

# ARIZONA STATE SENATE

## 45TH LEGISLATURE FIRST REGULAR SESSION

### MINUTES OF COMMITTEE ON HEALTH

**DATE:** February 6, 2001                      **TIME:** 1:30 p.m.                      **ROOM:** SHR 2

**CHAIRMAN:** Senator Gerard                      **VICE CHAIRMAN:** Senator Nichols

**ANALYST:** Jason Bezozo                      **COMMITTEE SECRETARY:** Carol Dager

**INTERN:** Meghann Brennan                      **ASSISTANT ANALYST:** Kathy Seeglitz

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#### ATTENDANCE

#### BILLS

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<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Cirillo	X			SB 1079	DPA/SE
Senator Guenther	X			SB 1082	DPA
Senator Hartley	X			SB 1109	DISCUSSION/HELD
Senator Nichols	X			SB 1162	DPA
Senator Solomon	X			SB 1196	DP
Senator Verkamp			X	SB 1207	DPA
Senator Nichols, Vice Chairman	X			SB 1209	DPA/SE
Senator Gerard, Chairman	X			SB 1291	DP
				SB 1298	DPA
				SB 1299	DP
				SB 1302	HELD
				SB 1303	DP
				SB 1307	DPA
				SB 1311	DISCUSSION/HELD
				SB 1314	HELD
				SB 1353	DP

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#### SPECIAL PRESENTATIONS

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#### GOVERNOR'S APPOINTMENTS

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<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Chairman Gerard called the meeting to order at 1:38 p.m., and attendance was taken.

Attendees Sign-In Sheet (Attachment A)

## **CONSIDERATION OF BILLS**

### **SB 1079 – children’s health insurance; behavioral health (now: critical access hospital funding)– DO PASS AMENDED/STRIKE EVERYTHING**

**Jason Bezozo, Senate Assistant Research Director**, explained that in order to maintain hospital services in rural areas, Congress approved a program allowing rural hospitals to scale back the services they provide to their communities while maintaining their Medicare certification and continuing their cost-based reimbursements for Medicare. Under this program, Medicaid agencies may provide reasonable cost-based reimbursement to a hospital that is designated as a critical access hospital. The strike everything amendment to SB 1079 appropriates \$1.7million of state and federal in FYs 2001-2002 and 2002-2003 to the Arizona Health Care Cost Containment System (AHCCCS) to increase reimbursement for certain rural hospitals.

**Joyce Hospodar, Field Coordinator, Critical Access Hospital Program**, noted that this federal program has over 300 hospitals already designated as critical access hospitals. In Arizona, there are approximately seven that they are working with to get this designation. The support of the Legislature to provide additional dollars would assist this program.

Senator Gerard mentioned that the state provides \$800,000 and the federal government provides \$900,000 to this program. Ms. Hospodar stated that these rural hospitals are small 15-bed units and by receiving this support, it will help these communities both economically and for providing the healthcare services that are needed.

**Senator Guenther moved SB 1079 be returned with a DO PASS recommendation.**

**Senator Guenther moved the 12-line Solomon strike everything amendment dated 02/02/01, 10:30 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment B)**

**Senator Guenther moved SB 1079 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1. (Attachment 1)**

Chairman Gerard noted the following were present in support of the bill: **Chris Herstam, Banner Health Arizona; Donna Redford, Advocacy Director, Arizona Bridge to Independent Living; and Sherri Walton, Advocate/Public Policy Chairman, Mental Health Association.**

## **SB 1082 – qualifying community health centers; contracts – DO PASS AMENDED**

**Meghann Brennan, Senate Health Committee Intern**, explained that SB 1082 appropriates \$5 million annually beginning in FY 2001-2002 from the state general fund to the Department of Health Services (DHS) for contracts to provide dental services. There is a three-line Gerard amendment dated 02/05/01 at 7:52 a.m. that specifies people who are eligible for preventive or restorative dental under the Arizona Health Care Cost Containment System (AHCCCS) are not eligible for the services outlined in this bill.

Senator Solomon asked if the \$5 million would cover everyone in need. Senator Gerard replied that it would not cover everyone, pointing out that dental care is the greatest unmet healthcare need in the State. She reminded everyone that Medicaid does not cover adults for dental care, only emergency services. Children are supposed to receive a full range of services; however, there are many children who do not qualify for Medicaid or Kids Care.

Senator Nichols stated that he has been approached by a representative of the Nevada Legislature regarding a new dental school they want to start and would like to make some seats available for Arizona students if the state would like to purchase them. It is something the state may want to consider.

Senator Cirillo indicated that this bill is fine to do but does not see how it addresses the concern that there are few dentists in rural and underserved areas. Senator Gerard replied that this is a 50-50 problem. She said that she had attended the Surgeon General's meeting on oral health where it was noted that dentistry is the most unmet need in the country. It is the leading infectious disease in children. It was also discussed that dentistry fluctuates with the economy. When the economy is good, people have a lot of cosmetic dental work done. There is a shortage of dentists currently because there is a good economy. However, there will be plenty of dentists available during the next recession.

Senator Cirillo referred to some articles he has read recently which indicated that dental and gum disease can lead to other problems such as heart disease.

**Senator Nichols moved SB 1082 be returned with a DO PASS recommendation.**

**Senator Nichols moved the three-line Gerard amendment dated 02/05/01, 7:52 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment C)**

**Senator Nichols moved SB 1082 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1. (Attachment 2)**

Chairman Gerard noted the following were present in support of the bill: **Susan Cannata, Attorney, ARC of Arizona; Amy Hyman, Legislative Liaison, Governor's Council on Developmental Disabilities; Jack G. Wiggins, Ph.D., Arizona Psychological Association; Kristin Greene, Director of Government Affairs, Arizona Association of Community Health Centers; Donald Vance, Coordinator, Capital City Taskforce, AARP; and Joe Abate, Attorney, Arizona State Dental Hygienist Association.**

## **SB 1109– medical student loans – DISCUSSION/HELD**

Mr. Bezozo explained that SB 1109 makes numerous changes to the medical student loan program. The Office of the Auditor General (OAG) recommended that the Legislature define the term “rural” or give the Board of Medical Student Loans (Board) authority to adopt a definition of rural. The OAG also recommended that the Legislature include the amount of time the Board should track doctors who continue to practice in rural or medically underserved areas once their service obligation is complete. In addition, the OAG recommended that the Legislature add a definition of “Arizona resident” to the Board statutes. SB 1109 includes these recommendations and enhances the definition of “medically underserved areas” as well. The bill includes a definition of “medically underserved population” and tightens the definition of “resident” by mirroring the state universities’ statutory definition of “resident.” The bill also provides some flexibility to the Board on how it may allow program participants to fulfill their service obligations.

Mr. Bezozo noted that there are several amendments to the bill. The first is a two-page Gerard amendment (Attachment D) dated 01/29/01 dated 10:45 a.m., which includes language to continue the Board for ten years. It also cleans up the provision that increases the maximum stipend amount of the loan. The second amendment is a 17-line Gerard amendment (Attachment E) dated 02/05/01 at 5:15 p.m., which would remove some of the new authorities of the Board to allow the Board to determine how some of the physicians would pay back their service obligations. It also makes a couple of changes to the definitions of “medically underserved areas” and “populations.” There are several references in the bill to federal laws and this amendment cleans that up by eliminating the references to federal law and specifying that those areas can be designated as in federal law. The third one is a 12-line Gerard amendment (Attachment F) dated 02/06/01 at 8:58 a.m. that is an amendment to the 17-line amendment, which would eliminate references in the bill to the definition of rural areas.

Mr. Bezozo next pointed out that the six-line Nichols amendment (Attachment G) dated 01/29/01 at 9:55 a.m. is included in the 17-line Gerard amendment. The other 17-line Gerard amendment (Attachment H) dated 02/05/01 at 4:09 p.m. is included in the first 17-line amendment that was described previously. He explained that these two amendments do not have to go if the first 17-line Gerard amendment is passed.

Mr. Bezozo noted that the 17-line amendment was worked on by a representative of the Board and the Association of Community Health Centers. There were concerns that there was great flexibility in the new language of the bill that would allow the Board to allow a provider to serve in areas of the state that did not fit with the original intent of the legislation that was established in 1977. Senator Gerard said that technically when someone looks at Maricopa County, there are some rural and medically underserved areas.

**Kristin Greene, Director of Government Affairs, Arizona Association of Community Health Centers**, noted that they had a few problems with the bill as it was originally written. It was trying to loosen up too many things that the Board could do. It was allowing the Board to place physicians in areas that did not necessarily qualified as medically underserved. She said she believes that the amendments take care of all of their concerns. She said that their last concern was striking the rural language. This program was supposed to place providers in medically underserved areas, where doctors are needed. However, there are rural areas that do not need doctors. They did not want to leave the language open enough that would allow the

Board to place providers in those areas. There is no rural or underserved area that needs a doctor that will not still be covered by the language in the bill if the word "rural" is removed from the bill. Senator Gerard reiterated that "rural" was too broad a definition.

Senator Hartley indicated that Maryvale Hospital is considered in a medically underserved area even though it is in an urban area.

**Nicholas S. Hagen, M.D., Vice Chairman, State Board of Medical Student Loans**, explained that 122 medical students have benefited from this program since 1977. It has undergone two sunset reviews; one five years ago and one recently. Five years ago the word "rural" was added to the bill at the request of the rural legislators. Although no definition was given, they have been careful to ensure that doctors are placed in only medically underserved areas, whether rural or urban.

Senator Nichols asked how many students apply for and receive these loans each year as opposed to how many are eligible. Dr. Hagen replied that the law authorizes 40; however, the Board gives 16. He said that there are approximately five or six additional applications that they are unable to serve at this time. Senator Nichols indicated that the initial idea was to have 10 each year, given the four years of education; there would be 40 positions available. However, currently there are only 16. Dr. Hagen responded that those are the applicants who will do the service and return to the area after their schooling. Senator Nichols said that some of these amendments would make it difficult to place doctors in areas where they have been placed previously. Dr. Hagen answered that when they interpret the term "rural," they think of a small community that requires medical doctors. In some places there is more of an infrastructure than others; for example, Benson. Over the years, they have placed two doctors in that area. If "rural" were removed from the bill, that area would no longer qualify. Then the question is what about the doctors that are serving their time. Senator Nichols noted that Benson appears to meet both definitions of rural and medically underserved, given its size and location. He said that he would hope there would be some type of grandfather clause to allow these doctors to continue their commitment.

Senator Gerard commented that they will be taking testimony on this bill but she will be holding it because there are too many confusing issues that need to be clarified.

Dr. Hagen mentioned that one of the difficulties they have had over the years, when they ask people to sign up for the program, is that it is seven years minimum before they begin to pay back and serve. This is a long-range decision that many people are unable to make. They had a couple in the program who wanted to serve in the Yuma area, but because of the demographic changes, they were not sure by the time they finished the schooling that they could return to that area. After two years, they dropped out of the program. He pointed out that those are the types of things they deal with when they get applications.

Senator Hartley asked if any students were placed in an underserved area and once they completed their education, due to growth, the area was no longer a qualifying area. Dr. Hagen replied that at the moment it is not until a student completes their schooling that they search for a location. He said that the students choose the area in their last year of residency, which is seven years after they begin the program.

**Maggie Gumble, Senior Program Coordinator, Board of Medical Student Loans**, explained that once a student is placed in a position, the Board does not change their location. They are

helping to serve the medically underserved area. In the last year, the Board has carefully reviewed the program and its needs. That is why some of the changes have been addressed. She said that they carefully review the applicants who come from rural areas and want to return to those areas. There was a study conducted by the Arizona Council for Graduate Medical Education that reviewed the physicians over ten years and found there are plenty of doctors in Maricopa and Pima Counties. However, the other areas are not receiving enough doctors. The projected need by the year 2000 was 2,082 or 2,470 depending on who did the projections; however, the number of physicians who would be graduating would be approximately 667. So that shows a disparity.

Senator Nichols asked if she is comfortable with the bill as it is drafted. Ms. Gumble said that they reviewed the amendments and are fine with most of them, except for the one where the rural areas are changed. Senator Gerard questioned that she would categorize Benson as rural but not medically underserved. Ms. Gumble replied that Benson is a rapidly growing area. At the time they reviewed the two doctors, DHS was operating on a census that was ten years old, so they could not determine that it was an underserved area. They had a doctor who was coming out of residency who was born and raised in the area and another one who owned land there and lived there for twenty years and wanted to continue to stay there. They both wanted to provide long-term service to that community. The community wanted them and the Board authorized them on a rural basis. During the past 11 years working with this program, she has found that the student's heart is where their home is. They do tell the students that they have to be flexible because no one knows if seven years down the road the area they want to serve in is still an underserved area. Most of the students go into the program knowing that they will need to serve wherever the greatest need is. She indicated that she believed that all areas other than Maricopa and Pima Counties were rural. However, it was explained to her that the underserved areas do include such cities as Paradise Valley, Oro Valley, and Fountain Hills. The definition of rural in this bill is the same one used for the rural health profession program which mandates that 15 students per year from the College of Medicine have rural experiences. It is consistent with that program. The second definition allows certain areas of large counties to be considered rural.

Senator Gerard noted that the OAG wanted a definition of rural, because the emphasis was on rural but it was never defined. The main emphasis of this program is to place doctors where they are lacking medical professionals. The purpose of the program is not to return people to their home community, but to serve underserved geographic areas. Ms. Gumble said that is true and distributed a report from the Arizona Council for Graduate Medical Education (Attachment I)

Senator Nichols noted that when a medical professional is placed in an underserved area, the definition of that area could be changed. The key factor of medical underserved area is the physician population ratio. By adding one doctor the problem can be solved. If that person must be removed because there is no longer a shortage, that creates a problem. He pointed out that the justified method is once they are placed in the position, they should remain until they fill their term of service.

**Alan N. DeWitt, Loan Recipient**, mentioned that he is a second year resident at Good Samaritan Hospital and was thrilled to be a recipient of one of these loans. He noted that he had made this decision as a second career with a passion to return to his hometown. With a wife and five children, financing medical school was a big concern. Knowing that this program existed was a great motivator to make the decision. He indicated that his hometown is

Snowflake, Arizona, where they do need more physicians. There are three doctors currently in Snowflake, they are closed to new patients, and it takes three weeks to see one. One more doctor in that community will balance things. He said that he does have some concerns about the bill and hopes it will have enough flexibility for a community that is truly underserved.

Senator Cirillo asked if anyone guaranteed him when he joined the program that he would be able to return to Snowflake. Mr. DeWitt replied that no one guaranteed him that.

Chairman Gerard noted the following were present in support of the bill: **Joe Abate, Attorney, Arizona Osteopathic Medical Association; Judy Bernas, Associate Director, University of Arizona Health Sciences, College of Medicine; and Thomas E. McWilliams, D.O., Osteopathic Physician.**

### **SB 1162 – sexually violent persons; petitions; admissions – DO PASS AMENDED**

Mr. Bezozo explained that SB 1162 changes the standard the state is required to prove in a petition hearing for a resident of the Arizona State Hospital (ASH) who is requesting to be discharged to the community or released to a less restrictive alternative. Currently, the state is required to prove beyond a reasonable doubt that the resident's mental disorder has not changed and the resident is a danger to others and is likely to engage in acts of sexual violence. The standard under this bill requires the state to prove beyond a reasonable doubt that the resident has not successfully completed transition through all levels of treatment necessary to be safely discharge or released to a less restrictive alternative. Additionally, SB 1162 requires DHS to recoup the costs of evaluations and treatment at ASH from the residents.

Senator Hartley pointed out that there is another bill going through the Family Services Committee that would alter the commitment process and push for treatment in prison so that the inmate would not be civilly committed after release. Senator Gerard replied that bill guarantees an inmate's confidentiality of their medical records, which it is believed will have more inmates participate while they are still incarcerated.

Senator Cirillo noted that if they finish their sentence and society still feels they are a danger, they cannot remain in prison. Senator Gerard replied that is when they are sent to ASH. Senator Hartley explained that this bill takes care of the people who are currently in the process.

Senator Nichols stated that last week the people who were opposed to this bill saw it as a further erosion of the civil liberties of the people who are accused or convicted of the crime and being maintained in a sexually violent person (SVP) unit. It took away some flexibility of the judicial branch and made it more formula based and thereby would require them to spend more time in the program.

Senator Hartley said that she has a problem with the civil commitment and eliminating someone's civil liberties; however, she does feel obligated to vote in favor of this bill to err on the side of protecting society and leaving it to the medical experts. She pointed out that none of the research she has read shows any treatment for pedophiles.

**Senator Guenther moved SB 1162 be returned with a DO PASS recommendation.**

**Senator Guenther moved the following verbal amendment to the bill:**

**Page 5, strike lines 6 through 44**

**The motion CARRIED by voice vote.**

**Senator Guenther moved SB 1162 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-1-1. (Attachment 3)**

Chairman Gerard noted that **Meg Wuebbels, Assistant Attorney General, Arizona Attorney General's Office**, was present in support of the bill.

Chairman Gerard noted that the following were present in opposition of the bill: **Jim Sawyer, Executive Director, Arizona Association of Counties/County Sheriffs; Shannon Slattery, Legislative Relations Coordinator, Maricopa County Public Defender; and Daniel Raynak, Attorney.**

### **SB 1196 – interagency council on long-term care – DO PASS**

Ms. Brennan explained that SB 1196 establishes a 14-member Interagency Council on Long-Term Care (Council) to recommend methods to develop and implement a coordinated long-term care delivery system to ensure high quality programs and services that ensure the dignity and meet the individual needs of long-term care consumers, promote consumer self-determination and input, and enhance appropriate alternatives to institutional care. The Council is also required under this bill to define the state's long-term care obligations by coordinating state and federal mandates.

Senator Hartley asked who is paying for this and where is it being staffed and housed. It is difficult to establish a taskforce without a monetary impact somewhere. Senator Gerard replied that the purpose of this particular Council is to get the agencies to talk to each other, meeting on a regular basis, because there are multiple agencies responsible for long-term care. None of them work together. This bill will force them to work together and allow them to think about how their programs can work together. It should not require any money.

**Senator Nichols moved SB 1196 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2. (Attachment 4)**

Chairman Gerard noted that the following were present in support of the bill: **Donald Vance, Coordinator, Capitol City Taskforce, AARP; Mary Lynn Kasunic, Executive Director, Area Agency on Aging, Region One; Kathy Boyle, Executive Director, Arizona Pharmacy Association; Kathleen Pagels, Alzheimer's Association; Timothy J. Schmaltz, Director, Program Development, Foundation for Senior Living; and Donna Redford, Advocacy Director, Arizona Bridge to Independent Living.**

### **SB 1207 – appropriation; immunization partnership – DO PASS AMENDED**

Ms. Brennan explained that SB 1207 appropriates \$100,000 in FY 2001-2002 from the state general fund to the DHS to establish a public-private partnership for immunizations. There is a nine-line Nichols amendment dated 02/05/01 at 3:43 p.m. that makes the appropriation in the second year of the biennium and allows DHS to provide the monies to an existing public private partnership for improving immunization rates.

**Senator Nichols moved SB 1207 be returned with a DO PASS recommendation.**

**Senator Nichols moved the nine-line Nichols amendment dated 02/05/01, 3:43 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment J)**

**Senator Nichols moved SB 1207 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2. (Attachment 5)**

Chairman Gerard noted that the following were present in support of the bill: **D. T. Cloud, M.D., Chairman, TAPII; Debbie McCune Davis, The Arizona Partnership for Immunization; Sue Braga, Executive Director, American Academy of Pediatrics-Arizona; Kathy Boyle, Executive Director, Arizona Pharmacy Association; David Landrith, Vice President, Arizona Medical Association; Michael Racy, SmithKline; Kristin Greene, Director of Government Affairs, Arizona Association of Community Health Centers; Debbie Davenport, Auditor General; and Edward Welsh, Automation Coordinator, DHS.**

**SB 1209 – primary care providers; loan repayment – DO PASS AMENDED/STRIKE EVERYTHING**

**Kathy Seeglitz, Health Committee Assistant Analyst,** explained that SB 1209 increases, from two years to four years, the length of time a participant must serve in either the primary care provider loan repayment program or the rural private primary care provider loan repayment program. There is a seven-line Nichols amendment dated 02/02/01 at 4:52 p.m. that appropriates \$100,000 in each of the next two fiscal years from the state general fund to DHS for the primary care provider loan repayment program.

**Doug Herono, Bureau of Health Systems Development, DHS,** indicated that there is \$100,000 currently in the program and there will be a \$100,000 federal grant totaling \$200,000.

Senator Gerard questioned if they add an additional \$100,000 through the Nichols amendment would the state receive more federal money. Mr. Herono replied that it is an entitlement of an additional \$100,000 federal money, which would then bring the total to \$400,000. Senator Gerard asked how primary care providers' loans are different from the medical student loans. Mr. Herono responded that the distinction is that this program happens after the provider is already located in a rural or medically underserved area. The state pays the loan once they are already there. The scholarship program pays for the education up front and then the student has to find a placement after the fact. It is only a state program and does not receive matching federal funds. The primary care provider program is a combination program receiving both federal and state funds.

Mr. Herono explained that the idea of the amendment was to add two more years of potential loan repayment for midlevel providers, which are the nurse practitioners, physician assistants, and nurse midwives. He noted that the original program is completely maxed out in terms of its funding. They have obligated this year's and next year's money.

Senator Gerard asked how many more people could be served by this additional money. Mr. Herono replied that they could serve an additional 12 to 13 people.

Senator Cirillo noted that in this program the recipients only have to commit to two years of service and questioned what the commitment of the physicians serving in medically underserved areas is. Senator Gerard replied it is four years. Senator Cirillo asked why this is two and the other is four. Senator Gerard said that this bill will make it four years.

Senator Solomon said that when the bill was brought originally there was no appropriation attached to it and questioned whose idea it was to add the amendment with the additional monies. Mr. Herono replied that the original intent was to fix the length of term. There is a need for additional money to place more providers.

Senator Hellon questioned that the total amount of money that this amendment would need from the general fund is \$100,000 or \$200,000. Senator Gerard explained that they currently receive \$100,000. Mr. Bezozo replied that it is \$100,000 each year for the next two years.

**Senator Nichols moved SB 1209 be returned with a DO PASS recommendation.**

**Senator Nichols moved the four-page Gerard strike everything amendment dated 02/02/01, 11:57 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment K)**

**Senator Nichols withdrew his seven-line amendment dated 02/02/01 at 4:52 p.m. (Attachment L)**

**Senator Guenther moved SB 1209 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2. (Attachment 6)**

Chairman Gerard noted that **Kristin Greene, Director of Government Affairs, Arizona Association of Community Health Centers**, was present in support of the bill.

### **SB 1291 – AHCCCS; disabilities; eligibility – DO PASS**

Mr. Bezozo explained that SB 1291 expands, beginning on January 1, 2002 and subject to Health Care Financial Administration (HCFA) approval, coverage under the Arizona Health Care Cost Containment System (AHCCCS) and Arizona long term care system (ALTCS) to include persons who, due to their disabilities, are eligible for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) and whose adjusted income does not exceed 400 percent of the federal poverty level (FPL). Appropriates \$831,000 in FY 2001-2002 and \$914,000 in FY 2002-2003 to cover this new eligible population.

Senator Cirillo mentioned that the reason for this bill is because they have the new federal ticket to work program and the state will be adopting the statute in order to use the program so that disabled people will not be incented to go back to work because they would lose their health insurance.

**Lynn Dunton, Assistant Director of Policy, AHCCCS**, pointed out that the Governor's budget does have an amount to fund this program for two years at 250% of the FPL. However, the bill stipulates 400% of the FPL. She said that they have some preliminary estimates of what the

difference would be and they definitely support adding the eligibility group but within the money that was suggested.

Senator Nichols noted that it would be \$831,000 the first year, \$914,000 the second year. Ms. Dutton replied if they take into account that the program will only operate for six months the first year, they are estimating that at 250% of the FPL, it would be about \$591,000. At 400% of the FPL, it would be approximately \$738,700 in state monies. The appropriation on the bill will absorb the 400% in the first year. Senator Nichols stated that the bill provides \$831,000 in the first year, and because of the late start, \$738,700 would cover it at 400%. Ms. Dutton confirmed that statement. Senator Nichols asked if the second year prediction was still at \$914,000. Ms. Dutton replied that at 400% of the FPL, \$1,250,000 would be needed, and at 250%, it would be \$1 million. Another portion of the bill is the medically improved which is a new program that does not have any cost estimates.

Senator Gerard asked if there should be a delayed enactment date on this bill. Ms. Dutton indicated that she did ask to have the legislation delayed until January, 2002. Senator Solomon asked if a cost savings analysis was prepared. Ms. Dutton said that they recognize that there will be offsets, both tangible and intangible; however, there is no way to try to calculate that. Senator Solomon noted that this is an important bill whether it is done at 250% or 400%. She said that she feels they are doing something wrong if they do not give the people a chance to work who want to work.

**Senator Cirillo moved SB 1291 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 6-0-2. (Attachment 7)**

Chairman Gerard noted that the following were present in support of the bill: **Donald Vance, Coordinator, Capitol City Taskforce, AARP; Mary Lynn Kasunic, Executive Director, Area Agency on Aging, Region One; Donna Redford, Advocacy Director, Arizona Bridge to Independent Living; Amy Hyman, Legislative Liaison, Governor's Council on Developmental Disabilities; Jack G. Wiggins, Ph.D., Arizona Psychological Association; Sherri Walton, Public Policy Committee Chairman, Mental Health Association; Monica Attridge, Arizona Association of Providers for People with Disabilities; Liz Carabine, Citizen Advocate, People with Disabilities; Don King, Peer Counselor, People with Disabilities; Mary Tatom, ILS Skills Trainer, People with Disabilities and Senior Citizens; Ken Laux, Citizen, People with Disabilities; Stacy King, Program Coordinator, People with Disabilities; Donna Powers, Citizen, People with Disabilities; David Carey, Citizen, People with Disabilities; Nikki Jeffords, Citizen, People with Disabilities; Mary Hartle Smith, Citizen, People with Disabilities; Leonard Smith, ABIL; Pam Allan, Citizen; Doug Hirano, Bureau Chief, Arizona Department of Health Services; Jack Beveridge, CEO, Pinal Gila Behavioral Association; Michael Puthoff, President/CEO, The Excel Group; Debi Wells, Governor's Office; and Charlie Thomas, Social Worker, Arizona Kidney Foundation.**

### **SB 1298 – appropriation; long-term care ombudsman – DO PASS AMENDED**

Ms. Seeglitz explained that SB 1298 appropriates \$776,775 in FY 2001-2002 from the state general fund to the office of the long-term care ombudsman for distribution to the area agencies on aging. There is a seven-line Gerard amendment dated 02/05/01 at 3:55 p.m., which increases the appropriation to \$777,000 and appropriates the same amount in the next two fiscal years.

Senator Gerard pointed out that this dollar amount allows them to fully fund the ombudsman program. This brings the state up to the national standards.

**Senator Nichols moved SB 1298 be returned with a DO PASS recommendation.**

**Senator Nichols moved the seven-line Gerard amendment dated 02/05/01, 3:55 p.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment M)**

**Senator Nichols moved SB 1298 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 5-1-2. (Attachment 8)**

Chairman Gerard noted that the following were present in support of the bill: **Donald Vance, Coordinator, Capitol City Taskforce, AARP; Mary Lynn Kasunic, Executive Director, Area Agency on Aging, Region One; Kathleen Pagels, Alzheimer's Association; Timothy J. Schmaltz, Director, Program Development, Foundation for Senior Living; and Donna Redford, Advocacy Director, Arizona Bridge to Independent Living; Chris Herstam, Arizona Association of Area Agencies on Aging; Gene van den Bosch, Director of Policy and Governmental Affairs, Arizona Association of Homes and Housing for the Aging; Mark Thompson, Executive Director, Adult Care Consultants; Connie Thompson, RN, CEO, Adult Care Consultants; Eleanor Dullas, National Association of Retired Federal Employees; Don Isaacson, Arizona Association of Homes and Housing for the Aging; Franki Diaz, Volunteer Ombudsman, Area Agency on Aging; Steve Lacy, Ombudsman Coordinator, Maricopa County Ombudsman Program; Ken Moore, Arizona Silver Haired Legislature; Stan Blake, Citizen; Marge McClanahan, Citizen; Lola Dunaway, Citizen; Martha C. O'Neill, President Comfort Plus; and Mary J. Syvertsen, Citizen.**

### **SB 1299 – AHCCCS; Alzheimer's; pilot project – DO PASS**

Mr. Bezozo explained that SB 1299 authorizes, beginning on October 1, 2001, any Alzheimer's treatment assistive living facility to participate in the Alzheimer's Treatment Assistive Living Facility Demonstration Pilot Project (project) if the facility complies with the project's requirements. It delays termination of the project until September 30, 2005.

**Senator Nichols moved SB 1299 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 6-0-2. (Attachment 9)**

Chairman Gerard noted that the following were present in support of the bill: **Donald Vance, Coordinator, Capitol City Taskforce, AARP; Kathleen Pagels, Alzheimer's Association; Timothy J. Schmaltz, Director, Program Development, Foundation for Senior Living; Franki Diaz, Volunteer Ombudsman, Area Agency on Aging; Lynn Dunton, Assistant Director of Policy, AHCCCS; Judy Bernas, Associate Director, University of Arizona Health Sciences, College of Medicine; and Monica Attridge, Arizona Association of Providers for People with Disabilities;**

### **SB 1303 – vital statistics; decentralization – DO PASS**

Ms. Seeglitz explained that SB 1303 classifies, retroactive to January 1, 1997, electronic filings of a birth, death or fetal death certificate registered with a designated registrar to be official vital records. This bill also allows a Class A registration district registrar to issue certified copies of birth certificates without having physical possession of the original certificate of record.

Senator Gerard asked what value does it have to make this retroactive. Ms. Seeglitz replied that a law was passed taking it back to 1997 allowing them to do this. It is a technical clean up bill.

Senator Hartley related a story regarding the loss of her birth certificate which cost her \$40 to obtain a piece of paper that only said that she was born in New York. It did not list the hospital or her parent's name. She wondered if that is what will happen with this bill.

**Rose Connor, Assistant Director, Public Health Division, DHS**, explained that this bill will not change the format of the birth certificate. It will make the records from 1997 forward that are electronically recorded the legal copies.

Senator Hartley asked what the cost is for obtaining a duplicate birth certificate. Ms. Connor replied that the cost is \$6.

**Senator Nichols moved SB 1303 be returned with a DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1. (Attachment 10)**

Chairman Gerard noted that the following were present in support of the bill: **Liana Martin, Legislative Liaison, DHS; and Page Patterson Gonzales, Lobbyist, Maricopa County.**

### **SB 1307 – nursing care institutions; audit – DO PASS AMENDED**

Ms. Brennan explained that SB 1307 requires the Office of the Auditor General (OAG) to conduct an audit of the Division of Assurance and Licensure Services (ALS) in DHS to determine the effectiveness of ALS' regulation of nursing care institutions. There is a two-line Gerard amendment dated 02/05/01 at 9:00 a.m. that changes the deadline of the audit from December 30, 2001 to December 30, 2002 to allow for sufficient time to conduct the audit.

Senator Gerard noted that this is her bill which was developed in the Long-Term Care Taskforce because there is concern about the way surveying is completed, whether it is really getting at the concerns. There is constantly evidence of low quality care which raises questions as to how the audits are being done. The OAG reports have shown that there has been a great deal of problems with how the surveying is being done. Arizona has never been a sample state so there is no specific data. She said she thought it would be valuable if they had the OAG look at this. OAG explained that they could fit into their cycle if she put it off for another year.

Senator Guenther noted that this will be a performance audit.

**Senator Nichols moved SB 1307 be returned with a DO PASS recommendation.**

**Senator Nichols moved the two-line Gerard amendment dated 02/05/01, 9:00 a.m. be ADOPTED. The motion CARRIED by voice vote. (Attachment N)**

**Senator Nichols moved SB 1307 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED with a roll call vote of 7-0-1. (Attachment 11)**

### **SB 1311 – health care institutions; licensure – DISCUSSION/HELD**

Ms. Seeglitz explained that SB 1311 makes numerous changes to the health care institution statutes and authorizes DHS to use monies generated from fines levied against certain health care institutions for the relocation of residents from closed facilities and to maintain a facility pending closure or correct facility deficiencies.

Senator Cirillo asked if this becomes a Proposition 108 with an increase of the fees from \$300 to \$500.

**Liana Martin, Legislative Liaison, DHS,** replied that this bill has been part of the DHS ombudsman bill for the past two years. She said that she believes that since this is a civil penalty, it is not subject to a Proposition 108. It is a fine, not a fee.

Senator Nichols asked how many parts did the original ombudsman bill split into. Ms. Martin replied that she believes there are seven bills.

**Laura Hargroves, Rules Analyst, DHS,** explained that the new language on the last page of the bill expands or creates a similar fund to the existing fund. The existing fund is used for civil money penalties that are collected against nursing home institutions only. The new fund would include monies that are collected from other types of healthcare institutions such as assistive living facilities, behavioral health service agencies, and hospitals so that the department could use those funds, in the event of an emergency if a facility were closing, to relocate residents.

Senator Gerard brought up the language on page three referring to licensed capacity and asked if that is a change in policy. Ms. Hargroves replied that is a new definition responding to the changing types of healthcare facilities that are now licensed. That is in response to assistive living facilities that license units like apartments instead of just beds. The intent of that definition was to capture the change in types of healthcare facilities that are currently in Arizona.

Senator Gerard asked how that applies to a hospital. Ms. Hargroves responded that it was not DHS' intent to have this bill impact the hospital licensed capacity. They typically have beds. The Hospital Association has expressed concern and has had some conversations with representatives from DHS and they are confident they can find a mutually agreeable definition of licensed capacity. One of the possible solutions that was discussed was to potentially add some clarifying language for that definition's impact on the hospitals. The intention was to clarify that definition for the purpose of collecting licensure fees. She said that they are looking at having those conversations later today in order to come up with an agreeable definition.

**Kristen Rosati, Attorney, Arizona Hospital and Healthcare Association**, explained that she would like to detail the concerns that they have about the definition of licensed capacity as it is proposed in this bill. They have been working with DHS to alleviate these concerns, but did want to share them with the committee. Currently, the department defines hospital licensure by licensed beds which are generally inpatient beds which exclude patients who are not normally found in those inpatient beds, such as emergency department patients, labor and delivery patients, well babies housed in bassinets in mothers' rooms, outpatient procedure patients, and also patients admitted for surgery who are in preop in the surgery room and the recovery room. What this proposed definition does is to move away from defining licensure by bed capacity and define it by persons that the hospital is authorized to serve. Their concern is that if the definition does not exclude the types of patients traditionally excluded from inpatient beds, it will have a negative impact on hospital operations. The first thing that would happen is that it could have a detrimental impact on the present efforts to handle the emergency department crisis. Currently, the emergency departments are overflowing. One of the reasons for that is that hospital inpatient beds are full. If the definition of licensed capacity does not exclude emergency department patients, then those patients who are waiting admission to an inpatient bed would be counted against the hospital's licensed capacity. The hospital would be forced to transfer that emergency department patient to another facility, which is not always an option because all hospitals are full. Or they would be forced to reduce their inpatient admissions for fear of going over their licensed capacity. There are emergency circumstances where the department will allow a hospital to exceed licensed capacity. That would be a large concern. It would also prevent one of the options that is being discussed for handling the emergency department crisis on a short-term basis. That option is housing patients in temporary beds while waiting for a more permanent inpatient bed. Those patients would be counted against the licensed capacity of the hospital and that could be very detrimental to the efforts of handling the emergency department crisis.

Senator Cirillo asked if this would cost anything. Ms. Rosati replied depending on how a hospital was forced to respond to the change in definition, it could have a large financial impact. For instance, if the hospitals were forced to decrease their inpatient admissions so that they did not exceed their licensed capacity to accommodate, revenue would go down, plus there would not be enough beds to serve the community. Currently, there is a large shortage of beds specifically during the flu season. It would be an operational impact in serving the community, as well as a financial impact on the hospital. The proposed definition would also have an impact on the present hospital practice of admitting patients to surgery where there is not an inpatient bed available. For instance, if a patient is going to be in a 10- to 12-hour surgery, they often admit a patient to start the surgery before an inpatient bed is available anticipating that a number of patients will be discharged during that period of time. If patients coming into surgery are not excluded from the definition of licensed capacity then that would preclude hospitals from making efficient use of resources and from making sure that patients were able to start surgery on a timely basis. The third impact would be on other types of patients who are not traditionally included in patient beds. They would be patients in labor and delivery who are not in an inpatient bed, well babies in bassinets in their mothers' rooms, and other types of patients who are not included in the inpatient beds category. She said they are working with DHS to arrive at a definition that would exclude those patients that are not traditionally inpatient beds.

Senator Gerard said that she is going to hold the bill until the problems are worked out.

Chairman Gerard noted that **Donald Vance, Coordinator, Capitol City Taskforce, AARP**, was present in support of the bill.

## **SB 1353 – behavioral health system; audit – DO PASS**

Ms. Brennan explained that SB 1353 requires the OAG to recommend ways to eliminate duplicative and outdated reporting requirements of the State's behavioral health services system. Currently, the behavioral health system must produce up to 56 different types of reports each year with varying frequency and deadlines. This bill requires the OAG to recommend a more efficient model. According to the OAG, the work required by this bill can be absorbed into the next auditing cycle.

Senator Nichols asked if this audit would fall within their schedule.

**Debbie Davenport, Auditor General**, replied that they would be able to accommodate this within their schedule without any problem. She said that it is not a large effort and feels it can be done between now and November 15.

Senator Nichols questioned when members come to the OAG with bills, do they advise that they use the Joint Legislative Audit Committee (JLAC) procedure or do they give them the information they need. Ms. Davenport responded that when they talk to the Legislature about how they can get an audit completed, they explain that there are three ways that OAG gets the work. One is through JLAC, the second is through a bill, and the third is through the sunset law which puts almost every agency on a ten-year rotation.

Senator Nichols asked what is the predominate method of the audit cycle. Ms. Davenport replied that the dominant way is definitely through the sunset list that is provided by statute. After that, more bills are passed by JLAC-directed audits. In their audit schedule when they go forward to JLAC once every two years, they reserve four to six audits that would come up during the next two years, that JLAC could then direct them to use those hours for. If the Legislature passes a bill, it would go into one of the empty slots that they have available.

Senator Hartley asked if there are many agencies on a ten-year rotation. Some appear to have been reduced to two- or three-year rotations. Ms. Davenport replied that has produced a large burden on their office. There was a movement to change the rotation to every five years instead of the ten years. That bill did not pass; however, many of the Committees of Reference were moving individually the agencies back to eight and to five years. She said that the current staff is sufficient to do these audits every ten years. Many of the legislators feel they need more monitoring in the agencies and improvements needed before allowing them to function for another ten years. There is a bill that has been introduced in the House of Representatives that would move all of the agencies to an eight-year term, which would impact the OAG.

Senator Guenther said that JLAC is the place where any member of the Senate or House can suggest that an audit needs to be done on an agency because they feel there may be a problem. He indicated that he feels that is the way to go in the "in-between" years.

**Senator Nichols moved SB 1353 be returned with a DO PASS recommendation.  
The motion CARRIED with a roll call vote of 6-0-2. (Attachment 12)**

Chairman Gerard noted that the following were present in support of the bill: **Jack G. Wiggins, Ph.D., Arizona Psychological Association; and Bev Herman, Behavioral Health Providers of Southern Arizona.**

**SB 1302– nursing care institutions; incentive grants – HELD**

**SB 1314 – nursing care institutions; preadmission screening – HELD**

There being no further business, the meeting was adjourned at 4:23 p.m.

Respectfully submitted,

Carol Dager  
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)