

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

**Seventy-Seventh Session
March 8, 2013**

The Committee on Health and Human Services was called to order by Chair Marilyn Dondero Loop at 12:34 p.m. on Friday, March 8, 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
Assemblywoman Teresa Benitez-Thompson
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Andrew Martin
Assemblywoman Peggy Pierce
Assemblyman Michael Sprinkle

COMMITTEE MEMBERS ABSENT:

Assemblyman Steven Brooks (excused)
Assemblyman James Oscarson (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Elliot Anderson, Clark County Assembly District No. 15



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Michael J. Willden, Director, Department of Health and Human Services
Jim R. Barbee, Director, State Department of Agriculture
Paula Berkley, representing Food Bank of Northern Nevada
Erin McMullen, representing Three Square
Barry Gold, Director, Government Relations, AARP Nevada
Bruce Arkell, representing Nevada Senior Advocates
Grady Tarbutton, representing Washoe County Senior Services
Joan Hall, representing Nevada Rural Hospital Partners Foundation
Daniel Mathis, representing Nevada Health Care Association
Warren B. Hardy II, representing La Paloma Funeral Services
Brian Reeder, representing Nevada Senior Advocates

Chair Dondero Loop:

[Roll was called. Rules and protocol were stated.] I want to thank our presenters for being so patient and agreeing to come back today to present the Food Security in Nevada Plan. My first session, I sponsored a food bank bill and it was my first introduction to Paula Berkley, who will present today. She led me through my first bill and I will be forever grateful to her. I would like to welcome our presenters. Erin McMullen will be presenting for Jodi Tyson.

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

We have submitted four presentations to the Committee. I will go through an overview of the Department of Health and Human Services (DHHS) Director's Office Food Security in Nevada Plan called Nevada's Plan for Action ([Exhibit C](#)). Enclosed in the rest of the packet, please find an infographic on the Food Security in Nevada plan ([Exhibit D](#)); a detailed Food Security in Nevada strategic plan ([Exhibit E](#)); and some brief information on the Supplemental Nutrition Assistance Program (SNAP) ([Exhibit F](#)).

Page 2 of the overview ([Exhibit C](#)), provides some brief information on nutrition and fitness. As the Chair stated, this is not the first session we have discussed this. There have been questions from the money committees and others, about how much money has been put toward the nutrition and fitness funding out of our grants management unit. We have provided a little bit of the history of how

we have been granting out dollars to promote healthy lifestyles and access to nutrition programs.

Page 3 ([Exhibit C](#)) discusses how we developed policy for the food security strategic plan. It began a number of ways, but the Governor's core functions established certain priorities of government: educated and healthy citizens, sustainable and growing economy, responsible government, and safety. This one obviously falls under the healthy citizens and the sustainable and growing economy categories.

What happened was Senate Bill No. 421 of the 76th Session was passed and that legislation dealt with the tobacco settlement dollars, which directed the DHHS to get input from three different organizations on how we should best spend tobacco settlement dollars. Those three organizations are: the Commission on Services for Persons with Disability (CSPD), the Commission on Aging (COA), and the Grants Management Advisory Committee (GMAC). The GMAC established a community needs assessment and talked to our partners, and the people we serve, about what they thought the priorities were and how to spend tobacco dollars.

The top of page 4 ([Exhibit C](#)) shows the result of the community needs assessment. We surveyed over 3,000 people. If you look through the chart on page 4, you will see that food security, or insecurity, turned out to be one of the top identified needs throughout the state of Nevada. After that, we contracted with Social Entrepreneurs, Inc. to help us go through a strategic planning process related to the food security issues. There are three things we will be talking about today: the Nevada Department of Agriculture (NDA) and how we consolidated programs; increasing participation in the SNAP program; and out of the GMAC, we are intending to use about \$2.3 million of the tobacco settlement funds to solicit applications or bids to spend that money toward food security. Those were sent out in the first week of February 2013; it closed last week. We received about 22 applications to use that \$2.3 million. We will not award those contracts until the Legislature makes a final decision about the use of the tobacco settlement dollars.

Page 6 ([Exhibit C](#)) highlights some of the issues around food security in Nevada. During the great depression we are coming out of, there has been a 50 percent increase in households that are food insecure. The statistics show that only 61 percent of eligible Nevadans are currently enrolled in SNAP. That is significant under-enrollment; we have a goal to get to 80 to 85 percent of enrollment of eligible individuals.

There are some statistics about school lunch program enrollment and the percentage of senior citizens at threat of hunger. In the 32-page Food Security in Nevada action plan document ([Exhibit G](#)) from the Food Bank of Southern Nevada, we have incorporated principles of economic development which Mr. Barbee will talk about.

From the health and human services perspective, we view SNAP as a significant economic development tool. We are currently serving about 360,000 SNAP recipients. We distribute about \$44 million a month on the Electronic Benefit Transfer (EBT) cards. That turns out to be a little over \$500 million a year. The economic benefit to Nevada's food economy is under \$1 billion a year. We have used that as a fairly significant economic tool. We are also using a comprehensive and coordinated approach by focusing on strategic partnerships and using the research that we looked at over the last several years.

On pages 8 and 9 ([Exhibit C](#)) you will notice the words: Lead, Feed, Grow, and Reach. Those are the fundamental approaches of our plan that establish the leadership around how we go forward with this strategic plan. You will see 15 different recommendations and strategies and timelines to implement them. In the Feed group, there are 11 different strategies. This is about connecting people with the programs available to help with feeding. The Grow Group has seven different strategies. In the Reach Group we have outlined five different strategies.

Pages 10 and 11 ([Exhibit C](#)) are the benchmarks of the plan. We do not believe we should have a strategic plan that does not have accountability. We have picked three different benchmarks that we want to be able to "turn the dial" on. Benchmark 1 deals with food insecurity. I mentioned earlier that we had been as low as 8 percent in food insecurity in this national comparison and we grew to 15 percent. We would like to turn that dial back down to as low as we can get it. We have a projection of 6 percent by 2018. The very low food security benchmark is measured nationally.

We have already issued the Request for Applications (RFA). We have 22 of the applications back and we will be evaluating that contingent upon the Legislature's approval of the use of those funds. Page 13 ([Exhibit C](#)) is a draft of how we would intend to use those funds. Fiscal staff has asked us for a potential use of the funds. This is not necessarily hard and fast; it will evolve depending on how the budgets are closed as we evaluate those applications we have received.

Assemblywoman Benitez-Thompson:

Do the benefits of the SNAP program only come on the EBT card? Once they sign up and are approved, is that the only means by which they can access the benefit?

Michael Willden:

You are generally correct. When you say "only means," I think there may be some emergency situations where something else is done occasionally. We do not use the old coupons; we have been using EBT cards for many years. We have a contract with the vendor. All of our benefits, with minor exceptions, are loaded on EBT cards. Families use them in the grocery stores just like we use debit cards. The machine shows the selection: credit, debit, or EBT.

Assemblywoman Spiegel:

The presentation talks about how there is an emphasis on providing foods that are grown in Nevada. I am wondering how that works in southern Nevada. Is there an effort to ship foods that are grown in the agricultural regions and then brought down south, or are there two separate plans?

Jim R. Barbee, Director, State Department of Agriculture:

I think there are multiple plans we are looking at in terms of addressing that. We have a fair amount of produce production that happens in the northern part of the state, but there is produce production in the south as well. We are finding more urban food network opportunities in Las Vegas specifically. Some of the things we are looking at may not happen immediately, but I think it is our goal.

Assemblywoman Pierce:

What is the national average on eligible enrollees for the SNAP program?

Paula Berkley, representing Food Bank of Northern Nevada:

The national average is in the low 70s. There are two states that are at 100 percent and they are New Hampshire and Oregon.

Jim Barbee:

The NDA submitted a presentation ([Exhibit H](#)) on food security in Nevada. The first page discusses our mission and goals. Currently, our goal identifies food, fiber, human health, and safety as part of our mission. There was a meeting held on April 30, 2012, that started the food security process. All the agencies and primary groups involved came together and evaluated the food issues in Nevada. That is what started the process to propose a merger between the Child Nutrition Commodity Support program, the Commodity Food Distribution

Program, and the Nevada Dairy Commission into the NDA under one division of food and nutrition.

The NDA would support Lead Goal 1 through the education and promotion unit that would be located within the Director's office and would focus on the promotion and protection of agriculture in Nevada. Lead Goal 2 would work directly with the agriculture producers and, through the merger, could more effectively connect with food security partners and with local production in the communities.

Under Feed Goals 1 and 2, the NDA would focus on the food and nutrition issue as a division, which will give the programs a more significant visual role and serve to educate Nevadans about the program opportunities. The merger would create an actual one-stop shop for producers, processors, consumers, and school districts.

Under Grow Goal 1, the NDA food and nutrition division staff will be able to focus on food and program needs without other duties being assigned. Additionally, resources related to local producers would be in-house as we provide the producer certificates. This will serve as a resource for consumers of agriculture products as well as increase economic activity in local communities.

Under Reach Goal 1, the food and nutrition division's first assignment would be to work with DHHS and the food banks to study existing program overlaps and to create and implement a strategic plan of distribution that includes the cooperators. Under Reach Goal 2, the NDA is currently researching ways to facilitate more agency systems via applications and new consolidated data systems. This goal would be related to our desire to create a greater staff efficiency through technology advancements. We see ideas as we look at these programs and at the commodities. As we lay the shipping and tracking over the top of things, we see that all of those data systems will be able to be tied together and communicate.

The slide entitled "Food and Nutrition" (page 10, [Exhibit H](#)) shows part of the state's food security plan would focus on child nutrition, food distribution, food safety, and the Nevada Dairy Commission. Our program benefits would: increase the food security for Nevada; increase fresh produce that we serve our children; create greater communications with private nonprofits, agency staff, and federal partners; create greater communications with the public and the producers; support the goals of the United States Department of Agriculture (USDA); and consolidate the fiscal management and communications. It would trend to states such as New Jersey, Texas, and Florida. We are also one of the

benefactors of the Farm to School grant, the federal USDA program, located within the NDA. It makes sense that these programs work together.

Industry benefits would include increases in economic activity through local food production. As we are able to slowly open that market, it is going to create more opportunities for production, whether it is the traditional crop production or more intensified greenhouse-type production seen more in the urban areas. It would utilize school district purchasing power to bring more agriculture processing to the state which opens up more market opportunities. The producers in Nevada would better diversify what they are able to produce. Initially, increased program focus will increase students fed and will increase our economic activity. One slide ([Exhibit H](#)) identifies some of the savings. Initially, this was not the goal, but in evaluating the merger, we have identified some savings we feel are fairly significant. The reorganization will: increase communication and coordination under one administrator; increase efficient use of state property; create greater connectivity between producers, school districts, the School to Farm Market, nutrition, and food banks. It will also increase food safety and traceability with two agencies instead of five, and increase interaction between the NDA and USDA, improving coordination.

If this merger is approved and we move forward with our food security plan, we will start evaluating ways to create other efficiencies between us and the DHHS relative to some of the preretail, prerestaurant health inspections done with our agricultural producers.

Chair Dondero Loop:

Thank you. Are there any questions from the Committee?

Assemblyman Eisen:

We touched on this in another committee. I have become more confused. Slide 13 ([Exhibit H](#)) discusses the fiscal benefits and we talked about a change in indirect expenses. From our private conversation, I was left with the impression that \$300,000 would be increased to providers, but the total amount of federal money coming in would be the same. Is that correct?

Jim Barbee:

That is correct.

Assemblyman Eisen:

So the money available to the agency to provide oversight would be reduced by \$300,000?

Jim Barbee:

That is correct. Each agency negotiates their indirect rate independently. Our current indirect rate is 16 percent based on our size and function. That would create a savings; an indirect rate by the program. The program administrator would then be able to utilize greater amounts of money that are passing through to the sponsors.

Assemblyman Eisen:

Does the Department feel comfortable? Are they able to manage that?

Jim Barbee:

Yes.

Paula Berkley:

We submitted information on food insecurity in the state of Nevada ([Exhibit I](#)). It gives you a feel for the rates of food insecurity at 17.5 percent as a whole and 28.2 percent for children; that is 1 out of 4 of all children in school who are experiencing food insecurity. I think one of the things that we overlook is located just below the 17.5 percent. That chart shows that 48 percent of the people do not qualify for any of the federal nutrition programs because they made one dollar too many, but are still very food insecure.

I added a chart (page 3, [Exhibit I](#)) on Clark County, but I can get a chart on any county. The next chart in the packet shows why so many people are food insecure, but do not qualify for food stamps or make too much money to be eligible for SNAP. On the lower left side of the chart, we tried to figure out how much it costs for an adult to survive and pay basic bills. The next sheet shows where we got those numbers. It was a fairly conservative amount. We converted that into actual wages. This chart shows that it takes about 229 percent of poverty to pay your bills. That is why people are having a hard time.

Food is a unique thing. If someone has a family, he has to keep a roof over his head in order to protect his children; he has to keep gas in the car or he will not make it to work. What ends up falling out on the bottom is food. People are constantly concerned about how much money they make and where the next meal comes from. People are sometimes surprised at hearing that SNAP only gives you about \$1.50 per meal. Some people are buying a cup of coffee and using up their entire meal allowance. The normal person runs out of SNAP after about two weeks, and that is when they turn to the food banks.

Most of us here today had never been in the same room together before the task force was first brought together. We had to spend the first meetings finding out what each program was and its function. The chart on page 6 ([Exhibit I](#)) shows all the federal nutrition programs we reviewed. It also shows that 80 percent of all the food coming in for the poor is going through federal nutrition programs. About 20 percent is provided by the two food banks. Obviously, we are all in this together. We first started with a task force, then realized this was a big project. That is why we broke into the four groups Director Willden referred to. I want to give you an example of what came out of those four groups within the hunger plan. It will show you why we developed the hunger plan.

The Grow Group consisted of farmers, processors, community food-based people, and food banks. One of the top noticeable needs was that farmers could grow more food, but they had to have a market. Getting the food from the farm to the market and still being price-competitive was difficult. We needed a market, but could not create a market until there was more food, but we could not get the food until we got it to market. We had a problem. Right away, we recognized that the food banks and federal nutrition programs go out into the community and across Nevada with trucks full of food and they come back empty. Why would we not start trying to identify where the food hubs are, where the farms are, and where the crops are that we can bring together—and put the food on the food bank trucks and bring them to market?

We need an asset map to see where all of the food resources are in Nevada. We are going to create the map with all of the farms, products, and food pantries. We bring people food because they use it. Once we get this asset map accomplished, then we go over to the Reach Group, which is the distribution of food, and overlay all our food distribution systems. There are state trucks that deliver commodities across the state. Right behind the state truck may be a food bank truck dropping food off in Elko and the state truck is also dropping food off in Elko. We have to ask if there is a better way to do this. There is always a better way. Forty-eight states rely on food banks to distribute commodities because of that basic assumption. Not only do we have the trucks going out, but we have fresh fruit and vegetables going to the commodities, so the nutrition value goes up. Right now, the state distributes every other month. We go out at least once a month. If we are going to design a good system, we will need to put the distribution map onto the asset map and come up with a better way to do this. In anticipation for this, Three Square is now receiving the commodities in Las Vegas, which eliminated the cost of a state warehouse.

Assemblywoman Spiegel and Senator Ford have a Nevada cottage food bill which will present an outgrowth to the hunger plan. It will allow families, who want to raise a little money, to be able to bake goods and sell them to restaurants and farmers markets, supplementing their income. Senator Hardy also has a bill relating to food establishments which highlights a "farm-to-fork" event. There are so many ideas coming out of these meetings, therefore we have to alphabetize them because there are opportunities for jobs, entrepreneurship, and an opportunity to get more food to hungry people.

The Feed Group consists of federal nutrition programs. Since we talked about the school nutrition programs this morning, we will talk about SNAP today. There is a chart on page 7 ([Exhibit I](#)) that shows what has been going in SNAP since 2007 when the economy was strong. In 2007, the state was giving out benefits for \$129 million. In 2012, there was \$496 million. For every SNAP dollar we put into the community it generates another \$1.79. That is why SNAP is a billion dollar business. Going back to Assemblywoman Pierce's question, Nevada used to be 49th; now we are 47th. The potential for getting larger participation is great. One of the ways that Nevada has started, which involves the food bank, is we were one of the first organizations in the nation given the ability, through a waiver, to do the application and interview process. We could go where the people were, rather than go to the welfare office, and sign people up for SNAP. Page 8 shows that Nevada received \$130,000 from tobacco funds. The federal government will double any dollars you receive from outreach because they want to reach these people. Last year, we kept about 8,000 people out of the welfare office, generated \$10 million worth of food stamp benefits, and almost \$20 million of economic activity support, for not one state dollar spent. That is a good deal for food stamp outreach—and that needs to be expanded. I think Director Willden and his team are on the same page.

All of those three groups I mentioned report into the Lead Group, which is the policy group. You can see this on the chart located on page 10 ([Exhibit I](#)). It generates what we are calling the "food policy council." It does not make sense to come up with a hunger plan and then walk away from it; we need to implement it. I want to assure you that there is a performance measure for every federal nutrition program, as well as every goal that we have made in this plan. For the first time, you will be able to see how we are doing. You will learn about programs that you have never heard of before. We are excited that we were able to get together and try to get the fabric of each one of these programs closer together. We feel that we can impact food insecurity in Nevada.

Chair Dondero Loop:

Are there any questions?

Assemblyman Hickey:

Thank you for the great work you do, Ms. Berkley; it is being spread statewide. As important as getting food stamps to people in need is, I do not see it as a tool for helping the economy. I know it is needed, but I do not want to characterize it that way.

Paula Berkley:

It is a philosophical approach. The critical issue is that there are hungry people and if we fed them through this program, we would be bringing in another \$330 million to our state. The typical grocery store gets 30 percent of everything they sell from SNAP. They are running on a profit margin of 2 to 3 percent. If we do not get those SNAP dollars, we will create food deserts like we have never seen before, and they will all be in the poor neighborhoods because that is where the SNAP dollars are purchased. I hear you. We do not want to sell this as a marketing tool, but we do want to sell it as a tool to end poverty and to keep people working and able to function.

Erin McMullen, representing Three Square:

I am here on behalf of Jodi Tyson representing Three Square in Nevada. We support the state food security plan that Director Willden and Paula Berkley have worked to develop. It involves three critical components that are necessary to make the plan achievable and attain success.

First, the SNAP program creates a diverse network of agency partners that have statewide outreach and are ready, willing, and able to implement the strategies identified in this plan. Second, SNAP has dedicated resources to support the human and food resources needed to achieve specific goals, as well as successful grants systems that hold grantees accountable to stated and measurable outcomes and objectives.

Lastly, SNAP has the creation of a task force that regularly meets in person to build relationships across these diverse interests and collaborate and foster innovative partnerships. Some of those examples were given by Ms. Berkley. Between Nevada's two food banks: the Food Bank of Northern Nevada and Three Square, they have over 400 agency partners they work with to reach out and provide vital services to those who struggle with food security. Those agency partners are also working to attack the underlying reason why people are food insecure. Those reasons include housing, poverty, health, unemployment, et cetera. The network is excited about partnerships with the food banks and other agency partners to address these causes. Through the

plan and the resources that Mr. Willden is dedicating, the \$2.3 million will serve as a catalyst to provide new meals after it is in some agencies and sustain efforts in others, while bringing new partners to the table.

Three Square was fortunate enough to have Jodi Tyson as a representative on the Lead Goal Committee. She was actively engaged in this whole process and met with the partners during all the meetings. Financial constraints need to be considered, but these in-person regular meetings are needed to sustain momentum. Jodi Tyson wanted me to stress that she is not saying "build" momentum, but she is saying "sustain" because some of these new strategies have already begun in southern Nevada. Three Square has launched new partnerships to increase their SNAP outreach impact. The prison reentry programs would be one example. They also have plans to open a call center to more effectively reach those that cannot get to the community-based settings to apply for SNAP and other benefits. Lastly, they have launched a new kids café partnership with the cities of Las Vegas and North Las Vegas to provide nutritious after-school meals in 60 qualified safe-keep program sites within Clark County School District and on school campuses.

These are partnerships that could have emerged through other means, but this state plan has encouraged and developed collaboration. It shows the strength of working together. We are here to support the plan and would like to see it move into the future and make it a sustainable and achievable program.

As a side note, I personally took the SNAP challenge through Three Square and I lived on food stamps for seven days. It was truly one of the hardest things I have ever done. It was an eye-opening experience, and I would encourage each of you to participate in that because it gives you a good idea of what these people are going through each and every day.

Chair Dondero Loop:

Thank you. It sounds like a good committee; a virtual field trip. Are there any questions? [There were none.]

I would like to open the hearing on Assembly Bill 148.

Assembly Bill 148: Requires facilities for skilled nursing to conduct assessments of certain patients. (BDR 40-117)

Assemblywoman Teresa Benitez-Thompson, Washoe County Assembly District No. 27:

Assembly Bill 148 was brought forth by the Legislative Committee on Senior Citizens, Veterans and Adults with Disabilities. The Committee met four times during the 2011-2012 Interim. The Chair was Senator Breeden and I was the Vice Chair. During our four meetings, we heard testimony regarding services and needs relevant to the populations under our charge.

While the Committee heard testimony on many issues, this topic is specific to Medicaid seniors in long-term care facilities. [Continued to read from prepared testimony [Exhibit J.](#)]

I want to make sure the Committee understands that there are a couple of different efforts in the status quo to address the issue of seniors in long-term health care facilities. This information was presented to us during the interim. There are two programs that are both department-based. The first is Facility Outreach and Community Integrated Services (FOCIS) which seeks to transition and divert people who are living in nursing homes. The pilot program began in 2002 in northern Nevada and expanded to southern Nevada in 2003, then went statewide in 2004. They averaged about 160 transitions in 2010 and 111 diversions in 2010. The FOCIS program did good work on keeping people out of nursing home placements. I believe they were identifying people within in the first 90 days of placement and helping to transition residents out. Secondly, the effort Money Follows a Person (MFP) is a \$10 million grant that runs through 2016. The goal is to transition 524 individuals over the grant term.

Some of these numbers may be slightly different. These were the numbers presented to the interim committee for the purpose of the policy development of A.B. 148. Compared to other states, Nevada does a good job of moving people into the community from institution-based care; however, there are still over 3,000 Medicaid residents in skilled nursing facilities (SNF).

The reason why we are looking for long-term care facilities to do an annual assessment of senior Medicaid patients is to get at the expertise that the nursing home has. They work with the patients on a daily basis; they have their social workers and their registered nurses interfacing with the patients; and they have care-planning activities going on where they are assessing the needs of the patients. Assembly Bill 148 is about enhancing our efforts to better identify seniors who could potentially go into a lower level of care or care outside the SNF in the community using the expertise of folks who interface with them daily at the nursing homes.

We think it would create a better picture about what our Medicaid seniors' needs are, and help us plan in meeting those needs. I do not want to leave the impression that just by identifying these people that it means we have a path for them to come out of the nursing homes. The community and home-based waiver programs have a fixed number of slots. At the current time, there is a wait in order to transition to those slots in the community. The Committee was left with an impression that begs the question of how many people in nursing homes would like to transition out, and how many people are there just because they have nowhere else to go, not because it is the most appropriate setting to meet their needs.

I am looking forward to working with both the long-term care facilities to help develop the best way to ask these kinds of questions. It is important to mention that we do not want anything that is onerous or requires more reporting. We know that long-term care facilities and SNFs have a mountain of reporting they have to do to state Medicaid and for their patients across the board. The understanding is that there are already reporting processes in place for them. It would be looking at what is existing in reporting requirements to ask and building in a couple more questions to help us get at the needs of the patients and the folks who are there because they are custodial.

Assemblyman Sprinkle:

In looking at these skilled nursing facilities, did you or the Committee feel that all facilities are going to have the right trained personnel—and I am getting at social workers—that will know the different services available in the community? If they are making references and talking about a plan to potentially have this patient leave their SNF, will they have all of the information necessary to come up with an adequate plan?

Assemblywoman Benitez-Thompson:

Part of the question would be who is actually doing the assessment. I would imagine that social workers would play a role, but because we are getting to medical appropriateness, I think the nurses' and the doctors' input is especially important.

The DHHS website: <<http://dhhs.nv.gov>>, provides a brochure on the different types of community-based programs and long-term care housing options for seniors and Nevadans. I had not seen this in my daily practice as a social worker with seniors, I simply found this while on the DHHS website. There are tools available. I think consolidating and making those tools easy to find and more useful could be part of the conversation. Unless you are super entrenched in this kind of work, it is hard to know about all the programs and their qualifications. I have no concerns with the licensed social workers in SNFs.

Assemblyman Sprinkle:

I agree. This is a great concept because oftentimes these patients are not in the appropriate facility. I just wanted to make sure that those resources are available when they are putting those plans together.

This bill is not giving these facilities the authority to simply kick someone out, correct?

Assemblywoman Benitez-Thompson:

No, absolutely not. Most of the time there is not a place for them to go. The needs of our rural seniors are going to be very different than the type of resources available in northern or southern Nevada. It is about getting a better idea of who is custodial and who is not, and who could potentially be placed somewhere else. To be fair, there are a lot of great SNFs in our communities that do wonderful work. There are some that could do better. There are some residents who may not want to move even if presented with an option. We have no way to quantify that number. Out of those 3,000-plus seniors who are in an SNF on Medicaid, we do not have an idea if 40 percent of them would like to leave versus 20 percent. This bill would help us better quantify what that need is. I do not want to leave the Committee with the impression that just by identifying these folks, that we have a path for them. I think this begs the question about lack of services for our senior citizens in Nevada.

Assemblyman Eisen:

Do you know if these kinds of reviews are required under other plans? I am particularly thinking about Medicare which I know is often aggressive about getting patients more cost-effective modes of care. Do you know if these kinds of reviews are already required by Medicare or private insurers? I just want to know if some of the facilities may be doing this kind of work already for other patients.

Assemblywoman Benitez-Thompson:

That is a good question. My understanding of Medicare is we have time-limited days so that you do not end up with the same situation as our Medicaid patients where people check in and do not check out. Anecdotally, I had a patient who had been in the same local nursing home for 12 years. It is not uncommon to find people who have been in nursing homes for multiple years. It is because they do not have a better transition plan out of there. Those are the custodial people we are trying to seek and quantify.

I do not know if Medicare has a process because they do not end up with long-term patients. Within Medicaid, there is a lot of reporting and different opportunities within that reporting process to capture data. It does not require a new piece of paper, and that is something I look forward to working on with the long-term care facilities.

Assemblywoman Spiegel:

I think this is a really good start. As I was reading through the bill, it struck me that we are missing a whole category of care which is assisted living facilities. I know in some states, assisted living facilities can qualify for Medicaid. I do not know if they can in Nevada or if there has been any thoughts on that. I was also thinking that it may not make sense for those in assisted living facilities to also be evaluated on an annual basis to see if they are in an appropriate situation as well.

Assemblywoman Benitez-Thompson:

This might need to be clarified, but to the best of my knowledge, when we talk about assisted living facilities, those are categorically different than SNFs. They are typically private-pay. In the actual mix of what is considered an assisted living facility, it is not a place where many will take Medicaid patients just because the Medicaid reimbursement rate is so low. The reason why Medicaid patients end up in the SNFs is because they have a negotiated rate with the Department and the industry is taxed. That goes back to the financial compilation that Director Willden could explain better.

Chair Dondero Loop:

I would like to call forward those in support of A.B. 148.

Barry Gold, Director, Government Relations, AARP Nevada:

No one wants to go to a nursing home. Once you are there, the question is, will I ever leave? There will always be a place where people need 24-hour skilled care that nursing homes provide.

The goal of this bill is to try to get people back in the community once they have been in a nursing home. Home- and community-based services, or waiver programs, have been set up to provide a level of care to people who are eligible for nursing home care in our state. Living in the community is where people would prefer to be, and it allows them to continue living with independence and dignity.

It costs about one-quarter as much for people to receive services in the community as it does in a nursing home. So everybody we can move out from a Medicaid nursing home and into community-based services saves a lot of dollars that can be used to provide more services to more people.

States look at the number of people who are in nursing homes versus home- and community-based services and Nevada falls somewhere in the middle. There are states doing a lot better in terms of the number of dollars spent for nursing home care versus home- and community-based services. There were incentive programs that the federal government had at one point. It was called the balancing incentive payment program where they offered a higher bump in your federal matching dollars if you could increase the number of dollars spent in home- and community-based services.

Assemblywoman Benitez-Thompson talked about the slots for home- and community-based services and trying to move people into those slots. We are very pleased. I have been in Nevada for eight years and this is the first time that there is an increase in the Governor's Budget for the number of slots, which is 117 slots over the biennium. In the prior eight years, it was either held stable or we cut the slots. Imagine these 117 extra slots that are available; what if we could move 117 people out of nursing homes and put them in the home- and community-based service program? There is always a lot of turnover, so the numbers could actually be more because people move in and out of these programs, but with the Governor's proposed funding for increased slots; it is possible to accomplish this.

I was privileged to be part of some of the discussions during the interim. We talked about the level of care needed. It is a good start to try to look at where people should be and could be. If I may, I think I have an answer to the assisted living question asked earlier.

The assisted living program is a specialized waiver that is on the Medicaid program. There is a small number of waiver slots that have specialized conditions. To be in assisted living requires meeting certain guidelines. They are considered to be a home- and community-based system. They are set up to be more independent-looking than a SNF. This bill has a good start in trying to ask that question. On behalf of 309,000 AARP members across the state, AARP Nevada supports this bill and urges the Committee to pass it.

Bruce Arkell, representing Nevada Senior Advocates:

We support this bill. It is an excellent first step. We are beginning to see a real shift in how services are provided to seniors. We will see more of it as the Affordable Care Act (ACA) comes to the surface. What we do today is not

what we will be doing in five years. This bill addresses one of the most critical areas, and that is those persons in nursing homes.

Grady Tarbutton, representing Washoe County Senior Services:

We are in support of A.B. 148. We conducted a study in 2009 with Renown Hospital and Washoe County Adult Services to identify people who could be diverted from nursing home care after being discharged from the hospital. In a three-month period, we found that out of 13 clients, 8 of those clients were able to go home. The barrier that kept them from going home was sometimes a simple thing; for example, a ramp needed to be installed so one individual could get into his home. We believe there is a lot of opportunity in identifying clients. Today, Washoe County Senior Services works with state social workers to provide services to people in their homes. We receive grants and resources to make sure that these people are safe in their homes.

Chair Dondero Loop:

Is there anyone else in support of A.B. 148? [There was no one.] Is there anyone in opposition to A.B. 148?

Joan Hall, representing Nevada Rural Hospital Partners Foundation:

We are opposed to the bill because of the increased reporting requirements. We recognize and support Assemblywoman Benitez-Thompson's discussions and the intent for the seniors living in nursing homes. I have been a care provider in Nevada for over 30 years. The intent of this regulation is not different than I have seen in my years of working. We have looked at it in many different manners and have never been able to come up with a good solution. To Mr. Gold's point, long-term care is not a destination location for most seniors. The bill also states that there should be annual assessments. We perform Minimum Data Sets (MDS) on admission, quarterly, upon change of condition, and annually.

I think the intent is to get patients from long-term care to another living area in closer to 60 or 90 days instead of one year because usually by the time elders have been in long-term care for one year, they are not very nimble at change. They become comfortable with their living situation. We agree that if there were more resources for them, that living in a different level of care is better. Our opposition is simply the requirement to do another assessment.

Daniel Mathis, representing Nevada Health Care Association:

We oppose A.B. 148 for the following reasons and submitted written testimony ([Exhibit K](#)). First, it is redundant. The facilities already do a comprehensive assessment for all admissions in the SNFs through the MDS which is part of a federally mandated process for clinical assessment of all residents in Medicare- or Medicaid-certified nursing facilities. They are done quarterly and upon change of condition. We feel that it is a complete assessment and the data that is needed to assess a resident for alternate placement is contained in the MDS. Second, resident patients are eligible for MFP. I submitted one of their pamphlets ([Exhibit L](#)).

Through the Division of Health Care Financing and Policy (DHCFP), after 90 consecutive days, excluding short-term rehabilitation days, the program provides eligible participants with home- and community-based services and the support needed to remain independent. Skilled nursing facilities (SNF) are not against transitioning folks out of their facilities. As Joan Hall stated, it is not a destination people want to go to anymore. The perception that a nursing home is people sitting around knitting is from the past. Third, the reimbursement calculations for Nevada Medicaid recipients take into consideration the acuity of the resident in the Case Mix Index (CMI). [Continued to read from prepared testimony [Exhibit K](#).]

When you have a unit like an Alzheimer's unit, it brings the CMI down for the building, thus reducing their Medicaid rates. It is for those three reasons the Nevada Health Care Association does not support A.B. 148.

Chair Dondero Loop:

Are there any questions?

Assemblyman Eisen:

Can you help me understand what is different about the assessments that would be expected under this bill versus the assessments that you are already doing in terms of evaluating the appropriate placement?

Daniel Mathis:

We believe that the MDS is a total assessment of the patient, no matter what use the data is going to be put to. It covers every aspect of the resident care; helps with the care planning and includes the discharge planning for the patient. We feel that the MDS contains the data that A.B. 148 is after. It is just a matter of extracting that data. It is also transmitted to the state and federal government, so everyone has access to it.

Assemblyman Eisen:

Why would this be a problem if you are already gathering data?

Daniel Mathis:

It would be redundant. We already perform the MDS. With this bill as it is written now, we would have to be compliant with A.B. 148. It is doubling the work.

Assemblyman Eisen:

I did not see anything in the bill that said the MDS could not be used as the verification.

Daniel Mathis:

It absolutely could be used for that. We do not have a problem with the data. If they want a copy of the latest MDS and that would satisfy the need, that would be good.

Assemblyman Eisen:

If the regulations propagated under this bill would allow for the assessment you are already doing to satisfy these requirements, would that alleviate your concerns?

Daniel Mathis:

Yes it would.

Assemblyman Eisen:

With regard to determining reimbursement rates, if the lower acuity—which I know does not translate directly to qualification for SNF placement—is related to the reimbursement rate, then it would be in the best interest of the people who own the SNF to see that those lower acuity patients were transitioned out of the facility. Would these recurrent assessments not help them identify those patients?

Daniel Mathis:

It would. That is what they currently use the assessments for and it is a benefit to the providers to transition the lower acuity, or the patients who could be served, into another environment. We are not opposed to the data or how it is used, but we are trying to avoid redundancy.

Chair Dondero Loop:

If you think something can be worked out, please work with the sponsor of the bill.

Daniel Mathis:

I will reach out to the bill sponsor.

Chair Dondero Loop:

Is there anyone in the neutral position? [There was no one.]

Mrs. Benitez-Thompson, do you have any closing remarks?

Assemblywoman Benitez-Thompson:

On behalf of the interim committee, I would like to thank everyone who added comments today, especially those in opposition, because the goal of this Committee is to come up with good public policy, and that never comes about unless we have good feedback. We will be working with the interested parties to make sure we get to a point that serves the intent of the interim committee.

Chair Dondero Loop:

I will close the hearing on A.B. 148. I will now open the hearing on Assembly Bill 69.

Assembly Bill 69: Requires a crematory for human remains to be located in a certain area. (BDR 40-25)

Assemblyman Elliot Anderson, representing Clark County Assembly District No. 15:

Assembly Bill 69 derives from a local issue in my district. One day in September of 2011, I was canvassing an older established neighborhood. People in this neighborhood had generally lived there for over 20 years. I am regularly out there talking with people to see if I can help with any issues. I had a number of people in this neighborhood mention their opposition to a proposed crematory project. As proposed, this project would have been extremely close to their residences. They were uncomfortable with that. They asked me to get involved and to help with their concerns about the project, and this bill is that effort. The project did not end up going through, but they still wanted me to follow through on this issue to stop future situations from developing in their neighborhoods and others.

I was very impressed with the number of constituents who spoke out about this issue, and I understood their concern with the project and future situations that could develop under current zoning law. It is my job to relay their concerns to the Legislature. That is why I am here; I take that responsibility seriously.

As proposed, the bill was very broad. When I work on any legislation, I try to meet with as many effective parties as I can. After meeting with crematory owners in southern Nevada before session and local governments during session, I narrowed my own bill on my own initiative. I did this in order to ensure that I would not be creating too many unintended consequences while at the same time getting to the intent and concerns of my constituents.

I would like to direct you to the mock-up amendment ([Exhibit M](#)) which I will be working from. Section 1 of the mock-up makes clear that the bill will only apply to incorporated cities over 60,000 people, which includes North Las Vegas, Sparks, Reno, Henderson, and Las Vegas. In addition, the bill also applies to townships that are contiguous and bordering these cities. Townships that are contiguous only exist in Clark County. You should think of them as the urban areas in Clark County that are not their own cities such as: Enterprise, Winchester, Paradise, Whitney, Sunrise Mountain, Spring Valley, and Lone Mountain.

My intent is to apply this bill to only clear urban areas where a buffer would be welcomed by residents. The more space that exists in a locale, the less a buffer is needed. I have proposed a 1,500-foot buffer between the lot boundary lines of solely residential zoning from any structures associated with the operation of a crematory. Section 2 in the mock-up of the bill ([Exhibit M](#)) makes the corresponding changes in *Nevada Revised Statutes* (NRS) 451.645.

Section 3 in the mock-up ([Exhibit M](#)) makes clear that this bill does not apply to crematories operating before the effective date of this bill, October 1, 2013. I believe a few added provisions will be good in section 3, including ensuring that crematories in the planning stages before the state are covered. Those in the planning stages need some sort of certainty and clarity on what the law is. Additionally, we should also make sure that any expansions at existing crematory facilities that are already zoned would still apply.

Assemblywoman Fiore:

You stated that your constituents' concern kind of worked itself out with the local laws. Is that correct?

Assemblyman Elliot Anderson:

That is correct.

Assemblywoman Fiore:

I am wondering why the state would get involved with local zoning issues within our counties and cities.

Assemblyman Elliot Anderson:

The state is already involved. There is existing NRS on this topic. For example, right now you could not build in a residential area; you must build in a commercial or industrial area. The reason to go through with this is because it is a situation that continues to repeat itself. After meeting with local governments, I found that their planning commissions and various local government bodies have gone through this issue several times. The cycle of life is going to continue, therefore we need to keep this industry. We also need to ensure that people are comfortable in their neighborhoods, especially folks who have lived in a neighborhood for over 20 years. This bill tries to create some lasting solutions to balance those important concerns on both sides.

Assemblyman Sprinkle:

You made some comment about 25 feet in a residential area. The only thing I am reading in the bill is it has to be in an industrial-zoned area or within 1,000 feet from anything else. Did I hear you wrong?

Assemblyman Elliot Anderson:

I think you are looking at the bill as proposed. Are you looking at the mock-up I provided ([Exhibit M](#))?

Assemblyman Sprinkle:

I am looking at section 1, subsection (1), paragraph (a).

Assemblyman Elliot Anderson:

That section is proposed to be deleted in the mock-up amendment that is currently up on the Nevada Electronic Legislative Information System (NELIS).

Chair Dondero Loop:

Is there anyone else who has questions? [There was no one.] We will go to support for A.B. 69.

Warren B. Hardy II, representing La Paloma Funeral Services:

I wanted to give the Committee an explanation to the situation Assemblyman Elliot Anderson described because it was my client who was involved. La Paloma Funeral Services had proposed to build a funeral home that would include a crematory on an area that was commercially zoned in the inner area off of East Desert Inn Road and Topaz Street in Las Vegas. We started to go through the entitlement process and there were a few questions from the county, but we received full approval from the county to go forward. We were required to make some changes to the parking lot. We learned of the residents' concerns with that location. Initially we agreed to move the crematory from the proposed area and leave it in an industrial area and just put in the funeral home.

That was the initial demand of the residents and we complied with that. After that, the residents started having second thoughts about the funeral home.

I am giving you this background for Assemblywoman Fiore's benefit with regard to her question. First of all, the property was in escrow for us to purchase it to build there. We had essentially received full approval from the county to do so; however, my client was very concerned about the demands of the residents and did not want to go forward with a project that was not supported by the area residents. Ultimately, we withdrew the project. It was our choice and our decision. Assemblyman Elliot Anderson approached me and said he would like to come up with something in statute that guarantees these protections are there.

While it is never easy to have your industry receive additional regulations and is usually something we do not support, I would indicate that I do not know what more Assemblyman Elliot Anderson could have done to reach out to our industry and address our concerns. That is why we are in support of this legislation as he proposed in the amendment ([Exhibit M](#)). We are comfortable with that and I want to thank him for clarifying section 3 with regard to the grandfathering clause and the transitory language that will allow existing crematories to expand within their footprint.

Chair Dondero Loop:

Are there any additional questions? [There were none.] Is there anyone in opposition to A.B. 69? [There was no one.] Is there anyone in the neutral position? [There was no one.] I will close the hearing on A.B. 69. Is there any public comment?

Brian Reeder, representing Nevada Senior Advocates:

I have been working with Nevada Senior Advocates on the Program for All Inclusive Care for the Elderly (PACE). The PACE program basically takes all the services that a frail or elderly individual might need and combines them into one place under one program. It is a community-based, managed-care program for adults 55 years and older who are categorized as eligible for nursing home care by the state's Medicaid program. The PACE program functions as an alternative to a nursing home. It is based on the philosophy that it is better for the individual to remain living in the community for as long as possible.

The way it works is Medicaid and Medicare both pay a set amount per member per month. The funds are then combined at the provider level which allows the provider a flexible funding pool for all primary, acute, and long-term services. The PACE provider employs a team of caregivers who assume full responsibility for a full range of services for each member's care. They analyze their needs,

develop a care plan, and deliver all services primarily at an adult day health center which is known as the PACE center. The services include everything from medical care, home care, and dental care, to transportation and social work. The PACE program is organized in a way that makes sense. This is explained in more detail in our submitted testimony ([Exhibit N](#)).

The average PACE participant is about 80 years old, has multiple medical conditions, and is limited in his or her normal daily living activities. Almost half of all PACE participants are diagnosed with dementia, but despite these high-level medical and social needs, more than 90 percent of PACE participants are able to remain living in the community. It is important to note that there is never any additional cost to Medicaid, Medicare, or the individual for any service. If they need hospitalization or emergency room care, or even if they end up needing to live in a nursing home, PACE assumes full financial responsibility. If the individual does end up in a nursing home, PACE continues to coordinate their care. The great thing about PACE for a state that is wanting to implement it is that it has a high success rate. It is successfully operating today in 29 different states. It works because it is a coordinated, long-term care plan with a strong emphasis on preventative care.

Bruce Arkell, representing Nevada Senior Advocates:

I have been working on the PACE program in Nevada since the early 2000s. We put together a trial program in Washoe County where we had a developer online and the county was willing to provide the social work. We brought it to the state in part because there was very little information about who was eligible. It was a waiver program and it ran into all kind of roadblocks, so it died. In 2009, the legislation came through that established the PACE program about the same time that the federal regulations were set up. The program has matured over the past years. It is a good program that works, and it provides an excellent alternative to nursing homes. Over the last couple of days, I have talked with the Division of Health and Human Services' Aging and Disability Services Division, charged with implementing the program, and the Division of Health Care Financing and Policy. Both of them are willing to take another look at the program with the stakeholders in the process. I have started to negotiate discussions with a congressional delegation to bring people to Nevada who really understand how the program works so that we can get some real experts involved. The purpose of this is to let you know that it is time to move forward with the program.

Chair Dondero Loop:

Are there any more comments? [There were none.]

This meeting is adjourned [at 2:05 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: March 8, 2013

Time of Meeting: 12:34 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Michael J. Willden	Presentation Overview from DHHS
	D	Michael J. Willden	Presentation Food Security in NV
	E	Michael J. Willden	Presentation Food Security in NV Action Plan (Detailed)
	F	Michael J. Willden	Presentation DHHS SNAP information
	G	Paula Berkley	Presentation for Food Security Action Plan
	H	Jim Barbee	DOA Presentation
	I	Paula Berkley	Charts on Food Security Action Plan
A.B. 148	J	Teresa Benitez-Thompson	Testimony
A.B. 148	K	Daniel Mathis	Testimony
A.B. 148	L	Daniel Mathis	Brochure
A.B. 69	M	Elliot Anderson	Mock-Up Amendment
A.B. 148	N	Brian Reeder	PACE Testimony