THE EIGHTIETH DAY

CARSON CITY (Wednesday), April 27, 2011

Senate called to order at 2:12 p.m.
President Krolicki presiding.
Roll called.
All present.
Prayer by the Chaplain, Reverend Bruce Henderson.

Lord, in just a moment we will all make a statement that continues to move me, even after all these years.

We will recite that we are "One Nation, Under God." May that statement be more than a tradition.

May it always be that as a Nation and as individuals, we acknowledge our complete and utter dependence on You.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 97, 166, 168, 174, 262, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 111, 125, 261, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 26, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 1, 23, 63, 76, 78, 80, 117, 132, 199, 212, 242, 248, 277, 282, 299, 337, 350, 351, 360, 374, 376, 420, 474, 508; Assembly Joint Resolution No. 1.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, April 27, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 77, 81, 115, 122, 136, 161, 182, 204, 223, 240, 257, 265, 301, 304, 365, 373, 379, 382, 388, 412, 422, 448, 452, 471, 473, 549.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 31, Amendment No. 121, and respectfully requests your honorable body to concur in said amendment.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that for this legislative day, the Secretary of the Senate dispense with the reading of the histories of all bills and resolutions.
Motion carried.

Senator Wiener moved to have the Secretary of the Senate read through all Assembly Bills for introduction, noting the appropriate committee referrals as listed. Senator Wiener will move to refer all bills in one motion as indicated. If anyone has an objection to a referral, that can be noted and changed if necessary.
Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 1.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 6.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 13.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 23.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 29.
Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Assembly Bill No. 31.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 37.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 42.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 45.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 46.
Senator Wiener moved that the bill be referred to the Committee on Revenue.
Motion carried.

Assembly Bill No. 56.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 57.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 59.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 61.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 63.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 68.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 72.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 73.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 76.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 77.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 78.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 80.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 81.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 107.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 110.
Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Assembly Bill No. 115.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 117.
Senator Wiener moved that the bill be referred to the Committee on Education.
Motion carried.

Assembly Bill No. 122.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 130.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 132.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 135.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 136.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 141.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 145.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 146.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 149.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 154.
Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Assembly Bill No. 161.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 179.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 182.
Senator Wiener moved that the bill be referred to the Select Committee on Economic Growth and Employment.
Motion carried.

Assembly Bill No. 192.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 196.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 198.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 199.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 204.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 212.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 213.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 223.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 226.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 228.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 237.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 238.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 240.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 242.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 244.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 246.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 248.
Senator Wiener moved that the bill be referred to the Committee on Finance.
Motion carried.

Assembly Bill No. 249.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 253.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 254.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 257.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 260.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 265.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 273.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 276.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 277.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 282.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 283.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 284.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 289.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 290.
Senator Wiener moved that the bill be referred to the Committee on Education.
Motion carried.

Assembly Bill No. 291.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 294.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 299.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 301.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 304.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 308.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 317.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 321.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 328.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 337.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 346.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 350.
Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Assembly Bill No. 351.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 352.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 360.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 362.
Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.
Motion carried.

Assembly Bill No. 365.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 368.
Senator Wiener moved that the bill be referred to the Committee on Natural Resources.
Motion carried.

Assembly Bill No. 373.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 374.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 376.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 379.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 382.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 384.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 388.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 389.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 396.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 400.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 408.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 410.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 412.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 413.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 420.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 422.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 433.

Senator Wiener moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 441.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 448.

Senator Wiener moved that the bill be referred to the Committee on Finance.

Motion carried.

Assembly Bill No. 452.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 454.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 463.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 471.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 472.

Senator Wiener moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Assembly Bill No. 473.

Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 474.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 501.
Senator Wiener moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 508.
Senator Wiener moved that the bill be referred to the Committee on Transportation.
Motion carried.

Assembly Bill No. 538.
Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.
Motion carried.

Assembly Bill No. 544.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 545.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 549.
Senator Wiener moved that the bill be referred to the Committee on Government Affairs.
Motion carried.

Assembly Bill No. 564.
Senator Wiener moved that the bill be referred to the Committee on Judiciary.
Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 1.
Senator Wiener moved that the resolution be referred to the Committee on Revenue.
Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 3:15 p.m.

SENATE IN SESSION

At 3:27 p.m.
President Krolicki presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 12, 18, 83, 142, 147, 156, 217, 250, 348, 464 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 86.

The following Assembly amendment was read:

Amendment No. 109.

"SUMMARY—Revises provisions governing eminent domain. (BDR 3-132)"

"AN ACT relating to eminent domain; removing the authorization of a person who is not a public agency to exercise the power of eminent domain to acquire real property for mining, smelting and related activities; eliminating the use of the power of eminent domain to acquire real property for pipelines of the beet sugar industry; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the use of eminent domain to acquire real property for certain public uses, including mining, smelting and related activities and pipelines of the beet sugar industry. (NRS 37.010) This bill removes the authorization of a person who is not a public agency to exercise the power of eminent domain for the purposes of mining, smelting and related activities. This bill also eliminates an obsolete provision that authorized the use of the power of eminent domain to acquire real property for pipelines of the beet sugar industry.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 37.0095 is hereby amended to read as follows:

37.0095 1. Except as otherwise provided in subsection 2, only a public agency may exercise the power of eminent domain pursuant to the provisions of this chapter.

2. Except as otherwise provided in NRS 37.0097, the power of eminent domain may be exercised by a person who is not a public agency pursuant to NRS 37.230 and paragraphs **[**~~(f), (h), (j), (m)~~**]** ***(g), (i), (k)*** and **[**~~(p)~~**]** ***(n)*** of subsection 1 of NRS 37.010.

3. As used in this section, "public agency" means an agency or political subdivision of this State or the United States.

Sec. 2. NRS 37.010 is hereby amended to read as follows:

37.010 1. Subject to the provisions of this chapter and the limitations in subsections 2 and 3, the right of eminent domain may be exercised in behalf of the following public uses:

(a) Federal activities. All public purposes authorized by the Government of the United States.

(b) State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

(c) County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

(d) Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

(e) Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

(f) ~~[Mining, smelting and related activities. Mining, smelting and related activities as follows:~~

~~(1) Mining and related activities, which are recognized as the paramount interest of this State.~~

~~(2) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.~~

~~(g)]~~ Byroads. Byroads leading from highways to residences and farms.

~~[(h)]~~ ***(g)*** Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

~~[(i)]~~ ***(h)*** Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

~~[(j)]~~ ***(i)*** Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

~~[(k)]~~ ***(j)*** Cemeteries, public parks. Cemeteries or public parks.

~~[(l) Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.~~

~~(m)]~~ ***(k)*** Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

~~[(n)]~~ ***(l)*** Aviation. Airports, facilities for air navigation and aerial rights-of-way.

~~[(o)]~~ ***(m)*** Monorails. Monorails and any other overhead or underground system used for public transportation.

~~[(p)]~~ ***(n)*** Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network. The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(1) It creates no substantial detriment to the service provided by the utility;

(2) It causes no irreparable injury to the utility; and

(3) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

~~[(q)]~~ ***(o)*** Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

2. Notwithstanding any other provision of law and except as otherwise provided in this subsection, the public uses for which private property may be taken by the exercise of eminent domain do not include the direct or indirect transfer of any interest in the property to another private person or entity. Property taken by the exercise of eminent domain may be transferred to another private person or entity in the following circumstances:

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility that is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility that is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or facility that is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on any such lease.

(c) The entity that took the property:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken that allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) The entity that took the property exchanges it for other property acquired or being acquired by eminent domain or under the threat of eminent domain for roadway or highway purposes, to relocate public or private structures or to avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.

3. The entity that is taking property by the exercise of eminent domain has the burden of proving that the taking is for a public use.

4. For the purposes of this section, an airport authority or any public airport is not a private person or entity.

Sec. 3. NRS 279.471 is hereby amended to read as follows:

279.471 1. Except as otherwise provided in this subsection, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for each individual parcel of property to be acquired by eminent domain. An agency may exercise the power of eminent domain to acquire a parcel of property that is not blighted for a redevelopment project if the agency adopts a resolution that includes a written finding by the agency that a condition of blight exists for at least two-thirds of the property within the redevelopment area at the time the redevelopment area was created.

2. In addition to the requirement set forth in subsection 1, an agency may exercise the power of eminent domain to acquire property for a redevelopment project only if:

(a) The property sought to be acquired is necessary to carry out the redevelopment plan;

(b) The agency has adopted a resolution of necessity that complies with the requirements set forth in subsection 3; and

(c) The agency has complied with the provisions of NRS 279.4712.

3. A resolution of necessity required pursuant to paragraph (b) of subsection 2 must set forth:

(a) A statement that the property will be acquired for purposes of redevelopment as authorized pursuant to paragraph ~~[(q)]~~ ***(o)*** of subsection 1 of NRS 37.010 and subsection 2 of NRS 279.470;

(b) A reasonably detailed description of the property to be acquired;

(c) A finding by the agency that the public interest and necessity require the acquisition of the property;

(d) A finding by the agency that acquisition of the property will be the option for redevelopment that is most compatible with the greatest public good and the least private injury; and

(e) A finding by the agency that acquisition of the property is necessary for purposes of redevelopment.

4. After an agency adopts a resolution pursuant to subsection 1 or 2, the resolution so adopted and the findings set forth in the resolution are final and conclusive and are not subject to judicial review unless credible evidence is adduced to suggest that the resolution or the findings set forth therein were procured through bribery or fraud.

Sec. 4. This act becomes effective upon passage and approval.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 86.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senator Horsford moved that the Senate resolve itself into a Committee of the Whole for the purpose of considering the Governor's Department of Health and Human Services Budget, with Senator Horsford as Chair and Senator Leslie as Vice Chair.

Motion carried.

Mr. President announced that if there were no objections, the Senate would convene into a Committee of the Whole.

IN COMMITTEE OF THE WHOLE

At 3:35 p.m.

Senator Horsford presiding.

Consider Governor’s Department of Health and Human Services Budget.

The Committee of the Whole was addressed by Senator Horsford; Mark Krmpotic, Senate Fiscal Analyst; Michael J. Chapman, Principal Deputy Fiscal Analyst; Rex Goodman, Principal Deputy Fiscal Analyst; Senator Lee; Senator Leslie; Senator Kieckhefer; Senator Schneider; Heidi Gansert, Chief of Staff, Office of the Governor; Michael J. Willden, Director, Department of Health and Human Services; Senator Cegavske; Frances Doherty, District Court Judge, Second Judicial District Court, Washoe County; Fritz L. Reese, Director, Clark County Department of Juvenile Justice Services; Sabra Smith Newby, Clark County; Lisa Ruiz-Lee, Assistant Director, Clark County Department of Family Services; Bonnie Sorenson, Director, Clinic and

Nursing Services, Southern Nevada Health District; Carey Stewart, Director, Washoe County Juvenile Services; Peter I. Breen, Senior District Court Judge, Adult Specialty Courts; Kevin Schiller, Director, Department of Social Services, Washoe County and Bill M. Welch, President/CEO, Nevada Hospital Association.

SENATOR HORSFORD:

All members should have received the Work Session Document provided by our Staff from the Fiscal Analysis Division titled "Senate Committee of the Whole Work Session on Governor's Budget Proposal for Health and Human Services" dated April 27, 2011, otherwise known as the Work Session Document. The plan this afternoon is to have our fiscal team walk through the document and answer any questions from the Committee, to hear from the representatives from the Department of Health and Human Services (DHHS) regarding clarifying questions, to hear from judges on a couple of the program areas and to conclude with input from the counties. At this time, I will invite our fiscal team to the podium.

MARK KRMPOTIC (Senate Fiscal Analyst):

Staff will walk the Committee through the Work Session Document as referenced by the Chair. This document is also available on the Nevada Electronic Legislative Information System (NELIS). It is divided by the different divisions and key program areas. It reflects a number of the Governor's recommendations for reductions to key program in DHHS. I will note the Work Session Document marginally reflects the Governor's recommendations as originally recommended with updated information regarding caseloads and the Federal Medical Assistance Percentage (FMAP) percentages used to determine the allocation of federal and State funding of the Medicaid Program and portions of the Division of Child and Family Services (DCFS) and the Division of Mental Health and Developmental Services (MHDS) budgets.

Let's start with Page 1 of the Work Session Document. The first item is in the Director's Office budget for the Family to Family (F2F) Program. This Program is recommended to be reduced by the Governor and to have their General Fund appropriation eliminated for a total of approximately $2.5 million over the biennium. Approximately $471,000 of that savings is redirected to restore funding for the Differential Response Program and Family Resource Centers.

The F2F Program provides support to families with infants and toddlers. It provides parenting classes and information on child safety, health and nutrition and infant cardiopulmonary resuscitation. There are currently 20 F2F Programs throughout the State. Based on the Governor's recommendation, the two stand-alone facilities would close and the Program operated in Pershing County would close as well. Additionally, three F2F Programs collocated with Family Resource Centers (FRCs) would no longer provide any F2F services. Thirteen FRCs would attempt to continue to provide those services. The Senate Committee on Finance and the Assembly Committee on Ways and Means, also known as the money committees, heard this budget account and closed it as recommended by the Governor with the addition of the restoration to the F2F Program and placed it on an add-back list for consideration at a later time, if additional funding becomes available.

The next program within the Director's Office is the Indigent Supplement Account. This is a program supported by property tax proceeds. The Governor recommends approximately $20 million each year to be redirected to the State General Fund to offset revenue shortfalls instead of reimbursing Nevada counties for indigent hospital care. Claims are funded through property tax revenues equivalent to $.01 per $100 of assessed value and a property tax levy of $.015 cents on each $100 of assessed valuation as well. Under this program, funding is used to reimburse hospitals for expenses related to the treatment of indigent persons involved in automobile accidents and to assist the counties with catastrophic indigent hospital bills once the county has exhausted funds from its indigent account.

The next topic area involves the Division of Aging and Disability Services. The *Executive Budget* recommends eliminating the Senior Citizens' Property Tax Assistance Program generating General Fund savings of $5.7 million in each year of the upcoming biennium. As many members may know, this Program offers refunds to qualifying senior home owners and renters.

The Governor recommends billing the counties for the State's costs for performing Elder Protective Services (EPS) assistance which would generate a General Fund savings of $1 million in fiscal year (FY) 2011-2012 and $1.2 million in FY 2012-2013. The counties would be billed annually based on the average percentage of EPS cases in each county. I would note for the members, the last page of the Work Session Document contains a spreadsheet that summarizes those programs for which the Governor recommends the State seeks reimbursements from the counties or that the program responsibility be transferred to the counties. The estimates are listed by county were provided primarily from DHHS with the exception of the Indigent Accident Account listed toward the bottom of the page. That account funding was estimated by Fiscal Division Staff.

Page 2 of the Work Session Document discusses the Governor's recommendation for the use of tobacco settlement funds in place of General Fund monies by redirecting a portion of the tobacco settlement funds to the Traumatic Brain Injury and Autism Programs. This would generate General Fund savings of $2.7 million. Tobacco settlement funds would cover $1.5 million in Traumatic Brain Injury costs and $1.18 million in autism program costs. The tobacco settlement funds would be redirected from the April 2012 payment made to the Trust Fund for Public Health which receives 10 percent of each year's tobacco settlement payments.

The Governor recommends a number of rate reductions in the Division of Health Care Financing and Policy (HCF&P), specifically in the Medicaid and Check Up Programs. The rate reductions are listed in the table on page 2 of the Work Session Document. The total in rate reductions generates $25.2 million in General Fund savings for FY 2011-2012 and $24.4 million in FY 2012-2013. Those include reductions of 25 percent in dental services, durable medical equipment and disposable medical supplies; 15 percent reduction in outpatient hospitals; 15 percent in ambulatory surgical centers, ambulance services and end-stage renal disease services; 15 percent in non-primary care physicians, physician assistants, nurse midwives and nurse practitioners; 15 percent in home and community-based services for the frail and elderly, adult group care and disability waivers; 15 percent in non-pediatric beds within intermediate care facilities for the mentally retarded and developmentally disabled; 15 percent in laboratory clinical and radiology services; 5 percent for inpatient hospitals, inpatient psychiatric facilities and specialty inpatient hospitals; and a $20 per bed day reduction in skilled nursing facilities (SNF) and hospice services provided by SNF. The funding amounts for each of those percentages are listed on the right side of the table.

Additionally, within the Medicaid program, the Governor recommends the elimination of non-medical vision services for adults ages 21 years and older, resulting in General Fund savings of $1.8 million over the biennium.

The Governor also recommends a funding shift to local governments associated with the transfer of financial responsibility for a portion of medical aid for the aged, blind and disabled institutional waiver population to the county match program resulting in General Fund savings of $37.2 million over the biennium. The Health Insurance Flexibility and Accountability (HIFA) waiver expires November 30, 2011. The elimination of the HIFA waiver generates smaller General Fund savings of $141,097 in FY 2011-2012 and $223,400 in FY 2013.

Page 3 of the Work Session Document contains information regarding some of the recommendations that added General Funds to Medicaid and Check Up Programs. The Governor recommends General Fund support in the amount of $3.6 million in FY 2011-2012 and $5.7 million in FY 2012-2013 for mandatory rate increases for the freestanding hospice services provided through the Medicaid and Nevada Check Up Programs.

The Governor recommends General Fund support in the amount of $102.5 million in FY 2011-2012 and approximately $121 million in FY 2012-2013 for Medicaid caseload increases over the 2011-2013 biennium.

The Governor recommends General Fund support of approximately $261,000 in FY 2011-2012 and $655,000 FY 2012-2013 for the Nevada Check up Program caseload growth.

The Governor also recommends the replacement of expiring increases in the FMAP rate with General Fund increases of approximately $100 million in FY 2011-2012 and approximately $66 million in FY 2012-2013 as a result of the expiration of the enhanced FMAP rate. The

FMAP rate was enhanced through use of American Recovery and Reinvestment Act of 2009 (ARRA) funds. Also, there are revised caseload projections and FMAP projections. These are typically rerun by the Agency in March leading up to the closure of its budgets. This information is used by the money committees when they close these budget accounts. Based on the result of the projection model reruns from March 2011, the Agency projects decreases in caseloads and increases in the cost per eligible (CPE) category resulting in a net decrease in the amounts included in the *Executive Budget*. The table at the bottom of page 3 of the Work Session Document reflects the changes in the caseloads between the Governor's recommended budget and the revised caseload projections. The columns of the table labeled "Amendment" specify the revised caseload projections. There is one correction to the table for the Medicaid caseload projections under the "FY 2012 (Amendment)" column. That column currently reads 279,464 cases. It should read 295,300 cases.

Page 4 of the Work Session Document notes the FMAP for the second year of the biennium is traditionally revised based on information provided through the *Federal Funds Information for States* subscription. According to the brief published on March 25, 2011, the FMAP rate for Nevada was projected to increase to 60.28 percent resulting in a blended FMAP rate. A blended rate consists of application of the federal fiscal year rate to the State fiscal year rate. In this case, it results in a blended FMAP rate of 59.26 percent. Overall, between caseload changes, the CPE calculations, and the FMAP rate changes, General Fund reductions of approximately $53 million over the biennium are realized.

The Governor recommends county payments for Health Division programs and services. Those include replacing General Funds of approximately $500,000 in each year of the biennium with county reimbursements for inspection and permitting of food establishments, billing the counties for emergency medical services licensure and training generating approximately $800,000 in General Fund savings and finally, the recommendation for the elimination of $625,184 in each fiscal year for the State Tuberculosis and Sexually Transmitted Disease Programs spending. Currently, the Health Division reimburses the county health districts and the Community Health Nursing Program for treatment of persons with tuberculosis in the counties.

One of the increases in funding recommended by the Governor is $1 million in FY 2011-2012 and approximately $14 million in FY 2012-2013 for the Division of Welfare and Supportive Services (DWSS) for installation of the Eligibility Engine System. That system will determine eligibility for the publically subsidized health care programs. The entire first year cost of $1 million is funded by federal funds and the $13.9 million in the second year is funded with General Funds of approximately $500,000.

The Temporary Assistance for Needy Families Program (TANF) related expenditures which include cash assistance eligibility and administration are projected to exceed available resources over the biennium resulting in a negative $2.5 million reserve by the end of 2013. The Agency received recent notification from the federal government that there may be some TANF Contingency Fund grant funds available which would reduce the negative reserve in FY 2012-2013. Those funds are estimated to be received in the amount of $2.5 million. Otherwise, this program would have a negative reserve at the end of the biennium of $2.5 million.

There has been pressure on TANF reserves to provide cash assistance to indigent families due to caseload increases. Those increased expenditures have added pressure for use of the TANF funds and due to the declining TANF reserve. The Governor makes five recommendations in the *Executive Budget* reductions for TANF expenditures that reduce or eliminate funding for existing programs and transfers from the TANF budget. Those include a rate reduction for the Kinship Care Program from the current average rate of $894 to the average non-needy caretaker rate of $427. This collectively reduces TANF expenditures by about $1.7 million in each year of the biennium.

The Governor also recommends elimination of the TANF Loan Program that provides a monthly financial assistance payment to families for needs such as food, shelter and clothing until an anticipated future source of income is received. This is typically provided to work-eligible recipients awaiting a Supplemental Social Security Income payment. This recommendation reduces TANF expenditures by approximately $2 million in each year of the biennium.

The next recommendation is a reduction in social services subcontractor payments by 50 percent, representing a $700,000 savings in each year of the biennium.

The Governor also recommends elimination of transfers to other State programs within DHHS including DCFS and MHDS representing reductions of about $7 million in each year of the biennium.

The last Governor's recommendation is the elimination of TANF fund transfers to Clark and Washoe Counties for child protective programs in each of those counties. That represents reductions of $817,498 in each year of the biennium.

Some of the members have probably heard of a new program recommended by the Governor called Silver State Works (SSW). In the original *Executive Budget*, the Governor recommends an appropriation of $6 million in FY 2011-2012 and $4 million in FY 2012-2013 to increase employment outcomes for TANF recipients. One of the requirements of the TANF Program is that the recipients either attempt to find work or seek employment as part of their personal responsibility plan. The SSW Program was recommended to enhance that effort and was intended to provide employment incentives, on-the-job training and community work experience for employees. It would enable TANF recipients to obtain work. The Governor recommends the entire biennial cost of $10 million be used to reimburse employers for the costs of employment of TANF and TANF-at-risk clients, for the costs of on-the-job training equipment and fees.

The Governor recommends the elimination of funding for the Employment Assistance Program. There are employment programs within the TANF Program, the Child Support Enforcement Program (CSEP) the Food Stamp program operated by the Division to attempt to improve employment outcomes for these individuals. The CSEP portion is an attempt to enhance employment for non-custodial parents to improve the chances of child support payments for the custodial parent, especially those who may be receiving TANF benefits.

The Governor also recommends the elimination of ten State positions collocated with the Clark County CSEP office in Las Vegas. This recommendation reduces State-funded child support expenditures and federal matching funds. As projected, this action would increase caseloads for the existing staff who support the child support enforcement caseloads in Clark County.

Under the child care reductions, the Child Assistance and Development account funds child care assistance for TANF recipients and partial assistance for those who are at risk or who closely qualify for public assistance benefits. The recommendation for this program reduces General Funds used to match federal funds. In return, DWSS would use a certified match or non-State dollars already being spent in the program as matching funds for the federal funds received. It is a method to continue to receive federal funds while General Funds are removed from this program which would otherwise provide child assistance benefits.

The next section discusses MHDS. I will now call on the Fiscal Division subject matter expert, Mr. Michael Chapman, to cover the Governor's proposals for these budgets.

MICHAEL J. CHAPMAN (Principal Deputy Fiscal Analyst):

I will brief the members on the Governor's recommendations for the MHDS programs. There is a table at the bottom of page 6 of the Work Session Document that specifies what funding was approved during the 2009 75th Legislative Session. It does not incorporate any of the changes approved during the Twenty-sixth Special Session.

The Governor's recommendation over a number of accounts within the Division reduces staff by approximately 175 full-time equivalent (FTE) positions over the course of the biennium.

The first reduction I will discuss is the elimination of the State's one-third funding for community triage centers. These are the locations in Clark and Washoe Counties that individuals may access or be taken to when they are experiencing mental health or substance abuse episodes. The intent is a diversion from local emergency rooms for these occurrences. The local governments in Clark and Washoe Counties and the local hospitals provide the other two-thirds of funding support.

There have been discussions during the Joint Subcommittee on Health and Human Services and Capital Improvements budget hearings about restoring this service by utilization of money the Governor recommended to support a non-emergency transport contract service to move individuals from the local emergency rooms to other facilities in southern Nevada. If that Joint Subcommittee discussion is approved, it would restore the State's one-third funding support.

The next consideration is the reduction of outpatient counseling services. The Governor recommends reducing General Fund appropriations by approximately $1 million each year. This would effectively eliminate 12.5 FTE positions. Seven positions would be eliminated in southern Nevada, five in northern Nevada and one for the rural clinics. This would affect outpatient counseling services consisting of group therapy and individual counseling sessions. It assists people with managing their emotions and is usually held in conjunction with medication counseling services. This reduction would affect 875 individuals in southern Nevada, 456 individuals in northern Nevada and approximately 130 individuals in the rural portions of the State.

The Governor recommends reducing General Fund appropriations by approximately $3.5 million in each year of the biennium by eliminating 272 clients in the Supported Living Arrangements statewide. Those eliminations would impact 201 clients in southern Nevada, 35 in northern Nevada and 36 placements in rural clinics. Supported living arrangements provide financial assistance for rent and utilities in a variety of settings. These include group homes, individual placements and provide training to develop individual living skills as an alternative to institutional placement.

The Governor recommends reductions in General Funds of $3 million each year with corresponding reimbursements from the counties. That would be approximately $1.7 million each year for Clark County, $1.2 million for Washoe County and approximately $113,000 for the Carson City mental health courts. A number of FTE positions are involved with these reductions.

The mental health courts provide an alternative for individuals who have habitual arrests and convictions resulting from mental illness and substance abuse issues related to mental illness. This is an alternative to incarceration in local or State facilities.

Senate Bill No. 469 has been introduced that would effectuate the ability of the Division to bill the counties for this service.

The reduction of inpatient beds primarily affects southern Nevada. The Governor recommends the continued closure of 22 beds approved in the Twenty-sixth Special Session at the Southern Nevada Adult Mental Health Services campus, Building No. 3. The Governor has included an additional 22-bed closure in Building No. 3a. A total of 50.35 FTE positions are recommended for elimination and those actions reduce the inpatient capacity from 234 beds to 190 beds at the Rawson-Neal Hospital. The Governor also recommends eliminating 12 FTE positions at the Lake's Crossing Center in Sparks. This is the forensic facility where the very seriously mentally ill are directed by the courts to determine whether they are competent to stand trial. In addition to the 12 FTE positions held vacant as a result of the Twenty-sixth Special Session, an additional 9.5 FTE positions are recommended for elimination. This in effect, causes a 4-bed reduction from 70 beds down to 66 beds at the facility.

The developmental services are those provided to individuals with mental retardation or related conditions. The first topic is assessing the counties for services provided to children under the age of 18. The costs for services would be shifted to the counties. The table in the middle of page 8 of the Work Session Document shows an impact of approximately $5.8 million in each year of the biennium across the three regions. It would affect approximately 1,500 children across the State and would involve approximately 35 developmental specialist positions. These are the staff that provides service coordination for placement of the children for either community supported living arrangements, or job and day training. The Governor's recommendation would remove funding through the General Fund and seek reimbursement from the counties for the services.

The Governor recommends elimination of the self-directed autism services. Considerable discussion occurred during the first part of the Session on this subject. There are three programs at DHHS with responsibilities surrounding autism services. The program in MHDS provides monthly allotments to families who have children with a dual diagnosis of both mental retardation and the autism spectrum disorders. The Governor's recommendation eliminates 174 families from the program.

Of the 174 families, 113 families are currently supported through transfers of TANF funding from DWSS. The Governor recommends discontinuation of those transfers due to other priorities within DWSS. The other 61 families are currently served through General Fund support that is recommended for elimination by the Governor at a General Fund cost of about $829,000 each year.

The Family Preservation Program provides monthly cash assistance to low income families of approximately $374 monthly. These are families that care for children and adults with severe mental retardation in their homes. The intent is an attempt to keep these individuals in their homes and to avoid institutional care. The Governor recommends replacing $1.2 million of the $2.8 million recommended in FY 2012-2013 for this program with tobacco settlement funds.

The Substance Abuse Prevention and Treatment Agency (SAPTA) was formerly known as the BADA Program. One recommendation by the Governor in this budget is reduction of the General Fund support for the co-occurring disorders program. This program was established by the 2007 74th Legislature as a pilot program concerning treatment services for individuals with both mental illness and substance abuse issues. The Governor's recommendation would essentially remove about two-thirds of the funding support for this program. However, during budget hearings the Agency has testified that they would attempt to shift a number of the clients currently supported by State General Funds to the federal SAPTA block grant program. That would cause problems by possibly displacing people receiving services under the block grant.

The Governor recommends reductions of approximately $1.6 million each year in treatment services affecting the equivalent of 273 individuals. This is another program that received General Fund support approved by the 2007 74^{th} Legislature. This has been commonly referred to as the "Wait List Addition." The Governor's recommendation would eliminate that support.

REX GOODMAN (Principal Deputy Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I will lead the members through the issues in the budgets of DCFS. The DCFS includes reductions to limit responsibility for mental health room and board expenses. The Division submitted Senate Bill 476 and the Governor has included reductions in his budget to limit the Division's responsibility for mental health room and board expenses of children that are in the custody of the counties or their parents rather than in the Division's custody. Funding is recommended for elimination totaling $2.8 million in each year of the biennium. In addition $1 million in FY 2011-2012 and $1.4 million in FY 2012-2013 for caseload increases are eliminated. The Division has indicated it is not their responsibility to provide mental health room and board for these children that are not in their custody. They would rather provide care only for delinquent youth in State facilities. The Governor has included funding for basic expenditures and approximately half of the anticipated growth in this service on his list of priorities for restoration with the General Fund savings that have been identified through the revised FMAP and Medicaid caseload projections.

The second item is a new form of budgeting for Clark and Washoe County integration accounts. The *Executive Budget* recommends providing the State's portion of funding to Clark and Washoe Counties in the form of a capped annual block grant, instead of the historic model of line item expense budgets. The new funding method includes a performance improvement plan and performance targets to improve the safety, permanency and well-being outcomes of children in county custody.

A fiscal incentive program outside of the block grant is also proposed to stimulate and support improvement in defined areas. Under the block grant proposal, General Fund appropriations would total $50 million in each year of the 2011-2013 biennium for the two counties; $12.5 million for Washoe County and $37.5 million for Clark County. An additional $7 million outside of the block grant would support the fiscal incentive program with $1.75 million and $5.25 million for Clark County. The Division initially estimated that the recommended changes would result in reductions in General Fund appropriations for the two counties of approximately 3.6 percent over the biennium. However, based upon recent reprojections of their foster care caseloads, Medicaid reimbursements and the FY 2012-2013 FMAP rate, the Division indicates the Governor's recommendation will not result in reductions in the counties' funding.

Additionally, the State's cost for the provision of Child Protective Services (CPS) in the rural counties is recommended to be allocated to the counties receiving those services. General Fund appropriations totaling approximately $2.4 million annually would be reduced from the Division's budget and replaced with reimbursements from the rural counties. Clark and Washoe Counties have historically funded CPS services in their jurisdictions.

Concerning juvenile justice budget reductions, a number of closures are recommended at the Nevada Youth Training Center (NYTC) in Elko including the closure of three detention housing units with a loss of 60 beds. However, an increase is proposed in one unit from 20 to 30 beds and a change to one unit as an intensive supervision unit. The result would be a net reduction of 50 beds at NYTC. This would also include the elimination of 18 FTE positions and reduce the total number of beds available at NYTC from 160 to 110.

Among other juvenile justice reductions, the Governor recommends eliminating $1.4 million each year provided to the local jurisdictions for youth community programs, outpatient treatment and evaluation of sexual offenders. The Governor also recommends eliminating $1.4 million each year provided to Clark and Douglas Counties for youth camps that provide residential treatment programs for children that have been adjudicated delinquent by Nevada courts.

Finally, the Governor recommends replacing General Funds of $6 million each year with county funds for the support of supervising post-incarcerated youth and facilitating re-integration processes for those youth as they are released from juvenile facilities.

In addressing these impacts on the counties, the money committees requested that the juvenile justice stakeholders provide an alternative plan to the Governor's proposal. The Nevada Association of Juvenile Justice Administrators (NAJJA) presented that plan. They recommended instead, eliminating 110 juvenile correctional beds and reinvesting those savings in other programs including the youth camps and the continuation of the mental health room and board payments. Unlike the Governor's recommendation, the NAJJA plan did not recommend that youth parole services become the responsibility of the counties. Additionally, DHHS has included several of these items on their add-back list to be funded with the savings from FMAP and caseload reprojections.

MR. KRMPOTIC:
That concludes Staff's presentation.

SENATOR HORSFORD:
Thank you. Are there any questions for our fiscal team?

SENATOR LEE:
I understand we are talking about some drastic cuts here today. I understand some programs have grown over the years, but we are not funding some programs it is not possible to fund at this time.

If we push the funding down to the cities and counties as shown in the Work Session Document, are they able to pick and choose the programs they feel their counties want to support or are they mandated to fund the full cost of all these programs? I am not sure if even the local governments understand what their responsibility is to this budget.

MR. KRMPOTIC:
The way the budget is constructed, it assumes the counties would support these programs either through reimbursement to the State or directly. The committees have held lengthy discussions about how the State would enforce or seek reimbursement from the counties if the counties decided not to pay. Enabling legislation has been introduced to accompany some of the budgetary measures requiring the counties to pay. Some of the committee discussions have concerned references to the Department of Taxation or the State Controller "swiping" the money from distributions that go back to the counties to reimburse the State. That would be a drastic and firm measure. That is the extent of such discussions as I recall the hearings.

SENATOR HORSFORD:

We will be covering some of the impact to local governments later this afternoon as well as tomorrow. The Senate Committee on Revenue and Assembly Committee on Taxation will hold a hearing tomorrow that will seek direct testimony from the counties about their financial situations and their ability to fund some of these services. There are certain services where there is the ability, through streamlining for local governments, to meet some of the areas, but in others there is not. If the State is going to stop the services on June 30, 2011, and local governments are expected to pick up the services, are they really in a position to do so? Those discussions are ongoing.

SENATOR LESLIE:

There are three members who serve on this Joint Budget Subcommittee. I am the Senate Chair, the Majority Leader serves as does the Assistant Minority Leader. There have been many concerns voiced in the Joint Subcommittee similar to what my colleague from southern Nevada just raised. The Joint Subcommittee has considered eliminating some programs in order to fund other programs we think are more important. The Joint Subcommittee has worked very hard on these budgets and I would encourage the members to ask any questions you feel necessary. It is difficult to understand without hearing some of the testimony in the Joint Subcommittee.

Some of the most difficult areas are in mental health, juvenile justice and the health care fields with all the rate reductions to the Medicaid Program.

The members need to understand that the figures in the presentation today do not only address General Fund revenue we are losing. There are many matching federal funds that will also be affected. We typically keep a running total as we work through this process and we can see what we have lost in General Fund appropriations and what that means in federal matching funds. Nevada is often criticized for being last in the country in terms of accessing federal tax dollars. One example is the Medicaid program where Nevada is fifty-first in the country in terms of per capita funding provided by the State. Naturally, that means we will receive far less in federal matching funds.

Would it be fair to say the Governor's budget would result in millions of dollars in lost federal funding at this point?

MR. KRMPOTIC:

That would be accurate. The prime example is in the table on page 2 of the Work Session Document. It lists solely the General Fund rate reduction amounts. In addition, there would be loss of federal Title XIX, of the Social Security Act or Medicaid dollars, associated with those reductions. The loss will be in the millions of dollars. I could pick the amount from the *Executive Budget*, but that has changed, as have the FMAP percentages.

SENATOR KIECKHEFER:

Having worked in DHHS for a couple of years, what I found was that creating the budget for the Department is about balancing the federal mandates for which the State is obligated to provide and prioritize services. It is a matter of who we are going to serve with limited resources. It is an exercise the Governor's Office and the Legislature also go through when they are building a budget. Some of the efforts made in the Governor's recommended budget try to protect our most vulnerable citizens in many cases. At the same time, some reductions were made in the support for those who are most vulnerable. I appreciate Staff providing this presentation. We received the Work Session Document yesterday.

The Governor's Office also sent over a budget amendment that addresses many of the issues in the Work Session Document. The budget amendment will be processed, as we have historically, by prioritizing and appropriating funding. There are many items within the presentation that are not appealing, but as a matter of prioritization, I think the Governor's budget tries to preserve funding in many of those areas. Hopefully, some of the cuts will be able to be restored through some of the additional funding that has already been identified and upon the information from the meeting of the Economic Forum.

SENATOR SCHNEIDER:

In looking under child support reductions, the federal matching fund is approximately $334,000 and the State provides approximately $172,000. That is approximately a 2:1 match. Under State funded child support expenditures, matching from federal funds is approximately $960,000 and the State funds approximately $495,000. The CSEP reduction of State funds is approximately $120,000 and would eliminate an additional $234,000 in federal matching funds. It seems if we cut $1, we lose $2. At the same time, I am on committees where we are processing a bill to fund grant writers to help access possible grant funds. Is this not a conflict? We are trying to get grant writers to get 2:1 match money and then on the other hand we are throwing away matching funds.

Are we wasting our time processing these other bills for grant writers when we are eliminating funds in the budget?

SENATOR HORSFORD:

It is always interesting how concerned people are about why Nevada does not receive more money back from Washington, D.C., as a result of the taxpayer resources we send there. What we have learned from the Vision Stakeholder Group and from the budget process is, we do not get our fair share of dollars back because we do not provide the required State or local government matching funds. In every one of these budget areas, there are federal dollars that we are leaving on the table otherwise due to the citizens of Nevada, because we have undercut our match funds.

The issue of the grant office and the grant coordinator is, we also do a poor job of submitting competitive grants in some cases. There are some dollars that are formula-based, that if the State provides its required funds, the federal match will be made available. Other grants, in increasing numbers, have become a competitive process among the states. Those states that make the effort to fund a comprehensive grants process have greater success at receiving federal funds than Nevada has historically achieved.

It is a two-fold consideration. We need to prioritize, as noted by Senator Kieckhefer, so we can maximize federal funding Nevada should receive for these services that help the people we represent. At the same time, in the long term, we need to build capacity in our grants management efforts.

I agree with the Governor, and Chair Parks' legislation. They all work together. It is an "and also" not an "either/or" situation. We need to provide our State match to access federal resources and we need to have better coordinated grant activity to access Nevada's fair share.

We will next hear from Director Michael Willden of DHHS and Mrs. Heidi Gansert from the Governor's Office.

I want to explain about the Governor's restoration proposals which have received considerable attention recently. Once the Governor has submitted his budget, the process has been in the purview of the Legislature to decide how allocations are made and to approve the final budget accordingly. There are recommendations that are now being received from the Governor through budget amendments based on identified General Fund savings. This is good because it means we can restore some of the worst of the worst reductions originally proposed.

Let me be clear. The recommendations by the Governor and his office are just that. They are simply recommendations. It is the Legislature, particularly the money committees, which will decide what gets restored in a prioritized manner. I have seen statements indicating certain items will be restored. I would not rely on that premise. It is the Legislature's prerogative to decide which of those items are of priority.

We are in agreement on some areas. It is great that we agree in certain areas. However, to somehow suggest all those recommendations will be approved would be overstating the situation. I want this body and the public to be aware those decisions have not yet been made. They are recommendations. We will continue to work with the Governor, the Budget Office and our Staff, as well as this body to decide which of those recommendations are prioritized and restored and which will not be restored. At this time, there will not be adequate resources to fund all recommendations.

HEIDI GANSERT (Chief of Staff, Office of the Governor):

Health and human services are very important to Nevadans and we recognize that. When the original budget was created, Governor Sandoval wanted to ensure it was sound and reasonable. He also wanted to ensure the most vulnerable citizens of Nevada received assistance. We evaluated the budget line-by-line and it took months to complete. We wanted to ensure we did the best we could with limited resources. Before the original budget was introduced, we added back approximately $118 million that was originally cut from the budget. Some of those restored funds include personal care services, funding for two of the three autism programs, adult day care, the traumatic brain injury program and early intervention and independent living programs.

Yesterday, because of adjustments to the budget regarding Medicaid caseloads and FMAP funds, we were able to offer an amendment adding approximately $49 million to the budget. Once again, it was a long process. It took two or three weeks while we gathered information from stakeholders, from staff and from Legislators to determine priorities, given that additional resources had become available. Many of the resources have been directed to mental health and adolescent services. We also reviewed elder care and took another look at autism programs. We have been able to streamline the process for autism and provide one program to assist autistic individuals. We also considered the TANF loan and Kinship Care Programs that we recognized were important to many families. We considered the northern and southern triage centers. We wanted to prioritize based on the input we received.

It has been suggested that many of the proposed restorations are rural-heavy. In fact, they are not. With the addbacks for autism, 80 percent of the funds are directed to Clark and Washoe Counties. It is the same with the elder protective services. When one reviews the TANF Loan and Kinship Care Programs and the SAPTA Program, 87 percent to 90 percent of those funds are directed to Clark and Washoe Counties. Other funding is directed solely to Clark and Washoe Counties. Examples of those are the northern and southern triage centers. Some restorations were specifically directed to the rural counties only. One of those was a budget amendment recommending $191,000 to keep the family resource centers open. We know these are critical facilities.

We recognize that the budget cuts are difficult and that these proposed restorations will help soften the impacts on individuals and the counties. I want to thank Director Willden and his staff because they have spent hours over the last several weeks prioritizing these addbacks as well as the time they spent on the initial budget.

I recognize we submit these proposals to the Legislature and appreciate your assistance.

SENATOR HORSFORD:

The budget amendment was received at 9:30 this morning. Therefore, our staff is just beginning to review its contents. As we do that, there will be further discussions and clarification with the Budget Office and the Director of DHHS.

MICHAEL WILLDEN (Director, Department of Health and Human Services):

I want to spend a few minutes discussing the add-back impact to the Work Session Document and stand for any questions.

I would like to provide an update. On page 1 of the Work Session Document, there is discussion about the F2F program under the Director's Office. The F2F program is on a potential add-back list. There was discussion in the budget closing hearing and that is not being added to the list of addbacks the Agency has transmitted today.

The Governor's budget amendment adds back approximately $95,000 or $96,000 annually to support the rural family resource centers. Approximately one-third of the rural resource centers are located in rural Clark County, so of that funding, approximately greater than $30,000 annually is directed to other rural resource centers.

The EPS program information on page 1 of the Work Session Document indicates costs for the program would be shifted to the counties. If the budget amendment is approved, the EPS program would be fully funded, without a need to shift the costs to the counties. Funding would be derived from the General Fund.

The chart on page 2 of the Work Session Document, as prepared by the Fiscal Division Staff, lists some of the rate reductions in the Medicaid and Nevada Check Up budgets. The last one listed concerns Skilled Nursing Facilities (SNF's.) We were proposing to reduce their rates by

$20 per bed-day. With the budget amendment, that reduction would be less severe at $15 per bed-day, or a $5 per day restoration.

The Health Division programs, on page 4 of the Work Session Document, discuss three issues including consumer health protection which consists primarily of food inspections, emergency medical services and the tuberculosis and sexually transmitted disease programs. The Governor is recommending an addback of the entire amount for the emergency medical services; therefore, that would not become a county responsibility. It would remain funded by the State General Fund.

There has been considerable feedback from the counties in various areas of these budgets as to their priorities. From a county perspective, all of these are a priority.

The emergency medical system is the statewide system that licenses and regulates all the ambulance drivers and attendants. Several individuals came forward indicating the system would collapse. Therefore, this program became a priority for restoration to the DHHS budget.

Three areas of the TANF budget have been discussed at great length. The Kinship Care Program provides payments primarily to grandparents who care for their children or grandchildren. We were reducing that payment nearly 50 percent. The recommended restoration to this Program would adjust the recommended reduction to 25 percent. There are approximately 350 to 360 families impacted by that decision.

SENATOR HORSFORD:
The average rate would go from a rate of $894 to what rate?

MR. WILLDEN:
The rate would be reduced to 75 percent or approximately $650 to $700.

The next item is the TANF Loan Payment Program. The Governor's recommended budget implemented elimination of the TANF Loan Payment Program. There are a number of families impacted by that action. The Department is recommending a restoration to 75 percent for this Program. Administrator Romaine Gilliland and I will need to work to find economies in that Program. If it is not a full addback, payment amounts would not be reduced but we would look at eligibility requirements for families.

The Silver State Works Program is discussed at the bottom of page 5 of the Work Session Document. Various presentations have been made concerning implementation of this Program. This was a proposal to repackage funds of approximately $9 million annually in the Department of Employment, Training and Rehabilitation (DETR) to fund the Program. The *Executive Budget* recommended $10 million annually to support the TANF and the TANF at-risk families in an effort to get families back to work. We are suggesting we reduce the TANF portion from $10 million to $2 million. Between the DETR repackage of $9 million and the General Fund for TANF and TANF at risk clients, an $11 million effort would be made to get Nevada families back to work at a savings of $8 million.

Page 7 of the Work Session Document discusses the community triage centers to be eliminated in the Governor's budget. It is the Department's recommendation that we add back full funding for the triage centers. The budget amendment indicates this is largely being funded by the elimination the emergency room transportation program that was suggested in the *Executive Budget*. Approximately $3 million was placed in the Governor's recommended budget to support the Clark County emergency room transportation program. We heard loud and clear from many sources that they prefer to fund the triage centers over the transportation program. Therefore, the triage centers' funding has been restored. Also on page 7 are supported living arrangements. This is the program offering residential support for mental health consumers. The Department recommends adding back the supported living arrangements for the north, south and rural budget accounts where reductions were made.

Page 8 of the Work Session Document explains the elimination of the self-directed autism program. There have been three different pieces of legislation including Assembly Bill Nos. 315, 316, 345 all proposing methods of delivery for autism services and proposals to consolidate programs. The Department recommends accommodation of a primary program for the autism concept through enhancement of the Autism Treatment Assistance Program (ATAP) within the Aging and Disability Services Division. The budget for ATAP was funded in the *Executive Budget* at approximately $1.2 million annually.

The Department recommendation in the restoration process is that the General Fund allocation that was reduced in the MHDS budget accounts be added back to the ATAP budget account. That funding would be approximately $828,000 annually. We also recommend transfer of approximately $300,000 from the Health Division's Early Intervention Services budget. Those funds have historically been spent to support autism services. Our recommendation is that those funds also be transferred into the ATAP budget. If the ATAP budget were approved with the outlined recommendations, the Program would be funded at $2.4 million which is an increase from the current $1.2 million. The Department would refer families to the primary ATAP Program. That is not to say, if a family wants to be served through the Early Intervention Services Program, the statutes would require DHHS to serve clients through that service.

Considerable discussion occurred in the budget hearings concerning the 174 children who are currently being served in the MHDS programs. The Work Session Document indicates they will be redirected to general use funding rather than funding for the autism program.

Page 9 of the Work Session Document includes information about substance abuse treatment services. The Governor's recommended restorations include $1.7 million annually for substance abuse treatment. At one point, $1.6 million of those funds for wait list treatment and approximately $112,000 annually were prevention services funding that was being reduced.

Much has been discussed about mental health room and board. This is specifically room and board payments for non-custodial youth. The Department recommends a restoration of the base amount of the room and board payment. We are not recommending it be placed in the DCFS budget, but that it be put in budgets with more local control and accountability. There would be a restoration for the juvenile justice youth and also for non-custodial children in the mental health and child welfare budgets.

SENATOR HORSFORD:

Are the addbacks you are proposing full-funding restorations?

MR. WILLDEN:

Those are not full restoration levels. My estimate is restorations would be made between 85 percent and 90 percent.

SENATOR HORSFORD:

The details for the proposed addbacks are contained in the budget amendment our Staff received this morning.

MR. WILLDEN:

The bottom of page 10 of the Work Session Document contains other juvenile justice budget reductions. Many items have been combined. We are recommending adding back most of the funding for the youth camps in Douglas County at China Springs and the Aurora Pines Complex. Current funding is approximately one-third State funding and two-thirds local funding. This proposal would add back most of the State's funding to this budget, or approximately 90 percent.

SENATOR HORSFORD:

Does that also include the Spring Mountain Youth Camp (SMYC)?

MR. WILLDEN:

Yes, Spring Mountain is the other youth camp. State funding there is approximately a 5 percent increase over the *Executive Budget* funding. The addback would restore those funds. The idea is to make the three youth camps nearly whole.

That is a summary of the proposed restoration in the latest budget amendment.

I will explain how the additional funding was derived. If you have an opportunity, review the add-back spreadsheet, and details provided to your Staff. This is a 13-page spreadsheet format.

SENATOR HORSFORD:

The spreadsheet is also posted in NELIS for the public.

MR. WILLDEN:

That is correct. The first five pages describe identified General Fund savings. I will not describe all of them. We have reviewed caseloads, cost-per-eligibles and received recent FMAP funding information. We have run those changes through the Medicaid and Check Up caseloads for a savings of $53 million.

We have reviewed the intergovernmental transfer account reserves. In FY 2011-2012, we can offset $14 million of General Funds from that funding source.

The Agency recommends implementation of a care management project in FY 2012-2013 for the aged, blind and disabled programs. Other smaller budget accounts are impacted by FMAP as shown on pages 3 and 4 of the spreadsheet. The total on page 6 of the spreadsheet indicates approximately $87 million worth of savings have been identified through this budget review. Of that, $25.7 million has already been recommended for use as a restoration in a transmittal dated March 28, 2011. That leaves approximately $67 million of potential add-back funding.

The end of the spreadsheet indicates the Agency is recommending addbacks of approximately $49.5 million. Of the $49.5 million, approximately $46 million are DHHS restorations. The other funds are related to the conservation camps and other issues. That is a summary of the approach and recommendations of DHHS.

SENATOR HORSFORD:

What is the current FMAP percentage?

MR. WILLDEN:

The Governor's budget was built as shown in the Work Session Document. The new FMAP numbers changed nothing in FY 2011-2012. The FMAP change occurs in FY 2012-2013. Page 4 of the Work Session Document indicates the budget was built on a percentage of 57.66 percent. The new blended FMAP percentage is 59.26 percent.

SENATOR HORSFORD:

Why did the FMAP percentage increase?

MR. WILLDEN:

The FMAP formula is complex. It is computed on Nevada's share of the national population and weighted by the three-year rolling average of Nevada's per capita income. As Nevada's per capita income has declined over the last three years, the federal government increased their share of the Medicaid percentage.

SENATOR HORSFORD:

Is it fair to say that because of the per capita income and population adjustments, in large part due to the fact so many Nevadans are struggling and out of work, that we qualified for a higher rate of federal funds?

MR. WILLDEN:

That is generally correct. As our per capita income declines, we qualify for a higher percentage of reimbursements. Wealthy states such as Connecticut have a low FMAP rate because of their per-capita income. Typically, the southern states and Utah have low per capita incomes as well, and qualify for a higher federal reimbursement.

SENATOR HORSFORD:

There are so many Nevadans who are out of work and at low-income levels. Therefore, in part, because of our population and its needs, we are qualifying for a higher level of federal assistance.

MR. WILLDEN:

That is correct.

SENATOR HORSFORD:

The position with these recommendations is to take funds, some of which was General Fund support, and shift it to the federal level. That is what freed up a portion of these State General Fund monies to support other programs. Is that correct?

MR. WILLDEN:

In general, that is correct. When the ARRA federal legislation was passed, Nevada went from a 50/50 federal matching percentage in health care reimbursements to nearly a 64 percent reimbursement rate. The high ARRA match ended on December 31, 2011, and we are now in a step-down process. Nevada would have dropped to a level where the federal government would pay between 55 percent and 57 percent. However, an increased rate for Nevada was announced in March 2011. The new federal rate would be approximately 59 percent. More State General Funds were necessary because of fewer federal dollars known as the "ARRA cliff." The new federal rate is larger; therefore, more General Fund money is available.

SENATOR HORSFORD:

From a policy standpoint, we are shifting more of the responsibility to provide, what I would call general welfare services including mental health care, child welfare, juvenile justice and health programs for seniors and children, to the federal government at a higher rate than in the past. That excludes ARRA one-time funding. It is a policy decision. We are making the decision to place more of the burden on the federal assistance programs rather than providing that funding through the State General Fund.

MS. GANSERT:

Once these readjustments were identified, we wanted to reinvest those additional funds in health and human services. The administration utilized the funding saved by lower caseload growth and increased federal matching funds to reinvest in health and human services.

SENATOR HORSFORD:

I agree. While caseload reductions have been identified from what was projected, we still have waiting lists in certain programs where people will not have accessibility based on the capped services. It does not apply to Medicaid. The waiting lists are in the State Children's Health Insurance Program (SCHIP). Is that correct?

MR. WILLDEN:

There are waiting lists in some programs. The SCHIP is not one of those. It has more of a waiting time. When an application is received, it takes time to approve the case. Wait lists indicate a person cannot access certain programs.

In some of the mental health programs and others there are wait lists. Some of the waiver programs utilize wait lists. At this time, most wait lists are less than the 90-day wait time standard.

SENATOR KIECKHEFER:

Nevada has never been renowned for having a robust safety net. We have a very limited eligibility for Medicaid and we do not fund many of the optional programs other states provide. Nevada has historically adopted the policy that these services should be a last resort. With the Governor's recommended budget and the budget amendment received today, what is the overall assessment of the State's safety net? Does the Agency feel people will have the ability to access services when they are in their moment of greatest need?

MR. WILLDEN:

That is a difficult question. You are correct to say Nevada's safety net is not great. I have worked many years for this Agency and we have never had a robust safety net for the poor. We rank in the bottom 10 percentile in nearly every category. However, that said, I think we continue to do a good job when individuals make applications for DHHS services. We attempt to provide services relatively quickly. There are many Nevadans who, if they lived in another state, could have a higher income level and access safety net programs. Nevada provides the bare minimum eligibility standards. We are one of only 14 or 15 states that do not have a medically needy program or spend-down program. That would increase our costs approximately 20 percent to 25 percent. We are not going to be a robust safety net State, but we do a good job with the resources we have to provide services to the needy through those services.

SENATOR CEGAVSKE:

I have concerns with switching out from the emergency services and placing them in the DHHS budgets. Do we have the safety net or the proper facilities to care for those with substance abuse issues?

What were the emergency services listed on page 1 of the Work Session Document and what amount of funding was directed to those services? There are no after-care programs in southern Nevada of which I am aware. I am concerned about the performance indicators. The existing performance indicators are not appropriate. What can we do to provide better services in working with these entities? The Agency has indicated there has been an outpouring of support to keep treatment centers open, rather than emergency services. I thought the Committee members wanted the emergency services. Many of the churches in our community also have Alcoholics Anonymous services. I do not know if we are utilizing those statewide or countywide. Why would we switch the services back to treatment centers?

MR. WILLDEN:

Page 3 of the Spreadsheet indicates restorations of more than $3 million over the biennium for MHDS to issue a request for proposal to find a transportation or vendor contract process that would, after patients have been medically cleared, in the Clark County emergency rooms, provide rapid transport to the Rawson-Neal Psychiatric facility. That has been under discussion for years in Clark County. The Agency felt this to be an area that needs to be resolved, but not at the expense of the community triage centers, residential programs or others.

Given the county's' and hospitals' input, the recommendation was made to switch back to the priority of keeping the community triage centers open.

I see no performance indicators for the triage centers that report who they see and what their outcomes are. That is not to say those performance measures do not exist. I can work on that to determine what data can be evaluated. The Agency takes the State funds and pays bills. We do not receive numerous performance data. We use our State allocation to make our one-third funding for the triage centers.

SENATOR LESLIE:

Thank you for that explanation. I see many of the Joint Subcommittee recommendations reflected in the restoration list. The Assistant Minority Leader and I have had the chance to meet privately a number of times and I see our discussions are also reflected in the add-back list. I appreciate your efforts.

Page 2 of the Spreadsheet indicates a shift of $37.2 million to the counties. The proposed restoration I see is $2.6 million or 6.9 percent. Why is that?

MR. WILLDEN:

The Governor's recommended budget would shift 12 or 13 items to the counties as reflected on the last page of the Work Session Document. That represents approximately $37 million in county match program dollars. The counties would be expected to provide $37 million more than they do currently for the county match Long-Term Care Program. The addback suggests that several rural counties advised DHHS they were willing to take their share of that transfer. They stated the match would need to be capped at the 8-cent ad valorem tax rate. The addback is $2.6 million capping each county's responsibility at the 8-cent statutory rate.

SENATOR LESLIE:

Is this those four counties that banded together?

MR. WILLDEN:

It benefits six counties including Carson City, Lyon, Mineral and others. It does not benefit Clark or Washoe Counties.

SENATOR LESLIE:

The restoration list appears to leave the counties off the hook for the EPS program, but DHHS is still requiring a reimbursement from the counties for the mental health court treatment services. I want to clarify for the body that it is about mental health treatments, not the court costs. It also appears counties are required to fund youth parole. Is that correct? If that is correct, why was the EPS program chosen over the other two programs for funding?

MR. WILLDEN:
You are correct. There are three significant concerns of the counties. I do not presume to speak for the counties, however, I talk with them daily. They include the county match program of approximately $37 million; the developmental services issue for the children under the requirements of *Nevada Revised Statutes* (NRS) Chapter 435 of approximately $6 million annually; and the parole and probation issue at a cost of approximately $6 million annually. The DHHS recommended restoring funding for EPS and CPS more than the other two programs. The other two programs are more statewide systems. Almost all the county representatives came to me and stated they could not take over the CPS costs similar to what is being done in Clark and Washoe Counties. The decision was made partially on the amount of funds available.

SENATOR LESLIE:
I am still very troubled by the mental health court reductions because funding is not for court costs, it is for treatment. If the mental health courts go away, the State would still be responsible for care of those individuals. Neither the *Executive Budget* nor the restoration list addresses that issue.

MR. WILLDEN:
The add-back list does not address the mental health courts.

SENATOR LESLIE:
The State staff does an incredible job. The forensic workers in the facility at Lake's Crossing are wonderful people. The Nevada social safety net has gaping holes and they are getting bigger with this budget. We are turning our backs on some of the most vulnerable populations we have. Nevada has the highest senior suicide rate in the country. Yet, this budget eliminates the Senior Mental Health Outreach Program that specifically serves those individuals. I appreciate all the hard work, especially of Mr. Willden, and I appreciate Mrs. Gansert for listening to our concerns. However, there is still a lot of work to be done.

SENATOR HORSFORD:
There are still many concerns surrounding mental health services as noted by other members. I am particularly concerned about Nevada Check Up. I have worked with Senator Hardy over many years to increase the number of children enrolled in this program. Many of the families who have lost their jobs may not be eligible for Nevada Check Up. But, as the economy begins to recover, they will be eligible and we should be helping those children receive quality health care. The HIFA Waiver program that directly impacts pregnant women is a concern. Nevada is fifty-first in State funding for substance abuse treatment, and support continues to be scaled back. When I look at these lists of areas that are still not addressed in the recommendations, I am concerned there needs to be further prioritization based on whatever identified savings are available to the General Fund.

There are a couple of recommendations in the addbacks from the Governor's Office of which I have not completed my review, but I do not understand how the conservation camps are a greater priority than mental health care or senior citizen support and assistance; particularly the Wells Conservation Camp. Ultimately, the Legislature will have to make these decisions, but we want to make them in coordination with the Governor's Office and the Agency.

I agree with the comments of my colleagues in commending Director Willden and his staff. We know you stay up at night worrying about these decisions and how they impact the lives of the people we all represent.

We will now open the hearing to public comment both in Carson City and in Las Vegas. Because of time constraints, we will limit testimony to approximately five minutes.

FRANCES DOHERTY (District Court Judge, Second Judicial District Court, Washoe County):
I have held my position by public election for a period of eight years. I have served as the presiding judge in juvenile court for that time. I also served in the juvenile court for an additional

five years as Juvenile Master. I preside over Washoe County's Juvenile Department of Probation and am the lead judge in the area.

I am present to make comments on the entire budget reduction that is assigned to the juvenile justice arena. The juvenile justice courts appreciate the restorations that the Governor has identified for board and care as well as the youth camps. While the overall reductions to the juvenile justice programs are approximately $25 million, approximately $8.5 million is being restored to the juvenile justice budgets.

There remains approximately $15 million to $16 million in budget reductions for the juvenile justice system. Let me be very clear about juvenile justice. We have evolved over a period of 100 years in Nevada with much of that evolution originating in Chicago, Ohio. That evolution in this State has involved the Nevada State Legislature every step of the way. You have created, with us, a system of delivery and oversight that addresses the two most critical needs of our area of work; community safety and healthy development of children into adults who can be contributing members of our community.

Those priorities were created by a system the Legislature helped establish. The counties in that system were to, and have, ensured that children who are identified as engaging in behavior that is unacceptable or unsafe enter the juvenile justice system; receive services that hopefully keep them at the low end of the system; and rehabilitate them in our counties. This work continues day-in-and day-out and year-in and year-out. Some children, as they proceed through our system do not have the same level of rehabilitative receptiveness. Some children have greater challenges by virtue of an array of circumstances, including poverty, economic deprivation, inaccessibility to services, inaccessibility to basic needs, absence of parents in the household, absence of employment income, child abuse, domestic violence, substance abuse and mental health issues. Those are the children that greet us at the doors of our detention centers and whom we work with in a myriad of ways. Some children's behavior becomes so significantly concerning that our system determines those children will be placed in out-of-home State commitments where they will hear about consequences, rehabilitative services and healthy growth.

In the time I have been a judge in the juvenile justice system, those placements have been in Caliente, Elko and they have been in the various youth camps. We appreciate that the youth camps have been funded. However, when we talk about transferring our children or those more challenging offenders to the State, we recognize the State has expertise and the ability to work with those children.

The new budget reductions take that expertise after the children have been committed to the facilities and say to us, we are going to reassign those children back to the counties in various ways.

First, we will tell the counties they will pay for the delivery of parole services. You are familiar with parole in both juvenile and adult justice. Parole assists children in reentering our society, stabilizing and becoming healthy. Now the system will change and counties will become responsible for that part of the system, even though the Legislature, over 100 years, has determined that this transition is most expertly held by those who are deep-end providers of criminal justice, security and healthy growth for children.

The counties are further being told that mental health is not really a part of the work to be done at the State level and that mental health provision needs to stay with the counties. Mental health for juvenile justice stays with the counties. Fifty percent to seventy percent of the children in the system are diagnosable with at least one mental health condition. Twenty percent of the children in the juvenile detention centers suffer from serious emotional disturbance that should not result in their being in those facilities. However, they end up in those facilities because of the nature of their conduct.

When children are told they will not receive the mental health services they need, we are telling deep-end offending children, not to knock on the State's door. If they are not going to knock on the State's door they will be sent back to the counties for services with the absence of resources to help them.

Senate Bill No. 476 dismantles the very system we have created, hand in glove, to ensure our communities are safe, our deep-end children are appropriately consequented and our severely offending, but severely challenged mentally ill children, are appropriately treated. The goal is that, when they return from State care, they will have the potential to be safe, healthy, appropriate adults growing safe and healthy children. The counties do not have the resources, expertise or ability to address the seriously deep-end children. However, Senate Bill No. 476, which supports these budget reductions, suggests that we do just that. The Director of Juvenile Probations will address other areas of concern.

As a judge, it is my job under the Social Security Act of 1935, under the statue by which the State has given me authority to enter orders to find, before I place a child anywhere, that the child will be placed in the most suitable environment for them, to ensure they will be rehabilitated and that they are in the most reasonable and least restrictive environment. If I do not do so, I am in violation of *Nevada Revised Statutes* (NRS) Chapter 62. I am also in violation of Title IV(e) of the Social Security Act from which we receive federal funding through Medicaid to treat many of these children in the juvenile justice and other CPS Programs.

If I am not placing those children in suitable mental health placements and if I am committing more and more children because of our shrinking juvenile justice budget, we will be filling institutions like Caliente and Elko with children who should not be placed there. There will be unsuitable placements and orders. I will need to enter an order suggesting we are not placing this child in the least restrictive environment. We will have backup in our facilities at the detention centers because of the provision in the legislation that specifies the State does not accept children into those facilities unless they deem it appropriate. The detention centers in Clark and Washoe Counties and the centers in rural counties will still have the challenge of filling child beds with children who would not be there if the budget cuts did not exist.

We are talking about reductions to an entire system when we reallocate services or the responsibility for services and we dismantle the very structure we put in place to ensure protection for community safety, economic efficiencies, access to federal funds and in treatment of children. We cannot do that in a vacuum. The juvenile justice administrators, the courts and the judges in Ely have approached the Legislature with proposals on this budget in different ways. We will continue to do so. I ask you to seriously consider opposition to Senate Bill No. 476 as it is written because it dismantles our system. Do not surmise these addbacks are a sufficient method of sustaining a system that will collapse if an additional $17 million is reduced over the next biennium.

We are here to work with you and we ask that you continue the dialogues and not accept these addbacks as the only solution.

SENATOR HORSFORD:

We appreciate your real-life perspective in how these reductions actually materialize in the every day lives of the juveniles you work with. We will now hear from the representatives present in Clark County.

FRITZ L. REESE (Director, Juvenile Justice Services, Clark County):

I want to reiterate the comments made by the Judge Doherty. Chief Stewart will represent the concerns of the NAJJA.

We support the add-backs. The Medicaid placements are a key component for the juvenile justice needs of children for southern Nevada. That represents approximately $3.6 million over the biennium. We appreciate the costs of the reimbursements to the county camps. SMYC had 353 youth in attendance in 2010. That enabled us to reduce our commitment rate to State correctional care by 36 percent over the past four years.

It is important for the State to maintain the costs of youth parole. The facilities will remain open; therefore, the parole piece needs to remain in place. The cost for youth parole in Clark County is $4 million each year. That would mean a $4 million reduction in local services provided to youth to keep them out of supervision, on probation, out of SMYC and out of correctional care. There seems to be a misconception throughout the State that juvenile justice is "resource heavy." That is not the case. In Clark County, our Department has experienced a 14.5 percent reduction in the past two and one-half years. At this time, we are being asked to take another 9 percent reduction by our county manager and commissioners. In addition, $4.5 million that was included in the *Executive Budget* restorations. To ask the counties to reimburse the cost of parole in which we would have no input, seems to be unfair. I respectfully ask your consideration in those matters.

SABRA SMITH NEWBY (Clark County):

Clark County has submitted a document to NELIS that details the impacts to the county with specific *Executive Budget* reductions that are proposed.

The DHHS budget impacts Clark County in many different departments. Those areas include social services, juvenile justice services and family services. The document lists those impacts as best we can. Where impacts are spread across the county, we have tried to estimate how many of those would result in a reduction in FTE positions. I will not discuss the document line-by-line due to time constraints. However, Clark County does not have the resources to handle these kinds of additional needs for services and for funding.

The Clark County budget hearings begin this evening to discuss the Department's 9 percent reduction plans which will eliminate approximately 250 jobs. Ultimately, if additional services and costs are pushed down to the county, it simply means additional savings in personnel and/or programs will be necessary. That is very concerning to us.

Mr. Willden mentioned the Long-Term Care Program. The reductions, as proposed, will mean approximately a $24 million reduction in funding to Clark County in the upcoming biennium. Ultimately, that means closure of our financial assistance program and the closure of our satellite offices. Burials will no longer be a choice for indigent persons and cremations will be the only choice. The Clark County Financial Assistance Program assists 8,000 individuals and employs approximately 80 FTE individuals. That program would need to be closed and whatever funding was dedicated to it would perhaps need to be directed to nonprofit organizations in our area to manage this population. That program has already taken huge reductions because it is primarily property tax-based. The county receives the same property tax distributions as always and has the same reductions in the amount of property tax available. The program also benefits from the operating rate of 4 cents of which is proposed for redirection.

LISA RUIZ-LEE (Assistant Director, Clark County Department of Family Services):

I want to take this opportunity to indicate how much we appreciated the opportunity to work with DHHS over the last four or five weeks to provide input on budget development. While we will not say the revised budget may or may not reduce child welfare services in Clark County, that collaboration opportunity did reduce the overall immediate impact on core child welfare services in the county. We are generally in support of the block grant concept and believe it provides us the flexibility in funding going forward that is currently lacking.

The initially proposed child welfare budget included a base allocation for Clark County of $37.5 million and an incentive program allocation of up to $5.25 million. While the total award of $42.75 million was only slightly less than the $43 million we were projecting to spend in State General Funds this year, the overall implementation costs of the incentive program was largely unknown. The risks associated with expending the funds and not being reimbursed for them, based on the performance improvement plans and the performance measurement component, was concerning to the county.

Because the incentive funds are fluid, the county's position regarding the incentive funds, then and now, is that they cannot be utilized for core operating expenses. This is the budget item that drove the county's outcry regarding the fact we were facing a fairly significant budget reduction.

The block grant concept was presented, and amended, in Senate Bill No. 447. However, based upon conversations with DHHS, the block grant will allow us to evaluate child welfare expenses over the next two years. It includes a phased-in component of the incentive program, which we appreciate. That extra time allows the county to be thoughtful about how we implement the incentive program and how we utilize those funds.

We are also, as indicated by Mr. Willden, reevaluating the caseload projections and the projected federal revenues. As our budget is finalized, we will be able to better determine if there are any reductions that will be needed in child welfare services. We are going to take the opportunity, over the course of the next two years, to fully strategize about what form of program improvement we may be able to implement to utilize the incentive funding.

Most important to Clark County, are the meetings and the discussions we had with DHHS have helped us to better understand and see their commitment to our successful utilization of those funds.

BONNIE SORENSON (Director, Nursing and Clinical Services, Southern Nevada Health District):

I am here to speak in opposition to portions of Senate Bill No. 471.

SENATOR HORSFORD:

We are not specifically conducting a hearing on that bill at this time. It would be more appropriate for you to highlight the budget implications in that bill.

MS. SORENSON:

That is my intention. Our concern is found in Section 11 of the bill regarding tuberculosis control. This section shifts the financial responsibility of contracting with healthcare providers for diagnostic examinations to include laboratory testing, inpatient and outpatient care for tuberculosis to local health authorities. Based on cost estimates provided by the Nevada Hospital Association, from July 2009 to July 2010, with indigent funds as a pay source, the health district would be responsible for approximately $850,000 in costs. That is in addition to the $439,000 that we would lose from elimination of the State tuberculosis control funds. This new mandate could have a significant impact on the Health District and a loss of federal funds.

The shift to the county would be approximately $1.4 million.

This section of the bill also requires us to assure that we would be responsible for any related conditions when treating tuberculosis. Those costs are unknown at this time, but could be astronomical.

CAREY STEWART (Director, Washoe County Juvenile Services):

Director Reese did an excellent job summarizing the concerns on the behalf of NAJJA. When we started this process, the recommendation was for statewide budget reductions to juvenile justice of approximately $26 million. Over the course of the last several months, the juvenile justice administrators have presented alternatives to those reductions, developed priority lists and we are pleased and appreciative to see that funds are being restored for the camps and for room and board for children who stay in parental custody.

There is concern on behalf of the counties as it pertains to the county assessments for the youth parole function. As we worked with the State in analyzing and understanding this recommendation, a rumor surfaced that the county jurisdictions could absorb this cost because they had excess funds to do so. In my county and, according to my colleagues in the other jurisdictions, that rumor is totally false. In Washoe County, as we enter into the next fiscal year, juvenile services will have absorbed approximately $4 million in reductions, or approximately 25 percent of our budget.

To push the youth parole costs further onto the counties, in Washoe County, we will have to eliminate further programming. That programming is designed to keep children out of State custody and care and even deeper penetration into our own county systems. We recommend that youth parole be placed back into the budget. Funding for the camps, the room and board and parole are key to juvenile justice moving forward. If we can retain funding for those three elements, we can move forward and absorb reductions in other areas.

SENATOR HORSFORD:

Judge Dougherty spoke about many of these issues. Please keep your comments focused on the mental health courts.

PETER I. BREEN (Senior District Court Judge, Adult Specialty Courts):

On any particular day, we hear between 1,200 and 1,500 individual cases. Today I am here to speak about the mental health court. These are non-violent criminals who, through their mental illness, find themselves in the criminal justice system. This is a never-ending highway where they go from their homes where no one can assist them; to the streets, where there is no mercy; to the jails, where there is no tolerance from the inmates; to the courts, to the jails and prisons, where again there is no mercy and no tolerance. This is a never-ending highway that is spiraling downward.

The mental health court began in 1999 with an enabling act from the Legislature without funding. We met as a volunteer group in the Reno and Washoe County area. We started a mental health court of approximately 20 to 30 individuals. We came back in 2001, after proving ourselves, and with that testimony, we were generously funded by the Legislature and this body has been very generous since that time. Judge Jackie Glass from Clark County, Judge John Tatro and I, on behalf of the mental health courts, have testified that we are a truly integrated court. We take individuals from nearly every county into our three courts. We have also testified that we are a success story. We are as successful as any specialty court in Nevada. That means that we have a retention rate of nearly 90 percent and a low recidivism rate of approximately 25 percent. People come through our courts and they are successful. Testimony also indicated the amount of funds that were saved through these courts. That has been proved beyond a reasonable doubt. For every dollar the Legislature spends, it gets back approximately $2 to $11 in return directed to the government, the community, and the district courts in which we preside. We have testified that the State has a direct benefit from our courts. We provided a study that indicated there were 204 individuals in the Washoe County sent to the mental health court that did not follow through with attendance. Those individuals spent minimum sentences of more than 313 years in Nevada State Prisons.

Finally, we told the Legislature that if these funds are removed, either by shifting to the counties or by elimination, it will be the death of the mental health courts, approximately ten years after they began. There is no doubt in my mind about that. To shift this responsibility is illusionary. The counties clearly have no funds to replace funding of perhaps $1.4 million for this program. They are engaged in large budget reductions themselves with the conditions that now exist. I have been to those meetings. It is only through some drastic measures that we are able to keep the specialty courts functioning. The counties already pay for the operation of the courts, including salaries for the bailiffs, the clerks, and our necessary staff. Without the drastic measures that have already been taken, we probably would have already had to close the courts.

We have also been successful because we can deliver. The people know that we can help them with employment, counseling and medications. That is one of the things that make the specialty courts particularly successful. We are in a unique position of making everyone accountable and if we cannot have this reliable source of funds, we cannot continue because clients will drop out. One reason they are before the courts is because they cannot maintain a steady, consistent effort to help themselves.

SENATOR HORSFORD:

I want to thank Judge Breen and your colleagues for the tremendous work that has been done. The Nevada specialty courts have become a national model. I was at a conference and the Nevada mental health courts were recognized for their work including saving dollars, not to mention saving lives. I hope, from an economic standpoint, we find a way to do this. If we do not pay the costs at the front end, we are going to pay for it through incarceration and in placing these individuals in institutional care, costing us far more.

JUDGE BREEN:

The repercussions of loss from these funds will be immediate. The people who are in mental health court today, were in jail last year. They will be in prison tomorrow, not ten years from now. Some day, someone will want to restart a mental health court. If it is five or six years down the line, the staff will be gone.

KEVIN SHILLER (Director, Department of Social Services, Washoe County):

My department has a budget of approximately $71 million. Every topic that has been presented before you is touched by our services at some level. Working with DHHS, Director Willden and Legislators, I want to commend the work on the block grant and efforts toward serving all these populations. We, in serving these populations, are serving individuals who cannot speak or advocate for themselves.

All the reinstatements of funds have a direct or indirect impact on how we provide those services to areas. We are expecting an approximate county budget reduction of $25 million to $30 million. We will continue to work and seek compromise on the nursing home match program and services to the developmentally delayed youth. We recognize, as a county, the need to compromise and to look at this from a budget standpoint. We must keep in mind that we are serving human beings and we want to do that as well as possible.

BILL WELCH (President/CEO, Nevada Hospital Association):

Our Association has concerns with the proposed budget. A question I heard asked earlier today concerned the safety network system. I challenge you to consider that the hospitals are a part of that safety net provider system. We treat more than 205,000 admissions each year. We treat over one million emergencies each year. The proposed budget reductions will be compounded on top of the budget reductions we experienced during the last biennium. Budget reductions over the last biennium caused more than 20 services to be closed during the last 12 to 18 months. Those services center on women and children and those with chronic illnesses. We have had outpatient dialysis services, outpatient cancer services and obstetrical services closed as a result of the ongoing budget reductions and the growth in the uninsured population.

The proposed reductions discussed today will affect hospitals that are willing to be on record regarding specific hospital and specific services. They are concerned about the more than 20 additional services that will have to close. The total of these services, while it saves the State approximately $17 million over the 2011-2013 biennium has an impact of more than $65 million on payment of services to the providers.

I would leave you with two questions. Are hospitals, and the availability of emergency services offered 24 hours a day, 365 days, a year essential services? Are having hospital services available in this community essential to the economy of this State?

We are the fifth largest employer in the State and over the last 18 months, 1,300 employees have been eliminated as the result of closure of services. There is a closing of hospital services and a loss of jobs, and that will only worsen with this proposed budget. We ask you to consider these very carefully.

SENATOR HORSFORD:

From an operational standpoint, how do the member hospitals account for the need to continue to provide care? Is this not simply a tax on your members?

MR. WELCH:

The proposed budget has a direct impact on our bottom lines. We have more than $45 million in direct payments that have been eliminated. I suppose that could be called a tax. With this budget, we have approximately $65 million in payments that are currently paid to these hospitals that will become lost revenues. We account for that by reduction of services, by becoming more efficient and ultimately some costs will be shifted. It is a downward spiral.

SENATOR HORSFORD:

The intent of this hearing was to provide this budget information to the body. We ask that the members digest this information and develop their questions. We will bring it back for discussion.

I want to end by saying, when we look at these budgets on mental health, family services, child welfare, juvenile justice and substance abuse, they impact real people. Those real people are children, their families and those who are struggling as all of us are. We talk about the pain in this economy in the private sector. That is true. I hope we can also appreciate the real pain that is being experienced by those we also represent; the children, the families, the working poor and those who are served by these programs.

I am still personally trying to see where the shared sacrifice called for, is in this budget. The only sacrifice I see in the budgets we have just covered is the sacrifice on the poor and most vulnerable Nevadans. I do not call that shared sacrifice.

I hope as we continue this discussion, we can find ways to have a more balanced approach. I appreciate the recommendations from the Governor and DHHS on some of those areas. Clearly, there is more work to be done.

I would now accept a motion to rise and report back to the Senate at 5:54 p.m.

On the motion of Senator Weiner and second by Senator Schneider, the Committee did rise, and report back to the Senate.

Motion carried.

SENATE IN SESSION

At 5:56 p.m.
President Krolicki presiding.
Quorum present.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Brent Husson.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Monte Miller.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to the Latino Student Advisory Board of the University of Nevada, Reno.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Dan Tuntland.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Caroline Krolicki.

Senator Horsford moved that the Senate adjourn until Thursday, April 28, 2011, at 11 a.m.
Motion carried.

Senate adjourned at 5:57 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate