MINUTES OF THE
SENATE COMMITTEE ON FINANCE

Eighty-first Session
April 23, 2021

The Senate Committee on Finance was called to order by Chair Chris Brooks at 10:03 a.m. on Friday, April 23, 2021, Online and in Room 1214 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Chris Brooks, Chair
Senator Moises Denis, Vice Chair
Senator Julia Ratti
Senator Nicole J. Cannizzaro
Senator Marilyn Dondero Loop
Senator Ben Kieckhefer
Senator Pete Goicoechea
Senator Scott Hammond
Senator Heidi Seevers Gansert

GUEST LEGISLATORS PRESENT:

Senator Roberta Lange, Senatorial District No. 7

STAFF MEMBERS PRESENT:

Wayne Thorley, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Tom Weber, Committee Secretary

OTHERS PRESENT:

Sarah Nick, Management Analyst, Nevada Department of Education
Chris Gaub, Budget and Contract Director, System Computing Services, Nevada System of Higher Education
Chris Daly, Nevada State Education Association
Ellen Crecilius, Actuarial Economist, Division of Health Care Financing and Policy, Department of Health and Human Services

Sara Cholhagian, Executive Director, Patient Protection Commission, Office of the Governor
Sandie Ruybalid, Chief IT Manager, Division of Health Care Financing and Policy, Department of Health and Human Services
Kyra Morgan, State Biostatistician, Department of Health and Human Services
Laura Rich, Executive Officer, Public Employees' Benefits Program
Jessica Flood, Regional Behavioral Health Coordinator, Northern Regional Behavioral Health Policy Board
Robin Reedy, Executive Director, National Alliance on Mental Illness
Christina Brooks, Agency Manager, Northern Nevada Adult Mental Health Services, Division of Public and Behavioral Health, Department of Health and Human Services
DuAne Young, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Jeanette Belz, Nevada Psychiatric Association
Sarah Adler, Vitality Unlimited; New Frontier Treatment Center
Kathryn Roose, Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services
Joanna Jacob, Government Affairs Manager, Clark County
Amber Howell, Director, Human Services Agency, Washoe County

CHAIR BROOKS:
The Committee will begin by hearing fiscal issues related to Senate Bill (S.B.) 194.

SENATE BILL 194 (1st Reprint): Revises provisions relating to education. (BDR 34-676)

WAYNE THORLEY (Senate Fiscal Analyst):
Senate Bill 194 was referred to the Senate Committee on Finance to discuss the five fiscal notes attached to it. The Nevada Department of Education (NDE), the Nevada System of Higher Education (NSHE) and several Nevada school districts submitted fiscal notes for S.B. 194 indicating the Bill as introduced would have an unknown cost on their respective departments. The Nevada Senate adopted Amendment No. 220 to S.B. 194 on April 16, 2021.

SENATOR ROBERTA LANGE (Senatorial District No. 7):
Senate Bill 194 seeks to establish the State Seal of Civics Program. My partners and I have worked with the NDE and other entities to ensure the fiscal note

submitted by the NDE for S.B. 194 has been reduced. The Pupil Civic Advisory Panel was amended out of S.B. 194. The Bill requires the NDE Superintendent of Public Instruction Jhone Ebert to adopt regulations establishing criteria to designate a school, pupil, teacher or other school employee as a School of Civic Excellence, Student Civic Leader or Educator Civic Leader, respectively. Schools, pupils, teachers and other school employees are already being designated for excellence under the NDE's excellence program. Senate Bill 194 establishes regulations for excellence designations. We are able to continue the work the NDE's excellence program is already doing and will not have to form a new program, reducing the NDE fiscal note.

CHAIR BROOKS:
Are you saying Amendment No. 220 to S.B 194 as introduced significantly reduces the NDE fiscal note?

SENATOR LANGE:
Yes.

SARAH NICK (Management Analyst, Nevada Department of Education):
The NDE was able to reduce its fiscal note for S.B. 194 through Amendment No. 220. The amended fiscal note is for $4,008. This reduced amount reflects 30 hours of staff time to work in sections 2, 3 and 4 of S.B. 194 regarding the creation and maintenance of the State Seal of Civics Program; 20 hours of staff time to work in section 5 regarding the School of Civic Excellence; and an estimated 20 hours of staff time to work in section 9 regarding service learning projects. The estimated amount contained in the fiscal note was created using the Department of Administration, Division of Human Resource Management salary of grade 39, step 7 for education programs professionals of $38.18 per hour.

CHAIR BROOKS:
Did you submit a revised fiscal note to the Legislative Counsel Bureau's Fiscal Analysis Division?

MS. NICK:
I will formally submit the NDE's revised fiscal note to Fiscal staff. I emailed it to Senator Lange.

SENATOR KIECKHEFER:
Regarding the fiscal note submitted by local Nevada school districts, Carson City School District's (CCSD) share of the fiscal note was for $750,000 to be used for the purchase of new curriculum materials for all social studies classes to ensure they are inclusive of recognizing all of the groups described in S.B. 194. The groups mentioned in the fiscal note are not specific, and I assume the CCSD is referring to the communities listed in section 11, subsection 2 of S.B. 194. What are your thoughts on this?

MS. NICK:
The language in section 11 of S.B. 194 is similar to that in Assembly Bill (A.B.) 261 which is sponsored by Assemblywoman Natha Anderson regarding curriculum diversity.

ASSEMBLY BILL 261 (1st Reprint): Revises provisions governing education to provide diversity and inclusivity in the academic standards and curriculum. (BDR 34-672)

The NDE is working with Senator Lange, Assemblywoman Anderson and school districts to adopt new standards reflecting curriculum diversity. This will be done using the NDE's current curriculum adoption standards. As a result, school districts will not need to immediately adopt or implement new standards or curriculum material and an additional fiscal burden will not be created. The NDE is striving to keep the same adoption cycle for new curriculum material and will continue working with stakeholders to make sure this is all streamlined appropriately.

SENATOR KIECKHEFER:
If A.B. 261 does not pass but S.B. 194 does, would language need to be added to S.B. 194 to ensure updates are in line with the NDE's current curriculum adoption standards?

MS. NICK:
I can supply Senator Lange the same bill language I supplied to Assemblywoman Anderson. The language reflects that any new standards would be adopted on the NDE's current standard and curriculum adoption cycle so an additional fiscal burden will not be created for Nevada's school districts.

CHAIR BROOKS:
Is there anything in S.B. 194 as amended which would prohibit the NDE from adopting new standards on its current standard and curriculum adoption cycle? Is it necessary to include the language from A.B. 261 in S.B. 194? Is there anything within S.B. 194 directing the NDE to adopt new standards within a time frame outside of its current standard and curriculum adoption cycle?

MS. NICK:
After lengthy review, the NDE's staff has not flagged anything showing language in S.B. 194 would create more friction or delay the timeline for implementation of new standards and curriculum. The NDE is already working with Nevada school districts and the NDE State Public Charter School Authority on diversifying curriculum.

CHAIR BROOKS:
Can you address the undetermined fiscal note submitted by NSHE for S.B. 194?

CHRIS GAUB (Budget and Contract Director, System Computing Services, Nevada System of Higher Education):
The original version of S.B. 194 required agreements with NSHE institutions to grant credit for the State Seal of Civics Program. Amendment No. 220 removed this section of the Bill, and there is no longer any fiscal impact on NSHE institutions, and we withdraw our fiscal note.

CHAIR BROOKS:
The Committee will now hear fiscal issues related to S.B. 76.

SENATE BILL 76 (1st Reprint): Revises provisions relating to education. (BDR 34-297)

MR. THORLEY:
Senate Bill 76 was submitted on behalf of the NDE. Amendment No. 218 to S.B. 76 seeks to remove the requirement stating the State Board of Education must adopt a regulation identifying which courses require an end-of-course (EOC) examination. During the budget closing hearing of the Senate Committee on Finance and Assembly Committee on Ways and Means, Subcommittees on K-12/Higher Education/CIP on April 21, 2021, regarding the NDE's budget account (B/A) 101-2697, the Subcommittees recommended

eliminating funding for EOCs. This recommendation is consistent with the language in Amendment No. 218 to S.B. 76.

EDUCATION

K-12 EDUCATION

NDE - Assessments and Accountability — Budget Page K-12 EDUCATION-82 (Volume I)
Budget Account 101-2697

MS. NICK:
As amended, S.B. 76 repeals *Nevada Revised Statutes* (NRS) 390.700 requiring the Board of Education to adopt regulations prescribing EOCs. The Subcommittees recommended approving the removal of funding for EOCs from the base budget of B/A 101-2697, consistent with S.B. 76.

CHAIR BROOKS:
Will there be a fiscal impact to the NDE if S.B. 76 is approved?

MS. NICK:
There will be no fiscal impact to the NDE if S.B. 76 is approved.

SENATOR KIECKHEFER:
The Legislature approved continued funding for external evaluations of certain NDE programs. Amendments regarding the NDE's external evaluations were submitted for S.B. 76. Amendment No. 218 states to the extent money is available, external evaluations of certain NDE programs will still take place. Even though the Subcommittees recommended approving the removal of funding for EOCs within the base budget of B/A 101-2697, will money still be available for the conducting of external evaluations as a result of S.B. 76?

MS. NICK:
Funding will still be available for the NDE to conduct external evaluations on certain programs. Section 52 of S.B. 76 has been amended to state that several of the services provided under this section, to the extent money is available, will still be evaluated on a rotating basis within the school year. Services will be evaluated for student groups receiving early literacy services. The services provided to at-risk students will also be evaluated. These student groups may

have been formally served by the NDE's Zoom and Victory School programs. The evaluation cycle of certain NDE programs is reflective upon when evaluators can best evaluate programs without putting an unnecessary burden on school districts.

CHRIS DALY (Nevada State Education Association):
The Nevada State Education Association (NSEA) is proposing an amendment to S.B. 76 as amended to keep four NSEA nominations to the NDE Teachers and Leaders Council of Nevada (TLC). The NSEA has been an active participant with the TLC since its formation, nominating four public school teachers to the TLC to provide geographic diversity at school districts in the State. The TLC made recommendations concerning the NDE Nevada Educator Performance Framework, Statewide Evaluation System to ensure educator evaluations are fair, timely, rigorous and valid.

The NSEA proposed an amendment to the Senate Committee on Education to change the language in Amendment No. 218 to S.B. 76 regarding the reduction of NSEA nominations to the TLC to three. Amendment No. 218 would compromise the NSEA's ability to provide geographic diversity. The NSEA's proposed amendment for S.B. 76 would keep the NSEA's nominations to the TLC at four nominations.

CHAIR BROOKS:
The Committee will now hear fiscal issues related to S.B. 40. This Bill is a Senate Committee on Health and Human Services Bill filed on behalf of the Office of the Governor, Patient Protection Commission. Senate Bill 40 provides for the collection of certain data relating to health care.

SENATE BILL 40 (1st Reprint): Provides for the collection of certain data relating to health care. (BDR 40-415)

MR. THORLEY:
The Department of Health and Human Services (DHHS), Division of Health Care Financing and Policy (DHCFP) submitted a fiscal note for S.B. 40 as introduced. The Nevada Senate adopted Amendment No. 175 to S.B. 40. The DHCFP submitted an unsolicited fiscal note on the first reprint version of S.B. 40 showing a fiscal impact to the DCHFP. The dollar amount contained in the fiscal note has changed based on the amended language of S.B. 40.

The Public Employees' Benefits Program (PEBP) also submitted a fiscal note for S.B. 40 as introduced indicating an unknown fiscal impact. This fiscal note also identified an approximate $100,000 impact on PEBP for developing an all-payer claims database with third-party vendors.

CHAIR BROOKS:
The total amount contained in the fiscal note the DHCFP originally submitted for S.B. 40 as introduced has a $7,209,016 effect on future biennia. The unsolicited fiscal note submitted by the DHCFP for the revised version of S.B. 40 has a total amount of $6,941,333 for future biennia. Is this correct?

ELLEN CRECILIUS (Actuarial Economist, Division of Health Care Financing and Policy, Department of Health and Human Services):
For fiscal year (FY) 2021-2022 and FY 2022-2023, the total amount in the unsolicited fiscal note submitted by the DHCFP for S.B. 40 should be $4,443,276. The change between the fiscal notes submitted by the DHCFP pertains to timeframes and an additional contract for request for proposals (RFP) assistance which was added. This kind of RFP is very complicated, and the DHCFP is relying on field experts to ensure its RFP is appropriately established.

SENATOR RATTI:
Some of the components for the DHCFP's project to establish an all-payer claims database (APCD) contained in its unsolicited fiscal note for S.B. 40 are eligible for a 90/10 match, with 90 percent of the costs being covered by the Centers for Medicare and Medicaid Services (CMS) and 10 percent being covered by General Fund appropriations. Other components of the DHCFP's APCD project are eligible for a 75/25 match and some are eligible for a 50/50 match. What is the total General Fund impact of the unsolicited fiscal note for the 2021-2023 biennium as opposed to the total cost of the project? It is hard to determine this impact due to all of the match rates contained in the unsolicited fiscal note.

MS. CRECILIUS:
To come up with the total impact to General Fund estimate, the DHCFP needed to make an assumption based on what percentage of the APCD system cost could be attributed to DHCFP Nevada Medicaid. Regarding ongoing operations, the portion of costs which can be attributed to Medicaid would be eligible for federal matching funds but the other pieces of the project would not. We

assumed 81 percent of the costs associated with establishing an APCD could be attributed to Medicaid. When this was included in our calculations, the impact to the General Fund is $500,000 during the 2021-2023 biennium.

SENATOR RATTI:
This makes the $4,443,276 contained in the DHCFP's unsolicited fiscal note seem more reasonable.

CHAIR BROOKS:
Can the Patient Protection Commission provide more information on S.B. 40?

SARA CHOLHAGIAN (Executive Director, Patient Protection Commission, Office of the Governor):
Senate Bill 40 was a priority bill draft request of the Patient Protection Commission for the Eighty-first Session. The fiscal note submitted by the DHCFP has been updated based on Amendment No. 175. The goal of S.B. 40 is to allow for the monitoring of the health care industry through the collection of data and reports regarding price consolidation and access to care. This will allow for more informed decision-making as one cannot improve what one cannot measure. One of the main provisions of S.B. 40 which will help facilitate the collection of data is the requirement for DHHS to establish an APCD. The State APCD will include medical, pharmacy and dental claims collected from private and public payers.

SANDIE RUYBALID (Chief IT Manager, Division of Health Care Financing and Policy, Department of Health and Human Services):
The DHCFP added expenditures into the fiscal note it submitted for S.B. 40 to hire a contractor to assist with the development of an RFP. This will help the DHCFP to select a vendor for its APCD project. This contractor expenditure is eligible for 90 percent federal reimbursement. Expenditures were shifted based on additional grant opportunities and realistic timelines for the project's implementation. The DHCFP is going to apply for funding through the No Surprises Act, part of the federal Consolidated Appropriations Act of 2021, which makes $2.5 million available to states over a period of three years.

Sections 14, 15 and 20 of S.B. 40 require data analysis and submission of reports for the APCD project. The DHCFP has shifted the start date for the data-analytics economist and biostatistician positions needed for the project to

January 2022, based on the project's implementation and start date. Ongoing operation costs were also shifted to be in line with the DHCFP's anticipated go-live date for the APCD project of January 1, 2023. Several components of the project are eligible for federal matching funds.

SENATOR RATTI:
Can you explain the grant process regarding the No Surprises Act? What are your expectations for receiving funding, and will funding cover the $500,000 impact to the General Fund contained in the fiscal note? Compared to other grants, I believe funding through the No Surprises Act is easier to receive. States across the Nation are setting up their APCD databases in preparation to receive funding.

MS. RUYBALID:
Plans are not currently completely laid out. All states have an amount of funding allocated to them through the No Surprises Act, with this funding being considered noncompetitive. There is $2.5 million in funding set aside for each state to implement a new APCD or improve upon an existing one. The DHCFP originally assumed costs associated with the implementation of the APCD project would be around $2 million, based on what other states have experienced. We are hoping to make the $2.5 million in grant funding available for the APCD project cover as many costs as possible. The application process for funding should begin around June 2021, and we hope to submit our application sometime in fall 2021. As long as our application has no problems, we hope to be awarded funding for the APCD project around January 2022.

SENATOR RATTI:
Will the funding the DHCFP receives from the No Surprises Act help in receiving federal matching funds? This funding is from a federal grant to be used on projects eligible for matching federal funds.

MS. RUYBALID:
Federal grant dollars cannot be used as a match for federal funding. This is why there is a $500,000 impact to the General Fund. The CMS uses funding from its Medicaid Enterprise Systems to support projects involving data and technology systems. This is where the 90/10 match rate comes into play. The 10 percent contained in the match rate must come from a State source and must be nonfederal. This pertains to any portion of the APCD project cost-allocated to the CMS.

The DHCFP hopes funding from the No Surprises Act will completely cover the costs associated with the project's implementation. Any costs not associated with the project's planning phase will be leveraged under the 90/10 match rate from the Medicaid Enterprise Systems. Costs associated with the operations of the project will be eligible for Medicaid funding using the 75/25 match rate. Costs associated with the portion of the project attributable to Nevada's Medicaid population are the only costs eligible for federal matching funds. We have concluded 81 percent of the costs associated with establishing an APCD in Nevada can be attributed to Medicaid and reimbursed through the CMS. Remaining costs associated with the project will have to come from the General Fund.

SENATOR RATTI:
The DHCFP is confident it will receive funding from the No Surprises Act, with this funding being used to cover most of the startup costs associated with the APCD project. A portion of these startup costs are eligible for a 90/10 match rate from the CMS, with the rest being covered by General Fund appropriations. The APCD will be fully operational sometime in FY 2021-2022. Are future, ongoing operating costs of the project eligible for a 75/25 federal match rate?

MS. RUYBALID:
The portion of the APCD project's operating costs attributable to Nevada's Medicaid population are the costs eligible for the 75/25 federal match rate.

SENATOR RATTI:
Funding streams for the APCD project are complex. Knowing $500,000 in upfront costs will need to come from General Fund appropriations is helpful. Please send any additional information regarding the project's upfront costs to this Committee.

SENATOR KIECKHEFER:
How did the DHCFP determine 81 percent of the costs associated with establishing an APCD in Nevada can be attributed to Medicaid? Approximately 800,000 Nevadans receive Medicaid services. This is not 81 percent of the total insured population in the State.

MS. RUYBALID:
The DHCFP discussed options for cost-allocation plans with its federal partners and determined not all health insurance plans are required to participate in the APCD. We looked at the number of insurance plans offered to the population mandated to have their health data submitted to an APCD. The portion of this mandated population receiving Medicaid services is approximately 81 percent. The CMS agreed with us on these calculations. The DHCFP will not offer funding to insurance plans regulated under the U.S. Department of Labor, Employee Retirement Income Security Act of 1974 to incentivize participation in the APCD as these plans are voluntarily established in the private industry. If the portion of Nevada's population receiving Medicaid services changes in the future, the DHCFP will need to update its cost-allocation plan. The DHCFP's plans for the APCD project still need to be formally approved.

SENATOR KIECKHEFER:
I thought the portion of the population mandated to have their health data submitted to an APCD are those receiving insurance regulated by the Department of Business and Industry, Division of Insurance. Is this correct?

MS. RUYBALID:
The portion of Nevada's population receiving insurance from a company regulated by the Division of Insurance is approximately 48 percent. The DHCFP then considered the uninsured portion of Nevada's population, before determining 992,000 people in Nevada are mandated to have their health data submitted to an APCD. This mandated population includes Nevadans receiving insurance benefits from Nevada Medicaid, DHCFP Nevada Check Up, PEBP, private insurance and small-business plans. If helpful, we can refine and resend our calculations to the Committee.

SENATOR KIECKHEFER:
If 81 percent of the health data going to the APCD can be attributable to Medicaid, what new benefits and information will the State receive on top of what it already receives from Medicaid?

SENATOR RATTI:
I would like more information on this as well, as we do not know what new information the State will receive from the APCD. Even though the portion of the population receiving insurance from a company regulated by the Division of Insurance is only 48 percent, having this data submitted to the APCD will give

the State significant insight on how claims are being handled outside of public insurance programs.

KYRA MORGAN (State Biostatistician, Department of Health and Human Services):
We have no insight on how claims are handled within public insurance programs, making it difficult for the State to maintain transparency and cost equity across different payment sources. Even though the portion of the population receiving insurance from a company mandated to submit health data to an APCD is small compared to the total amount of insurance claims in the State, information from the APCD will still provide insight on data and how insurance claims are being adjudicated.

Even though certain insurance companies are not mandated to submit claims to an APCD, establishing an APCD in Nevada is an important first step toward establishing a database for these companies to eventually submit their data to. Establishing an APCD will incentivize all insurance companies, whether mandated to submit claim data to an APCD or not, to voluntarily submit health data. Pursuant to S.B. 40, the DHHS is not required to provide information and data to insurance companies who do not submit claims data to the APCD. These insurance companies will not have the advantage of receiving analytics from the APCD, which may have information not currently accessible to insurers.

CHAIR BROOKS:
If an insurance company voluntarily submits claims data to the APCD in the future, will the cost-allocation formula the DHCFP uses change? Is this cost-allocation formula strictly based on the number of insured people in the State?

MS. RUYBALID:
Cost-allocation plans are agreed upon between the DHCFP and the CMS, and are generally updated on an annual basis. We would start by assuming 81 percent of the costs associated with establishing an APCD can be attributable to Medicaid. As insurance companies start voluntarily submitting claims data to the APCD, the DHCFP will adjust the amount of the project's costs attributable to Medicaid. Nevada Medicaid is both State and federally funded, and the federal government wants to ensure it is not paying for the transmittal of data regarding Nevada's non-Medicaid population. The

DHCFP's cost-allocation calculations are fluid and are an estimate based on current information.

CHAIR BROOKS:
Can you further discuss the timeline of the APCD project? It is highly likely the DHCFP will be approved to receive funding from the No Surprises Act. Will no money be spent on the APCD project until this grant funding is approved? Once the project is operational, what is the DHCFP's estimate regarding the impact to the General Fund?

MS. RUYBALID:
Even though it is subject to change, the DHCFP plans to procure a contract to assist with the RFP by October 1, 2021. The DHCFP hopes to release the RFP at the same time it submits its grant application. This will allow contracts to be signed with vendors and operations to begin at the same time funding is awarded for the APCD project. Our timeline for the project considers the project's 12 month implementation phase. The DHCFP hopes to be awarded funding and to start the project by January 2022, which will be followed by the 12-month implementation phase. We would like operations for the project to begin in January 2023.

CHAIR BROOKS:
Everything is contingent upon the DHCFP being awarded funding from the No Surprises Act, correct?

MS. RUYBALID:
Correct.

CHAIR BROOKS:
After funding is awarded, $500,000 in upfront costs will need to come from General Fund appropriations during the 2021-2023 biennium. Was this accounted for in the fiscal note submitted by the DHCFP?

MS. RUYBALID:
The impact to the General Fund is included in the DHCFP fiscal note. The ongoing operational costs associated with APCDs in other states is approximately $3 million per year, and includes technology and staffing costs. Nevada Medicaid can draw down 75 percent federal funding for the percentage of the APCD's operations attributable to Medicaid. Additional ongoing

operational costs will need 100 percent support from the General Fund. These operational costs are currently hard to estimate, as we have not begun APCD operations yet.

CHAIR BROOKS:
Are 81 percent of the ongoing operational costs of the APCD attributable to Nevada's Medicaid population? Is the 75/25 federal match rate applied to the 81 percent of the project's costs attributable to the Medicaid population?

MS. RUYBALID:
Yes, 81 percent of the ongoing operational costs of the APCD are attributable to Nevada's Medicaid population. These costs are eligible for the 75/25 federal match rate.

SENATOR KIECKHEFER:
Will the APCD project have a fiscal impact on PEBP?

LAURA RICH (Executive Officer, Public Employees' Benefits Program):
As a precautionary measure, a $100,000 fiscal note was originally submitted by PEBP for S.B. 40. This was done because we did not know how much funding would be needed for PEBP to provide claims data to the APCD. The fiscal impact to PEBP if S.B. 40 passes will depend on reporting requirements. After discussions with the DHCFP and other stakeholders, we feel the fiscal note submitted by PEPB can be removed.

A standard claims submission to the APCD can easily be done by PEBP's vendors. Additional reporting requirements can make the submission of claims to the APCD more complex, as data fields will need to be adjusted. The DHCFP's APCD system appears to be very standardized regarding submission of claims data. Nevada is not the first state to implement an APCD, and the model other states use for the standardization of claims can be used in Nevada to make the process easier. We do not anticipate submitting claims to the APCD will come at a cost to PEBP in the future.

CHAIR BROOKS:
The Committee will now hear fiscal issues related to S.B. 70. This Bill was submitted by the Senate Committee on Health and Human Services on behalf of the DHHS Northern Regional Behavioral Health Policy Board.

SENATE BILL 70 (1st Reprint): Revises provisions governing mental health. (BDR 39-418)

MR. THORLEY:
Senate Bill 70 revises provisions governing mental health. The DHHS Division of Public and Behavioral Health (DPBH) submitted a fiscal note for S.B. 70 as introduced of approximately $19 million during the 2021-2023 biennium. The Senate adopted Amendment No. 51 to S.B. 70, which resulted in the DPBH submitting an unsolicited fiscal note on the amended version of the Bill. This unsolicited fiscal note indicates no fiscal impact to the DPBH. The Department of Public Safety (DPS) submitted a fiscal note for S.B. 70 as introduced indicating a fiscal impact to the DPS cannot be determined.

JESSICA FLOOD (Regional Behavioral Health Coordinator, Northern Regional Behavioral Health Policy Board):
Senate Bill 70 focuses on clarifying and modernizing the involuntary mental health detainment and treatment laws contained in NRS 433A. The Regional Health Board did not intend for S.B. 70 to have a fiscal impact; however the DPBH identified a potential and unanticipated service burden. The Regional Health Board worked with the DPBH to develop an amendment for the Bill addressing its concerns. As a result, the DPBH determined S.B. 70 will no longer have a fiscal impact on its operations. This is shown in the unsolicited fiscal note submitted by the DPBH.

ROBIN REEDY (Executive Director, National Alliance on Mental Illness):
The National Alliance on Mental Illness (NAMI) in Nevada supports S.B. 70. Testimony in support of S.B. 70 can be found in NAMI Support Testimony for S.B. 70 (Exhibit B).

CHRISTINA BROOKS (Agency Manager, Northern Nevada Adult Mental Health Services, Division of Public and Behavioral Health, Department of Health and Human Services):
The DPBH is neutral on the first reprint version of S.B. 70 due to the changes made to sections 11, 18 and 47 by Amendment No. 51. Section 11 of S.B. 70 was amended to allow for other programs to provide assisted outpatient treatment. Section 18 of S.B. 70 was amended to state the assisted outpatient treatment program must be available in the county a person resides, and the person who petitions the individual into the program must provide the service. Section 47 of S.B. 70 was amended to state a hospital is not required to

practice conditional release. The amendment to these sections of S.B. 70 removed the fiscal note submitted by the DPBH.

CHAIR BROOKS:
The Committee will now hear fiscal issues related to S.B. 154. This Bill was submitted by the Senate Committee on Health and Human Services on behalf of the Legislative Committee on Health Care. Senate Bill 154 makes changes related to Medicaid coverage of certain treatments administered at institutions for mental diseases (IMD).

SENATE BILL 154 (1st Reprint): Makes changes related to Medicaid coverage of certain treatments administered at institutions for mental diseases. (BDR 38-451)

MR. THORLEY:
The DHCFP submitted a fiscal note for S.B. 154 as introduced. The Senate adopted Amendment No. 94 to the Bill. Fiscal staff reached out to the DHCFP to inquire if the amendatory language in the Bill altered or removed the fiscal impact to the DHCFP, with the Agency indicating the fiscal note it submitted for S.B. 154 as introduced would remain.

CHAIR BROOKS:
Senator Ratti is going to present information on S.B. 154.

SENATOR JULIA RATTI (Senatorial District No. 13):
The DHCFP conducted a Medicaid analysis and determined it would need to apply for a CMS 1115 Medicaid waiver to receive federal funding for coverage of certain treatments. Senate Bill 154 addresses institutions for mental disease. Current federal law contains exclusions prohibiting IMDs from drawing down federal matching funds. An IMD is a psychiatric or behavioral health facility having 16 or more beds. Additional information on IMDs is provided in the IMD Exclusion Infographic (Exhibit C).

In the past, stakeholders were concerned there were too many people suffering from behavioral health disorders being detained in institutions. In response, the State proposed to not provide funding for IMDs with more than 16 beds, with the hopes of enabling a more community-based response. This was effective in getting people out of institutions, but the care received by certain individuals with mental health disorders was impacted. The process made it difficult for agencies addressing people with serious mental health disorders or substance abuse issues to find room for these people in IMDs, resulting in exclusion. Instead of being sent to an IMD, people with mental illness and substance abuse issues ended up in expensive hospitals, emergency rooms and inpatient facilities which do not provide appropriate care.

In response, the CMS has established a waiver application so states can apply and request a waiver from the IMD exclusion rule which prevents agencies from receiving federal matching funds. In applying for a waiver, it is required states demonstrate cost savings over a five year period. This is a sequential process for Nevada, with the first step being the approval of S.B. 154 directing the DHCFP to apply for a waiver through the CMS. After applying for the waiver, the CMS will review the application to determine the level of cost savings and ensure cost neutrality. After approval, Nevada will be able to draw down federal matching funds to support its IMDs. Reducing the number of people ending up in emergency rooms and expensive hospitals will save the DHCFP money. Being able to place people in an IMD will provide them more appropriate care at a potentially lower cost.

DUANE YOUNG (Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):
Many IMDs provide faster treatment but people may not feel comfortable going into these facilities due to stigma.

To estimate its fiscal note for S.B. 154, the DHCFP took into account upfront costs associated with waiver development. The DHCFP has contract support to ensure cost neutrality regarding its waiver application, and has made changes to its mental health system. While we must maintain cost neutrality over the five-year lifespan of the waiver, additional savings can be brought to the State. If 50 percent of the individuals the State is currently treating in facilities not subject to the IMD exclusion rule were to be treated in IMDs, or facilities not typically considered an IMD such as those used in the treatment of substance abuse disorders, the State will see immediate savings within the 2019-2021 biennium. These savings will be enough to pay for the cost of waiver development and will allow modified operations of the DHCFP regarding IMDs to begin in FY 2021-2022.

CHAIR BROOKS:
Is the initial funding needed to get the IMD waiver project running limited in where it can come from? Considering the DHCFP will use federal funding to support the ongoing costs of its IMD waiver project, can federal funding be used to start the project? Do startup costs need to come from the General Fund? Can startup costs be funded with settlement money the State receives?

MR. YOUNG:
Because the State will receive federal matching funds for waiver development, contract services and ongoing costs associated with the IMD project, startup costs must come from the General Fund. The DCHFP's fiscal note for S.B. 154 shows there will be a fiscal impact to B/A 101-3158 and B/A 101-3243. The DHCFP is asking for the savings it receives from the IMD project in B/A 101-3243 be allowed to transfer into B/A 101-3158 to cover costs within the 2021-2023 biennium.

HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING AND POLICY

HHS-HCF&P - HCF&P Administration — Budget Page DHHS-DHCFP-14 (Volume II)
Budget Account 101-3158

HHS-HCF&P - Nevada Medicaid, Title XIX—Budget Page DHHS-DHCFP-36 (Volume II)
Budget Account 101-3243

SENATOR RATTI:
Do the startup costs of the IMD project have to come from the General Fund? Can they come from settlement money or another source of funding not coming from the federal government?

MR. YOUNG:
Yes, startup costs for the project can come from any nonfederal source of funding. Settlement funds are often used by states as a match for federal funding.

SENATOR SEEVERS GANSERT:
There are many opportunities to apply for waivers regarding certain projects. Are other states applying for a CMS waiver from the IMD exclusion rule? Can Nevada model what these states are doing to help its citizens?

MR. YOUNG:
Approximately 40 states are implementing some form of waiver from the IMD exclusion rule. The CMS is asking states to first implement a waiver regarding substance abuse disorders. The process for developing these waivers will then be used to help states submit their waivers for the treatment of serious mental illnesses.

SENATOR KIECKHEFER:
Aside from health care benefits for clients, how much in annual savings does the DHCFP anticipate will become available after its waiver is fully implemented? Treating individuals in an IMD instead of an emergency room will generate additional savings.

MR. YOUNG:
I do not have an exact number regarding future savings, but moving individuals currently being treated in emergency rooms and acute-care hospitals into an IMD will result in savings from any managed care organizations (MCO) involved in the treatment. Managed care organizations have a rule called "in lieu of", meaning the MCO can pay for approximately 15 days of inpatient treatment for an individual each month in lieu of more expensive treatment. Individuals must move out of these treatment facilities within 15 days, but they may cycle back later. If these individuals can be treated longer in the MCO setting, it would result in more long-term cost savings.

The IMDs are where most immediate cost savings come from. Because the IMDs are cost-based in their reimbursement calculations and methodology, they are much cheaper than acute-care hospitals. For every person shifted out of an acute-care hospital into an IMD, whether they are admitted in the emergency room or for an inpatient stay, the State can save money annually. In five years, the savings the State receives will be reflected in lower costs and better care for individuals with mental health issues and substance abuse disorders.

JEANETTE BELZ (Nevada Psychiatric Association):
The Nevada Psychiatric Association supports S.B. 154. Provisions in this Bill may appear to be a leap of faith, but dollars spent by the DHCFP for the IMD project are justified through long-term savings. Being able to shift the cost burden from the DHCFP's administrative budget to B/A 101-3243, which is meant to purchase and provide quality health care services to low-income Nevadans, will generate additional savings. Senate Bill 154 will not only generate long-term savings for the State, but it will improve the quality of care many Nevadans are currently receiving.

MS. REEDY:
The National Alliance on Mental Illness in Nevada supports S.B. 154. Testimony in support of S.B. 154 can be found in NAMI Testimony for S.B. 154 (Exhibit D).

SARAH ADLER (Vitality Unlimited; New Frontier Treatment Center):
As a member of NAMI, I support S.B. 154. Vitality Unlimited and New Frontier Treatment Center are two rural Nevada treatment centers supporting individuals with substance abuse disorders. Many Nevadans suffer from substance abuse disorders and mental health illnesses, and using IMD waivers will increase their access to specialized care. These waivers will also enable Nevadans to be served within the State and return to being productive members of society.

CHAIR BROOKS:
The Committee will now hear fiscal issues related to S.B. 274, which is sponsored by Senators Ratti and Cannizzaro. This Bill revises provisions relating to commercially sexually exploited children.

SENATE BILL 274 (1st Reprint): Revises provisions relating to commercially sexually exploited children. (BDR 38-705)

MR. THORLEY:
The DHHS Division of Child and Family Services (DCFS) submitted a fiscal note for S.B. 274 as introduced indicating a fiscal impact. The DCFS further indicated this fiscal impact would not affect the General Fund, and federal funding is available to cover the costs associated with S.B. 274. The Senate adopted Amendment No. 262 to this Bill. After the DCFS reviewed the amendatory language within S.B. 274, it indicated federal funds are still available to cover the anticipated fiscal impact. Clark County and Washoe County also submitted

fiscal notes for the Bill, indicating a fiscal impact. Amendment No. 262 alters these fiscal notes.

CHAIR BROOKS:
Senator Ratti, one of the sponsors of S.B. 274, will present an overview of the Bill.

SENATOR JULIA RATTI (Senatorial District No. 13):
The policies within S.B. 274 are straight forward. The Bill states children who are victims of sexual exploitation through trafficking should not be treated as offenders in the juvenile justice system, even though they may have committed small-level crimes through participating in their exploitation. Instead, these children should be treated in the DHHS Division of Welfare and Supportive Services (DWSS) as victims. Both the juvenile justice system and the DWSS have been working toward achieving this goal.

Having children who are victims of sexual exploitation placed in a secure facility is important, as it prohibits the influence of their oppressors on their lives. Children who are still in contact with their oppressor can pose as a significant flight risk. By default, these children have been placed in a juvenile justice system if a secure child welfare location is not available. Unfortunately, placement in a juvenile justice system can be additionally traumatizing for these children who are truly victims and not offenders.

I spearheaded S.B. No. 293 of the 80th Session which stated Nevada will no longer treat children who have been sexually trafficked as offenders, instead stating they will be treated as victims. Senate Bill No. 293 of the 80th Session also stated these children need to move into a child welfare location instead of the juvenile justice system. It is often thought money spent on children in the juvenile justice system should also be used to transfer them into the child welfare system. However, this is complicated, as these systems are funded with restrictive funding which is not able to be transferred within systems. This can be a large problem for counties, as there are large costs associated with the transfer of children from the juvenile justice system into the child welfare system.

During the Eightieth Legislative Session, the Legislature allocated funding to the DCFS to hire contractors needed to facilitate conversations around not placing children who are victims of sex crimes into the juvenile justice system.

Senate Bill No. 293 of the 80th Session stated Nevada needed to figure this issue out by July 2022. Since the Eightieth Legislative Session, there have been a series of workgroups with the State and counties to figure this issue out, with much progress being made. However, finding funding to fix this issue is still challenging. Through Amendment No. 262, S.B. 274 does a better job of aligning the Bill's language with U.S. Department of Health and Human Services, Children's Bureau, Title IV-E Foster Care funding to be used for children in need of protection. Using Title IV-E funding will give counties more flexibility in providing existing resources to serve this population.

As originally written, S.B. 274 was interpreted as mandating counties to open receiving centers. These centers are also known as locked-down child welfare facilities. This is not the intent of S.B. 274, as other locations can be used to house children who are victims of sexual trafficking. However, receiving centers should be an optional location to send children. The Bill's sponsors wanted to establish a framework for licensing and building receiving centers, as nonprofit and county organizations may be interested in providing locations to help these children. The significant work going into S.B. 274 has reduced the fiscal notes submitted by Nevada counties.

KATHRYN ROOSE (Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services):
The DCFS submitted a fiscal note for S.B. 274 indicating $173,888 would be needed for it to hire a contractor to engage stakeholders in the development of licensing requirements and regulations relating to receiving centers and the provision of services. The contractor will also be used to update policies and procedures relating to the oversight of receiving centers and services provided to commercially sexually exploited children. Additionally, the contracted position would provide outreach and technical assistance to potential providers and assist with the establishment of receiving centers. The DCFS has identified U.S. Department of Health and Human Services, Title IV-B, subpart 2 funding and U.S. Department of Justice, Office for Victims of Crime, Victims of Crime Act (VOCA) funding as two federal funding streams which can be used to fully fund the DCFS contractor position without impacting the General Fund.

CHAIR BROOKS:
What is Title IV-B funding?

MS. ROOSE:
Several federal funding streams are related to the child welfare system. Title IV-E funds are one of the main sources of federal funding available for child welfare. Title IV-B funding has subparts I and II. Each source of funding has different requirements regarding what the funding can be spent on. The DCFS has identified Title IV-B, subpart II as being an appropriate funding source for hiring its contract position.

JOANNA JACOB (Government Affairs Manager, Clark County):
Clark County has been working with the DWSS and other child welfare agencies on transferring children who are victims of sexual exploitation out of the juvenile justice system and into the child welfare system. These are two different systems, with the child welfare system experiencing funding challenges. Clark County has worked with Senator Ratti on S.B. 274 to mitigate fiscal impacts associated with the level of services which must be provided. Certain sections of S.B. 274 relating to involuntary detainment of children have been deleted through Amendment No. 262 as additional work needs to be done.

Children who are victims of sexual trafficking require a high level of acuity regarding treatment services. A higher level of staffing is required to provide these services and to shift children into the child welfare system. Not housing children in a juvenile justice facility will require counties to plan for them to be housed elsewhere in the child welfare system. This plan needs to ensure adequate housing for children 365 days per year, as this is a transient population.

Clark County estimated in its fiscal note that on average, it assists approximately 150 children per day who have been subjected to commercial sexual exploitation. This includes new referrals and children already being housed in receiving centers. These numbers are fairly constant, but are somewhat difficult to track. Certain victims are already being immediately transferred into the child welfare system, but these transfers will increase in the future. The DCFS was slated to adopt regulations requiring the certification of a facility or organization other than a receiving center on July 1, 2022, but Amendment No. 262 changed section 35 of S.B. 274 to begin this process on July 1, 2023.

CHAIR BROOKS:
How has the fiscal note submitted by Clark County for S.B. 274 changed as a result of Amendment No. 262?

MS. JACOB:
The original fiscal note submitted by Clark County for S.B. 274 included calculations for building a receiving center which was believed to be mandated by certain sections of the Bill. This resulted in the original fiscal note containing estimated costs pertaining to the construction of a receiving center. Sexually exploited children have particular needs which are difficult to address if they are housed in receiving centers within the juvenile justice system. Based on surveys from other jurisdictions, it was shown housing units built for sexually exploited children need to include supportive services. This brings the range of total housing costs to approximately $400 to $600 per day. Clark County originally estimated it would need to house 85 commercially sexually exploited children at $500 per day. These costs cover securing the facility, staffing, case management, supervising staff and the provision of mental health services.

Licensing costs associated with licensing nonprofit organizations and other facilities were also included in Clark County's original fiscal note. Staff handling sexually exploited children also need to be trained in forensic interviewing. Clark County estimated the fiscal impact of S.B. 274 would be $21,974,631 in FY 2021-2022, $22,118,692 in FY 2022-2023 and $43,061,649 in future biennia. Amendment No. 262 provides Clark County flexibility for placing victims of sexual trafficking in alternative locations.

Section 1.6 of S.B. 274 states the DCFS may adopt regulations requiring the certification of a facility or organization other than a receiving center if the facility provides any type of services for commercially exploited children. Amendment No. 262 removes references to detainment, as restrictions exist for using Title IV-E funding for detention services. We have provided alternatives to this detainment language. Section 29 of S.B. 274 was amended to allow the DCFS to draw down Title IV-B funding. If a case warrants the intervention of child welfare services and a child cannot be safely returned to his or her home, the DCFS can now draw down child welfare funding.

Clark County can revise its fiscal note, as we think Amendment No. 262 will shift certain costs into future biennia. This will result in no fiscal impact in FY 2020-2021 or FY 2021-2022. By changing when regulations requiring the certification of a facility or organization other than a receiving center must be adopted to July 1, 2023, the DCFS can better build housing plans, renovate existing facilities and better train staff. As a result, revised fiscal impacts can be filed for future biennia.

CHAIR BROOKS:
What costs, duties and tasks associated with juvenile justice can be offset by housing children within the child welfare system? I understand the costs associated with treatment in these two systems is very different.

AMBER HOWELL (Director, Human Services Agency, Washoe County):
Washoe County's Human Services Agency (HSA) is grateful it will be given additional time to begin housing children who are victims of sexual crimes outside of the juvenile justice system. Preparing and setting up receiving centers will be the most costly portion of this project, but these will be onetime costs. In its cost analysis, Washoe County compiled ongoing position costs, onetime building costs and replacement costs. As introduced, S.B. 274 did not allow counties to draw in Title IV-E funding to help with these maintenance costs but Amendment No. 262 helps with this. The matching Title IV-E funding is only eligible to cover 25 percent of the project's startup costs, with the HSA receiving approximately $1.4 million in Title IV-E funding to help with startup costs. For annual costs, the HSA is able to use almost $1 million in Title IV-E funding for hiring and placement costs. This will help the HSA revise and reduce its fiscal note.

Historically, a county's juvenile justice facility needs a certain amount of funding for ongoing operations and the hiring of staff. Even though victims are scheduled to be transferred from the juvenile justice system into child welfare agencies, expected savings may not be realized within the juvenile justice system as these facilities have flat operating costs. Even when a census decreases, there is not much savings due to overhead costs and the continuous funding that must occur for juvenile justice facilities to operate.

The HSA strives to potentially use State VOCA funding to offset costs to the General Fund, as sections of VOCA allow its funding to be used for innovation in the federal government's high-priority areas such as the sexual trafficking of children. By 2023, the HSA will be ready to begin placing children who are victims of sexual trafficking into the child welfare system. We are currently involved in workgroups and discussions around this issue and are already receiving screening reports regarding victimized children within foster care facilities. Senate Bill 274 can bring additional victims into the HSA's facilities which are safer than those within the juvenile justice system and not oriented around detainment.

SENATOR KIECKHEFER:
Regarding the calculations for ongoing costs contained in Clark County's fiscal note for S.B. 274, it indicated it expects to house 85 sexually exploited children at $500 per day for every day of the year. Are these expectations accurate? I thought children were intended to be transitioned out of receiving centers and back to their families after a couple of days.

MS. JACOB:
In its revised fiscal note for S.B. 274, Clark County still estimates to see 30 to 35 children on an ongoing basis over the course of a year. We believe about 30 percent of these children can be returned to their families, but they must still be housed by Clark County for a short period of time. Children from other jurisdictions may take even longer to be returned to their families. Some children may not ever be able to return home which is why we calculated needing to house them for 365 days. The HSA reached similar conclusions in its analysis. Facilities must be open to receive a child at all times, but we are hoping to send some of these children back to their families and home states. This has been built into the estimates of the revised fiscal note we will be submitting to the Committee shortly.

CHAIR BROOKS:
What percentage of the sexually exploited children assisted by Nevada's juvenile justice and child welfare systems are from another country? What challenges result from them not having family in this country? What if these children are trafficked into the U.S.?

MS. JACOB:
I do not have this percentage currently, but I can submit it with the supplemental information the HSA will be submitting along with its revised fiscal note to this Committee. Pursuant to section 29 of S.B. 274, when the HSA receives reports on a child's sexual exploitation, it must make a needs assessment plan and prepare the child to be safely discharged from a child welfare facility. This may include finding a long-term facility for the child to be discharged to. Providing long-term support services based on a child's needs

can be challenging and costly. Due to Clark County being a tourism corridor with much traffic from California and Arizona, Nevada has more cases of sexual trafficking than other jurisdictions. Washoe County also sees many of these cases. Children who are trafficked from other countries may need to be placed in a facility and serviced longer than a child born in the U.S.

SENATOR RATTI:
I am grateful for the work the DCFS, Clark County and Washoe County are doing to help sexually exploited children. As part of this process, we assessed other States and found out it has not yet been determined how to best place victims into a child welfare system instead of a juvenile justice system. Due to Nevada's economy being based on tourism, special events and hospitality, many people are trafficked to and through our State. On a basic moral and ethical level, Nevada is in the best position to fix this issue.

While an unfunded mandate to local governments may be necessary, I am grateful counties have worked with the Legislature to reduce the fiscal impact of S.B. 274. Policies need to be enacted to get the ball rolling on these activities, as by default the State has been treating children who are victims of sexual trafficking within the juvenile justice system for a long while. I am grateful to stakeholders for working on this difficult issue even though it may cost them more money to transfer children out of the justice system and into the child welfare system.

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CHAIR BROOKS:
Seeing no public comment, this meeting is adjourned at 11:57 a.m.

RESPECTFULLY SUBMITTED:

Tom Weber,
Committee Secretary

APPROVED BY:

Senator Chris Brooks, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
S.B. 70	B	1	Robin Reedy / National Alliance on Mental Illness	NAMI Support Testimony
S.B. 154	C	1	Senator Julia Ratti / Senatorial District No. 13	IMD Exclusion Infographic
S.B. 154	D	1	Robin Reedy / National Alliance on Mental Illness	NAMI Support Testimony