is section 3 saying that the state will no longer have the ability to sweep the funds if we are aware that there are extra funds? Will the funds need to be returned to the hospitals? Am I reading that correctly?

Michael Willden:

Are you talking about section 3, subsection 3, paragraph (b)?

Assemblywoman Spiegel:

Yes. I am looking at that section, which is on page 4, beginning at line 1.

Michael Willden:

Are you referring to where it reads: "Any money remaining in the Account at the end of a fiscal year that has not been committed for expenditure must be reimbursed to each hospital . . . ?"

Assemblywoman Spiegel:

Right. Will that mean that the state will not be able to sweep the funds anymore?

Michael Willden:

You have to remember where you are. You are in the hospital assessment account. So if we brought money in, we paid supplemental payments to the hospital, and if the board decides to further assess the hospital to create the traditional funding payments and we do not use those, then we need to return them back to the hospitals. Once a hospital is assessed, if we do not use them, we return the funds.

Assemblyman Oscarson:

You made some references to DSH payments. With some of these additional things in S.B. 452 (R1), do you anticipate the DSH payments will be increased to any facilities? I know they have been significantly decreased in the last couple of years. Would that impact those at all?

Michael Willden:

Disproportionate share hospitals (DSH) has a lot of moving parts right now. The Affordable Care Act changes the way the national DSH pool monies are available over the next five or six years. The pot is declining between now and 2019. Secretary Sebelius issued new regulations on the use of the national DSH dollars. We originally believed that we would have a DSH pool for fiscal year (FY) 2014 of around \$74 million and a DSH pool for FY 2015 of around \$71 million. The most recent estimates I have seen from staff—and these are brand new regulations—are that the DSH pool would be around \$77.7 million, so it will be slightly larger in the first year. Clark and Washoe Counties are the two counties which do the traditional funding of the nonfederal share of DSH payments. Their obligation will decrease because we are going to use the 1-cent supplemental. So, the 1-cent supplement does not increase the pool; it is the federal law increasing the pool, not the new 1-cent revenue. The new 1-cent revenue offsets Clark and Washoe Counties' need to put in more money.

Chair Dondero Loop:

Are there any additional questions? [There were none.]

Jeffery Fontaine, representing Nevada Association of Counties:

I want to say that we are very pleased, especially after five years, to have the fund available for these types of purposes. I would like to express our appreciation to Director Willden and his staff and to the folks at the Nevada Hospital Association. This has been a work in progress for many months. It is very complicated, as you can see, but it authorizes the use of a fund that we think will be able to leverage significant Medicaid dollars. It will be a benefit to every county. I am sure that you will hear from the Hospital Association, and other members as well, agreeing.

Bill Welch, representing the Nevada Hospital Association:

I cannot add anything else to what Mr. Willden has said. He has gone through the bill quite extensively. I want to say that we appreciate all of the parties coming to the table and working collaboratively on this bill. We support this legislation.

Chair Dondero Loop:

Are there any questions from the Committee? [There were none.] Is there anyone else in support?

Ken Retterath, Division Director, Adult Services, Department of Social Services, Washoe County:

We also support S.B. 452 (R1) and would like to thank everyone for their work on this bill.

Alex Ortiz, representing Clark County:

We are also in support of this bill and appreciate the hard work that was put in by all the members of our subgroup who have been working on this over the last few months.

Mary Walker, representing Carson City, Douglas County, Lyon County, Storey County, and Eureka County:

Ditto.

Joan Hall, representing Nevada Rural Hospital Partners Foundation:

We are also in support of this bill.

Chair Dondero Loop:

Is there anyone in opposition? [There was no one.] Is there anyone in the neutral position? [There was no one.] I will entertain a motion.

ASSEMBLYMAN OSCARSON MOVED TO DO PASS
SENATE BILL 452 (1ST REPRINT).

ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BENITEZ-THOMPSON
AND EISEN WERE ABSENT FOR THE VOTE.)

I will ask that Mr. Oscarson take the floor statement.

Senate Bill 502 (2nd Reprint): Makes various changes relating to certain required investigations of the background and personal history of certain persons as a condition of employment, licensure, certification and other privileges. (BDR 40-1137)

Marla McDade Williams, Deputy Administrator, Health Division, Department of Health and Human Services:

Senate Bill 502 (2nd Reprint) implements a criminal background check website in the Health Division that would allow health facilities that we license to verify criminal background checks of employees on the website. It also adds new facility types to the criminal background check requirements. The background checks have been in effect since 1997.

The bill adds long-term nursing home beds, long-term care hospitals, hospice facilities, programs of hospice care, nursing homes, and adult daycare facilities to the new facility types that would be required to do background checks. We have spent extensive time working with the Criminal History Repository, as well as with various industries, to get their support for the provisions in the bill. Leticia Metherell was the staff person extensively involved in working through all of the items, and she invested a lot of time in the effort. Our funding comes from the Centers for Medicare and Medicaid Services to implement these provisions. It has already gone out of the money committees. The intent of the website is efficiency.

Sections 1 through 7 establish the website. Sections 8 through 17 revise the background check statute as it relates to requirements for the facilities license pursuant to NRS Chapter 449. Section 18 specifies the effective date of the bill, which is July 1. I can go through more detailed provisions or take questions.

Chair Dondero Loop:

Let us see what our questions are. Mr. Thompson?

Assemblyman Thompson:

I know you are going to have a user agreement, but what are some of the punitive measures if people misuse or abuse? I did not see it in the bill.

Marla McDade Williams:

I believe it is in section 14. There is a misdemeanor provision if a person willfully provides a false statement related to information provided on their criminal background history, but it is willful violation; it is not just forgetting to disclose something.

Assemblyman Thompson:

I am referring more to the user, if the user abuses it. For example, using it for personal gain or not for its intended purpose.

Marla McDade Williams:

I believe it is still a misdemeanor provision for anybody who misuses it willfully.

Assemblyman Sprinkle:

Is there going to be any way that you can track the use of this? The people who sign up and go through the whole process of being eligible to do the background checks, will you then be able to see what kind of inquisition they are doing, how they are doing it and why, so that we can followup on the potential for abuse? How is that going to work?

Marla McDade Williams:

Yes. We will set up the user accounts and grant all of the permissions that people have to come in and verify the criminal background information. We need to verify that the employees have actually had criminal background checks done. Our focus will be on ensuring that they are only verifying for those employees who are in their facility. If we determine there is abuse, then we have the ability to eliminate their accounts or not allow them access.

Assemblyman Sprinkle:

Hypothetically, if that were to happen and you eliminate their account—they are still required to do background checks. If there are already systems out there in place for them to be doing these background checks, why do we need this?

Marla McDade Williams:

The current system is a hard copy system. For example, a person works in nursing home A, then nursing home B; if that period of employment was longer

than six months, they must have their background check redone. People who are already disqualified from this system can go from nursing home A, B, or C every six months or however long it took for their background check to catch up to them. The benefit is that person who is already disqualified, the facility will have immediate access to know that they are not even eligible at all to work at your facility. Right now, these people will job hop from place to place because they know that their background check is going to catch up with them, so they keep moving around. The benefit of this bill is that you will have real-time verification that the background checks have been done for people.

Assemblyman Oscarson:

It does take time to get through the Federal Bureau of Investigation background checks. If this is online, an almost instantaneous system, it will be a huge benefit to health care facilities and their ability to catch those who are job hopping.

Chair Dondero Loop:

Are there any other questions? [There were none.] Is there anyone else in support?

Joan Hall, representing Nevada Rural Hospital Partners Foundations:

We are in support of this legislation. We have those types of facilities such as the swing bed services. It takes a long time to do the hard copy fingerprints. This will be real time and protects our residents and our patients. We appreciate being allowed to participate during the workshop.

Nicole Willis Grimes, representing Nathan Adelson Hospice:

We want to be on record in support of this bill, in particular section 9 and the following sections that loop hospices, as well as the other facilities, back into NRS 449.121 to NRS 449.125 to be able to access the repository. I also participated in a demonstration of the website early on last year. As far as expediting that whole process, this will definitely help, especially getting that information in real time.

Chair Dondero Loop:

Is there anyone in opposition? [There was no one.] Is there anyone in the neutral position? [There was no one.] I will now entertain a motion for do pass.

ASSEMBLYMAN HAMBRICK MOVED TO DO PASS
SENATE BILL 502 (2ND REPRINT).

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BENITEZ-THOMPSON
AND EISEN WERE ABSENT FOR THE VOTE.)

Mr. Hambrick will do the floor statement. Is there any public comment?
[There was none.]

This meeting is recessed to the call of the Chair [at 4:29 p.m.].

[This meeting was adjourned on June 3, 2013, at 11:55 p.m.].

RESPECTFULLY SUBMITTED:

Janel Davis
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn Dondero Loop, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: June 1, 2013

Time of Meeting: 3:51 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 3 (R1)	C	Jeffrey Fontaine, NACO	Proposed Amendment
S.B. 452 (R1)	D	Michael Willden	Flow Chart