

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session  
April 27, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 9:08 a.m. on Wednesday, April 27, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Steven A. Horsford, Chair  
Senator Sheila Leslie, Vice Chair  
Senator David R. Parks  
Senator Moises (Mo) Denis  
Senator Dean A. Rhoads  
Senator Barbara K. Cegavske  
Senator Ben Kieckhefer

**STAFF MEMBERS PRESENT:**

Eric King, Program Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Madison Piazza, Committee Secretary

**OTHERS PRESENT:**

Michael J. Willden, Director, Department of Health and Human Services  
Bruce Arkell, Nevada Senior Advocates, Nevada Senior Corps Association  
Barry Gold, Director of Government Relations, AARP Nevada  
Janice Ayres, Executive Director, Nevada Rural Counties RSVP Program,  
President, Nevada Senior Corps Association  
Connie McMullen, Chair, Strategic Plan Accountability Committee  
Jon Sasser, Washoe County Senior Law Project, Nevada Commission on  
Services for Persons with Disabilities  
Lawrence K. Sands, D.O., M.P.H, Chief Health Officer, Clark County Health  
District

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Christopher Roller, Nevada Tobacco Prevention Coalition

Mary Liveratti, Deputy Director, Programs, Department of Health and Human Services

Diane J. Comeaux, Administrator, Division of Child and Family Services, Department of Health and Human Services

Andrew J. MacKay, Chair, Nevada Transportation Authority, Department of Business and Industry

Kimberly Rushton, Livery Operators Association

Neal Tomlinson, Frias Transportation

Mark Teska, Administrator, Administrative Services, Department of Public Safety

Andrew Clinger, Director, Department of Administration

Keith Munro, First Assistant Attorney General and Legislative Liaison, Office of the Attorney General, Attorney General

John McGlamery, Senior Deputy Attorney General, Bureau of Consumer Protection, Office of Attorney General, Attorney General

Tracy Larkin-Thomason, P.E., P.T.O.E., C.P.M., Assistant Director, Planning, Director's Office, Department of Transportation

CHAIR HORSFORD:

We will hear the Department of Wildlife budget closing.

ERIC KING (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

I will be presenting from the Joint Subcommittee on Public Safety, Natural Resources and Transportation Closing Report, Department of Wildlife ([Exhibit C](#)).

The Joint Subcommittee for Public Safety, Natural Resources and Transportation has completed its review of the Department of Wildlife's budget accounts and has made the following recommendations for the Department's 2011-2013 biennium budgets.

I will start with the Wildlife Administration budget account (B/A) 101-4452. The 2009 Appropriations and Authorizations Acts instructed the Department of Wildlife to separate the Wildlife Administration account into multiple accounts to facilitate tracking, reporting, accountability, and planning. The Subcommittee approved the Governor's recommended budget reorganization plan for the Department. This plan included eliminating the Wildlife Administration account,

as well as the Trout Stamp Program and Boating Program accounts, and completing the breakout of the Director's Office and Operations Division accounts established in fiscal year (FY) 2010-2011. In addition, the Subcommittee voted to establish the Conservation Education, Law Enforcement, Game Management, Fisheries Management, Diversity and Habitat accounts.

## INFRASTRUCTURE

## WILDLIFE

### WILDLIFE – Administration — Budget Page WILDLIFE-1 (Volume III) Budget Account 101-4452

The Subcommittee also approved about \$1.6 million in federal and fee funds over the 2011-2013 biennium to continue a sagebrush coordinator position that will be located in the Habitat Division, as well as program costs that will be divided between the Habitat and Diversity Divisions, as recommended by the Governor. In addition, the Subcommittee approved approximately \$1.6 million for new and replacement equipment in the 2011-2013 biennium as recommended by the Governor, with minor adjustments to remove funding for unsupported replacement computer equipment.

The next account is the Wildlife Fund, B/A 101-4458. As part of the budgetary reorganization of the Department of Wildlife, the name of the Obligated Reserve account was changed to the Wildlife Fund. The use of the account was expanded to include unrestricted fees as well as restricted fees. The Wildlife Fund account was also approved to house all of the Department's reserves.

### WILDLIFE – Wildlife Fund — Budget Page WILDLIFE-38 (Volume III) Budget Account 101-4458

Budget account 101-4461 is the operations division. The Subcommittee approved the transfer of a state land agent III position to the Department of Conservation and Natural Resources (DCNR) as recommended by the Governor, in order to maintain all land agent positions in one agency and maintain the integrity of DCNR's land data.

### WILDLIFE – Operations — Budget Page WILDLIFE-54 (Volume III) Budget Account 101-4461

The Diversity Division is B/A 101-4466. The Subcommittee approved the Governor's recommendation to reduce the General Fund by \$309,267 in the 2011-2013 biennium and replace the appropriations with the same amount of habitat conservation fee revenues collected by the Department. The Governor's recommendation includes shifting the Diversity Division's focus to habitat restoration projects from collecting species and habitat data needed to implement the State's Wildlife Action Plan. This is a comprehensive statewide plan for wildlife conservation efforts and management of native nongame species.

WILDLIFE – Diversity — Budget Page WILDLIFE-90 (Volume III)  
Budget Account 101-4466

The Subcommittee closed the remainder of the Department of Wildlife's accounts largely as recommended by the Governor, with permission to Fiscal Staff to make technical adjustments, including:

- Wildlife – Trout Stamp Program B/A 101-4454
- Wildlife – Boating Program B/A 101-4456
- Wildlife – Director's Office B/A 101-4460
- Wildlife – Conservation Education B/A 101-4462
- Wildlife – Law Enforcement B/A 101-4463
- Wildlife – Game Management B/A 101-4464
- Wildlife – Fisheries Management B/A 101-4465
- Wildlife – Habitat B/A 101-4467

WILDLIFE – Trout Stamp Program — Budget Page WILDLIFE-29 (Volume III)  
Budget Account 101-4454

WILDLIFE – Boating Program — Budget Page WILDLIFE-32 (Volume III)  
Budget Account 101-4456

WILDLIFE – Director's Office — Budget Page WILDLIFE-47 (Volume III)  
Budget Account 101-4460

WILDLIFE – Conservation Education — Budget Page WILDLIFE-63 (Volume III)  
Budget Account 101-4462

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WILDLIFE – Law Enforcement — Budget Page WILDLIFE-69 (Volume III)  
Budget Account 101-4463

WILDLIFE – Game Management — Budget Page WILDLIFE-77 (Volume III)  
Budget Account 101-4464

WILDLIFE – Fisheries Management — Budget Page WILDLIFE-83 (Volume III)  
Budget Account 101-4465

WILDLIFE – Habitat — Budget Page WILDLIFE-96 (Volume III)  
Budget Account 101-4467

SENATOR RHOADS MOVED TO APPROVE THE FOLLOWING BUDGET ACCOUNTS, 101-4452, 101-4454, 101-4456, 101-4458, 101-4460, 101-4461, 101-4462, 101-4463, 101-4464, 101-4465, 101-4466 AND 101-4467 AS RECOMMENDED BY THE JOINT SUBCOMMITTEE ON PUBLIC SAFETY, NATURAL RESOURCES AND TRANSPORTATION, WITH TECHNICAL ADJUSTMENTS BY FISCAL STAFF.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

BUDGET CLOSED.

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CHAIR HORSFORD:  
We will open the hearing on Senate Bill (S.B.) 421.

[SENATE BILL 421](#): Revises provisions relating to certain funds. (BDR 40-1170)

MICHAEL J. WILLDEN (Director, Department of Health and Human Services):  
This is a budget bill related to the tobacco settlement funds. I have provided two documents, my testimony ([Exhibit D](#)) and the proposed amendment to S.B. 421 ([Exhibit E](#)).

I will give a little history on the tobacco fund. Nevada is one of many states that received the tobacco settlement funds. We have received the settlement for

about 12 years now and each year the payment has ranged from between \$38 million and \$50 million. The funds are currently distributed to three funds. The Fund for a Healthy Nevada receives 50 percent of the settlement which has been historically overseen and distributed by the director's office of the grant management unit of the Department of Health and Human Services (DHHS). The Trust Fund for Public Health receives 10 percent. We can only spend the interest on the principal balance on that fund. The Millennium Scholarship Fund receives 40 percent of the settlement.

The Fund for a Healthy Nevada has suballocations to six service areas. Thirty percent is designated for independent living programs for Seniors; 15 percent for tobacco use control, or cessation, programs; 10 percent for children's health programs; 10 percent for disability services, specifically for respite, positive behavioral support and independent living. Thirty percent supports the Senior Rx Program and 5 percent supports the Disability Rx Program.

Due to the economy in the past three years, there have been a number of changes in federal programs, such as the Medicare Part D Program. We have had to sweep those funds, specifically the Fund for a Healthy Nevada and the Trust Fund for Public Health, by more than \$100 million over the last three years. We have swept all of the principal balance out of the Trust Fund for Public Health, approximately \$36 million was swept in the 2009 Session.

Page 8 of S.B. 421 repeals the statutory language related to the Trust Fund for Public Health. Because we have swept the principal balance, the Trust Fund from the tobacco settlement would be eliminated, or repealed. The last two payments received from the tobacco settlement fund were swept as well. In 2009 and 2010 we swept the principal balance and the payment we received two weeks ago will also be swept. It would eliminate the Trust Fund for Public Health. The bill would change the statutory allowance and increase the percentage allocation to the Fund for a Healthy Nevada, increasing it from 50 percent to 60 percent. The Millennium Scholarship Fund would remain at 40 percent.

This bill also recommends the six specific suballocations within the Fund for a Healthy Nevada be eliminated. A specific percentage allocation would no longer be assigned to the six service areas. The bill would direct DHHS to come up with a funding plan every two years for use of the appropriations in the tobacco

fund. We are envisioning a normal budgetary submission process. We would gather information from the Nevada Commission on Aging, the Nevada Commission on Services for Persons with Disabilities and the Grants Management Unit on the priorities for funding for the various services. That input would be submitted as part of the Agency's requested budget in September of even years before a Legislative Session. It would go through the Governor's recommended review process and become part of the Governor's recommendation to the Legislature. The Legislature would then review that funding plan in the odd years and appropriate the dollars for the next biennium as seen fit, not specifically by the percentages that has historically been done.

The budget has been built according to S.B. 421. We have used some of the tobacco settlement dollars in areas that are not specific according to the percentages. The budget for the Senior Rx Program, the Disability Rx Program, the Independent Living Grants, the Children's Health Grants and the Disability Services Grants were built generally using the percentage allocations currently in statute. The money, roughly \$6.4 million, that would have been historically earmarked for cessation programs and the Public Health Trust has been repackaged to offset General Fund needs in the family resource centers in FY 2012-2013, the differential response program in FY 2012-2013, traumatic brain injury budget in FY 2012-2013, the autism budget in FY 2012-2013 and the mental health family preservation program in FY 2012-2013.

The DHHS suggests that a budget amendment is needed to S.B. 421. [Exhibit E](#) contains the proposed language. Language needs to be changed on page 5 of the bill, dealing with the allocations of how we currently fund children's health services. In order for us to use money for the family resource centers and differential response, we need to change that language to say that money can be used for programs that improve the health and well-being of children and families. It currently states, "programs that improve the health services for children." That will allow us to fund children health services and allocate money to the family resource centers and the differential response program.

There is a chart on page 3 of [Exhibit D](#) that shows a 12-year history of the tobacco settlement funds. Page 4 contains a chart illustrating the percentage of the settlement funds going to each program. The box on the upper right of that chart shows the percentage for the Trust Fund for Public Health and the box on the lower left shows the percentage for Tobacco Control and treatment, both of which would be eliminated. The rest of the percentage allocations would be

eliminated and the decision to fund such programs would be up to the Governor's recommendation and the Legislative appropriation.

CHAIR HORSFORD:

I am going to relinquish the Chair to Vice Chair Leslie since she chairs the Human Services/CIP Subcommittee and deals with these issues more directly.

VICE CHAIR LESLIE:

Do you find it ironic that we are getting rid of tobacco cessation grants with tobacco settlement funds?

MR. WILLDEN:

Yes. We receive a federal grant that supports tobacco cessation efforts through the Trust Fund for Public Health which is approximately \$850,000 per year. There will still be cessation efforts through the Centers for Disease Control and Prevention (CDC) grant. It is trying to protect the core services for children, the elderly and disabled.

VICE CHAIR LESLIE:

You are taking the tobacco control cessation programs out of the list of eligible programs. Does this mean that you would no longer be able to use these funds for that purpose, even if we wanted to?

MR. WILLDEN:

The specific language for tobacco cessation would be eliminated, but under our amendment we could still fund tobacco cessation programs under the broad language that we could fund programs that improve the health and well being of children and families. It is not a specific cessation item, but there is potential there.

VICE CHAIR LESLIE:

The amendment covers a wide variety, since "well-being" is added. I am not opposed to making some changes. I understand it needs to be streamlined because of the amount of time our Staff and the Agency spends figuring out what the dollar amounts are from those percentages. What is the role of the Legislature going forward?



MR. WILLDEN:

Instead of following the specific percentage allocations, we would start the process the summer before the Legislative hearing. The Department would work with the Nevada Commission on Aging, the Nevada Commission on Services for Persons with Disabilities and the Grants Management Unit. We would do an environmental scan of what programs we need and where we think we need to go. During the Agency request phase of the budget, we would make recommendations regarding our priorities. Then it would go through the Governor's recommendation and come before the Legislature for final decision for the next biennium. The Legislature will still have control.

VICE CHAIR LESLIE:

It will be the same as other budgets. It is harder to change the budget once it comes to us. My concern is when there are cuts being made and money is being moved constantly, it is hard to track. From your testimony, it seems that your intent is to not continue to plug holes all over the place.

MR. WILLDEN:

That is absolutely our intent. We only used it to plug holes in FY 2012-2013 for those six service areas to free up some General Fund money. That would not be my intent going forward; however, I cannot predict what the economy will be like in the future. They are all valuable programs, including cessation and the Public Health Trust Fund.

VICE CHAIR LESLIE:

Once a precedent is set, someone will use it to say that since it has been done before, why not now? That is my concern, plus it is disruptive to the community programs that use these funds and there is no guarantee that you will be there. Where in the statute does it say that you would consult with the different commissions and come forward with a budget that would presumably take that information into account? How can I feel better that this process will actually take place?

MR. WILLDEN:

You can find that on page 6 of S.B. 421.

VICE CHAIR LESLIE:

Are you talking about page 6, line 29?

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MR. WILLDEN:

Yes. There is also language on page 3, section 2, stating "the Department shall conduct, or require the Grants Management Advisory Committee..." to do the needs assessment. If we need to have more specific language regarding the Grants Management Unit, the Commission on Aging and the Commission on Services with Persons with Disabilities, we can work on an amendment.

VICE CHAIR LESLIE:

I want to hear more testimony today, and then we can consider that. I want to make sure we have a structure in place that will protect these monies a little more.

SENATOR CEGAVSKE:

What are the balances in these accounts?

MR. WILLDEN:

A spreadsheet with that information is updated throughout Session and provided to Staff. I can provide that to you as well.

SENATOR CEGAVSKE:

I would appreciate that.

VICE CHAIR LESLIE:

In regard to the payments, is the trend downward?

MR. WILLDEN:

Page 3 of [Exhibit D](#) illustrates the payments that we have been receiving over the past 12 years. The payment we received this last April was approximately \$700,000 more than we had forecasted a year ago. It is difficult to figure out what Nevada's percentage of the master settlement is. There are also embargo payments and supplemental payments.

VICE CHAIR LESLIE:

Yes, it is difficult. It is also still being litigated, so that makes it even more difficult. This is more consistent than I thought it was, although in FY 2008-2009 the payment was about \$50 million and in FY 2010-2011 it is about \$40 million.

SENATOR RHOADS:  
How much will be available to autism?

MR. WILLDEN:

The Governor's recommended budget has three budget accounts that fund autism services. The Autism Treatment and Assistance Program (ATAP) is under the Division of Aging and Disability Services, and this budget is approximately \$1.2 million per year. In the Nevada Early Intervention Services (NEIS) budget, approximately \$211,000 was spent last year for children who receive autism services. Within the Division of Mental Health and Developmental Services budget, there are two funding streams that fund the three regional centers. The General Fund allocated approximately \$828,000 and the Temporary Assistance for Needy Families Block Grant funded approximately \$1.3 million per year.

The budget that has been presented to the Legislature has changed the funding mechanisms. The Governor's recommended budget still has funding for the ATAP and NEIS, but we are eliminating the specific funding for autism in the mental health and developmental services budget. The add-back amendments that we transmitted yesterday recommends keeping the approximately \$1.2 million in ATAP and transferring about \$300,000 per year from NEIS to ATAP. The amendments also suggest adding back \$828,000 which funded the mental health autism services, but instead of adding it back to mental health, adding it to ATAP. If the amendments were processed, the autism funding in ATAP would increase to approximately \$2.4 million per year. It would nearly double what was in the Governor's recommended budget.

Families can still receive services from NEIS, the funds would come out of the general allocation. There are approximately 174 children who are still able to receive autism services through the regional center budgets. They are moving from specific autism dollars to General Fund dollars, but if more families want services out of the regional center budgets, they would be put on a waiting list and prioritized. The recommendation is to have the ATAP budget as the primary autism service.

Relating to this bill, part of the autism services will be funded in FY 2012-2013 by the tobacco settlement. It will still be funded at about \$2.4 million, but in FY 2012-2013 it will be partially with General Fund dollars and partially with tobacco settlement dollars.

SENATOR KIECKHEFER:

I think this bill is valuable. One of the most important things I learned while working in your office was how to read the fund map for the tobacco funds. It took me two years to learn how to read it. Eliminating the silos and allowing flexibility is a good idea. It is necessary to have flexibility in providing services as money moves in and out of different budget accounts.

VICE CHAIR LESLIE:

We will hear testimony from the public.

BRUCE ARKELL (Nevada Senior Advocates, Nevada Senior Corps Association):

I have submitted my presentation ([Exhibit F](#)). I support S.B. 421. It will get rid of the silos and allow for flexibility, just as Senator Kieckhefer mentioned. We offered a couple of amendments to the bill. The first amendment will move the disabilities funding into Aging and Disability Services out of the Grants Management Advisory Committee (GMAC) fund, which will align the agencies with the services they are responsible for delivering. The second relates to the involvement of the Legislature and suggests that prior to the Session, the Legislature approve the priorities. The importance of this is that priorities tend to drive the plan and budget. Currently, the priorities are argued during the Legislative Session and it is an awkward process. Aging and Disability Services currently has 16 essential services and there are no priorities associated with those services. It is important that the Legislature set priorities. Setting priorities needs to be done in the planning process. It would be better handled outside the pressure of a Legislative Session.

Page 6 of [Exhibit F](#) describes the amendment we have recommended and shows that we moved Aging and Disability Services from GMAC. We also placed durable medical equipment into one of the essential services.

Pages 6 and 7 have language that states, "the Department shall consider any recommendations by Aging and Disabilities Services Division of the Department concerning the independent living needs...and shall adhere to any priorities established by the Legislative Committee on Senior Citizens..." It does not have to be the Committee on Senior Citizens, it could be the Interim Finance Committee, or any other Legislative body. It is extremely important for transparency and public involvement purposes to have the legislators make those decisions. The Governor gets a chance to change your decisions, but at least you will be focused on what the changes are instead of the entire budget.

On page 8, the amendment asks that when the Agency presents its plan to you, they prepare a report detailing what they actually did with the priorities. Those priorities will change over time and that is why we have this bill today, because priorities have shifted. As Senator Leslie mentioned, it is difficult to track the money because it is being moved around so much. We need to follow this and track where the money goes because it is funding essential services.

You need to take into consideration that the tobacco settlement funds are not tied to any federal requirements. The State can spend it as it needs on seniors, children and the disabled. There is much more flexibility with this fund than any other fund.

Pages 3 and 4 of [Exhibit F](#) have charts similar to Mr. Willden's which illustrate the areas receiving funds from the tobacco settlement. Page 5 illustrates the proposed process for the budgets.

BARRY GOLD (Director of Government Relations, AARP Nevada):

The American Association of Retired Persons Nevada (AARP) respectfully disagrees with requiring the Legislature to approve the priorities prior to the Governor's recommendation. The Commission on Disability and the Commission on Aging are natural resources to do that right now and with some additional language that would help. These two commissions are unique, because they are able to provide that input. There are people on the commissions who are involved in the different processes, such as consumers, advocates, providers and legislators. Those are the people who will be involved in the planning and implementation of those decisions. We feel the process and mechanisms to decide what those priorities are already exist, that is what those commissions do.

VICE CHAIR LESLIE:

Are you okay with the rest of the bill?

MR. GOLD:

Yes.

JANICE AYRES (Executive Director, Nevada Rural Counties RSVP Program, President, Nevada Senior Corps Association):

I have provided you with my testimony ([Exhibit G](#)). My concern is for the senior programs that rely on the independent living grants. [Exhibit G](#) outlines all the

services that Nevada Rural Counties Retired Seniors Volunteer Program (RSVP) offers. Seniors in the rural areas do not have the traditional State programs that the urban areas have and, at times, RSVP is the only program that provides these services. We recently lost approximately \$400,000 that was earmarked for Home Companions and Respite Caregivers. We just took the largest hit in the American Recovery and Reinvestment Act of 2009 (ARRA). It went through the House and was defeated in the Senate. However, during conferencing, they put the whole hit on the RSVP program, so we lost approximately \$13 million. This means out of the \$180,000 we were receiving, we will lose approximately \$50,000. My concern is that a good portion of the tobacco funding needs to go to the independent living grants.

If ARRA had gone through the way it was written, all of the volunteers in Nevada would have been fired. Nationwide, one million volunteers would have been eliminated. It does not make sense because it is free help.

VICE CHAIR LESLIE:

Are you in support of Mr. Arkell's amendment?

MS. AYRES:

We disagree on some things. We are interested in seeing priorities and then seeing later if those priorities were met. That is what I am concerned with, because that is not currently happening. Other than that, I approve of the amendment. The essential services get skewed. We need to agree on what are actually considered essential services. In regard to the senior program, the essential services are those that help seniors remain in their homes, rather than in institutions. We saved the State approximately \$1 billion by keeping seniors in their homes. We want to make sure the seniors get everything they are entitled to.

CONNIE McMULLEN (Chair, Strategic Plan Accountability Committee):

I support S.B. 421. Removing the percentages is a good idea and permitting flexibility allows the Director to do what needs to be done for the people of the State. I only have one minor disagreement with Mr. Arkell's amendment. The essential services have become more narrowly defined. Even durable medical equipment, as proposed by the amendment, was eliminated or cut. There was a large impact on the community as a result of that cut. The Aging and Disability Division supposedly adopted criteria setting forth what essential services are, but I could not find it. It vaguely referenced what essential services are. The

amendment that Mr. Arkell puts forth is to move durable medical, dental, hearing and vision into the essential service category. That is a concern because dental and hearing are generally an option and not a mandated service. Since it is not funded from the Grants Management Unit, and that money keeps being swept, my concern is it will never be funded in the essential service criteria either. The essential service criteria is very narrow. It lists transportation as one of the three groups, but the City Care Foundation could not meet the criteria that was set forth so they had to drop out of the funding. It is not as easy to meet as it seems.

VICE CHAIR LESLIE:

Do you have a specific suggestion for how you would want to fix that?

MS. McMULLEN:

The goal of the essential service criteria is keep people in their homes. It could be expanded more.

VICE CHAIR LESLIE:

Where is that criteria?

MS. McMULLEN:

It is in a policy that Aging and Disability Services has adopted. There was not a lot of input when they adopted that criteria. They expanded and defined it as they went along over a period of two years. The reason I knew that was coming about was because I was associated with that foundation at the time. They had to comply with certain funding criteria and requirements and it was not well known that they were moving towards that direction.

VICE CHAIR LESLIE:

We will ask Mr. Willden to comment on that since it is not in the bill.

MS. McMULLEN:

It is a concern.

JON SASSER (Washoe County Senior Law Project, Nevada Commission on Services for Persons with Disabilities):

The Commission on Services for Persons with Disabilities has not taken a position on this bill. After speaking with the chair of the Commission, Paul Gowins, the issues that are important to him are the services for people

with disabilities which are outlined in the bill on page 4, section 2, line 13 through line 22. The three specific services outlined are respite care, transportation and care in the home. We fought for many years to get that language in the statute. Even if the percentages disappear, we are glad that language remains. The disability community felt that the money aimed at independent living is for those with a high-priority need.

There should be a public process for putting together the Agency budget. The Commission is in a unique position to be part of that process. I think a more specific amendment from Mr. Willden explaining what that process might be would be helpful. I do not have strong feelings on whether the interim committees of the Legislature should be included in the process, but it should be a public process. I believe there is a bill regarding the development of the Agency's budget in general regarding public input, but I may be incorrect. It is nice that people will be able to react on October 15, 2011.

VICE CHAIR LESLIE:

We will now hear testimony from Las Vegas.

LAWRENCE K. SANDS, D.O., M.P.H (Chief Health Officer, Clark County Health District):

We oppose S.B. 421. I have submitted my testimony ([Exhibit H](#)). Since 1999, the majority of all programmatic funding for tobacco prevention and smoking cessation programs in Nevada has been allocated through the Fund for a Healthy Nevada which emanates from the Tobacco Master Settlement Agreement (MSA) dollars Nevada receives each year. Of the total amount of MSA dollars received by the State each year, less than 7.5 percent of the total was allocated to tobacco prevention and cessation programs. In the last two consecutive Legislative Sessions its allocation has been dramatically reduced, culminating in an entire sweep of the funds during the Twenty-sixth Special Session.

Nevada now ranks fifty-first among all states, including the District of Columbia, in funding tobacco prevention and cessation programs. In FY 2009-2010, Nevada collected approximately \$150 million in tobacco generated revenue from the MSA payments and tobacco tax revenues, but has not allocated a single penny to tobacco prevention services or programs. This is despite CDC recommending that the State of Nevada spend about \$32.5 million per year to have an effective and comprehensive tobacco prevention program. It is also



worth noting that Nevada spends about \$565 million annually on health care costs related to smoking.

The most discouraging aspect of this is knowing that there are documented impacts of reducing funding for tobacco prevention and control programs. When funds are significantly reduced or eliminated, smoking rates begin to increase quickly. States such as Florida, Massachusetts and California that have reduced or eliminated tobacco program funds saw an increase in youth and adult smoking rates and an alarming increase in illegal sales of tobacco products to children.

I would also like to briefly address issues that have been raised as a result of the Southern Nevada Health District receiving a significant grant award through the federal Communities Putting Prevention to Work (CPPW) initiative. It has been suggested that the State of Nevada no longer needs to provide State funding, since some jurisdictions are receiving this fund. Just to be clear, the funds that we have received are for a two-year project period and the grant expires in March 2012. Programs funded solely through these dollars will be at significant risk at the end of the grant period if there are no local dollars to sustain their activities. Additionally, the funds received by the Health District are restricted to use in Clark County only, leaving the rest of the State lacking in support for tobacco control programs. Finally, the CPPW funds were for the specific purpose of supporting policy initiatives, systems and environmental change and were never intended to fund the basic programmatic infrastructure needed to maintain successful tobacco control programs. Furthermore, the Health District would not have been able to submit an application for the CPPW grant without the infrastructure it had in place as a result of receiving MSA dollars over the last decade.

As far as the CDC grant that Mr. Willden spoke about, the Health District receives about \$160,000 of that grant, which also requires an approximate \$40,000 local match, to serve a community of around 2 million people. The CDC recommends that a community of our size have funding of around \$14 million annually to maintain a comprehensive and effective program. The Health District and tobacco control committee urge you to continue to invest in tobacco prevention and control efforts. We recommend restoring the language to *Nevada Revised Statutes* (NRS) 439.620 which allocates MSA revenue "to programs that are consistent with the guidelines established by the CDC and the United States Department of Health and Human Services relating to

evidence-based best practices to prevent, reduce, or treat the use of tobacco and the consequences of the use of tobacco." I would further recommend that the biennial plan the Health Division is required to submit to the Legislature be developed in collaboration with key stakeholders including local health authorities. I further recommend that you allow funding for tobacco prevention control programs be allocated through the health authorities utilizing the Local Lead Agency Model approved in S.B. No. 340 of the 75th Session.

I realize that you are faced with many tough financial decisions at this time; however, I want you keep in mind that the maintenance of tobacco control programs is part of a long-term strategy to reduce health care costs as well as improve the quality of life for all Nevadans.

CHRISTOPHER ROLLER (Nevada Tobacco Prevention Coalition):

I have submitted a letter ([Exhibit I](#)) in opposition to S.B. 421. We believe it is a mistake to permanently defund the tobacco prevention and control programs through S.B. 421. We understand the difficult position in which Mr. Willden, his staff and you as legislators are placed, in determining what is and is not going to be funded. I know there are many essential programs that need to receive funding and MSA is a source for many of those programs. Please do not forget why the funds exist in the first place. Those MSA dollars exist because of a lawsuit that was brought about in the tobacco industry for the states to recoup some of those costs as a result of tobacco use. They exist because the tobacco industry has addicted millions of people and they continue to profit off that addiction which enables them to be able to pay these MSA payments.

Nevada has a higher than average burden of tobacco use. We have the highest workplace exposure to cigarette smoke in the Country. We are third highest in the Country in smoking attributable deaths. Our adult smoking rate is the ninth highest among states. It is no coincidence that Nevada has the highest death rate among women for lung cancer and higher than average rates for chronic obstructive pulmonary disease, heart disease and stroke. All of this can be reduced with proper funding for prevention and cessation programs in reducing the usage and addiction of tobacco products. The tobacco industry spends over \$100 million annually to market their products in Nevada. There is no market-based solution to this, there is no counter marketing to the pushing of these drugs on our population and our youth. The tobacco prevention and control programs are the way to do that. The State has to fund those in order to counter that marketing. The MSA was originally intended to offset these costs.

Otherwise, these tobacco programs are not going to be funded. I would like to conclude by saying the permanent loss of these dollars will result in higher usage rates, higher chronic disease rates and more deaths. All this will continue to work to break Nevada's budget in the long term.

VICE CHAIR LESLIE:

Will those, both in Las Vegas and in Carson City, who share this point of view and do not want us to cease funding tobacco prevention programs please raise your hands.

Please note that approximately ten people raised their hands in opposition to ceasing funding for tobacco prevention programs. There is a relationship between Nevada heading those terrible statistics and Nevada being fifty-first in the country for funding tobacco prevention programs.

We will take this bill into consideration and work with Mr. Willden's office. Ms. Liveratti, did you want to address Ms. McMullen's concerns?

MARY LIVERATTI (Deputy Director, Programs, Department of Health and Human Services):

The essential services are broader than the tobacco dollars. The Division of Aging and Disability Services receives federal funds under the Older Americans Act. In times of not being able to fund everything in the past, they have identified the most essential services and concentrated their funding on them. The independent living grant under the tobacco settlement funds was considered in part of that, but it is also their federal funds that they receive. We are happy to revisit that and have a more transparent and public process for people to comment on that. The idea was that in times where there are limited resources, what were those most essential services that we should be providing? Home and in-home services were the top priority.

VICE CHAIR LESLIE:

The term "essential services" can be ambiguous because what is essential to you may not be essential to the next person. I think having a transparent and public process is the most important thing you can do to debate that.

We will close the hearing on S.B. 421.

We will open the hearing on S.B. 430.

**SENATE BILL 430**: Revises provisions governing certain child care facilities.  
(BDR 38-1162)

DIANE J. COMEAUX (Administrator, Division of Child and Family Services, Department of Health and Human Services):

This bill proposes the consolidation of regulatory oversight responsibilities of DHHS under one division. Currently, under NRS 432A, the Bureau of Services for Child Care of the Division of Child and Family Services (DCFS) is responsible for adopting licensing standards, practices and policies for child care facilities. Additionally, under NRS 449, health and facilities, and NRS 652, medical laboratories, the Bureau of Health Care Quality and Compliance of the Health Division is responsible for promoting quality health care through licensing, regulation enforcement and education. This bill transfers the authority to regulate and oversee Child Care facilities to the Health Division from DCFS. This bill would place oversight responsibility in a single organization by amending NRS 432A, by moving the authority of the Bureau of Services for child care from DCFS to the Health Division. Having separate divisions and governing boards responsible for regulatory function can, at times, be inefficient and duplicative; therefore, the consolidation of these programs streamlines the State's ability to serve the public by eliminating the duplication of duties. In addition, the consolidation will serve to strengthen the regulatory process.

VICE CHAIR LESLIE:

I think this is a good idea and agree it will strengthen the regulatory process.

We will close the hearing on S.B. 430.

We will open the hearing on S.B. 433.

**SENATE BILL 433**: Eliminates the position of Deputy Commissioner of the Nevada Transportation Authority. (BDR 58-1214)

ANDREW J. MACKAY (Chair, Nevada Transportation Authority, Department of Business and Industry):

I am presenting the bill on behalf of the Division of Budget and Planning in the Department of Administration. This bill eliminates the statutory reference to the deputy commissioner of the Nevada Transportation Authority (NTA) in NRS 706.063 and eliminates the associated duties contained and delineated in NRS 706.176. As the Committee is aware, this position's duties were expanded

in NRS 706.176 in the Seventy-fourth Session. At the time, the idea was to tighten the position to create a bigger and stronger wall between staff and the commissioner. The bill is before the Committee today because of the proposed transfer and subsequent reclassification of the deputy commissioner to the Department of Business and Industry (B&I) as part of the B&I centralization plan. The proposed transfer would reclassify the position from an unclassified status by way of the deputy commissioner to a classified administrative services officer III position.

VICE CHAIR LESLIE:  
What is the budget impact?

MR. MACKAY:  
In FY 2011-2012 it will be \$84,882, and in FY 2012-2013 it will be \$113,690.

VICE CHAIR LESLIE:  
Is that what we are saving or spending?

MR. MACKAY:  
That is a reduction in NTA's obligations.

KIMBERLY RUSHTON (Livery Operators Association):  
I regularly appear before the NTA. The Livery Operators Association (LOA) strongly supports regulatory oversight of commercial transportation and it is our position that agencies, such as NTA, are critical to taxpayers. Unfortunately, NTA is understaffed, yet it is able to maintain oversight of multiple commercial transportation companies currently operating in Nevada. It processes and investigates applications and ensures commercial motor carriers are complying with regulatory guidelines which serve to protect the safety of the traveling public. For these reasons, LOA opposes the elimination of the deputy commissioner position in S.B. 433. The position is vital to NTA and removing it will not only cripple the Agency, but ultimately the industry it oversees.

The NRS 706.176 outlines the multiple responsibilities of the deputy commissioner. The sheer number of matters heard each month by the commissioners of NTA prohibits them from performing the responsibilities of the deputy commissioner. The NTA staff cannot perform functions such as the preparation of the budget, human resources, contracts and leases and

implementation and compliance with State and federal guidelines relative to commercial transportation.

No one questions the priority of passing an effective and sustainable State budget, but this bill was conceived in late December 2010 and, if passed, becomes effective July 1, 2011. I respectfully submit that agencies cannot be asked to do more with less if it means making such radical and significant changes overnight. It will cripple NTA and the impact that it will have on commercial transportation is too harsh to absorb at this time, when our economy is still so weak.

SENATOR CEGAVSKE:  
Please explain what the organization is.

MS. RUSHTON:

The LOA is a conglomerate of taxi and limousine operators operating in southern Nevada. We currently have ten taxicab operators as members of the LOA and ten limousine operators as members. The LOA is likely the only transportation entity that is organized to present and represent the industries' interests and our commitment to strong regulatory oversight of commercial transportation in the State of Nevada.

NEAL TOMLINSON (Frias Transportation):

I appear before NTA and the Taxicab Authority on a monthly basis. I also represent the following companies: Ace Cab, Inc., Union Cab Co., A NLV Cab Co., Vegas-Western Cab, Inc., Virgin Valley Cab Co., Las Vegas Limousines and Airline Limousine Corp.

We are also opposed to this bill. We agree and support the testimony of Ms. Rushton and the LOA. Currently, NTA is a well functioning agency. Chairman MacKay, Commissioners Kloberdanz and Metz and Deputy Commissioner Skibinski have all done a tremendous job in making it a first-class agency. The elimination of this position would severely cripple the Agency. By comparison, the deputy commissioner position at NTA is very similar to the full-time administrator position at the Taxicab Authority. For the last nine months, the Taxicab Authority has been without a full-time administrator. They have just appointed a new administrator who will be starting on May 9, 2011. The positions are similar.

I would like to give you an example of one way the Agency would be hampered if the position were eliminated. One of the important duties of the deputy commissioner is to review incoming applications for certificates of public convenience and necessity. The deputy commissioner oversees staff with regard to those applications. If this position is eliminated, the duties will not go away, someone will have to do the job of the deputy commissioner and it is going to fall on the chairman and the other two commissioners to do it. The effect of that will be the creation of a conflict of interest. One of them would have to act as deputy commissioner and review and oversee staff which would create a conflict by leaving only two commissioners who would be available to vote on whatever the application is requesting. That could leave us with a one to one vote and a logjam at the Agency.

When this position was created, the idea was to create a wall that would allow the Agency to function separately with a staff that could independently review matters. The position would then make a presentation to the commissioners and the three commissioners would vote on applications pending before the Agency. If this position were eliminated it would create numerous conflicts within the Agency that would cripple it and prevent it from making decisions and regulating the industry effectively.

VICE CHAIR LESLIE:

We will close the hearing on S.B. 433.

We will open the hearing on S.B. 444.

**SENATE BILL 444**: Eliminates the Administrative Services Division of the Department of Public Safety. (BDR 43-1183)

MARK TESKA (Administrator, Administrative Services, Department of Public Safety):

The bill eliminates the Administrative Services Division within the Department of Public Safety (DPS), coinciding with the consolidation that is included in the *Executive Budget*. The Administrative Services Division provides fiscal, contract, human resources, payroll and administrative support to the divisions within DPS. Rather than maintaining two separate budget accounts, DPS is merging Administrative Services into the Director's Office. This bill implements the merger as the budgets were approved at the April 15, 2011 joint subcommittee meeting and presented to the full joint committees April 26, 2011.

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VICE CHAIR LESLIE:

In section 3, page 3 of S.B. 444 it looks like we are adding some language. Is that the only extra duty that we are adding to the Director?

MR. TESKA:

In section 1, we are eliminating the Administrative Services Division as a separate division in DPS. Section 3 transfers those duties that were performed by the Division to the Director.

VICE CHAIR LESLIE:

We will close the hearing on S.B. 444.

We will open the hearing on S.B. 473.

SENATE BILL 473: Revises provisions governing consumer affairs.  
(BDR 18-1190)

ANDREW CLINGER (Director, Department of Administration):

Senate Bill 473 supports the Governor's budget as originally submitted. This bill eliminates the Office of the Ombudsman of Consumer Affairs for Minorities, as well as makes permanent the transfer of certain duties to the Office of the Attorney General (AG) that were previously the responsibility of the Consumer Affairs Division (CAD). We are going to recommend restoring the position of the Ombudsman for Consumer Affairs for Minorities, so this bill will need to be revised to reflect that change, and we will have a budget amendment by the end of this week.

VICE CHAIR LESLIE:

Are you eliminating the Office, but restoring the position?

MR. CLINGER:

We are not restoring CAD. We are going to restore the position. I believe that is the only position in the Office. It will be restored in the Director's Office in B&I.

SENATOR DENIS:

Will this eliminate the Commission on Minority Affairs?

MR. CLINGER:

I am not sure, I would have to check.



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SENATOR DENIS:

That was under the Director. We will have to make sure that is in there as well.

MR. CLINGER:

As we go through the budget amendment, we will make sure that is part of that as well.

SENATOR RHOADS:

How much money does this save?

MR. CLINGER:

This will save \$192,316 over the biennium. The budget amendment will add that amount back. It is currently a reduction in the *Executive Budget*, but we are submitting an amendment to add it back in.

VICE CHAIR LESLIE:

Will you be submitting an amendment to S.B. 473?

MR. CLINGER:

Yes, we will have to submit an amendment to this bill. I apologize I do not have the amendment with me today as I just found out that we were going to do this.

KEITH MUNRO (First Assistant Attorney General and Legislative Liaison, Office of the Attorney General, Attorney General):

We are neutral on S.B. 473, but we have a technical point to make. The AG is a law office, we are not regulators. The CAD was a regulatory body. When CAD was dissolved we retained our legal duties, but we did not absorb any regulatory functions, nor do we think that the legislative body intended the AG to be both regulatory and attorney. Those regulatory functions were either transferred to other places in the Executive Branch or were dissolved; therefore, we have no objection to this bill as it is written, but we wanted to make that clear. We have submitted budget amendments before, but we have not submitted an amendment for the Legislative Counsel's Digest and I am not sure how to do that. I believe it is a mistake in the Digest as it is written.

VICE CHAIR LESLIE:

Putting it on the record, we will make a note to let the Legislative Counsel Bureau Legal Division know of your objection. I am sure they will review it. We will have an opportunity to revise the bill anyway.

JOHN MCGLAMERY (Senior Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General, Attorney General):

I am the person who prosecutes deceptive trade. My staff consists of me and one other. There was no transfer of authority. I have the same authority as I had four years ago. This eliminated a lot and I understand that for budget purposes it is essential. Consumers are on their own, 90 percent of these claims were administrative type of claims and are on their own.

VICE CHAIR LESLIE:

I completely agree. When CAD was dissolved, the people lost and we should be clear about that.

SENATOR DENIS:

We had this discussion two years ago, and the consumers are now on their own. The Better Business Bureau announced on the radio that since CAD had been eliminated consumers could go to them. They were basically announcing that if you wanted to commit fraud, go ahead because we do not have anyone keeping an eye on it. I am hoping that as we go through this next biennium we can look at ways to create an office to help the consumers.

MR. MUNRO:

We would be happy to work with you on that.

VICE CHAIR LESLIE:

I think that is a good goal to have.

We will close the hearing on S.B. 473.

We will open the hearing on S.B. 475.

SENATE BILL 475: Makes various changes relating to transportation.  
(BDR 35-1193)

TRACY LARKIN-THOMASON, P.E., P.T.O.E., C.P.M. (Assistant Director, Planning, Director's Office, Department of Transportation):

Senate Bill 475 is providing for the consolidation of the bicycle and pedestrian programs in two agencies, DPS and the Nevada Department of Transportation (NDOT). It will transfer one position from the Office of Traffic Safety in DPS to the bicycle and pedestrian program in NDOT. This position will work with NDOT's bicycle and pedestrian program in achieving the goals currently common to both programs. Specifically overlapping goals are the education and training goals, for the interaction of bicyclists, pedestrians and motorized vehicles. In addition, NDOT's position there covers bicycle and pedestrian facility review, construction of plan review, field reviews, etc. The training and education information officer will also enhance our Safe Routes to School program, which is under NDOT's bicycle and pedestrian program. This program is geared specifically for kindergarten through Grade 8, while the position in the education program from DPS covers all ages and programs. The bill requests the transfer of the educational information officer position and the associated budget, which is budget account 201-4689, to be transferred from DPS to NDOT. The NDOT does have space for the position and there are no relocation costs.

DPS – Bicycle Safety Program — Budget Page PUBLIC SAFETY-183 (Volume III)  
Budget Account 201-4689

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CHAIR LESLIE:

We will close the hearing S.B. 475. Seeing no further business, we will adjourn at 10:34 a.m.

RESPECTFULLY SUBMITTED:

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Madison Piazza,  
Committee Secretary

APPROVED BY:

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Senator Steven A. Horsford, Chair

DATE: \_\_\_\_\_

<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Eric King, Legislative Counsel Bureau	Closing Report – Department of Wildlife
S.B. 421	D	Michael J. Willden, Department of Health and Human Services	Testimony – S.B. 421
S.B. 421	E	Michael J. Willden, Department of Health and Human Services	Proposed Additional Amendment
S.B. 421	F	Bruce Arkell, Nevada Senior Advocates	Testimony
S.B. 421	G	Janice Ayres, Nevada Rural Counties RSVP Program, Nevada Senior Corps Association	Presentation
S.B. 421	H	Lawrence Sands, Clark County Health District	Testimony
S.B. 421	I	Christopher Roller, Nevada Tobacco Prevention Collation	Testimony in Opposition of S.B. 421