

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-third Session
April 15, 2005**

The Senate Committee on Finance was called to order by Chair William J. Raggio at 7:41 a.m. on Friday, April 15, 2005, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator William J. Raggio, Chair
Senator Bob Beers, Vice Chair
Senator Dean A. Rhoads
Senator Barbara K. Cegavske
Senator Bob Coffin
Senator Dina Titus
Senator Bernice Mathews

GUEST LEGISLATORS PRESENT:

Senator Joe Heck, Clark County Senatorial District No. 5
Senator Mike McGinness, Central Nevada Senatorial District
Senator Maurice E. Washington, Washoe Senatorial District No. 2

STAFF MEMBERS PRESENT:

Gary L. Ghiggeri, Senate Fiscal Analyst
Bob Guernsey, Principal Deputy Fiscal Analyst
Cindy Clampitt, Committee Secretary

OTHERS PRESENT:

Diana Glomb-Rogan, League of Women Voters of Nevada
Jan Gilbert, Progressive Leadership Alliance of Nevada
Marvin A. Leavitt, Urban Consortium
Mary C. Walker, Carson City, Douglas County and Lyon County
Nancy J. Howard, Nevada League of Cities
Bobbie Gang, Nevada Women's Lobby
Larry D. Struve, Religious Alliance in Nevada
Anne K. Loring, Washoe County School District
Nancy A. Becker, Chief Justice, Nevada Supreme Court
Peter I. Breen, Judge, Department 7, Second Judicial District
Robert E. Rose, Associate Justice, Nevada Supreme Court
Dana Bilyeu, Executive Officer, Public Employees Retirement System
John P. Comeaux, Director, Department of Administration
Jim M. Bixler, Justice of the Peace, Department 4, Las Vegas Township,
Kevin Higgins, Judge, Sparks Justice Court
Nancy Oesterle, Judge, Las Vegas Justice Court
Steven Dobrescu, Judge, Department 1, Seventh Judicial District
Lynette Gust, Juvenile Probation Officer, White Pine County
Hal Keaton, Commissioner, Lincoln County Board of Commissioners
Scott Schick, Chief, Juvenile Service, Douglas County

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Michael J. Willden, Director, Department of Human Resources
Michael R. Alastuey, Clark County
Dan Musgrove, Clark County
Rick R. Loop, Eighth Judicial District Court and the Nevada District Judges Association
Robert Roshak, Sergeant, Las Vegas Metropolitan Police Department
Lorne J. Malkiewich, Director, Legislative Counsel Bureau
Randal Munn, Special Assistant Attorney General, Office of the Attorney General

CHAIR RAGGIO:

I will call the meeting to order. After preliminary duties, we will hear only opposing testimony for 50 minutes on Senate Joint Resolution (S.J.R.) 5, S.J.R. 6 and S.J.R. 9.

GARY L. GHIGGERI (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I have distributed an e-mail from the Budget Division ([Exhibit C](#)), addressing the Governor's nonfunding for employee police/fire physicals at the Division of State Parks. The request by the Division of State Parks was not within the top 21 priorities and not selected for funding by the Governor's office.

The second item I have provided to the Committee is information in response to questions from the testimony on Senate Bill (S.B.) 355 ([Exhibit D](#)).

SENATE BILL 355: Provides for bonus to be paid to certain members of Nevada National Guard and Reserves called to active duty to combat terrorism. (BDR 36-704)

[Exhibit D](#) provides salary information for those individuals called to active duty. It shows the pay provided and includes an indication that North Dakota currently provides a payment similar to that requested in S.B. 355.

CHAIR RAGGIO:

We will include this exhibit as part of the minutes of the hearing held on this bill on April 13, 2005.

MR. GHIGGERI:

I have also distributed copies of pictures of the outside of the courthouse in White Pine County relating to S.B. 106 and S.B. 183, ([Exhibit E](#)).

SENATE BILL 106: Makes appropriation to State Board of Examiners for expenses relating to construction of new court facility in White Pine County. (BDR S-1226)

SENATE BILL 183: Makes appropriation to State Board of Examiners for new courthouse in White Pine County. (BDR S-517)

CHAIR RAGGIO:

The White Pine County Courthouse looks better on the outside than it does on the inside.

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MR. GHIGGERI:

I have provided a letter dated April 6, 2005, from the Lieutenant Governor ([Exhibit F](#)) addressing certain issues discussed during the closing of her budget. Mr. Bob Guernsey will provide further information.

BOB GUERNSEY (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

In closing the budget for the Lieutenant Governor, staff recommended technical corrections in reference to updating computer costs based on the latest schedule from the Department of Information Technology. In addition, the Committee considered the option of funding certain travel for the Lieutenant Governor and her staff from the Commission on Tourism budget. I discussed the issue with the Lieutenant Governor and she strongly objects to the travel options. Lieutenant Governor Hunt requests her budget continue to be funded fully from the General Fund.

CHAIR RAGGIO:

Has that budget been closed?

MR. GUERNSEY:

The Committee closed the budget with the technical corrections and staff was directed to confer with the Lieutenant Governor and the Commission on Tourism to discuss the options. [Exhibit F](#) represents the Lieutenant Governor's response.

CHAIR RAGGIO:

We will not act on this item today, but we will consider reopening the budget to allow the Lieutenant Governor to make a formal request.

SENATOR JOE HECK (Clark County Senatorial District No. 5):

I am petitioning the Committee to submit a bill draft request (BDR) authorizing an appropriation for the Nevada Partnership for Homeless Youth.

Early this week, two organizations were recognized in commemoration of Homeless Youth Day in Nevada. Those organizations were the Nevada Partnership for Homeless Youth in southern Nevada and the Children's Cabinet in northern Nevada. The Safe Place program is funded entirely through corporate donations. They are fortunate to have strong corporate sponsors. The organizations are requesting a onetime appropriation as a match for their corporate donations in the amount of \$250,000 to be split equally between the north and the south. The funds would expand the Safe Place program concentrating on case-management activities and the Reunification Program which works to place children back into their family unit.

CHAIR RAGGIO:

The Committee has been given a handout titled "Nevada Safe Place Statistics" ([Exhibit G](#)).

SENATOR BEERS MOVED TO REQUEST A BILL DRAFT FOR AN APPROPRIATION OF \$250,000 TO MATCH FUNDS FOR THE NEVADA PARTNERSHIP FOR HOMELESS YOUTH.

SENATOR TITUS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CEGAVSKE WAS ABSENT FOR THE VOTE).

CHAIR RAGGIO:

I will now open the hearing for those in opposition to S.J.R. 5, S.J.R. 6 and S.J.R. 9.

SENATE JOINT RESOLUTION 5: Proposes to amend Nevada Constitution to impose certain limitations on amount that Legislature or governing body of governmental entity may appropriate and authorize for expenditure. (BDR C-943)

SENATE JOINT RESOLUTION 6: Proposes to amend Nevada Constitution to provide for limitations on appropriations and authorizations for expenditure and generating, creating or increasing public revenue. (BDR C-944)

SENATE JOINT RESOLUTION 9: Proposes to amend Nevada Constitution to impose certain limitations on amount that Legislature may appropriate or authorize for expenditure. (BDR C-134)

DIANA GLOMB-ROGAN (League of Women Voters of Nevada):

The League opposes the resolutions because they violate certain League principals of sound fiscal policy. The League supports a policy that is adequate, flexible and has a sound economic effect. These measures restrict the ability to provide adequate resources, hamper the flexibility to make program changes and finance future programs.

An amendment to the *Nevada Constitution*, as proposed in these three measures to restrict the Legislative branch of government and local entities in their constitutionally-mandated duties, is irresponsible and shortsighted.

These measures impede the democratic process of representative government. At the previous hearing on these measures, Senator Rhoads asked, "Why have a Legislature or other elected officials if the hard decisions must be put before a vote of the people each time?" We elected representatives to city councils, county commissions, school boards and the Legislature to provide oversight, study issues important to the state and communities, and to decide how best to address problems.

Our state is facing critical issues of education, social services, child care, the elderly, infrastructure, water and others. We are already behind in these indicators. Putting barriers on the various entities would only lead to a decline in services, a cumbersome and unworkable fiscal policy, and a loss of true representative government. My written testimony has been provided ([Exhibit H](#)).

SENATOR BEERS:

How would permanent growth, at the rate of population plus inflation, possibly lead to a decline in services?

Ms. GLOMB-ROGAN:

Our objection to S.J.R. 5, S.J.R. 6 and S.J.R. 9 is that they hamstring the process. To call for a vote of the people each time any monetary increase is needed for the citizens of the state is not good policy.

SENATOR BEERS:

In your testimony, you indicated the bills would lead to a decline in government services. How would permanent growth, equal to the rate of population growth and inflation, possibly lead to a decline in services?

Ms. GLOMB-ROGAN:

These measures would make it difficult for governing bodies to respond to the needs of the people in an adequate and timely manner. That would restrict the ability to provide services.

JAN GILBERT (Progressive Leadership Alliance of Nevada):

I was not present at the hearing for the proponents of S.J.R. 5, S.J.R. 6 and S.J.R. 9. I will speak from my reading of the bills. We oppose the three resolutions.

I have participated in the Governor's Fundamental Review of State Government and the Governor's Task Force on Tax Policy. The Progressive Leadership Alliance of Nevada conducted a study of tax policy considering the needs of the state and the state tax structure. The analysis indicated Nevada is not generous in our social service policy. There are programs for children's health care and the Nevada CheckUp Program does not serve all the needs for working families. There are many mental health issues faced by this Committee and the Assembly Committee on Ways on Means that are underserved.

Yet, these measures would limit spending, cap revenues and cap growth. It is the wrong decision. We need to analyze the needs of the state, analyze the tax structure and make necessary changes. I trust the collective judgment of this Legislature. Correct choices were made in the 72nd Legislative Session and things are being done right in the current session. You have made increases in the disability services, crisis intervention and mental health. Those are right choices.

I will answer Senator Beers' question from my perspective. We consider permanent growth, population growth and inflation. The caliber of people moving to Nevada make demands on services that are greater than those factors. There has been an influx of seniors and children into the economy with enormous needs.

In a recent hearing I attended, they were discussing assisted-living needs for seniors. Those service demands will only increase. Not everyone can afford certain care such as assisted living.

These measures would limit the spending according to population growth and inflation. That would be a mistake.

MARVIN A. LEAVITT (Urban Consortium):

If these resolutions are enacted, they would change the method of government for all finance and taxation matters from a representative form of government to

a direct democracy where nearly all important decisions are made directly by the people.

Although the measures send the message that we are increasing the involvement of the population, the beginning of the bills reduce the number of times questions can be presented to the people into a cycle of once in a two-year period. I have confidence in voters to make intelligent decisions when they have the ability to be informed on all matters before them.

I ask the Committee to consider its process of the past two days. On April 13, 2005, Senator Beers presented the details of the three joint resolutions and arguments in favor of their passage. Each person present has had at least one hour to hear the presentation and possibly another hour to hear arguments against the measures. If I asked each person, rhetorically, whether or not they fully understand the effects of the bills on state and local government revenues and expenditures, I would be surprised if anyone, except Senator Beers, could answer affirmatively. Yet, you would be asking voters to make the same decision when few will ever have the opportunity to hear the presentations before this Committee.

Financial questions have been presented to voters regularly in one of two forms. "Do you want to issue debt to build something" (bond questions) and "Do you want your taxes increased to pay for additional services in some particular area" (tax increases). From that general involvement, we would move to a situation where the general obligation debt, every fee, every license and every tax would be sent to a vote of the people. The bill language is all inclusive.

There are decisions that should be put to a vote of the people; however, other decisions should be left to the representatives of the people.

The bills provide an opportunity, on the expenditure side, to increase expenditures when there is growth in the consumer price index and population changes. The bills also specify an increase based on the percentage rate of change in new construction for local governments.

There is some logic to the idea of having sufficient spending authority when the economy grows by those two factors. On second thought, one begins to wonder whether the prison rate, the rate of K-12 students, Medicaid eligibility and long-term care needs grow at the same rate as the general population. Another consideration is those growth rates that might affect a decrease in needs.

All communities are not the same. Some have a high population and a low-assessed value while others have a low population and a high-assessed value.

The next question is whether the general rate of inflation adequately measures the inflation in those items purchased by governments. The general rate of inflation is substantially held back by the reduction in the cost of manufactured goods. Government is still a highly service-oriented organization. Teachers are still required in classrooms, policemen still drive police cars, fire trucks are still operated by firemen, the cost of Medicaid and health insurance increases with the general cost of Medicare and gasoline costs increase. At times government

can, and should, make adjustments. It is difficult, on the local government level, when at least 60 percent of total expenditures are related to services.

Rural counties may not grow at all for several years and assessed valuations may decrease. Those counties are provided certain guaranteed levels of sales tax revenue. Sales tax collected in Clark and Washoe Counties is distributed to the rural counties. If an expenditure limit is placed on rural counties, perhaps because of no new construction within the county, their only growth allowed is from the general rate of inflation. However, they have some growth in revenue because of the sales tax guarantee. They might not have the ability to spend the revenue increases because of the expenditure cap. If they cannot spend the revenue, it must be refunded to the citizens of the rural county when it was collected in Clark and Washoe Counties.

Because of the heavy reliance on sales-tax revenues in Nevada, we expect a certain fluctuation in growth rates.

I made a sales-tax comparison for the cities I represent. In the City of Henderson, in September 2004, sales-tax revenues increased 30.75 percent from the previous year. In the month of January 2005, the sales-tax revenues increased 5.13 percent.

The City of Sparks increased sales-tax revenues by 1.91 percent in January 2005, even though they had recorded increases of up to 15 percent earlier in the year. Other cities have had a similar experience. The same scenario presents itself when we try to adjust revenues to expenditures.

I will now turn to the situation within local governments. The avenues available to local government for expenditures of their local revenues are limited. The principal revenue source for most local governments in Nevada is made up of approximately 50 percent from the consolidated tax. All of those taxes are enacted through the Legislature. Local governments have no ability to increase or diminish any component of the consolidated tax.

The second largest revenue source for local government is property taxes. In the past, property taxes have been capped at the local rate. Additional limits were placed on those taxes during the 72nd Legislative Session.

The third revenue source for local governments are franchise fees controlled by 5-percent rates enacted by the Legislature. Most local governments have already reached that limit.

Next, are building permits and business licenses. Those rates are controlled. Fines and fees can also be controlled, but local governing boards do not determine those rates. Interest income is dependent upon available funds and market conditions.

If the expenditure limitations from S.J.R. 5, S.J.R. 6 and S.J.R. 9 are added into all of these components, they work against each other. The first person hired after enactment will be needed to calculate the limitations and establish a plan for compliance.

I reviewed the cities I represent, comparing per capita General Fund expenditures since the tax shift in 1981-1982 in real terms. Henderson went

from a population in 1981-1982 of 26,370 to a population in 2003-2004 of 217,448. The residents in 1981-1982 were mostly carryovers from World War II, and now they are a new and diverse community. When considering expenditures, they have exceeded the rates proposed in these measures by 0.75 percent per year. That figure was computed using the total elapsed time which is not the proposal in these measures. The bills propose the computation every year creating a situation where expenditures might decrease but never increase.

Using the City of Las Vegas, they have grown from 177,653 in 1981-1982 to a current population of 528,617. The average growth and expenditures over time is 0.4 percent.

North Las Vegas has probably had the greatest amount of change in recent years. They have moved from a population of 43,146 and their growth is 1.15 percent. The City of Reno, in the same situation, has gone from a population of 104,000 to 195,000. The north is usually considered as not having large population increases. Their rate of growth, over time, is 0.59 percent above the rate of inflation. The City of Sparks has a growth rate of 0.06 percent.

If the formula is applied on an individual year, you would see the total expenditures would be below the rate authorized.

Local governments have only a small amount of control over their revenues. There is little action local governments can take to increase revenues. Most of the revenue sources have not increased in many years.

Several situations in Clark County have been beyond the ability of local governments to fund, and those have been presented to the Legislature over time. The result, in some cases, has been the levy of additional revenues. The transportation system in southern Nevada is one example of foresight saving a crisis.

Sales-tax revenue, by itself, measures many things. It adjusts automatically for inflation and it adjusts for economic activity. In a fast-growing community, the materials used in new construction, become part of the sales-tax base creating a substantial growth factor.

Nevadans have been living off the growth in sales tax and building, principally in Clark County, for many years. If this was to stop, we will have severe financial problems.

In conclusion, we are better off where we are than if we adopt the proposals of S.J.R. 5, S.J.R. 6 and S.J.R. 9.

SENATOR BEERS:

I hope to see the residents of this state undertaking similar discussions at their dinner tables over the next year. I would counter two of your points.

The Taxpayer's Bill of Rights (TABOR) does not take any important decisions away from the Legislature. The Legislature will still have full control over perpetually but responsively increase the flow of tax revenue. It will place control of all surplus revenues in the hands of the people.

As evidenced in the Colorado TABOR legislation, they are fully capable of recognizing when something makes sense and approving it.

Is Washoe County a member of the Urban Consortium?

MR. LEAVITT:
No, they are not.

SENATOR BEERS:
I have the Washoe County figures before me. From July of 2003 to June 2004, a period of time in which population growth and inflation was approximately 7 percent, their spending increased 19 percent. This phenomenon has been going on for years and that is why Nevada has the highest, or second highest, local government average wage compensation package in America.

Nevadans view these revenues as their own money. The Legislature thinks of it as its money. The people want a voice in at least the surplus portion of the revenues.

You testified that every other year seemed too infrequent a time frame for these decisions to be made. As I understand TABOR, ballot questions could be voted annually from local governments.

Regarding your testimony concerning the complexity of the questions, there have been many complex issues placed before the people including Questions 3, 4 and 5 on the last ballot. The people seemed to have achieved an understanding on those issues.

I have a Web site, www.NVTABOR.com, that includes both the pros and cons of TABOR. The citizens of our state are capable of educating themselves as to how to proceed.

The diversity of your lists of fees and taxes made an argument for TABOR by themselves.

In S.J.R. 5, the student-growth rate is not the consumer price index. It is the growth in student population.

Concerning the mutual argument that services are desperately needed: "That is fine. Make the case. We, the people, are not dumb." If the services are desperately needed, such as occurred in Colorado, they will be approved.

TABOR allows for the citizens to approve a permanent-tax increase and creation of a new permanent tax.

The fact that the local government in your testimony has seen annual growth above population growth and inflation since 1982 is, in itself, telling. The first desktop computer was manufactured in 1982. Since that time, the desktop computer has slashed America's administrative costs in every aspect of our lives except government.

I commend you for the excellent points you have brought forward in your testimony.

MR. LEAVITT:

It is important to look at growth over long periods of time. If one looks at the picture as a whole, and what has been done with revenue increases, one will not find a major increase that was not put to a vote of the people.

In the Clark County example, tremendous infrastructure was built in the county, and yet, they are only 1 percent above the growth rate plus inflation. The bills simply add further complications and do nothing toward provision of government services.

SENATOR TITUS:

Mr. Leavitt's testimony illustrates how one size does not fit all. It cannot possibly do so.

One problem I have with TABOR is that it does not address the question of waste. To identify waste in government, one needs to research specific programs, or a specific waste, and make adjustments. These bills simply place a cap on everything including waste.

It would be better to use a more rational approach and consider individual situations.

SENATOR COFFIN:

In 1984, I was troubled concerning issues similar to those addressed in these measures. I asked Mr. Leavitt and others for assistance, and we constructed a similar bill. After a full hearing, I discovered what I would be creating was a template of inflexibility over the Legislative process in times of growth.

One reason limited-property taxes could be implemented was because there was flexibility within statutory limitations.

MR. LEAVITT:

It seems we are in a situation that worked well from 1981 to the present. Then, an unusual situation occurred and the Legislature was able to respond to the needs quickly. Bills proposing a higher-assessed valuation on property never won approval.

SENATOR COFFIN:

The point is, we have been down this road before.

MARY C. WALKER (Carson City, Douglas County and Lyon County):

I have several questions based on S.J.R. 5, S.J.R. 6 and S.J.R. 9.

What is wrong with Nevada? There was recently a tax problem which the Legislature resolved admirably.

Are taxes in Nevada so high that it is stemming the tide of new residents? That does not seem to be the case.

How does the tax burden on businesses in Nevada compare to that of other states? How does the Nevada tax burden on citizens compare to that of other states? How much of our tax revenue is paid through tourism such as through gaming and sales taxes? Where are the problem areas in our revenue structure that need fixing?

Even with the \$833 million increase in expenditures during the 72nd Legislative Session, were expenditures in Medicaid based on per capita expenditures for example? We are still the lowest state in per capita Medicaid expenditures.

I recommend caution because constitutional amendments may affect the way we do business 100 years from now.

CHAIR RAGGIO:

I will ask the Committee to hold their comments to allow those in opposition their full opportunity to be heard.

NANCY J. HOWARD (Nevada League of Cities):

I concur with the comments made by Mr. Leavitt and Ms. Walker in opposition to these measures. The Legislature has done a good job in holding revenues and expenditures in check. I also trust our local officials to make decisions to meet demands requested by the citizens.

BOBBIE GANG (Nevada Women's Lobby):

My testimony has been provided ([Exhibit I](#)). The Nevada Women's Lobby is opposed to S.J.R. 5, S.J.R. 6 and S.J.R. 9. I am sure the Committee recognizes we are one of the "liberal advocacy groups" Senator Beers referred to in his presentation on April 13, 2005. We are proud to be in the company of liberal organizations.

Our opposition represents a different philosophy than that which drives the constitutional amendment in these measures. Our position is based on our confidence in our elected officials and the legislative process.

Our elected officials spend considerable time informing themselves on the issues. It is obvious the elected officials are willing to do so to facilitate making difficult decisions about the future of Nevada and its citizens.

It is doubtful whether all of the information could be communicated to the public in time for them to make informed decisions on a November ballot.

The fundamental principle driving the proposed constitutional amendments seems to be stated in S.J.R. 9 on page 1, lines 13 and 14 and page 2, line 1. The statement is, "Whereas the limitation on the growth of the state government is intended to be a fundamental governing principle of this state equal to the supermajority requirement for the passage of a measure creating, generating or increasing public revenue"

We suggest that is not currently the guiding fundamental principle of the state and should not be in the future.

Government should be efficient, effective and accountable to the people. We support the principle of investing in a state and its citizens. Not everything can be based upon a mathematical formula. It would be better to invest in the future of bringing Nevada ahead of the curve in areas such as Nevada CheckUp and Medicaid.

The Medicaid program points to the folly of putting spending and revenue to a public vote anytime a budget increase is needed. Medicaid caseloads have grown faster than the population growth and will continue to do so. The needs

of the mentally ill and senior citizens are on the rise and have been neglected for too long. The neglect directly affects the current problems experienced. It will take immediate solutions and long-range planning to resolve these problems.

The state should first decide the policy questions of what services will be provided before restraints are placed on the budget.

LARRY D. STRUVE (Religious Alliance in Nevada):

My written testimony has been provided to the Committee ([Exhibit J](#)). The Religious Alliance in Nevada consists of the Roman Catholic Dioceses of Reno and Las Vegas, the Episcopal Dioceses of Nevada, the Nevada Presbytery, the Lutheran Advocacy Ministry in Nevada and the United Methodist Church. Over 500,000 Nevadans are associated with these parishes.

These parishes share a view that elected officials should be held accountable as stewards of the public's money and guardians of the public trust.

I am sure the parishioners would welcome the dialogue begun by Senator Beers through proposal of these measures. It appears the driving force for this legislation was the success of the TABOR program in Colorado. Through a colleague in Colorado, who is a member of the Bell Policy Center, they conducted a study of TABOR's effects after ten years of operation. At the conclusion of the study, there will be a ballot question in Colorado in September 2005. The legislature and governor of that state have agreed that the budget situation in Colorado has become untenable. They have referred a proposal to the voters that would set aside, for five years, TABOR's inflation-based formula and solve what they call "the ratchet effect."

In the interest of time, I will allow the document I provided to the Committee titled "Ten Years of TABOR: A study of Colorado's Taxpayer's Bill of Rights," ([Exhibit K](#), original is on file at the Research Library) to speak for itself.

CHAIR RAGGIO:

I will indicate, to all those interested in these bills, that the Committee will not take action at this hearing. These are exempt measures so they do not fall under today's deadline. We will set an additional hearing, for a limited purpose for hearing those who can report to this Committee, on the impact of these resolutions in Colorado and Michigan where some form of this program has been adopted.

ANNE K. LORING (Washoe County School District):

We also appreciate the dialogue these measures have prompted.

I wish to speak specifically to S.J.R. 5, section 12, which relates to school districts.

As with other impacts on state and local governments, this would allow school districts to utilize a vote of the people to increase their expenditures if there were additional revenues. Two issues are questionable with regard to the Nevada Plan.

Forty or fifty years ago, the Legislature developed the Nevada Plan to equalize resources for all students in Nevada. If this were enacted, allowing individual school districts to go to a vote of the people to increase expenditures, it

undermines the basic premise of the Nevada Plan. This Plan is what has kept Nevada out of court. Other states have been challenged on equity issues for education.

In addition, the section raises a mechanical enactment question. What constitutes additional revenue to a school district? In the current year, some districts have benefited from increased property-tax revenue through the Nevada Plan and most districts have experienced increased revenues due to sales tax. It would be difficult to determine to whom the revenues should be distributed although they came from local residents. The Nevada Plan, through a complicated formula, offsets local increases with decreases in state spending. When local-area revenues are not sufficient to cover the Nevada Plan, the state provides funding. The question becomes whether the revenues should revert to local residents or to the state as is done through the Nevada Plan.

We concur with earlier testimony, that in a perfect world, population growth and the consumer price index could accommodate government needs for revenue. That presumes the population being served does not change except in size. The Legislature has the authority to address the variety of changes within our state.

In conclusion, I will provide one example seen in the Washoe County School District. We are facing a severe problem in funding for school construction. Limiting that ability to growth and consumer price index does not solve the problem. Approximately 40 percent of the funding needed in Washoe County, or others, is older school renovation issues. It is not driven by increases in population.

In Washoe County, construction costs have risen by 10 to 15 percent; whereas the overall consumer price index is growing at less than 3 percent.

SENATOR BEERS:

I would note, for the record, that no one has yet answered how perpetual and reasonable growth will reduce services.

Concerning the point that Nevada's taxation is not so bad that it has stemmed the tide of people moving to the state, we are fortunate to live next to California.

There were several comments concerning Nevada's per capita Medicaid expenditures. Medicaid is a poverty program and Nevada traditionally has a low rate of poverty per capita. Accordingly, one would expect the poverty expenditures to be low on a per-capita basis. It is a more reasonable measure of the Medicaid program to consider it on a per-recipient basis. Under that consideration, Nevada's Medicaid expenditure is 20 percent higher, per recipient, than that of California.

CHAIR RAGGIO:

I will now close the hearing on S.J.R. 5, S.J.R. 6 and S.J.R. 9 and open the hearing on S.B. 369.

SENATE BILL 369: Makes various changes regarding judiciary. (BDR 1-525)

NANCY A. BECKER (Chief Justice, Nevada Supreme Court):
I will address why a \$3 million appropriation is requested.

We reviewed the case filing for each judge in the Second and Eighth Judicial Districts. On page 3, of the handout titled, "Senior Judge Program in Nevada, Best Bang for the Buck" ([Exhibit L](#), original is on file at the Research Library), the average recommended by the National Center of State Courts is 1,400 filings per judge. In Washoe County each judge averages 1,800 filings. In Clark County, in 2004, there were 2,600 filings per judge.

We also considered the standards proposed by the American Bar Association concerning time from filing to case disposition at the trial level located on page 5 of [Exhibit L](#). Criminal cases are 17 percent below the national standard in the Second Judicial District and 37 percent below in the Eighth Judicial District. Civil cases are 22 percent below the average in the Second District and 31 percent below in the Eighth District. Family Court is barely holding its own in the Eighth District and we are at 22 percent below in the Second District.

In translation, the average citizen is waiting two to three and one-half years in the Eighth District for civil-case dispositions. Criminal cases are reaching disposition within 18 months to 2 years. This time frame impacts victim's as well as defendant's rights. To reduce the disposition times and better process cases for the citizens, at the current caseload levels, we need 4 judges in the Second District and 29 in the Eighth District to reach 1,400 filings per judge.

CHAIR RAGGIO:

Are there measures before this Legislature that would otherwise address the judicial judgeship needs?

CHIEF JUSTICE BECKER:

Yes, there are. One measure would provide seven new judges for the Eighth District that would only meet a small percentage of the need.

CHAIR RAGGIO:

How many judges are necessary in the Eighth District to fill the need according to your study?

CHIEF JUSTICE BECKER:

We would require 29 judges to fill the need in the Eighth District.

CHAIR RAGGIO:

Your testimony is that there is another request in a measure for seven judges in the Eighth District?

CHIEF JUSTICE BECKER:

That is correct.

CHAIR RAGGIO:

I have heard there is some disagreement on whether or not the county supports that request. Is that true?

CHIEF JUSTICE BECKER:

That is correct. No resolution has been reached between the county and the judges in that instance.

CHAIR RAGGIO:

Are four or six judges needed to meet the standards in Washoe County?

CHIEF JUSTICE BECKER:

Four judges are needed in Washoe County.

PETER I. BREEN (Judge, Department 7, Second Judicial District):

That is correct.

CHAIR RAGGIO:

There are no requests pending from the Second District for additional judges at this time?

JUDGE BREEN:

There are not.

CHAIR RAGGIO:

Apparently the rural judicial districts meet the standards according to [Exhibit L](#).

CHIEF JUSTICE BECKER:

If the 7 judges requested, in which the Supreme Court concurs, are approved, that would meet 9 percent of the need. If the funding requested in [S.B. 369](#) is provided, it would provide the equivalent of 14 judicial positions that could be used throughout the state meeting another 10 percent of the state need. As the Committee can see, on page 6 of [Exhibit L](#), 22 percent of the need would remain unmet.

In the study, we also considered how the senior judges could be used. There are approximately 15 individuals who are either currently senior judges, or have expressed interest, and eligible to become senior judges.

A limited number of individuals meet the requirements for senior judge. A senior judge must be retired and meet other eligibility standards. We surveyed those who were qualified to determine the amount of time they would be willing to work in the senior judge program. The average was between 40 hours and 100 hours each month. These individuals have no intention of returning to work full time.

We discussed the number of hours available and calculated the number of days of service those hours would provide. We calculated the cost of the services which is approximately \$2.9 million including benefits. Administrative costs were added bringing the total request to \$3 million.

CHAIR RAGGIO:

Who would assign the judges to be seated?

CHIEF JUSTICE BECKER:

The Supreme Court would assign the judges to individual cases based upon requests. Justice Robert E. Rose can address the operational aspects of the bill.

The actual requests from the Second and Eighth Districts are reflected on page 7 of [Exhibit L](#). Those requests would total 18 judicial positions providing 3,800 days totaling \$3.6 million. There are not enough qualified senior judges to meet the requests.

CHAIR RAGGIO:

Does S.B. 369 specify that the judges, willing to serve, would be assigned to cases without forfeit of their retirement benefits? Is that one of the purposes of the bill?

CHIEF JUSTICE BECKER:

That is correct.

We elected to make the request a separate bill rather than a request for a budget amendment. Justice Rose will address the other aspects of the bill.

CHAIR RAGGIO:

Was the \$3 million not included in the *Executive Budget*?

CHIEF JUSTICE BECKER:

That appropriation request is included in the *Executive Budget*.

The Governor was willing to include \$3.5 million, but because there are not enough senior judges available, the request was reduced to \$3 million.

CHAIR RAGGIO:

For clarification, it is included in the *Executive Budget* but not as a separate appropriation. Was the bill introduced to preserve their benefits?

CHIEF JUSTICE BECKER:

That is correct.

CHAIR RAGGIO:

What appropriations are outside those provided in the budget? It is my understanding the bill is necessary for the judges, sitting as senior judges, to be allowed to continue their retirement benefits.

CHIEF JUSTICE BECKER:

That is correct. The other purpose is to transfer the administrative assessment funding currently directed to the Senior Judges' Fund to the Specialty Courts Fund.

ROBERT E. ROSE (Associate Justice, Supreme Court):

Page 8 of [Exhibit L](#) reflects the assistance, in number of days, requested by the Second, Eighth, Rural and Contingency Districts. The total of 4,040 days, over the biennium, is the total for which each court can provide space. It does not meet all of the need. The senior judge program would meet 2,962 days of that need.

Washoe County is making a significant request for senior judge assistance for the first time. They have always tried to process their caseload through their sitting judges. They are not requesting any new judges but are requesting significant assistance from the senior judge program. Washoe County is requesting three times the assistance requested by Clark County.

Under the senior judge program, we will provide the equivalent of one senior justice full-time equivalent (FTE) to the rural courts.

CHAIR RAGGIO:

Do the figures, on page 8 of [Exhibit L](#), include the addition of the seven judges requested in the other measure?

JUSTICE ROSE:

This is in addition to whatever FTE judges are approved by the Legislature. Regardless of how many judges are added, there is still a tremendous unmet need.

CHAIR RAGGIO:

What is the time lapse, from filing to trial, in the Second and Eighth Districts?

CHIEF JUSTICE BECKER:

For a jury trial in the Eighth District, the wait is approximately 3.5 years. In the Second District, the wait is approximately 18 months. The Family Courts in the Second District are having the most difficulty. That is where the bulk of the senior judge time was requested.

JUDGE BREEN:

There is a rule that requires cases be set within one year. We stack our calendars; however, the effect of the increase in the caseload always results in violation of that rule. A trial of approximately 3 days will have a wait of approximately 18 months.

CHAIR RAGGIO:

Will the passage of S.B. 369, authorizing additional senior judges, have a positive impact on that time lag?

JUDGE BREEN:

In my opinion, it will. I do not want to oversell the program. The senior judges permit the sitting judges the ability to stay even on their caseloads. If we are effective in short trials and settlement conference programs, we may dispose of a number of cases early in the process and relieve the staggering caseload. Much of the request represents "holding the line" on a problem.

CHAIR RAGGIO:

You should not undersell the program. One of the reasons the Chair would support the measure would be to assist in the unconscionable time lag in jury trial being set. Will this measure not make any dent in the three and one-half year lag in Clark County? Are there sufficient facilities in these districts for senior judges to hold court?

CHIEF JUSTICE BECKER:

One of the reasons the requests were lowered for the Second and Eighth Districts is that they had to consider physical facilities as well as personnel. The requests are designed with the concept of physical space through use of settlement-conference programs and other case-management tools that can be done outside a traditional courtroom setting. That is also why there is a difference in the amount requested in the first and second years of the biennium. Clark County will be moving into a new building in 2006.

There will be need for additional resources in terms of personnel. Assuming we had senior judges available to increase the program, there would not be sufficient facilities.

The passage of S.B. 369 will have an impact on trial disposition times. We cannot predict where growth will occur. If growth continues at the same rate, the measure will make an impact, but growth will outstrip us again. Our hope is to settle more cases earlier for the benefit of citizens. Settlement conference cases do not move to appeals.

CHAIR RAGGIO:

On a scale of one to ten, what impact will S.B. 369 have on case lags?

JUSTICE ROSE:

Approximately a seven on the scale.

CHAIR RAGGIO:

Justice Becker?

CHIEF JUSTICE BECKER:

I would agree the impact would be approximately seven on a scale of one to ten.

CHAIR RAGGIO:

The Committee is interested in making a dent in the lag time to disposition without the addition of numerous full-time positions.

CHIEF JUSTICE BECKER:

I would clarify that the figures assume the seven judges would be added in Clark County.

CHAIR RAGGIO:

It was my understanding, from earlier testimony, that the figures in [Exhibit L](#) do not make that assumption.

JUSTICE ROSE:

Whatever numbers of judges are approved by the Legislature, the requests in S.B. 369 are in addition to those requests.

CHIEF JUSTICE BECKER:

The information provided to this Committee in [Exhibit L](#), and during our budget requests, took into consideration the request for the seven additional judges. The S.B. 369 request is in addition to that request.

CHAIR RAGGIO:

Please provide detail on the funding and establishing of the specialty court program. What appropriation is requested?

JUSTICE ROSE:

The intent is to use administrative-assessment fees presently funding the senior judge program of approximately \$350,000 annually and redirect that to the specialty courts. Funding is discussed on page 12 of [Exhibit L](#). The \$3 million would be the only request from the General Fund for the biennium.

Additionally, if we succeed in our funding request for the senior judge program, we would prove one-half to one judge equivalent funding to the Second and Eighth Districts to provide assistance for the drug courts. We will provide a senior judge to that program.

The senior judges have the ability to earn additional credit for service and retirement benefits. There is an actuarial impact to the Public Employees Retirement System (PERS). We have agreed to limit the senior judge program to not more than 20 judges who are in the program and enrolled in PERS. The impact to PERS is reduced to \$3.4 million. The base cost, plus the actuarial costs, would be approximately \$200,000.

CHAIR RAGGIO:
Do we have a fiscal note on this bill?

JUSTICE ROSE:
Yes, Ms. Dana Bilyeu is present to provide that information.

CHAIR RAGGIO:
Judge Breen, as a founder of the specialty courts, please give us a status report.

JUDGE BREEN:
We have studied methods to disburse appropriations fairly. We are coming up short by approximately \$3 million including Clark County's request for a mental health court. The funding authorized in A.B. No. 29 of the 71st Legislative Session was not sufficient to meet all the requests.

The specialty courts are realizing approximately an 80-percent success rate. I can provide detail on the programs.

CHAIR RAGGIO:
Please provide your written detail to the Committee members when available.

SENATOR COFFIN:
Has the old language regarding a prohibition against judges, who have been defeated in an election, serving in the senior judge program been lifted?

JUSTICE ROSE:
That provision still stands. A judge must retire undefeated.

SENATOR COFFIN:
Is that constitutional or statutory?

JUSTICE ROSE:
I am told it is in the court rules.

SENATOR COFFIN:
Would you have objection to an amendment in S.B. 369 allowing defeated judges to serve in the senior judge program?

JUSTICE ROSE:
I personally have no objection. I am required to poll the court to answer on their behalf.

SENATOR COFFIN:
It seems the same people work in various election races to discredit and oppose certain candidates, and yet the candidate may be competent.

JUSTICE ROSE:

That situation occurred in the races of Judge Earl White and District Judge John Mendoza. Both were defeated but had been good judges for a long period of time.

CHAIR RAGGIO:

If the provision is in a court rule, perhaps the Nevada Supreme Court members may wish to review the rule. We try not to be involved in the other branch of government to that extent.

DANA BILYEU (Executive Officer, Public Employees Retirement System):

My testimony is provided ([Exhibit M](#)). The PERS has not yet taken a position on S.B. 369. Keeping in mind the policy of the Board to defer to the court on their benefit structure, staff will recommend a neutral position on the bill as long as any costs associated with benefit modifications are recognized and funded.

The bill, sponsored by the Nevada Supreme Court, in part concerns reemployment rights for judges under *Nevada Revised Statutes* 1A.370. The court provided amendment language to us to limit the program to 20 judges. Staff requested our actuary perform an analysis of the costs associated with reemployment based on the amended language.

The fiscal note provided puts the present cost to PERS at \$3.4 million. That represents \$106,250 in each fiscal year. Our actuary is calculating the associated amortization costs over 32 years which will modify the fiscal note.

CHAIR RAGGIO:

The proposed amendment language has been received. It indicates, "The number of judges so enrolled at any given time would not exceed 20 judges." Is that correct?

JUSTICE ROSE:

That is the primary point. The other matters were cleanup measures.

CHAIR RAGGIO:

The proposed amendment language is at the back of [Exhibit L](#). Are there further amendments being proposed to the bill?

JUSTICE ROSE:

Not to my knowledge.

CHAIR RAGGIO:

Is there a significant impact associated with the utilization of court assessment fees if this bill is passed?

MR. GHIGGERI:

Staff will need to review the provisions.

CHAIR RAGGIO:

This is an exempt bill. Mr. Comeaux, do you have any comments on this measure.

JOHN P. COMEAUX (Director, Department of Administration):

No, sir.

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CHAIR RAGGIO:

Seeing no further testimony in support or opposition to this bill, I will close the hearing on S.B. 369 and open the hearing on S.B. 438.

SENATE BILL 438: Authorizes justices of the peace and municipal judges to participate in Judicial Retirement Plan under certain circumstances.
(BDR 1-217)

CHAIR RAGGIO:

Please note this bill is not exempt. There is a fiscal note indicating an impact on the PERS and on the counties.

JIM M. BIXLER (Justice of the Peace, Department 4, Las Vegas Township):
With me are Judge Nancy Oesterle, Las Vegas Justice Court, and Judge Kevin Higgins, Sparks Justice Court. We are here as members of the Nevada Judges Association testifying in support of S.B. 438.

This is enabling legislation that has appeared several times before the Legislature evolving into its present form. It enables the local employer, whether a county or a city, to elect to participate in the program. The individual judges also have the option to elect whether or not to participate.

CHAIR RAGGIO:

What is the current situation?

JUDGE BIXLER:

At present, the Judicial Retirement System only encompasses the district court and Nevada Supreme Court judges. This enabling legislation allows the governmental entity and the judges to roll their benefits from the PERS to the Judicial Retirement System (JRS).

CHAIR RAGGIO:

Would the bill encompass both municipal judges and justices of the peace who currently have benefits under the PERS?

JUDGE BIXLER:

That is correct.

CHAIR RAGGIO:

Do the bill provisions include both counties and cities?

JUDGE BIXLER:

That is correct.

CHAIR RAGGIO:

The municipal court judges and justices of the peace may elect to move their retirement benefits from the PERS to the JRS if the respective county or city concurs?

JUDGE BIXLER:

That is correct.

CHAIR RAGGIO:

What are the benefits of taking that option?

JUDGE BIXLER:

It accelerates retirement accrual for lower court judges. It caps the retirement benefits at 75 percent. The 75-percent level is reached sooner than with the PERS. The argument is the same as it was at the time when district court and Nevada Supreme Court judges were changed. These judges begin their careers later in life and have less time to accumulate retirement benefits.

CHAIR RAGGIO:

Are representatives present from the cities or counties that have taken a position on S.B. 438?

JUDGE BIXLER:

I have heard of no opposition.

CHAIR RAGGIO:

Are the counties aware of the bill?

JUDGE BIXLER:

I know Clark County is aware.

KEVIN HIGGINS (Judge, Sparks Justice Court):

Washoe County is neutral on the bill. They will decide, at a later time, whether they wish to fund the provisions.

The bill is enabling legislation only, and, because of that, the Nevada Association of Counties (NACO) is also neutral.

If another measure under consideration alters the qualifications for municipal judges and justices of the peace passes, it will also affect S.B. 438. Before someone could become a justice of the peace, in a district that requires them to be an attorney, they will have to be in practice from five to ten years. That makes a justice of the peace at least in their early 30s before they can sit on the bench.

The bill will allow someone who starts accruing retirement benefits much later in life to vest at 75 percent in 22 years.

CHAIR RAGGIO:

The measure you referred to was processed in the Senate and is currently in the Assembly.

JUDGE HIGGINS:

That is correct.

CHAIR RAGGIO:

The fiscal note indicates that for Washoe County, if they allowed the provisions of S.B. 438, the cost would be approximately \$65,000 to \$70,000 each year.

JUDGE HIGGINS:

That is correct.

CHAIR RAGGIO:

Is that because the county would pay the cost of the retirement benefits?

JUDGE HIGGINS:

They would pay the difference between the two rates. The rate increases slightly because retirement is reached within 22 years rather than 30 years.

CHAIR RAGGIO:

Are they presently paying the cost of retirement for all judges?

JUDGE HIGGINS:

Yes, sir.

CHAIR RAGGIO:

Is that true statewide?

JUDGE BIXLER:

I believe so. It is in Clark County.

NANCY OESTERLE (Judge, Las Vegas Justice Court):

Currently, municipal court judges and justices of the peace across the state have a variety of salaries and benefits. Each county and municipality determines those benefits for their judges.

The bill will allow them to continue to have that power and authority to determine the benefits. If they elect to allow a 1-percent benefit toward the retirement each year, the judges can then decide whether or not we wish to participate. Some judges will not choose to do so. For instance, I have been on the bench, under the PERS, for nearly 25 years and would not elect that option.

CHAIR RAGGIO:

Senate Bill 438 contains a fiscal note. Does it have an impact on the PERS?

MS. BILYEU:

I have provided my written testimony to the Committee ([Exhibit N](#)). This bill is similar to S.B. No. 409 of the 72nd Legislative Session. I reviewed how the PERS addressed costs associated with this provision based upon the 2003 legislation. The Board has not taken a position on S.B. 438, and we will recommend a neutral position.

Section 1, paragraph 1 of S.B. 438, enables justices of the peace and municipal court judges to participate in the JRS.

Paragraph 5, section 1 of the bill, allows the transfer of assets from PERS to the JRS for each judge or justice who decides to participate in the JRS. This language is similar to the current judicial retirement act for district court judges who make that choice.

It is important to know the service transferred from PERS to the JRS will be accredited in the JRS as if it had been earned in PERS. All prior service in the PERS system would be transferred to the JRS at the lower PERS accrual rate of 2.5 or 2.67 percent rather than the 3.4091 JRS rate.

CHAIR RAGGIO:

Is that necessary?

MS. BILYEU:

It is necessary to prevent an unfunded liability status in the transfer.

It is my understanding the intent of the bill is to be cost-neutral to state government. Contributions paid by the cities and counties would be segregated and the costs associated with the justices of the peace and municipal court judges will be assessed to each individual employer.

Section 10, beginning at line 40, page 5, provides that the local governments shall pay into the PERS the normal cost of benefits as a percentage of payroll for each member on a monthly basis.

The current estimate is that those contributions will be 22.5 percent, the normal cost contribution rate for the JRS beginning July 1, 2005. There are 95 active judges and justices. We determined, based upon their service credit and ages, approximately 54 would probably take the option. It would benefit them to move to the JRS. The collective annual payroll, subject to contribution is approximately \$4.7 million. The additional payroll cost to local government is the difference between the scheduled PERS rate of 19.75 percent and the JRS rate of 22.5 percent. That difference is represented in the fiscal note for S.B. 438.

That paragraph of the bill is somewhat problematic because the normal cost of an agency so electing to participate will not truly be known until we can perform our first actuarial evaluation associated with those transfers. We have discussed the situation with the actuary who is comfortable with using the normal costs associated with district court judges and Supreme Court justices for any new entrance into the plan in the first biennium.

In section 10, subsection 4, page 6, states the respective local governments shall pay to the system any additional amounts sufficient to pay the benefits of the system. This generally refers to the payment of unfunded liabilities associated with the judges. Inasmuch as these judges would be transferred from PERS with assets equivalent to their liabilities associated with PERS, there is no immediate unfunded liability.

CHAIR RAGGIO:

Is that section important for PERS?

MS. BILYEU:

That is correct.

SENATOR BEERS:

Do you believe section 10, subsection 4, would prohibit a local government from having a judge participate in the funding of the retirement benefit? That is how social security is funded.

MS. BILYEU:

Since municipal court judges and justices are currently on full-employer pay because they are locally elected officials, this paragraph would remain full-employer pay on both sides. That pertains to both the normal cost as well as the unfunded accrued liability payment if that should occur in the future.

SENATOR BEERS:

Does current law specify that local governments pay 100 percent of the retirement?

Ms. BILYEU:

That is correct for elected officials. It is found in the retirement act.

SENATOR MATHEWS:

That is true, except for those elected officials who are already members of the PERS. As an example, I was elected to the Reno City Council and I was already a PERS member. The city government could not pay my retirement. Everyone on the council was getting a benefit I did not receive.

Ms. BILYEU:

If S.B. 438 is approved, the legal structure of the JRS will be changed from what is called a single-agent plan to a multiple-employer-agent plan. The actuary will perform separate actuarial evaluations for all of the municipalities and counties. That would be 35 separate valuations, at a cost of \$20,000 to \$30,000, depending on how many cities and counties decide to allow the changes.

CHAIR RAGGIO:

Are you suggesting any amendments to the bill to accommodate the points you have raised?

Ms. BILYEU:

No, all of the points can be adequately addressed with the current bill.

CHAIR RAGGIO:

If both S.B. 438 and S.B. 369 are enacted, will that affect the contribution rate required for PERS?

Ms. BILYEU:

No, the contribution rate for both PERS and the JRS are set by the previous year's valuations. The liability associated with the difference in the contribution rates of this program are local government costs only. The unfunded-accrued-liability payments that are scheduled for the JRS are already scheduled as part of that payment. Any new benefits would be viewed as to their normal costs and unfunded liability in the coming biennium.

CHAIR RAGGIO:

There is a cost to local governments. They have the option, under the bill, to determine if they wish to participate.

Ms. BILYEU:

That is correct.

SENATOR COFFIN:

Assemblyman Lynn C. Hettrick has introduced a bill for full funding of the JRS. It requests a \$25 million appropriation. What is the current status of that bill, and what adjustments will need to be made based upon this legislation?

MS. BILYEU:

That bill has been heard in the Assembly Committee on Ways and Means. It has not been moved from that Committee at this point.

That bill would pay the unfunded-accrued-liability payments of the JRS as of the previous year's valuation. This bill does not affect the unfunded liability of that program. Under S.B. 369, a current value is associated with an unfunded payment of \$3.4 million.

SENATOR COFFIN:

Those considerations will affect many of these discussions.

CHAIR RAGGIO:

Does the Department of Administration have a position on either S.B. 369 or S.B. 438?

MR. COMEAUX:

No, sir.

CHAIR RAGGIO:

This bill is not exempt; therefore, I will entertain a motion on S.B. 438.

SENATOR MATHEWS MOVED TO DO PASS S.B. 438.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR RAGGIO:

We will hold S.B. 369.

The Committee has received BDR S-1425 for consideration as requested by Senator Beers. This is an appropriation request of \$1 million.

BILL DRAFT REQUEST S-1425: Makes an appropriation to Desert Research Institute for purchase of equipment and services to analyze groundwater yields in arid basins. (Later introduced as S.B. 506.)

SENATOR BEERS MOVED FOR COMMITTEE INTRODUCTION OF BDR S-1425.

THE MOTION WAS SECONDED BY SENATOR COFFIN.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR RAGGIO:

Senate Bill 372 requests the construction of a juvenile-detention facility in Ely, Nevada.

SENATE BILL 372: Makes appropriation for construction of regional juvenile detention facility in Ely, Nevada. (BDR S-1233)

STEVEN DOBRESCU (Judge, Department 1, Seventh Judicial District):
With me today is Ms. Lynette Gust, Juvenile Probation Officer, White Pine County, and Mr. Hal Keaton, County Commissioner, Lincoln County.

We are in support of S.B. 372. Passage of the bill will allow a short-term-regional-juvenile-detention facility in our district. The Commission on Rural Courts determined this need as a Priority 2 project. Our district is the only one without a juvenile-detention facility. Our counties have no funds to build such a facility. Juveniles, in our district, must be sent to the detention facility in Elko County. It is a bad situation, deterring the courts from using detention. Youths are put on the road traveling hundreds of miles every week. It removes them from their families and no educational facilities are provided for short-term-detentions in Elko. If a child is struggling in school and is subsequently sent to Elko for three to five days, they fall that much farther behind in their school work.

The serious-adverse affect on the judicial system is that we are deterred from sending youths for short-term-detention when it is needed. As an example, if a youth, already on probation, is caught on drugs, drunk, or driving drunk by their probation officer, there is little justification for sending them 300 miles for an overnight stay. That is especially true in adverse-weather conditions.

CHAIR RAGGIO:
Is there no detention facility of any kind in Ely, White Pine County, Eureka or Lincoln Counties?

JUDGE DOBRESCU:
That is true.

CHAIR RAGGIO:
Are all youthful offenders, from those areas, sent to Elko?

JUDGE DOBRESCU:
Let me provide an example. A youth in Lincoln County pushed his girlfriend which is domestic violence. That offense requires 12 hours in detention isolated from adult offenders. We could not justify sending him from Pioche to Elko for a 12-hour hold. They ultimately placed the youth in a sergeant's office and had a person sit with him from approximately 7 p.m. to 7 a.m.

We have endured this practice until the Commission on Rural Courts noticed the problem.

The bill, as written, requests \$2.2 million that would provide seed money for the project. The handout titled, "Ganthner Melby, LLC, Eastern Nevada Regional Juvenile Detention Facility Preliminary Project Cost Estimate" ([Exhibit O](#)) contains the updated cost figures for the project. The total cost of the facility is \$4.3 million. It is a small facility for short-term-detention of up to ten days. The requested funding would ensure the project will be built.

CHAIR RAGGIO:
What are the intended plans for use of the facility?

JUDGE DOBRESCU:

That information is included in [Exhibit O](#). The building is 11,000 square feet that will be an 8- to 10-bed facility. Also included is a letter from Mr. Ganthner Melby LLC, architect, ([Exhibit P](#)) providing an updated architectural and engineering fee budget for the facility.

CHAIR RAGGIO:

When was the \$4.3 million cost estimate provided?

JUDGE DOBRESCU:

Mr. Melby has recently updated the cost estimates.

CHAIR RAGGIO:

Where would the remaining required funds be obtained assuming the state appropriated your request?

JUDGE DOBRESCU:

If the bill is passed without amendment to fund the \$4.3 million, we would have to look for grant funding and use the \$2.2 million as matching funds. Precedent has been set for that.

CHAIR RAGGIO:

Do you have the capability to locate such additional funding?

JUDGE DOBRESCU:

We would look for funding sources. There have been two other instances where the Legislature appropriated seed money. One project was in Humboldt County and one was in Lyon County in 1997. Those counties looked for juvenile-justice grants to complete their funding needs.

CHAIR RAGGIO:

Is there a real potential for the funding to be found?

JUDGE DOBRESCU:

We would like our request to be for the \$4.3 million, but, if not, we will look for further funding. If none can be found, the \$2.2 million would be reverted.

CHAIR RAGGIO:

If we are able to appropriate the \$2.2 million, is there a real likelihood the balance can be located from grants or otherwise?

SENATOR MIKE MCGINNESS (Central Nevada Senatorial District):

In the interim, I chaired the study committee of the Legislative Commission's Subcommittee to Study the Criminal Justice System in Rural Nevada and Transitional Housing for Released Offenders. It was mentioned, in the final report developed by the Commission on Rural Courts, that a regional juvenile facility was created in Humboldt County also serving Lander and Pershing Counties. According to the report, \$15 million in federal and private grants were obtained to fund the program. Funding from the state has also been provided in the past to assist with the construction of juvenile facilities in Humboldt and Lyon Counties. I have provided a portion of our final report provided to the Committee ([Exhibit Q](#)).

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CHAIR RAGGIO:
When were those appropriations made?

SENATOR MCGINNESS:
Both county facilities were funded in 1997.

CHAIR RAGGIO:
It might be helpful to the Committee to have specific grants identified to us for which you would apply.

JUDGE DOBRESCU:
We will certainly do that.

SENATOR MCGINNESS:
I will ask the Commission on Rural Courts to assist with that request. The interim study committee included myself, Senator Rhoads, Assemblyman Marvel, Senator Washington, Assemblyman Anderson and Assemblyman Sherer. The rural committee recommended sending a letter to NACO to encourage county and local government financial participation in the construction of regional-juvenile-detention facilities by multiple county governments. Also, that federal and private grants be sought to offset the construction expense of a regional-juvenile-detention facility.

The committee also recommended sending a letter to the Governor encouraging an appropriation to be included in the 2005-2007 *Executive Budget*.

The committee recognized the unique problems the eastern Nevada counties are facing. That is why that request was included in the report.

CHAIR RAGGIO:
We will make your letter included in the publication, "Eastern Nevada Regional Juvenile Detention Facility Project" a part of the record ([Exhibit R](#), original is on file at the Research Library).

LYNETTE GUST (Juvenile Probation Officer, White Pine County):
I am present in support of S.B. 372.

One of the most pressing and challenging issues that I face in my job is the transportation of juveniles. I will enumerate some of the difficulties we face in juvenile transportation.

The Elko facility is 376 round-trip miles from Ely and 642 round-trip miles from Caliente. In 2004, transport miles for my district totaled 19,504 miles. This mileage does not include transports made for evaluations, China Spring Youth Camp, Caliente Youth Center and Nevada Youth Training Center in Elko. In 2003, officers from our district spent 281 hours transporting juveniles to and from detention. That number increased in 2004 to 324 hours on the road. The time spent transporting these juveniles takes away from our time to work with other juveniles in our caseload. The most frightening aspect of these transports is the weather and road conditions.

As you are aware, northeastern Nevada is noted for severe winter weather. On numerous occasions, I have made transports in blizzard conditions on icy roads. During the past winter, I had to unshackle two male juveniles because the road

conditions were so severe. I was afraid we were going to slip off the road, and I felt they needed to have the ability to protect themselves if we did. In January 2005, we were forced to leave a female juvenile in the Elko facility for 30 days because the weather did not permit us to transport her home. Her detention sentence was for seven days. We continually walk the line, balancing public safety, reasonable detention times and risk of transportation in inclement weather.

Part of our duties includes transportation of youth on drugs, under the influence of alcohol and some who become belligerent when they learn they are being detained. Parents are not able to visit their child in detention because of the distance and expense. Equally troubling is the young people do not receive the schooling they should. Many of the youth on my caseload are already struggling academically.

CHAIR RAGGIO:

What is the average detention time in a juvenile facility?

Ms. GUST:

The average stay is approximately ten days.

CHAIR RAGGIO:

How many juveniles are detained annually in your area? Do you serve only White Pine County? I believe the bill requests a regional facility that would serve four counties?

Ms. GUST:

I am employed by White Pine County. The facility would serve three counties.

CHAIR RAGGIO:

It would serve White Pine, Eureka and Lincoln Counties?

JUDGE DOBRESCU:

It is also available for Tonopah in Nye County for short-term detention.

CHAIR RAGGIO:

Is the distance from Tonopah to Ely further than Tonopah to Elko?

JUDGE DOBRESCU:

Tonopah is 176 miles from Ely.

Ms. GUST:

Approximately 31 juveniles were sent to detention in 2004. I know that does not seem like a large amount. Several of these juveniles needed numerous transports prior to a final disposition being reached. We are doing the best we can on the scarce resources available. It would be appreciated if S.B. 372 were passed.

CHAIR RAGGIO:

If the facility is built, is funding available for staff and operation?

JUDGE DOBRESCU:

Yes, we have approval and support from all the counties involved. The facility would be located in White Pine County where the land is available. A preliminary feasibility study, funded by a grant, was done approximately two years ago.

HAL KEATON (Commissioner, Lincoln County Board of Commissioners):

The Lincoln County Board of Commissioners supports S.B. 372. A resolution from Lincoln County has been provided to the Committee ([Exhibit S](#)).

This situation is a safety and liability issue in our minds. The long travel required from Lincoln County to Elko is over 600 miles round trip. If a juvenile is ordered by the court into custody at 2 p.m., it requires a person to transport the juvenile from Pioche to Elko that day.

CHAIR RAGGIO:

They cannot be held at any of the facilities in Lincoln County for detention?

MR. KEATON:

Nothing is available.

CHAIR RAGGIO:

The Caliente Youth Center is located in Lincoln County.

MR. KEATON:

There is no cooperative agreement in place for detentions at that facility. The youth are transported to the juvenile facility in Elko, not the Nevada Youth Training Center. The transport requires an overnight stay for the transporting person. It is a tremendous cost to the county.

CHAIR RAGGIO:

How far is Pioche from Ely?

MR. KEATON:

The distance is 100 miles or one-third of the distance to travel to Elko.

CHAIR RAGGIO:

Is it feasible to have a cooperative agreement with the Caliente Youth Center prior to a regional-juvenile facility being built?

JUDGE DOBRESCU:

That is a possibility we can examine. There is a difference in the classification of the juveniles at the Caliente Youth Center.

CHAIR RAGGIO:

I am not attempting to direct you, but it would seem they might have a provision where they could hold these individuals separate from the general population.

JUDGE DOBRESCU:

We will pursue that option.

MR. KEATON:

We have discussed development of agreements with the other jurisdictions involved concerning funding for maintenance and staffing the facility if it is built.

CHAIR RAGGIO:

Is there bonding capacity in any of the affected counties to address the situation?

JUDGE DOBRESCU:

White Pine and Lincoln Counties are at capacity for bonding, and I believe Eureka is as well.

SENATOR RHOADS:

I served on the committee with Senator McGinness, and I am convinced a need exists. In the past, we have contributed funding to the Elko and Humboldt juvenile-detention centers. This bill would not set a new precedent.

SCOTT SCHICK (Chief, Juvenile Service, Douglas County):

I am present on behalf of the Nevada Association of Juvenile Justice Administrators and Mr. Kirby Burgess. The Association recognizes the critical need for a juvenile detention facility in northeastern Nevada Seventh Judicial District. We are in support of S.B. 372.

The facility will significantly reduce logistics and security risks. It will increase effectiveness and outcomes of the juvenile court and improve graduated sanctions applied to juvenile offenders.

I am providing a letter dated April 13, 2005, from Mr. Kirby L. Burgess, President, Nevada Association of Juvenile Justice Administrators, to the Committee ([Exhibit T](#)) in support of S.B. 372.

CHAIR RAGGIO:

I will close the hearing on S.B. 372. There are two nonexempt bills that must be processed by the Committee to meet the deadline. We will consider S.B. 479 which was heard in this Committee on April 11, 2005. Testimony was in support of the bill by Mr. P. Forrest Thorne, Executive Officer, Public Employees' Benefits Program. Mr. Gary Wolfe, representing the Teamsters Union, suggested amendment language to remove the opt-out provision.

SENATE BILL 479: Makes various changes to provisions governing Public Employees' Benefits Program. (BDR 23-609)

SENATOR COFFIN MOVED TO DO PASS S.B. 479.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR RAGGIO:

Senate Bill 484 is the Public Employees' Benefits Program bill proposed by the Governor. Testimony on behalf of the Governor was heard on April 11, 2005. The thrust of the bill provides that persons joining the program after July 1, 2005, have limited retirement benefits. There were a number of witnesses in opposition to the measure. The Chair feels the bill needs to be kept active. There are alternatives that might be considered in either a floor amendment or through action in the Assembly. Clark County proposed an amendment making similar provisions for local governments.

SENATE BILL 484: Revises provisions governing Public Employees' Benefits Program. (BDR 23-1364)

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 484.

SENATOR COFFIN SECONDED THE MOTION.

CHAIR RAGGIO:

It is the understanding that the bill will need further consideration before final passage.

THE MOTION PASSED. (SENATOR TITUS VOTED NO.)

SENATOR MATHEWS:

I will indicate the intention of my vote in favor was to move the bill, but I may vote against the measure on the Floor of the Senate.

SENATOR COFFIN:

Senate Bill 311 is a timely measure.

CHAIR RAGGIO:

I will entertain a motion. This measure was heard in this Committee on April 12, 2005. It provides reimbursement for legislators' travel effective upon passage and approval.

SENATE BILL 311: Revises provisions relating to reimbursement for legislators for travel and other expenses during legislative session. (BDR 17-742)

SENATOR COFFIN MOVED TO DO PASS S.B. 311.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

CHAIR RAGGIO:

I will now open the hearing on S.B. 405.

SENATE BILL 405: Makes various changes concerning mental health. (BDR 38-1322)

SENATOR MAURICE E. WASHINGTON (Washoe Senatorial District No. 2):
Senate Bill 405 contains several policy recommendations regarding mental health services. The interim study recommendations chaired by Senator Cegavske were seen as paramount to the mental health crisis.

The four primary recommendations contained in the bill are: maintenance regarding the long-term development of psychiatric beds; the increased capacity of short-term acute-psychiatric beds to perform medical clearance; the continuation of the existing Community Triage Center (CTC), preferably WestCare; and the expansion of certain support services for the mentally ill.

Senate Bill 405 seeks to support and address many areas of crises.

SENATOR HECK:

I am a member of the Senate Committee on Human Resources and Education and a physician working with this issue in Clark County for the past 12 years.

There is a severe mental health crisis, especially in southern Nevada, that culminated in a declaration of emergency by the county manager in August 2004. We are heartened that the new facility will be opened in 2006 providing some relief. There is still a critical need for short-term solutions to the issue.

I reviewed statistics this morning. There are 64 mental health patients being held in hospital emergency departments in Clark County. That number peaked at 114 patients a few months ago. At Sunrise Children's Hospital, six pediatric psychiatric patients are being held representing one-third of the pediatric emergency beds at that hospital. Senate Bill 405 will address many of those short-term needs.

I have provided a section-by-section summary of the bill ([Exhibit U](#)).

Section 2, of S.B. 405, requests an increase in the reimbursement rate provided through Medicaid for inpatient-psychiatric services at private hospitals. The Committee is aware that over 100 psychiatric beds have been lost at the acute care hospitals in southern Nevada. The primary reason is the low rate of reimbursement for psychiatric admissions. In a business sense, it is much more profitable to offer a medical/surgical bed or a post-operative bed.

SENATOR WASHINGTON:

I will add the current Medicaid reimbursement is from \$480 to \$530 per day. The western average is \$764 per day.

SENATOR HECK:

Section 3, of S.B. 405, will require the inclusion of presumptive eligibility and presumptive disability of persons with mental illness. Even with an increase in the Medicaid reimbursement rate, it takes approximately 18 to 24 months to have an individual certified as Medicaid or Social Security Administration eligible.

The person will receive services, but the facility may wait 18 to 24 months or may never receive reimbursement for those services. A presumptive eligibility determination for mental health patients will help foster the development of those beds.

SENATOR WASHINGTON:

This provision is called an "Option 210" at the state level. Those numbers came in at approximately \$9.6 million over the biennium.

SENATOR HECK:

Section 5, of S.B. 405, requests an appropriation of approximately \$4 million to help purchase additional acute care psychiatric beds while waiting for the new facility to be constructed and opened. This amount would be held in an account and used to purchase beds at local facilities that have capability and capacity as needed once all state resources have been exhausted. Any appropriation funds remaining at the end of the biennium would revert to the General Fund.

SENATOR WASHINGTON:

The General Fund appropriation is \$4 million.

SENATOR HECK:

Section 6, of S.B. 405, requests an appropriation from the General Fund to open a new facility to be called a crisis center. The purpose of the crisis center is to provide a location where mental health patients can go directly to receive their medical clearance examination and initial psychiatric evaluation while placed on an involuntary hold and before they are moved to an inpatient facility.

This will alleviate the problem for every mental health patient placed on a "Legal 2000," or involuntary hold who must go to a hospital emergency department to receive a medical clearance examination. The backlog occurs when a patient arrives at an emergency department, receives their medical clearance examination, usually accomplished within a two-hour period, but they remain in the emergency department from 72 to 96 hours waiting for an inpatient psychiatric bed.

This proposal to open a free-standing crisis center would cause those patients to never enter a hospital emergency department for medical clearance.

Ninety-five percent of patients arriving for a medical clearance examination have no acute medical problems. The examination is cursory and clears the patient as required by statute. If 95 percent of those patients were removed from emergency departments, it would help alleviate the severe overcrowding of emergency rooms in southern Nevada.

SENATOR WASHINGTON:

The planned facility would be not less than 40 beds or more than 60 beds.

SENATOR HECK:

In an attempt to be proactive, a request for proposal (RFP) has been released subject to funding from the Mental Health Division. The RFP is due at the end of April 2005.

Three proposals were submitted prior to the RFP from entities interested in construction of the center. The problem is they have all offered different services, so a comparison of bids was difficult to make. The RFP specifies the services being sought allow for comparison of the bids.

Section 7 requests an appropriation of \$500,000 to WestCare Nevada, Incorporated, for support of the CTC. The request is in support of services

already rendered. WestCare Nevada has met a critical need in southern Nevada. Patients who have alcohol or drug-abuse problems, concurrent with mental health problems, are taken directly to the triage center and do not enter hospital emergency departments. They are evaluated and directed to appropriate follow-up services. In the month of March 2005, the triage center at WestCare Nevada received 222 direct drop-offs from police and emergency medical services and 179 from area hospitals. What sometimes happens is when a psychiatric patient is on an involuntary hold at a hospital, because of their prolonged stay, they may clear from the requirement for an involuntary admission. If they are cleared, they are then sent to WestCare Nevada to have appropriate coordinated outpatient services and therapy.

SENATOR WASHINGTON:

Section 7 is an appropriation request for FY 2005 only.

SENATOR HECK:

Section 8, of S.B. 405, will appropriate additional funding for continued operation of the triage center. No specific provider is identified and the item would be released for bid within Clark County. The CTC has been a cooperative effort between local governments and hospitals to date. They have paid the majority of the costs to provide these services. The hospitals recognize it is more cost effective to help pay for the triage center than to have patients clogging the emergency departments. Local governments recognize the importance. It allows emergency medical services and police providers to remain on the street. It is imperative the CTC continue. We are requesting state participation. When the center was opened several years ago, it was contemplated to be a one-third split between the state, local government and hospitals. To date, state government has not participated. That appropriation is contingent upon the continued involvement and participation of the hospitals and local governments.

CHAIR RAGGIO:

To what level of continued cooperation are you speaking?

SENATOR HECK:

The costs would be split into thirds for each entity.

CHAIR RAGGIO:

Is that specified in S.B. 405?

SENATOR HECK:

It is not in the bill. It was felt it would not be appropriate to dictate the specific amount of the split. Local governments and hospitals would be responsible for any amount above the \$1.8 million and they have committed to that funding. If that does not happen and a local entity drops out, we will withhold state funding and the remaining funds would revert to the General Fund.

CHAIR RAGGIO:

The bill states, "The money provided by local governments and hospitals may be combined so that the maximum expended by the Division equals one-half of the combined total of the amount provided by the local governments and hospitals" Will the state be responsible for one-half of the cost?

SENATOR HECK:

That is what the bill stipulates. That is not the intent of this legislation. The state contribution is one-third represented by the \$1.8 million request.

SENATOR WASHINGTON:

The one-half references the contribution combined between the local governments and hospitals.

SENATOR HECK:

Section 9 of S.B. 405 asks for an appropriation of \$2 million for support of the mental health courts in Clark County. The mental health courts have shown to be of great utility in decreasing the recidivism rate of mental health patients who repeatedly land in jail, not because of the commission of a crime, but because they are wandering the streets and appear to have no home. They may be cited for loitering or trespassing and end up in the judicial system. It is documented that the mental health courts reduce recidivism and the individuals are kept out of the justice system.

Section 10 of S.B. 405 requires the Legislative Committee on Health Care to conduct an interim study of the support services available and evaluate the impact of the services previously appropriated.

SENATOR WASHINGTON:

I wish to commend Senator Cegavske, Assemblyman Horsford and Senator Heck on a job well done.

CHAIR RAGGIO:

The total appropriation request in the bill is for \$10.4 million in FY 2006 and just under \$10 million for FY 2007 for a biennial total of approximately \$20 million. All of the requests are for services allocated to Clark County. Are there no similar needs elsewhere?

In reference to section 7 of S.B. 405, is this an appropriation to a nonprofit corporation, WestCare Nevada?

SENATOR WASHINGTON:

That is correct.

CHAIR RAGGIO:

Is that in connection with the triage center?

SENATOR WASHINGTON:

That is correct.

CHAIR RAGGIO:

What amounts in sections 5 through 9 of S.B. 405 are proposed to be replacement for local funding?

SENATOR HECK:

None of these services are currently funded by local governments other than the portion contributed to the CTC.

SENATOR WASHINGTON:

Section 3 concerns "Option 210" with an appropriation of \$9.6 million for presumptive eligibility.

CHAIR RAGGIO:

Is there a fiscal note on this bill?

MICHAEL J. WILLDEN (Director, Department of Human Resources):

We have not had the opportunity to provide input to the fiscal note. However, in section 2, psychiatric rates in Nevada are approximately \$500 per day and the western regional average is \$764 per day. If a gap analysis is done, section 2 has a \$4 million fiscal note over the biennium.

CHAIR RAGGIO:

Would that add \$4 million to the approximate \$20 million cost of the bill noted earlier?

MR. WILLDEN:

As Senator Washington indicated in section 3, because of the federal rules for presumptive eligibility, mental health cannot be singled out. Federal rules require an "all or none" approach in adding a \$9.6 million fiscal note.

CHAIR RAGGIO:

Is this in addition to the other costs?

MR. WILLDEN:

That is correct, if presumptive eligibility is included.

Section 8 of the bill contains the one-half language referenced earlier. That is a bill drafter anomaly. It refers to one-half of two-thirds paid by local governments and hospitals.

CHAIR RAGGIO:

Where does it reference the other one-third?

MR. WILLDEN:

The intent is for a contribution of one-third each from the state, local governments or hospitals. Bill drafters have stated they do not care whether the money comes from either local governments or hospitals for two-thirds of the cost. They add that piece together in the bill and the state would be responsible for one-half the total amount contributed by hospitals and local governments or one-third of the total cost.

CHAIR RAGGIO:

The money provided by local governments and hospitals may be combined so the maximum expended by the Division equals one-half of the combined total of the amount provided by local governments and hospitals. That still means 50 percent to me.

MR. WILLDEN:

The lawyers have explained local governments and hospitals combined will contribute two-thirds and the state will contribute one-half of the two-thirds or equal to one-third of the total cost.

MICHAEL R. ALASTUEY (Clark County):

If the local governments and hospitals each contributed \$1, one-half of that figure, or \$1, would be the state's share of costs. The sum is \$3 and the state's share is \$1.

MR. WILLDEN:

The total fiscal note is \$32.1 million.

CHAIR RAGGIO:

Are Clark County and its allies ready to support these costs?

DAN MUSGROVE (Clark County):

We are engaged to participate in the CTC. The bill, in its entirety, represents something we have been working toward. It represents the various measures that could help the crisis in southern Nevada. It assists the mental health patients but also assists other patients who are waiting for treatment in the hospital emergency departments.

We support S.B. 405. We have an RFP that will be released April 28, 2005, to locate local agencies that could provide service as a CTC. Senator Mathews questioned me earlier in the session about that concern.

We have commitments from the local governments. There is a current agreement in place through this fiscal year. We are hoping for the \$500,000 from the state as an offering the state is willing to participate. Our fear is, without the state commitment, we may experience resistance from agencies currently participating.

CHAIR RAGGIO:

How is the mental health court currently being funded?

MR. MUSGROVE:

It is funded through a federal grant.

RICK R. LOOP (Eighth Judicial District Court and the Nevada District Judges Association):

The mental health court is currently funded through a federal grant that will end in September or October 2005.

CHAIR RAGGIO:

Will the federal grant be renewed?

MR. LOOP:

The federal grant will not be renewed.

CHAIR RAGGIO:

Please verify with certainty that the federal grant is not being renewed.

MR. LOOP:

I will verify that information.

CHAIR RAGGIO:

Are there other mental health courts in the state?

MR. LOOP:

Yes, Washoe County has a mental health court.

CHAIR RAGGIO:

Do you know how the Washoe County mental health court is funded?

MR. LOOP:

It is funded primarily through an appropriation from the 72nd Legislative Session.

CHAIR RAGGIO:

Is there no federal grant for that court?

MR. LOOP:

They started, somehow, with local funding; however, the court is currently funded through an appropriation from the Legislature.

CHAIR RAGGIO:

What is the total cost for operation of the mental health court in Clark County?

MR. LOOP:

The funding request in S.B. 405 would allow the Clark County mental health court to expand to 75 clients providing all the services typically provided by a mental health court. For example, there would be three caseworkers, housing, medication and court supervision for 75 clients.

CHAIR RAGGIO:

Would all the appropriations requested in the bill, directed to various mental health services, require an enhanced budget to administer the programs? Is there no funding in the *Executive Budget* to accommodate these issues?

MR. WILLDEN:

All of the issues listed in S.B. 405 are not funded in the *Executive Budget*. That does not mean there are not already enhancement requests in the budget. Those are primarily centered on the new 190-bed hospital being built.

An additional Capital Improvement Program request for approximately \$10 million, to have the new hospital operational in May 2006 with 150 beds, was recently passed. Another 40 beds will be added in December 2006. There are increases in staffing and inpatient capacity of the Southern Nevada Mental Health Hospital from 131 beds to 217 beds.

Additional funding requests are for the medication clinic, residential treatment and outpatient services. None of the additions listed in this bill are included in the *Executive Budget*.

SENATOR TITUS:

I know this is a tremendous need. A number of legislators toured the University Medical Center and saw how overcrowded they were with mental health patients. This is not a mental health crisis; it is a public health crisis. The mental health patients are not only taking up space, they are also impacting ambulance service. Ambulance staff must remain with the patient until they are admitted.

I was under the impression there was a commitment in the 72nd Legislative Session to fund the CTC but the state never provided it. There was confusion in the Interim Finance Committee of whether the funding would be placed in the proposed budget requests. Was it included in the *Executive Budget*?

MR. WILLDEN:

There was not necessarily a commitment, but there was intent expressed to fund one-third of the costs. The state portion was never approved in the 72nd Legislative Session. Using the 100-times spent over the MAXIMUS funding pool, we attempted, on two occasions, to approach the IFC to request permission to use MAXIMUS funds, or surplus, in the Southern Nevada Mental Health budget that could be moved to fund the CTC. The IFC determined not to approve those requests because the larger decision had been heard in the 72nd Legislative Session. We were directed to return with the requests during the current Legislative Session.

SENATOR TITUS:

Have the local governments and hospitals been making their one-third contributions in the intervening two years?

MR. WILLDEN:

That is correct.

A portion of the state's one-third contribution was made through the Bureau of Alcohol and Drug Abuse. They have continued to provide grant funds to the CTC, but the state's full one-third has never been provided.

SENATOR TITUS:

I am aware of a mental health court bill, proposed in the Assembly, but I would think the least we could do is fund the obligation to the CTC.

CHAIR RAGGIO:

The issue of the CTC funding came before the IFC. The Senate voted to support it, but the Assembly did not.

SENATOR COFFIN:

The Senate passed an appropriation for the CTC in the 72nd Legislative Session and the Assembly did not. Is that correct?

CHAIR RAGGIO:

No, the request came before the IFC for the one-third contribution.

SENATOR BEERS:

The Department suggested the bill would have a better chance without the presumptive eligibility piece. How bad does that affect the overall situation?

CHAIR RAGGIO:

Senator Beers is referring to section 3 of S.B. 405.

SENATOR WASHINGTON:

The presumptive eligibility is not critical. It is an important piece of the measure.

SENATOR BEERS:

My impression is the problem is more to do with beds being made available. It is not that individuals are being held in emergency room beds, the problem is that there is nowhere for them to go. Increasing the reimbursement rate dramatically would entice agencies to open beds.

SENATOR WASHINGTON:

That is correct.

SENATOR BEERS:

Is the increased reimbursement more important than the presumptive eligibility piece?

SENATOR WASHINGTON:

That is correct.

MR. WILLDEN:

Moving the reimbursement rate up to the western states average of \$764 would still be substantially under the medical/surgical rate in Nevada of \$1,300 per bed. There is still a question of whether the proposed increase will entice general hospitals to add psychiatric beds.

SENATOR HECK:

I agree with Mr. Willden, but I have had discussions with hospitals in Clark County that would be more willing to look at the beds with the increased reimbursement.

I will leave you with this thought. Nationally, there are 33 publicly-funded mental health beds per 100,000 population. In Nevada there are four publicly-funded beds per 100,000 population. Three to five percent of the general population experience mental health problems. With the rate of population increase in Nevada, especially Clark County, this is a true public health crisis.

ROBERT ROSHAK (Sergeant, Las Vegas Metropolitan Police Department):

We support S.B. 405 and feel it would have a positive impact for the community to assist with the mentally ill.

JUDGE BREEN:

I support the measure, particularly section 9. We have a bill pending that would request similar support for Washoe County.

MR. COMEAUX:

We have no position on S.B. 405.

(Written testimony was received from Mr. Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Human Resources [[Exhibit V](#)]).

CHAIR RAGGIO:

I will open the hearing on S.B. 504. This measure is a request for an appropriation to continue operation of this Legislative Session.

SENATE BILL 504: Makes appropriation to Legislative Fund. (BDR S-1423)

LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):

As the Chair indicated, S.B. 504 appropriates \$5 million to the Legislative Fund to fund the cost of this session. An appropriation of \$10 million was approved on the first day of the 73rd Legislative Session. Mr. John McCloskey, Chief Accountant, Accounting Division, Legislative Counsel Bureau, has informed me that we have already spent \$8.9 million. One more payroll period will exhaust the initial appropriation.

The requested \$5 million should carry the funding to the end of this Legislative Session, at which time we will review the balance, and any additional funding needed for the Legislative Fund can be placed in the General Appropriations Act.

CHAIR RAGGIO:

What was the cost of the 72nd Legislative Session and the 19th and 20th Special Sessions?

MR. MALKIEWICH:

I do not have the costs of the special sessions with me at this time. I will provide that information to the Committee. The cost of the 72nd Legislative Session was approximately \$15 million. Smaller appropriations were possible because there was a larger balance in the Legislative Fund when we began.

The Legislative Fund was spent down to a low level, in part, because of the special legislative sessions that were not covered entirely with appropriations.

As a result, the Legislative Fund is low and almost all costs for the current session must be appropriated.

CHAIR RAGGIO:

If the appropriation requested in S.B. 504 is not made, when would funding end?

MR. MALKIEWICH:

The Legislative Fund would be exhausted in approximately two weeks. There is also revenue received in the Legislative Fund from lobbyist fees and sale of publications. If this appropriation is not funded, we would be forced to use funding in the regular budgets for the Legislative Counsel Bureau to fund the payroll.

SENATOR BEERS MOVED TO DO PASS S.B. 504.

SENATOR CEGAVSKE SECONDED THE MOTION.

SENATOR MATHEWS:

I asked for information on the line item for Speaker Perkins' budget that I have not received.

MR. MALKIEWICH:

There were three questions asked in the hearing in the Senate Committee on Finance. Another question concerned the National Conference of State Legislators (NCSL) and the Council of State Governments (CSG) dues. A question was asked concerning the cost of the changes requested for the front desk. I have just received some of the necessary information to answer the three questions.

SENATOR MATHEWS:

I do not want to mix the line item for the Speaker, which was a new item, with the other questions that were part of ongoing costs. I do not wish the Speaker's line item to go forward in the budget.

MR. MALKIEWICH:

That information will be provided to all members of the Committee early in the coming week.

CHAIR RAGGIO:

The questions are worthy of note. The bill needs to be processed.

SENATOR COFFIN:

How would you characterize the political makeup of the NCSL?

MR. MALKIEWICH:

The NCSL, like the CSG, is a bipartisan organization. The Chairs are rotated between the parties.

SENATOR COFFIN:

Does either of the organizations belong to organizations that have a pronounced philosophical view one way or the other?

MR. MALKIEWICH:

I believe that is in the eye of the beholder.

CHAIR RAGGIO:

There is a motion and a second on the floor to do pass S.B. 504. Are there any objections to the motion?

THE MOTION PASSED UNANIMOUSLY.

CHAIR RAGGIO:

Mr. Munn, I believe you are present to make a request regarding a bill that has been indefinitely postponed? This concerns S.B. 454. You may state your request, and, although we will not take action on the bill at this time, we will consider a motion to rescind our action and rehear the bill at a later time.

SENATE BILL 454: Provides that investigators employed by Attorney General are eligible to enroll in Police and Firefighters' Retirement Fund. (BDR S-106)

RANDAL MUNN (Special Assistant Attorney General, Office of the Attorney General):

That is our request.

CHAIR RAGGIO:

Senate Bill 454 was indefinitely postponed at the request of the Attorney General on April 7, 2005. The bill provides for certain investigators, employed by the Attorney General, to elect to enroll as peace officers in the PERS.

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MR. MUNN:
That is correct.

CHAIR RAGGIO:
I will entertain a motion to rescind our action on April 7, 2005.

SENATOR COFFIN MOVED TO RESCIND THE ACTION TAKEN ON
APRIL 7, 2005, TO INDEFINITELY POSTPONE S.B. 454.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

CHAIR RAGGIO:
The action of April 7, 2005, has been rescinded and a hearing date for S.B. 454 will be scheduled. Various documents have been provided to the Committee from the Office of the Attorney General including a letter from Mr. Munn dated April 13, 2005, ([Exhibit W](#)) regarding reopening S.B. 454.

SENATOR TITUS:
I was out of the room for three votes to testify on a measure before another Committee. I would like to record my votes on those measures.

CHAIR RAGGIO:
The Chair is willing, but based upon information we received yesterday, I will need to check with the Legal Division. (It was later confirmed to be acceptable and Senator Titus' votes were recorded with the motions for S.B. 311, S.B. 484 and S.B. 379.)

SENATOR CEGAVSKE:
Will we receive information on which budget will be closed on Monday, April 18, 2005?

MR. GHIGGERI:
We will provide the closing documents today for Monday. The budgets to be considered for closure include the Governor's Office, a few accounts of the Office of the Attorney General and the PERS. The Division of Cultural Affairs will also be considered and that closing document is not yet available.

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CHAIR RAGGIO:
We are not yet at the point to close any budgets that are still in Subcommittees.

Seeing no further business before this Committee, we are adjourned at 11:14 a.m.

RESPECTFULLY SUBMITTED:

Cindy Clampitt,
Committee Secretary

APPROVED BY:

Senator William J. Raggio, Chair

DATE:_____