

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session  
April 30, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 10:00 a.m. on Saturday, April 30, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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 Barbara K. Cegavske  
Senator Ben Kieckhefer

**COMMITTEE MEMBERS ABSENT:**

Senator Dean A. Rhoads (Excused)

**STAFF MEMBERS PRESENT:**

Rex Goodman, Principal Deputy Fiscal Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Patricia O'Flinn, Committee Secretary

**OTHERS PRESENT:**

Marian Wright Edelman, Founder and President, Children's Defense Fund  
Judge Karen Bennett-Haron, Las Vegas Justice Court  
Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender  
Michael L. Douglas, Chief Justice, Nevada Supreme Court  
James G. (Greg) Cox, Acting Director, Department of Corrections  
Kate Marshall, State Treasurer, Office of the State Treasurer

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Keith Munro, First Assistant Attorney General and Legislative Liaison, Office of  
the Attorney General  
Jeffrey Mohlenkamp, Deputy Director, Support Services, Department of  
Corrections  
Rex Reed, Administrator, Offender Management Division, Department of  
Corrections  
Tonja Brown  
Florence Jones  
Tammy M. Riggs, Freeman & Riggs, L.L.P.  
Diane Farkas, Family to Family Connection  
Chris Perry, Acting Director, Department of Public Safety  
Lisa Gianoli, Washoe County  
Alex Ortiz, Clark County  
Jeffrey Fontaine, Nevada Association of Counties

CHAIR HORSFORD:

We will call the Committee on Finance to order. We have a special guest today. Marian Wright Edelman, the founder and president of the Children's Defense Fund has graciously agreed to speak to us today.

MARIAN WRIGHT EDELMAN (Founder and President, Children's Defense Fund):

When I founded the Children's Defense Fund (CDF) almost 40 years ago, I thought I would be out of business by now because I thought we could convince our Country, if they knew the facts, to do what is right for children and what is cost-effective for all of us. I hope that Nevada can move to the top of the Nation in the way it treats children.

The great German theologian Dietrich Bonhoeffer, before he was killed for opposing Hitler's Holocaust, stated that the test for morality of a society is how it treats its children. I agree with that. The United States and the State of Nevada flunk Bonhoeffer's test. Nationally, every 11 seconds a high school student drops out of school. Every 32 seconds, in the richest country in the world, a child is born into poverty. The gap between the rich and poor is the highest ever seen. Every budget decision should be taken in the context of closing that gap rather than widening that gap. Are we making sure we are lifting children toward the future rather than moving backwards?

As noted in "Children in Nevada" ([Exhibit C](#)) the State of Nevada is twenty-fifth among states in percent of babies born with low birth weight and seventeenth

in its infant mortality rate. Care for low birth weight babies costs a fortune in neonatal intensive care. It is much more cost-effective to pay for prenatal care. In Nevada, a child dies before his or her first birthday every day. A child or teen is killed by gunfire every ten days. In Nevada, 40 percent of children are not fully immunized. This is pound foolish policy. It costs far more in the long run to treat the diseases than to prevent them. Basic health care is an education issue. Nevada is forty-fifth in per pupil expenditures.

There is a growing cradle-to-prison pipeline. Children are not born healthy because their mothers did not have prenatal care. These children do not have the tools to get ready to learn at school. They enter schools that are not able to have high expectations or provide them the quality education they need. They are then shunted into the cradle-to-prison pipeline. Early intervention rather than punishment is more cost effective. Nevada, like most states, spends far more to imprison people than to educate people. States on average spend three times more on each prisoner than on each public school pupil. In Nevada, the ratio is 2.3 times more per prisoner than for public school pupil. That is, bluntly, a dumb investment policy.

The proposed cuts in per pupil funding, teacher pay, cuts in funding for class-size reduction and full-day kindergarten add up to almost 18 percent. The impact of these cuts on children would be enormous. Teachers will be required to teach 20 percent more students for lower pay. There is already a problem in Nevada attracting the best-qualified teachers. These cuts will make it more difficult. Full-day kindergarten is vital. If the first step toward high school graduation is weak and broken, children will not get off to a good start. Invest in full-day kindergarten.

The majority of Nevada children are not reading or computing at grade level in fourth, eighth or twelfth grade. If you cannot read, write and compute in this economy, you do not have a long-term, viable future. High school graduation rates have steadily declined in the last decade. Today, Nevada's high school graduation rate is the lowest in the nation. There are 38 high schools in Nevada that have been identified as drop-out factories. Sixty percent of the State's high school students attend these 38 schools. Cutting investment in education is the last thing you want to do.

The State of Nevada has recently joined 40 other states in endorsing the Common Core K-12 Standards. These standards will be jeopardized if the

kindergarten step is broken. Only 5.5 percent of three-year olds and 11.1 percent of four-year olds are enrolled in State pre-K programs, Head Start and other special education programs.

The proposed 69 percent reduction in funding to State Agencies that support child care assistance and development to help low-income working parents will be devastating. My staff estimates over 1,000 families will be affected by these cuts. The same families are impacted by multiple cuts. We should be making sure we are not hurting the poor, the weak and the vulnerable. We should put revenue on the table in strategic ways. You should not balance the budget on the backs of the poor and on the backs of children. Not only is it unfair, it is neither right nor cost-effective.

As you embark on the last month of your Legislative Session, I hope you will take the opportunity to do something good. The passage out of the Assembly of Assembly Bill (A.B.) 110 gives the Senate that opportunity.

[ASSEMBLY BILL 110 \(1st Reprint\)](#): Establishes the Kinship Guardianship Assistance Program. (BDR 38-196)

If the experience in Nevada tracks that of other states, no new costs will be incurred. The State of Nevada will be able to request federal funds not previously available. We need to strengthen family values and give permanency to as many children as we can. It costs less to keep children within their families than to institutionalize them, whether in foster care or detention centers.

The decisions you make are difficult. You have the opportunity to reflect the best of our values, to begin to build a more just society, and to make sure we are helping children become productive, educated citizens. The greatest national security threat is not the enemy without, it is the enemy within. If we do not invest in healthy, educated children, we are not investing in our future.

CHAIR HORSFORD:

For too long, we have allowed the institutions and the silos to build up. It is many of these institutions and silos that are keeping our children and their families and our communities from the success everyone should be destined to achieve. Based on your experience, is balancing the budgets in ways that disproportionately affect children and the poor happening in all the states?

MRS. EDELMAN:

There is a national budget crisis. Too many of the proposals to balance the budget are on the backs of the weakest. To think we can balance the federal deficit based on discretionary funding and Medicare, Medicaid and Social Security and not ask for tax increases on powerful corporations and wealthy individuals who do not pay their share of taxes is unrealistic. We must have a strong citizen's voice. The CDF is battling budget cuts all over the country. A baby in diapers does not have a belt to tighten. The child is not responsible for the parents he was given. Every year we keep 15 million children in poverty costs the country up to \$500 billion a year.

If you cannot work in this economy, you will end up in the underground economy or in prison which will cost everyone more. The figure that worries me most is that one out of three black boys and one out of six Latino boys born in 2001 are at risk of going to prison in their lifetime. They need to be graduating from high school and going on to college and preparing for jobs to compete for the United States in this globalized economy. It is a short-sighted policy to cut programs that support the health and education of children.

SENATOR PARKS:

Throughout your presentation you used one word I found encouraging: investment. In Asia, and among Asian-American families, education is not considered an expense, it is considered an investment. Perhaps we need to emulate that attitude.

MRS. EDELMAN:

Absolutely, we should. If we do not educate our children, we will not be able to compete in the global marketplace.

CHAIR HORSFORD:

Let us open the hearing on budget account (B/A) 101-3168.

### HUMAN SERVICES

#### MENTAL HEALTH AND DEVELOPMENTAL SERVICES

HHS – MHDS – Administration — Budget Page DHHS MHDS-1 (Volume II)  
Budget Account 101-3168

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The Administration Account, B/A 101-3168 starts on page one of the "Senate Committee on Finance Closing List #6 April 30, 2011" ([Exhibit D](#)). The major closing issues for B/A 101-3168 are the budget reductions for travel and training and the elimination of four positions.

Decision unit E-600 eliminates all out-of-state travel and training for the Division's central office staff for a combined General Fund savings of \$5,931 in each year of the biennium. Additionally, in-State-travel is reduced by \$10,349 in each year of the biennium.

#### E-600 Budget Reductions — Page DHHS MHDS-3

Four positions are recommended for elimination. A clinical program manager II responsible for oversight of the Division's planning and performance improvement unit is eliminated in decision unit E-606.

#### E-606 Staffing and Operating Reductions — Page DHHS MHDS-4

A management analyst IV who serves primarily as the Division's Health Insurance Portability and Accountability Act of 1997 privacy officer is eliminated in decision unit E-607.

#### E-607 Staffing and Operating Reductions — Page DHHS MHDS-4

Decision unit E-692 eliminates an accounting assistant I position responsible for monitoring, posting and reconciling incoming electronic remittance advices.

#### E-692 Budget Reductions — Page DHHS MHDS-6

Decision unit E-693 eliminates a quality assurance specialist III position responsible for managing grants and programmatic oversight related to residential support services.

#### E-693 Budget Reductions — Page DHHS MHDS-7

Fiscal Staff does not have any issues with the recommendation to reduce travel and training expenditures or the four positions recommended for elimination.

SENATOR CEGAVSKE MOVED TO APPROVE THE REDUCTION IN TRAVEL AND TRAINING EXPENDITURES IN DECISION UNIT E-600 AND THE ELIMINATION OF THE FOUR POSITIONS IN DECISION UNITS E-606, E-607, E-692 AND E-693 IN B/A 101-3168 AS RECOMMENDED BY THE GOVERNOR.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. KRMPOTIC:

Other closing items for B/A 101-3168 include position transfers in decision units E-901 and E-902.

E-901 Trans a Position from RRC to MHDS Admin — Page DHHS MHDS-7

E-902 Trans a Position from SNAMHS to MHDS Admin — Page DHHS MHDS-8

The Governor recommends transferring the administrative services officer II from the rural regional center to the administration account in decision unit E-901. The position oversees the Division's recently implemented cost allocation plan effective July 1, 2010, as directed by the Centers for Medicare and Medicaid Services (CMS). The position will act as administrative services officer for the Substance Abuse Prevention and Treatment Agency. An administrative assistant II position is recommended to be transferred from the Southern Nevada Adult Mental Health Services to Administration as part of the Division's continued effort to enhance its centralized billing services function in decision unit E-902. These position transfers appear reasonable to Staff.

The *Executive Budget* recommends continued funding in the Base Budget totaling \$294,165 each year in northern Nevada and \$550,201 each year in southern Nevada for the psychiatric residency program as adjusted by the Interim Finance Committee (IFC) during the 2009 to 2011 biennium. Fiscal Staff recommends the remainder of B/A 101-3168 be approved as recommended by the Governor.

SENATOR CEGAVSKE MOVED TO APPROVE THE POSITION TRANSFERS IN DECISION UNITS E-901 AND E-902, TO CONTINUE BASE BUDGET FUNDING FOR THE PSYCHIATRIC RESIDENCY PROGRAM AS ADJUSTED BY THE IFC AND THAT THE REMAINDER OF B/A 101-3168 BE APPROVED AS RECOMMENDED BY THE GOVERNOR AND AUTHORITY FOR FISCAL STAFF TO MAKE TECHNICAL ADJUSTMENTS AS NECESSARY.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MR. KRMPOTIC:

The next item is B/A 101-3164.

HHS – MHDS – Mental Health Information System — Budget Page DHHS  
MHDS-11 (Volume II)  
Budget Account 101-3164

The major closing issue in this account is the elimination of an Information Technology (IT) professional II position in decision unit E-691.

E-691 Budget Reductions — Page DHHS MHDS-14

This position is responsible for maintaining the Division's Website and data extraction activities for Northern Nevada Adult Mental Health Service core measure reporting needs. The General Fund savings from the eliminated position totals approximately \$90,000 each year of the biennium. While the position is currently filled, the Division indicates the incumbent plans to retire at the end of the current fiscal year. The Division notes core measure reporting is one of the requirements for maintaining accreditation. In response to questions during the March 10, 2011, budget hearing, the Division Administrator noted the remaining staff should be able to generate the desired information as the Division continues to automate more of its data extraction process. Furthermore, the remaining staff should be able to administer the Division's Website without the need for additional support from the Department of Information Technology.



SENATOR PARKS MOVED TO APPROVE THE GOVERNOR'S RECOMMENDATION TO ELIMINATE THE IT PROFESSIONAL II POSITION IN DECISION UNIT E-691 OF B/A 101-3164.

SENATOR LESLIE SECONDED THE MOTION.

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

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MR. KRMPOTIC:

There are no other closing items in this account. Fiscal Staff recommends the remainder of the Mental Health Information System account be approved as recommended by the Governor.

SENATOR PARKS MOVED TO CLOSE THE REMAINDER OF B/A 101-3164 AS RECOMMENDED BY THE GOVERNOR.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS DENIS AND CEGAVSKE WERE ABSENT FOR THE VOTE.)

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MR. KRMPOTIC:

The next account is the Alcohol Tax Program, B/A 101-3255.

HHS – MHDS – Alcohol Tax Program — Budget Page DHHS MHDS-17  
(Volume II)

Budget Account 101-3255

This account was not previously heard in subcommittee. It is a budget that Staff develops closing recommendations for. The primary function of the Alcohol Tax Program is to increase services for the prevention of alcohol abuse and alcoholism and the detoxification and rehabilitation of substance abusers. There are no major closing issues in this account. The *Executive Budget* reflects increases in liquor tax revenues of 0.24 percent from

fiscal year (FY) 2009-2010 actual receipts of \$955,226 to \$957,521 in FY 2011-2012 with no additional increase in FY 2012-2013. The Technical Advisory Committee is recommending to the Economic Forum projected increases in liquor tax collections of approximately 1 percent each year in the 2011-2013 biennium. The Committee should note that FY 2010-2011 is work programmed for \$1,069,341; however, \$640,113 has been collected for the first eight months of the fiscal year. Fiscal Staff recommends this account be approved as recommended by the Governor.

SENATOR PARKS MOVED TO CLOSE B/A 101-3255 AS  
RECOMMENDED BY THE GOVERNOR.

SENATOR CEGAVSKE SECONDED THE MOTION.

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

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MR. KRMPOTIC:

The last account for consideration by the Committee is the Family Preservation Program, B/A 101-3166.

HHS – MHDS – Family Preservation Program — Budget Page DHHS MHDS-27  
(Volume II)  
Budget Account 101-3166

The Family Preservation Program (FPP) is a statewide program providing monthly cash assistance to low-income families who care for relatives in their homes with profound or severe mental retardation, or children under six years of age who have developmental delays. There are two major issues associated with this account. The first is the Governor's proposal to supplant General Fund appropriations with Tobacco Master Settlement Agreement funds. The second is the caseload increase.

E-690 Budget Reductions — Page DHHS MHDS-28

In decision unit E-690, the Governor recommends replacing \$1.2 million in General Fund appropriations in FY 2012-2013 with funds transferred from the

Trust Fund for Public Health resulting from the anticipated April 2012 receipt of Tobacco Settlement Funds. The recommendation relates to the suggestion of the Legislative Committee on the Fundamental Review of Base Budgets of State Agencies. The award of Tobacco Settlement Funds, scheduled for April 2012 and budgeted for expenditures in FY 2012-2013, are in question due to the ongoing dispute and arbitration proceedings between participating tobacco manufacturers and various states participating in the Tobacco Master Settlement Agreement regarding the enforcement of laws relating to the nonparticipating manufacturers. A negative outcome of the arbitration could negatively impact the available funding in this program. Staff is not aware of any arbitration decision deadlines at this time.

#### M-200 Demographics/Caseload Changes — Page DHHS MHDS-27

In decision unit M-200, the Governor recommends increased General Fund appropriations of \$268,906 in FY 2011-2012 and \$386,342 in FY 2012-2013 to phase in support for an additional 98 low-income clients in FPP. The 2009 Legislature approved an ending FY 2010-2011 caseload of 528 clients who receive a monthly cash assistance payment of \$374. The caseload projections, using the methodology applied in other Division of Mental Health and Developmental Services (MHDS) agencies, estimates an additional 72 families to be phased into service in FY 2011-2012 and 26 more families in FY 2012-2013 for a total of 626 families at the end of the 2011-2013 biennium. Monthly payments are recommended to remain at \$374 per family.

The uncertainty of the availability of the Tobacco Settlement Funds could jeopardize the Division's ability to continue the monthly \$374 payment to the current caseload of 528 families in FY 2012-2013. The phase in of the additional families could exacerbate the Division's ability to maintain the level of monthly payments to participating families. The Committee should note that *Nevada Revised Statutes* (NRS) 435.365 requires that persons and families eligible for FPP are entitled to receive a monthly allotment as established by legislative appropriation each year. The Division notes that should more families seek assistance than FPP is legislatively approved to support, the monthly assistance payments would need to be decreased to accommodate all eligible families. Senate Bill (S. B.) 437 would amend NRS 435.365 to limit the number of participating families to within legislatively approved funding levels and associated monthly allotments to avoid decreasing those allotments.

**SENATE BILL 437**: Revises provisions governing assistance to parents and relatives caring for certain persons with mental retardation and related conditions. (BDR 39-1215)

Decreasing the allotments during a given fiscal year makes it difficult for participants to budget for personal services used to care for the child within the home environment. Once the participation cap is met, additional families seeking to participate in FPP would be placed on a wait list.

There are three options for consideration by the Committee. The first option would be to approve decision unit M-200 as recommended by the Governor, as well as supplanting General Funds with Tobacco Settlement Funds of \$1.2 million in FY 2012-2013.

The second option would be to approve additional General Funds of \$268,906 in FY 2011-2012 and \$386,342 in decision unit M-200 as well as supplanting General Funds with Tobacco Settlement Funds in FY 2012-2013, but to direct the Division through a letter of intent to delay adding new families to FPP until such time a decision has been reached regarding the Tobacco Settlement arbitration proceedings. If this option is chosen, the current 528 families would continue to receive the full \$374 monthly allotment in FY 2011-2012. If a favorable decision is reached in the arbitration proceedings in FY 2011-2012, the Division could begin to add families to FPP at an accelerated rate compared to the phase in rate as recommended in the budget. If a decision is not reached in FY 2011-2012, the Division could continue to serve the 528 families in FY 2012-2013, and should a favorable decision be reached during that time, begin to add families to FPP. Regardless of when a favorable decision is reached, the Committee may wish to consider retaining the monthly allotment at the current amount of \$374.

If an unfavorable arbitration decision is reached during the 2011-2013 biennium, the Division should be instructed to approach IFC with a plan to either reduce the monthly allotments, request an allocation from the Contingency Fund to maintain the current allotment, or some other alternative for IFC to consider.

The third option for consideration is to approve additional General Fund appropriation of \$386,342 in FY 2012-2013 only as recommended by the Governor in decision unit M-200, but not approve the Governor's

recommendation to supplant General Fund appropriations of \$1.2 million in FY 2012-2013 with Tobacco Settlement Funds. If this option is chosen, the Committee should consider freezing the current caseload of 528 families, which would require the General Fund appropriations included in the Base Budget only, and not the General Fund money recommended in decision unit M-200 in FY 2011-2012. However, additional General Fund appropriations of \$773,354 would be required in FY 2012-2013 to maintain the current \$374 allotment for the 528 families. The net increase in General Fund appropriations in this option would be \$504,448 over the 2011-2013 biennium.

SENATOR PARKS MOVED TO APPROVE OPTION TWO WHICH INCLUDES THE FUNDING CHANGES IN DECISION UNITS E-690 AND M-200 AS RECOMMENDED BY THE GOVERNOR BUT TO DIRECT THE DIVISION THROUGH A LETTER OF INTENT TO DELAY ADDING NEW FAMILIES TO FPP UNTIL SUCH TIME A DECISION HAS BEEN REACHED REGARDING THE TOBACCO SETTLEMENT ARBITRATION PROCEEDINGS AND THE ABILITY TO APPROACH IFC.

SENATOR LESLIE SECONDED THE MOTION.

SENATOR KIECKHEFER:

I would prefer to support option one. Delaying the addition of new families until a decision has been reached does not make sense considering there is no deadline for a decision. I would prefer to get the families enrolled. If the legal proceedings do not go in the State's favor, this can be revisited through the IFC process.

SENATOR CEGAVSKE:

For the same reasons, I will not support the current motion. I would like the Committee to consider option one.

CHAIR HORSFORD:

I will support the motion. I believe it is better to move forward and try to get the families enrolled. If the arbitration is not favorable, the Division has the option of the IFC Contingency Fund.

SENATOR KIECKHEFER:

Option two delays the enrollment of new families. If we want to enroll the families, option one is the best choice.

CHAIR HORSFORD:

Staff, can you clarify this? If the money is available, why are the families not being enrolled?

MR. KRMPOTIC:

Option two is provided as a way to address the concern of a decrease in payments to existing families if for some reason the Tobacco Settlement payment were reduced in April 2012. If the Agency had to request funding through IFC to continue payments to the families in FY 2012-2013, it would be at a reduced amount.

CHAIR HORSFORD:

Does option two, without the letter of intent to delay the addition of families, allow funding to be established based on need?

MR. KRMPOTIC:

Option two would provide for adding the General Funds, but not adding the families. It would provide FPP with a hedge in case the Tobacco Settlement Funds were reduced. The existing families would continue to receive payments in FY 2011-2012. If a favorable decision should be made in the arbitration proceedings, the Division would add the caseload driven increase over the biennium.

SENATOR KIECKHEFER:

I think we all agree we would like to see the families added to FPP. Perhaps the Committee could add a letter of intent to option one directing the Division to come to IFC in case of an adverse outcome to the arbitration proceedings.

CHAIR HORSFORD:

Senator Parks, can you restate your motion?

SENATOR PARKS:

My interest was in the letter of intent, should the outcome of the arbitration be negative. I will withdraw my motion.

SENATOR LESLIE:

I will withdraw the second.

SENATOR CEGAVSKE MOVED TO APPROVE DECISION UNIT M-200 AS RECOMMENDED BY THE GOVERNOR THAT WOULD ADD 72 MORE FAMILIES TO FPP IN FY 2011-2012 AND 26 FAMILIES IN FY 2012-2013, AS WELL AS DECISION UNIT E-690 OF B/A 101-3166 TO SUPPLANT THE GENERAL FUNDS WITH TOBACCO SETTLEMENT FUNDS OF \$1.2 MILLION IN FY 2012-2013.

SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:  
I will turn the gavel over to Vice Chair Leslie.

VICE CHAIR LESLIE:  
We will open the hearing on S.B. 349.

[SENATE BILL 349](#): Provides for the establishment of a community court pilot project to provide an alternative to sentencing for misdemeanor offenders. (BDR S-387)

SENATOR STEVEN A. HORSFORD (Clark County Senatorial District No. 4):  
Senate Bill 349 brings an innovative, proactive approach to one of the biggest problems in our criminal justice system: many low-level offenders cycle through the system with few consequences for their actions and little help in changing behaviors that put them in the criminal justice system. Individuals, often young, show up in court on misdemeanor offenses, many drug related or for minor property-related crimes. Much of the time they are given sentences no greater than credit for time served after their arrest. They return to the community, reoffend, and are back in the court again in a cycle that repeats itself until they are arrested on a felony charge with more serious consequences for that individual. The victims are all of us as taxpayers and our society as a whole.

Senate Bill 349 takes a step to break this cycle through an alternative that changes the behavior of low-level offenders before they commit more serious crimes. More importantly, it helps them get their lives on track so that crime is not a way of life. The concept we are presenting this morning is that of a

community court which has been successfully established in other metropolitan areas such as New York, Seattle and San Francisco to name a few. A community court is about providing meaningful opportunities to criminal sentencing.

An individual facing a misdemeanor charge pleads guilty to the offense. A justice court judge defers imposing a sentence if the individual not only agrees to participate in the community court but is also willing to serve time in county jail if he does not comply with the conditions imposed by the court. This is an important element. The offender is willing to risk real jail time. It is an indication the offender wants to change his behavior and make better life choices and recognizes he needs help to do so.

Community court is a facility that brings together the services needed to turn offenders' lives around. An individual coming into the system is assessed to determine which services are necessary to make the changes to avoid criminal behavior. The community court may have some of this help on-site, or it may refer people to the community organization that can best provide for those services contracted by the court. The community court draws on community and government resources such as alcohol and substance abuse treatment, mental health services, family counseling, literacy, job training, health education and housing assistance to target the behaviors that promote the criminal lifestyle. These services are not free. Participants in community court pay for these services to the extent they are able. In addition, community service is a requirement of the program. They repay with their time as well as their money.

Once an individual has successfully completed this program, this is certified by the community court so the individual does not have to serve the original sentence imposed by the justice court. If they do not complete the program, however, they serve their original sentence in full. Community court is a program that provides real help, but also real consequences for individuals who do not commit to it.

Senate Bill 349 requests a \$1 million appropriation. That is a best estimate of the costs over the biennium in terms of staffing and contracts with outside providers. However, the Legislation states none of the money will be disbursed until Clark County submits a detailed plan for the location and development of a pilot community court. While this may seem like a significant appropriation at a



time when we have such a large budget shortfall, the community court system can save significant amounts of money over the long-term.

Dr. James Austin, who does the projections for the prison system, provided for review of the Senate Committee on Judiciary, the top ten Zip codes where felony offenses occurred and where the individuals presently incarcerated in our prison system resided. Of the top ten Zip codes in southern Nevada, the State spent nearly \$50 million incarcerating or providing other resources for these offenders since 2006. This is a line item in our budget. We pay for it. One of the reasons the *Executive Budget* proposes an increase in State prisons is that we must pay to incarcerate people. If we are already paying \$50 million for the top ten Zip codes, surely we can invest \$1 million to avoid these types of future offenses. It makes sense economically. It is the best solution for the offenders, victims and communities. If these behaviors are stopped on the front end, you can prevent them from becoming more serious offenders. That avoids offenses on victims and the communities they come from. And, it stops the cycle of mass incarceration.

JUDGE KAREN BENNETT-HARON (Las Vegas Justice Court):

This is a timely and appropriate measure. The community court as proposed is not a new concept. The community court movement is about 20 years old. The *New York Times* published in June that it has experienced the lowest recidivism rates ever in the last 20 years. And they attribute that entirely to the evolution and expansion of their community court system. This program will not only benefit people in terms of community safety and advocacy, it is also financially prudent. The community court program is not therapeutic as are the mental health and drug courts; it is a problem solving court. The community court program evaluates what is triggering the criminal behavior and pairs the individuals with services that are already available and already funded to help them change their behaviors. The object is to reduce recidivism rates.

Currently, in Justice Court, Las Vegas Township, roughly 70 percent of our docket is chronic, low-level offenders. Petty larceny, disorderly conduct, soliciting prostitution, misdemeanor battery offense which individually may not seem so terrible, but cumulatively have a profound impact on the surrounding community. These offenders come into the courts approximately every 90 to 120 days. They are arrested. They are housed in the detention center for two to three days. They are released because their records are not too bad. They return to the system and the cycle repeats. Ultimately, they are arrested for a felony

offense and become inmates of the State prison system. The question for this Committee is do you want to divert that expenditure and cap it, or do you want to allow that expenditure for a lifetime? This is a practical approach. There are other jurisdictions that have benefited from this approach. It is not a soft on crime approach. It is a practical approach to a community issue. While the \$1 million appropriation seems high, the program saves money.

I urge you to pass S.B. 349. There is already funding for many of the services.

SENATOR CEGAVSKE:

When I first saw this bill, I called those we have worked with in the mental health and drug courts in Clark County. They highly recommend this program. I know the issue is the appropriation. I have a few questions. What states have these programs? Should it come from the county rather than the State? Which court system would this be within?

JUDGE BENNETT-HARON:

We have already been conferring with the Center for Court Innovation, based in New York. It is essentially the research and development arm for the New York Unified State Court System. They created the community court concept. They are also the recipients of the Justice Department initiative to provide technical assistance to other jurisdictions. In our region, Seattle and San Francisco are the most newly developed community courts. There are also community courts in Dallas, Austin, Portland, Oregon and Hartford, Connecticut.

SENATOR CEGAVSKE:

Are they new courts?

JUDGE BENNETT-HARON:

The newest is in Seattle. The community court in San Francisco has been in operation for two years, after four years in formation. It is a nationwide concept. It is not in every municipal or county jurisdiction, but it is part of many state jurisdictions.

Regarding the financial obligations, we envision this starting as a pilot project under the Justice Court program. We would need State funding even with partnerships and fees.

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SENATOR CEGAVSKE:  
Would that funding be for set-up costs?

JUDGE BENNETT-HARON:  
It would be partly for set-up, but, unlike State courts, and district courts, your mental health courts and drug courts have already been allotted set-up fees. Community court deals with a collage of issues, not just mental health or addiction issues. Community court deals with literacy barriers that prevent people from being productive, and providing an array of services, many of which are State-mandated services people are not accessing. The community court concept is to gather representatives of these services in one location to collaborate with the court to develop a customized sentence that will enable a person to be productive. Additionally, early intervention in the sentence process is a key element of the concept. Currently, an offender who is sentenced in Justice Court does not return for another six months for an evaluation. The service providers are involved from the development of a sentence through implementation. The State funding is imperative to pay these service providers. We envision nonprofit collaboration.

SENATOR CEGAVSKE:  
Is the pilot program in Las Vegas?

JUDGE BENNETT-HARON:  
Yes, it is.

SENATOR CEGAVSKE:  
Is there space available in the Justice Court to handle the addition of this court?

JUDGE BENNETT-HARON:  
We would like to model our initial project after what is known as the Red Hook Community Court model in New York which is based in a public housing complex. The court goes into the community and utilizes an existing space that can be accessed by the residents of the community. It eliminates barriers.

SENATOR CEGAVSKE:  
It is a travelling court.

JUDGE BENNETT-HARON:  
Exactly.

SENATOR HORSFORD:

Clark County has been chosen for the pilot program because 70 percent of its caseload is this chronic low-level offender. Reno representatives testified in the Senate Committee on Judiciary that they have a modified version of this program. They have indicated they would like to be collaborators for expansion in the future.

The \$1 million is a fraction of what is needed to implement this program. The investment that comes first by the court and some of the court staff is funded. The State services are funded. However, there are additional costs such as housing and training expenses.

One suggestion for this funding is the money brought into the State General Fund through the conservation camps. Inmates in conservation camps are paid a wage, but the State makes more than the wage paid to the inmate. A portion of those dollars should be used to fund these types of intervention efforts so we can stop the cycle.

SENATOR CEGAVSKE:

How is that money being used now? Is federal money available?

SENATOR HORSFORD:

The State receives a full minimum wage from the Bureau of Land Management or private landowners. These funds go into the General Fund, and are not earmarked.

JUDGE BENNETT-HARON:

Currently, the court is not eligible for federal money because the community court does not yet exist. Many of the partners we envision working with are federal grantees, such as the Southern Nevada Regional Housing Authority. There are no federal funds available for court development.

SENATOR KIECKHEFER:

I like the concept. I think most people commit crimes for reasons of need. I am surprised at the scope of the chronic low-level offenses. What are the primary factors driving that? Is it mental health issues? Is it substance abuse issues? I know the Washoe County Mental Health Court accepts misdemeanor offenders while the Clark County Mental Health Court does not. Would a violation of the community service requirement be considered a violation of the sentence?

JUDGE BENNETT-HARON:

The factors that appear to be driving most of the chronic low-level offenders include literacy issues, undereducation, mental health issues, drug addiction, poverty and lack of options. So many 18- to 25-year olds are either unemployed or underemployed. They fit within the paradigm described earlier by Dr. Edelman in terms of dropping out of school at an early age, coming from areas of concentrated poverty where legitimate options for employment are not considered or even known about. It can make a significant difference to tell a person they have options. This is not to minimize mental health or drug issues, but asking why someone is getting high can lead to solutions to the problem. Even those living in public housing are not aware they can access services through the Housing Authority such as the Family Self-Sufficiency Program, job training or tuition matching program. They are stuck. The lack of options, real and perceived, is the common thread among this population.

One of the key ingredients in the community court is called guided community service. The cumulative effect of chronic petty larceny, disorderly conduct, soliciting prostitution, and misdemeanor battery on the mindset of the community is tremendous. Individually and as a group, they do not perceive their community to be valuable or safe. Community court works with the community to determine the projects that will benefit and engage the community while creating the opportunity for the offender to give back to the community. If offenders miss a day of community service they will probably not be kicked out of the program. However, each case turns on its own set of facts. Community service is a key part of the program. It is important the offenders understand that when they make a decision to break the law, even stealing a soda from the 7-Eleven, there are long-range effects. The offender must have a buy-in to the community and the community must see it so a healing can occur. The particular Zip codes referenced in Dr. Austin's report are the areas most impacted by this kind of behavior.

SENATOR KIECKHEFER:

Both undereducation and literacy require a long-term fix. What is the length of time someone would be in the community court system if the underlying cause of his or her criminal activity is undereducation? Would they have to attain a certain level of education before they graduate out of the program? Additionally, since this is a second chance court, is it reasonable to limit referrals to one time?

JUDGE BENNETT-HARON:

When I use the term undereducation, I am typically referring to people who do not have their General Educational Development (GED). Having a high school diploma is a gateway to opportunity, whether it is participation in an apprenticeship program or getting a job in one of the hotels. Many of these people did not have someone monitoring their enrollment and attendance in high school. Nor did they know how to start the process of obtaining a GED. I would not keep someone in the program until they achieved a college degree. It is about ensuring they have the tools to be productive. Community court is designed to assess the individual's level of productivity and give access to the tools needed to be a productive and sustaining member of the community. Regarding mental health issues, community court would be a springboard to the mental health courts if that is necessary. We do not want to duplicate services.

VICE CHAIR LESLIE:

I like the idea of linking the funding for the community court to the prison budget. With the focus on misdemeanors, why is Clark County not also being asked for funding? They will be recipients of the short-term savings in the jail days if you are able to impact the misdemeanor population.

JUDGE BENNETT-HARON:

The initial costs of staffing and development have been borne by Clark County. We have not asked them to share in the other start-up costs.

VICE CHAIR LESLIE:

I would like to see it get started. It takes a judge to make it work. I believe in this approach. When you reference services that are already funded in the community, I am concerned that State services may not be adequately funded. We need to be realistic about what is available.

SENATOR HORSFORD:

We met with Director of the Department of Health and Human Services, Michael J. Willden, regarding the service component and the Department of Employment, Training and Rehabilitation. Both Agencies offered, to the extent those resources are funded in the budget, to dedicate a portion of them in this one-stop shop facility of the community court pilot.

VICE CHAIR LESLIE:

It is important to hold the system accountable as well as the people in it.

ORRIN J. H. JOHNSON (Deputy Public Defender, Washoe County Public Defender): We have had a similar program in Washoe County that mirrors S.B. 349, but we do not have the diversion option to allow someone's conviction to be taken away. It is called the Court Compliance Program (CCP) and it is run by Judge Harold Albright. He started the program by keeping track of the individuals involved in the program with pen and paper. He has been creative in obtaining funding and it is far more robust. It has been incredibly successful. The recidivism rate for CCP is only 15 percent, even without the diversion option.

We are proposing an amendment to S.B. 349 that would allow any municipal or justice court in the State to create a similar program. Funding would not be allocated to any of these other programs, but the amendment grants authority to start a program if they can find funding to do so. It would allow us to add the diversion tool to CCP with no additional cost to the State. The cost savings associated with specialty courts can happen quickly.

One of the reasons CCP works well is it is held every Friday at Reno Justice Court. Local providers are available for evaluations and ongoing classes. Even though some of the participants are unable to pay for these services, the providers are able to offer reduced rates due to the volume of referrals. One of the tools that allows the defendants to pay their bills is a job referral system called Job Opportunities in Nevada (JOIN). Judge Albright is aggressive in ensuring those individuals under his jurisdiction go to JOIN.

Although the amendment is currently conceptual, I will provide a mock-up on Monday. Section 2 would be changed to include the following language: any local, municipal or justice court may establish a misdemeanor diversion program. The rest of the original language would be kept intact. Additionally, I would like language that allows local courts to transfer someone to a program in a proximate jurisdiction. It might add flexibility to establish proof of concept.

My experience with my clients is that CCP works well. Establishing more of these programs can be done inexpensively and effectively. Washoe County wants to be part of the process. We request this Committee to amend us into the bill.

VICE CHAIR LESLIE:

The line between specialty court and community court is blurred. I believe Judge Albright receives money from the specialty court fund to help support CCP.

MR. JOHNSON:

Judge Albright expressed his opinion that CCP would be more successful if the diversion option existed.

SENATOR KIECKHEFER:

If the recidivism rate for CCP is 15 percent, what is it for those not included in this type of program?

MR. JOHNSON:

That is not information I have specifically. I know it is significantly higher.

VICE CHAIR LESLIE:

Are the sponsors of the bill amenable to expanding the diversion option to other, similar, courts?

SENATOR HORSFORD:

I will defer to Judge Bennett-Haron.

JUDGE BENNETT-HARON:

I understand why Washoe County and any other jurisdiction would like to have the diversion option at their discretion. While some of the approaches of specialty courts overlap with community courts, they are distinct entities. Particularly, in terms of Clark County justice court, we want the program to last beyond the two-year pilot program. We want to be eligible for community court funding that may be available in the future. It is important we do not blur the lines between these two types of courts. I am not opposed to Washoe County expanding, but I want to make certain we do not overlap the concepts.

SENATOR HORSFORD:

I suggest Mr. Johnson and both judges meet with me to determine how to address the needs of all communities in ways that achieve the objectives of our unique regions.



VICE CHAIR LESLIE:

That makes sense. I would also like to be involved. And look at the criteria for community court.

MR. JOHNSON:

I will make an appointment with Senator Horsford's office on Monday. We are not trying to poach anyone's funding. We support the appropriation. Another thing we like about the bill is it creates sufficient outlines and guidelines while retaining flexibility within the bill.

MICHAEL L. DOUGLAS (Chief Justice, Nevada Supreme Court):

We support S.B. 349. We would also like to be at the table exploring the expansion of the diversion option. As co-chair of statewide specialty courts, I would like them to have a presence to evaluate the potential application to other programs. Any money we can save on the front side benefits us on the back side.

VICE CHAIR LESLIE:

We will close the hearing on S.B. 349 and I will relinquish the gavel to Chair Horsford.

CHAIR HORSFORD:

We will open the hearing on S.B. 75. I do not want to discuss the policy issues, but I do want to review the fiscal implications.

**SENATE BILL 75**: Establishes a program to provide private equity funding to businesses engaged in certain industries in this State. (BDR 31-523)

I will ask Senator Leslie to manage the meeting in Carson City.

KATE MARSHALL (State Treasurer, Office of the State Treasurer):

Senate Bill 75 creates a private equity investment fund, the Nevada Capital Investment Corporation (NCIC), in order to increase the amount of money the Permanent School Fund (PSF) earns and therefore provide additional funding for Nevada's kindergarten through Grade 12 (K-12) schools without raising taxes or cutting expenses. In our original presentation many supporters discussed how this bill would assist our State's efforts to achieve economic diversification and create and save jobs in Nevada. In addition, Dr. Keith Rheault, Nevada

Superintendent of Schools, testified in support of S.B. 75 as did the Nevada State Teachers Association.

The investment strategy I would like to adopt has been implemented in a number of other states which provides greater investment yields: more money for K-12 students. The statute as it is currently written requests a judicial determination to invest the funds in the way in which we seek. We have received that judicial determination.

One of the exhibits in front of you is draft regulations ([Exhibit E](#)). I realize you do not usually see this, but there is a structure I want you to be comfortable with and I want your input. The regulations call for a Board with appointments by the Governor and Legislative leadership. It is an attempt to create greater transparency and more reporting. This Board would hire a professional fund manager as currently required by statute that would seek to partner with capital investment firms and to select investments in new businesses in this State, or existing businesses that are expanding, or businesses that agree to come to the State of Nevada. It will create jobs; it will bring businesses here and expand businesses that are here. In addition, there is the fiduciary responsibility. The goal is to maximize the amount of money the fund makes.

The regulations include the creation of a Business Leadership Council to advise and mentor these businesses. There is an internship program to connect the Nevada System of Higher Education with these businesses.

SENATOR LESLIE:

Can you address the fiscal note more specifically?

MS. MARSHALL:

My Staff likes to take the most conservative approach. The fiscal impact statement outlines how much money would be lost if the entire \$50 million was moved from its current investments making a 2.5 percent return. It also assumes the new investment strategy would make no money. It is a worst case scenario.

SENATOR LESLIE:

Can you state the numbers for the record?

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MS. MARSHALL:  
It is about \$45,000.

SENATOR LESLIE:  
My information indicates it is \$45,325. Explain how that amount is derived.

MS. MARSHALL:  
Currently, that fund earns approximately 2.5 percent interest. If the \$50 million in that fund made no money, the lost income for FY 2012-2013 would be the \$45,325 you referenced.

SENATOR KIECKHEFER:  
Is this interest income earned by the PSF that is transferred to the Distributive School Account (DSA)?

MS. MARSHALL:  
That is correct.

SENATOR KIECKHEFER:  
Does creating the NCIC guarantee we would backfill the DSA if we lose these funds?

MS. MARSHALL:  
There is no liability created on the State for any loss in this fund. Last year, the entire PSF produced an interest yield of approximately \$8 million. The Department of Education estimates what that interest is likely to be and presents that information for appropriation. If the estimate is greater than the interest earned, there is no obligation to fund the difference.

SENATOR CEGAVSKE:  
Is the Board a paid body?

MS. MARSHALL:  
No, it is not.

SENATOR CEGAVSKE:  
Would this be a volunteer board?

MS. MARSHALL:

It is similar to the Board of Finance and other boards in the State currently. There is a per diem allowance. It is my experience this allowance is rarely used.

SENATOR CEGAVSKE:

Do we have a fiscal note on the per diem allowance?

MS. MARSHALL:

It is the same as the Board of Finance.

SENATOR CEGAVSKE:

I do not know what that is. I am concerned about the risk factor. Investing this money in a risky endeavor given the current state of the economy is difficult for me to support. Are there any safeguards or ways to recoup losses?

MS. MARSHALL:

The Governor, who supports this bill, had the same concerns. We produced an analysis for him. This analysis showed the returns of a diversified portfolio over the last five years. It is a good time to invest, as we would be buying low. Currently, we invest in a fixed income portfolio and we cannot keep up with inflation.

SENATOR CEGAVSKE:

I have questions and need to review the material before I can vote.

MS. MARSHALL:

If you do not have the analysis we provided to the Governor, we can provide it to you.

SENATOR KIECKHEFER:

Existing statute grants authority to diversify the portfolio as long as there is a judicial determination.

MS. MARSHALL:

The petition for judicial confirmation approves the diversification.

SENATOR LESLIE:

Please provide that letter to Staff.

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CHAIR HORSFORD:

This bill has been passed by the policy committee. I will entertain a motion.

SENATOR LESLIE MOVED TO DO PASS S.B. 75.

SENATOR DENIS SECONDED THE MOTION.

SENATOR CEGAVSKE:

I will abstain from voting until I feel comfortable.

SENATOR KIECKHEFER:

I moved this bill out of committee. I will continue to support it.

THE MOTION CARRIED. (SENATOR CEGAVSKE ABSTAINED FROM THE VOTE.)

\* \* \* \* \*

CHAIR HORSFORD:

We will close the hearing on S.B. 75 and open the hearing on S.B. 72.

**SENATE BILL 72 (1st Reprint)**: Revises provisions governing the assignment of certain criminal offenders to residential confinement. (BDR 16-120)

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

Senate Bill 72 should not be before this Committee. The Office of the Attorney General submitted S.B. 72 in response to comments made by the chair of the Assembly Committee on Judiciary, William Horne, during the interim. I have provided an article from the *Reno Gazette Journal* dated February 14, 2010, titled "DUI offenders released early despite state law" ([Exhibit F](#)). On page 2 of [Exhibit F](#), Mr. Horne stated, "it's time for lawmakers to review the issue and see if there is any way to make the attorney general's office force the corrections department to follow the law." At issue for Mr. Horne was whether the Legislature had previously determined that someone who kills or causes substantially bodily harm while driving drunk must spend at least two years in prison. No one questions the mandatory minimum of two years. The question is how the time is spent: in prison, or on house arrest.

CHAIR HORSFORD:

Mr. Munro, please confine your remarks to the fiscal aspects of this bill. This bill is in the Senate Committee on Finance because there is a fiscal impact that is not included in the *Executive Budget*.

MR. MUNRO:

In February 2010, the Nevada Department of Corrections (NDOC) was given clear notice they were not following the law. If there was an issue regarding how inmates were spending their time, they should have rectified that through the budget process in the caseload projections. They failed to do so. When notified of this oversight, NDOC chose to correct this error through a fiscal note rather than the budgeting process. This Committee should take up this issue when it closes the NDOC budget, not on S.B. 72.

CHAIR HORSFORD:

Can you provide more perspective? Is there a provision that was added to S.B. 72?

MR. MUNRO:

Every two years, NDOC makes projections on the number of inmates they expect to have over the upcoming biennium. This was existing law at the time, so they should have included that in their inmate projections. They failed to do so. They tried to correct that error by submitting a fiscal note to S.B. 72.

CHAIR HORSFORD:

Is the fiscal note \$1.3 million?

MR. KRMPOTIC:

As originally introduced, the fiscal note submitted by NDOC on S.B. 72 indicates a fiscal impact of approximately \$370,000 in FY 2011-2012 and approximately \$700,000 in FY 2012-2013. An amendment was processed on the bill which does not have a fiscal impact according to Staff. However, Staff suggests the Committee receive testimony from NDOC regarding that.

JAMES G. (GREG) COX (Director, Department of Corrections):

The first year cost is around \$32,000 and the second year cost is around \$76,000.

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JEFFREY MOHLENKAMP (Deputy Director, Support Services, Department of Corrections):

We submitted a revised fiscal note. The amount identified for FY 2011-2012 is \$32,197.68 and for FY 2012-2013 the amount is \$61,663.68. This was revised after the bill was amended. The initial numbers included the full costs of incarceration, whereas we revised it to include only incremental costs. This is a second revision that complies with the amendment to the bill.

CHAIR HORSFORD:

Why do we not have the revised fiscal note?

MR. MOHLENKAMP:

We submitted this to the Fiscal Division more than a week ago.

CHAIR HORSFORD:

Senate Bill 72 does not change the two year standard and therefore it is just an issue of NDOC's projections for the costs. These additional cost projections should have been submitted as a budget amendment rather than attaching a fiscal note to a policy bill that clarifies a point unrelated to costs.

MR. MUNRO:

That is the view of the Attorney General's Office.

CHAIR HORSFORD:

The NDOC staff should work with the Budget Office and Fiscal Staff to submit a budget amendment through the budget process rather than delay the review of the policy of S. B. 72. Is that agreeable to all parties?

MR. COX:

Yes, that is agreeable

MR. MUNRO:

Yes, very agreeable.

REX REED (Administrator, Offender Management Division, Department of Corrections):

The amendment to S.B. 72 no longer requires a two-year time frame, it requires the inmate to serve the full minimum sentence which can be between two and eight years.

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CHAIR HORSFORD:

I prefer the merits of the bill to be debated in the policy committee. The associated costs can be debated through the budget process.

We will close the hearing on S.B. 72 and open the hearing on S.B. 188.

[SENATE BILL 188 \(1st Reprint\)](#): Revises provisions relating to the work schedules of certain employees of the Department of Corrections. (BDR 23-699)

CHAIR HORSFORD:

I inherited this bill from Senator Settelmeyer. If there is no one in Carson City who is prepared to speak on S.B. 188, I can address it.

SENATOR LESLIE:

There were some people here earlier today.

CHAIR HORSFORD:

We will take the next bill and come back to this. We will open the hearing on S.B. 265.

[SENATE BILL 265 \(1st Reprint\)](#): Revises provisions governing sentencing of criminal offenders and determining eligibility of prisoners for parole. (BDR 14-311)

DAVID R. PARKS (Clark County Senatorial District No. 7):

The basis of S.B. 265 is the recommendation of the Advisory Commission on the Administration of Justice that Nevada's sentencing framework should aggregate consecutive sentences. The bill applies to sentences for crimes committed on or after July 1, 2012, excluding any sentences of life without the possibility of parole or death. Under this provision, inmates may make an irrevocable election to aggregate any remaining sentences for which parole has not previously been considered. Senate Bill 265 attempts to simplify parole hearings for inmates who are convicted of multiple crimes. The bill simplifies sentencing and helps reduce confusion or lack of confidence in the criminal justice system. Quite often, inmates do not understand how their consecutive sentences work. It may allow for shorter periods of incarceration and longer periods of community supervision. Aggregating sentences may improve



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rehabilitation efforts. Denial of parole can adversely impact a prisoner's attitude and behavior.

CHAIR HORSFORD:

There is no fiscal note. Why was this bill declared exempt?

SENATOR PARKS:

There is a possibility for a substantial savings, but it is impossible to estimate what those savings would be.

MR. KRMPOTIC:

Staff would note there is an unsolicited fiscal note submitted by NDOC for \$100,000 in FY 2011-2012 for programming. That is why Staff made the determination to exempt the bill.

CHAIR HORSFORD:

Can we get that information on the record from NDOC?

MR. COX:

The \$100,000 fiscal note associated with this bill is for the proprietary program for establishing credits in our computer information system.

MR. REED:

Our computer system manages sentences affected by a complex set of Nevada laws. For example, there are four different kinds of laws that affect sentencing. An inmate's sentence is managed by one of these laws depending upon when he entered the system. There are also secondary laws. Sentence management became so complex, NDOC uses a complex computer system to track everyone correctly.

MR. MOHLENKAMP:

The estimated cost to make the changes to the Nevada Offender Tracking Information System (NOTIS) required by S.B. 265 is \$100,000. The contractor charged between \$1,000 and \$1,200 a day for programming NOTIS. We estimate a significant amount of time will be required to make the changes.

CHAIR HORSFORD:

Who came up with the estimate?

MR. MOHLENKAMP:

The estimate was derived in consultation with the proprietary software owner. Their estimate was higher. We determined we have expertise on staff that would mitigate some of the costs.

CHAIR HORSFORD:

Do you agree that the implementation of S.B. 265 would result in cost savings?

MR. COX:

I believe it is possible to achieve cost savings, but I have not seen the projections from JFA & Associates.

CHAIR HORSFORD:

Can you work with the sponsor of the bill to determine that? If you save more than you spend, it should still be policy that makes sense.

SENATOR CEGAVSKE:

How would the parole board be affected by the implementation of S.B. 265?

MR. COX:

If Connie Bisbee is present, she could answer that question.

SENATOR LESLIE:

Unfortunately, she is not here.

CHAIR HORSFORD:

Include Ms. Bisbee in the conversations between the sponsor and NDOC.

SENATOR CEGAVSKE:

My concern is that the parole board would be subject to some issues they would be uncomfortable disclosing or discussing.

SENATOR PARKS:

The issues here were discussed in the Senate Committee on Judiciary. There was apprehension initially, but they were comfortable with the explanations made. Much of the discussion centered on the differences between concurrent or consecutive sentences. This bill relates to consecutive sentences. The judge has the discretion to determine whether multiple sentences are served concurrently or consecutively. Inmates sentenced to three to ten years for

two charges consecutively, would have a minimum of three years for each charge. If they were not granted parole for one charge, they would end up serving a much longer sentence. Quite often, an inmate who has not been in the system for a long period of time will not be paroled on the first charge at the first parole hearing.

CHAIR HORSFORD:

We will bring S.B. 265 back for another hearing. Please work with NDOC and Fiscal Staff to determine the fiscal impact as well as any projected savings.

TONJA BROWN:

Section 1, subsection 2 paragraph (a) allows the parole board to make subjective discretionary decisions without any oversight to keep an inmate serving a life with parole sentence in prison his entire life, effectively changing the judge and jury imposed sentence to a life without parole sentence. The only real change would be to make a 20-year maximum sentence on life with the possibility of parole. The parole board only acts after NDOC has determined an inmate is eligible for parole. The parole board then begins their subjective paper shuffling and denials, effectively stopping the exit plan set in place by the judge and jury and executed by NDOC. The actions of the parole board cost excessive taxpayer dollars and are not needed.

CHAIR HORSFORD:

These are policy issues. The Finance Committee does not have jurisdiction to decide policy.

MS. BROWN:

I have several proposed amendments.

CHAIR HORSFORD:

Have you submitted these amendments?

MS. BROWN:

I e-mailed them this morning.

CHAIR HORSFORD:

All committees have a policy that requires amendments to be submitted a day in advance. It is inappropriate for this Committee to take up an amendment that is just now being brought. If you submit the amendment we will review it. If it is a

policy amendment, however, it should have been brought to the Judiciary Committee. The Finance Committee does not have jurisdiction to decide policy. If this bill moves forward, the next appropriate place for these amendments would be in the Assembly Committee on Judiciary.

MS. BROWN:

The proposed amendment would save the taxpayers \$5 million to \$7 million.

CHAIR HORSFORD:

We appreciate your interest. We are just unable to take up policy issues in this Committee.

FLORENCE JONES:

There have been two Nevada Supreme Court decisions regarding aggregating consecutive sentences. It appears the language in S.B. 265 is in disagreement with case law that could lead to a quagmire of lawsuits from inmates. I support putting a definitive cap on all sentences that are not life without parole or the death sentence. We are asking our parole board to be the only exit mechanism. The effort in S.B. 265 to establish objective data is good, but it is established under section 14 which is controlled by the mandatory parole release. We will once again have a fiscal issue of people being kept in prison when they are eligible for parole but are repeatedly being denied. A 20-year cap on our sentencing structure would give everyone a specific timeline.

CHAIR HORSFORD:

We will close the hearing on S.B. 265.

I closed the hearing on S.B. 72 precipitously. In addition, there is someone who wishes to speak regarding the remarks made by Mrs. Edelman. We will open the hearing for public remarks on these two items.

MR. JOHNSON:

We want to note for the record that early intervention and treatment is much less expensive than incarceration. We disagree with the Attorney General's legal interpretation of this. If S.B. 72 passes, the State will spend more money for a worse outcome.

TAMMY M. RIGGS (Freeman & Riggs, L.L.P.):

My law firm represents one of the offenders who has been brought back to Nevada State Prison (NSP) in violation of Nevada law. I believe S.B. 72 belongs in the Finance Committee. The NDOC has been following Nevada law for the last 20 years in assigning offenders in the last year of their incarceration to the program created by A.B. 305 of the 66th Legislative Session, commonly referred to as the 305 program. It is only in the past year that they have received incorrect advice from the Attorney General's Office. If you decide to keep this bill in this Committee, your task is to determine if this legislation is worth between \$1 million and \$1.4 million each biennium it will add to NDOC's budget. The 305 program saves this money because offenders bear the cost burden of drug and alcohol treatment.

We believe the original fiscal note submitted is correct. The cost of incarcerating one individual at NSP is \$25,000 a year. The revised fiscal note claiming the cost to incarcerate 28 people for a year is \$32,000 is impossible. Why is NDOC using an incremental cost model for their fiscal note? The cost of treatment is not included in the \$1 million fiscal note. Since 2007, NDOC has not been treating people incarcerated for certain driving under the influence (DUI) offenses within the prison in that last year as required by NRS 209.427. The NDOC does not treat them because they are assigned to the residential confinement program which requires the inmate to pay for these services. The true costs will be much greater than \$1 million each biennium once these treatment costs are included.

Senate Bill 72 is not tough on DUI offenders because it does not reduce recidivism. It is more costly to Nevada citizens because S.B. 72 will result in more accidents because the offender is not receiving treatment. The residential confinement program has been shown to reduce recidivism and costs by many studies that have been presented to the Nevada Legislature. The way the 305 program is set up currently, the people who are responsible for these offenses pay for their own incarceration and treatment. Recidivism means more victims.

CHAIR HORSFORD:

The issue may be the process of how the numbers impact the policy and how it is brought forward. We will work with Fiscal Staff and the Budget Office to clear that up. It may be appropriate for it to have a fiscal note. It may be appropriate for it to have a budget amendment. That process must be reviewed further.

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DIANE FARKAS (Family to Family Connection):

I want to highlight Mrs. Edelman's use of the word investment in her testimony this morning. This year, the investment in the Family to Family Connection is \$145,000. For that investment, 6,000 services were provided. Thank you for the investment. I hope you continue to support children and families through our program.

CHAIR HORSFORD:

The hearing on S.B. 188 will be rescheduled. We will open the hearing on S.B. 443. I do not see any fiscal impact, but it is a budget bill.

**SENATE BILL 443**: Requires counties to pay the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-1202)

CHRIS PERRY (Acting Director, Department of Public Safety):

As introduced, S.B. 443 required the county to pay any expense of presentence or general sentence investigations and reports made by the Division of Parole and Probation. We are suggesting an amendment to S.B. 443 because the reference to NRS 176.133 to NRS 176.159, inclusive, would have included psychosexual evaluations. The reference should have been to NRS 176.135 to NRS 176.151, inclusive. The intent is to require the counties to pay the expense of presentence investigation reports only.

CHAIR HORSFORD:

Do you need something from the Finance Committee to make that happen?

MR. PERRY:

We need clarification on this bill. There are several outstanding issues, one of which is the payment from the counties to the State. There are other provisions we have been asked to provide by members of the Committee. One item is the expense breakdown of an adequate percentage of State versus county expenditures.

CHAIR HORSFORD:

When will that information be available?

MR. PERRY:

We have it ready for you right now.

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CHAIR HORSFORD:

Is it available in a format we can review? I do not see anything on NELIS.

MR. PERRY:

It was provided to the Legislative Counsel Bureau last week.

MR. KRMPOTIC:

Staff has been working with the Agency to identify an alternative to seeking reimbursement from the counties for the entire function of presentence investigations. The alternative basically looks at different State agencies such as NDOC, the Division of Parole and Probation and the Parole Board which benefit from the presentence report to determine an equitable distribution of the costs among the various State agencies and the counties. I have not seen the report yet. It is in the process of being analyzed. Once Staff has prepared further analysis it will be brought to the Committee.

CHAIR HORSFORD:

Are there any specific areas you want put on the record today?

MR. PERRY:

We will allow what we have submitted to stand.

LISA GIANOLI (Washoe County):

The fiscal notes in the system currently are those requested when the service was initially pushed down to the counties. My understanding is that the State wants to charge us for the service rather than have us take it over completely. In Washoe County that would be approximately \$2 million over the biennium, a cost we did not budget. We are not prepared to say what our response will be in this situation. We are evaluating the impact of all the other State services moved to the counties. Once the State budget closes, we will have 30 days to amend our budget. We are opposed to this bill.

ALEX ORTIZ (Clark County):

The fiscal impact to Clark County is \$4 million a year based on the original proposal. We are opposed to this bill. It is a statewide function that should remain with the State. We would like to suggest using Supreme Court administrative assessment fees as outlined in NRS 179.059 to fund this function. If these costs are shifted to the counties, Clark County will add this as

an additional line item in the District Court's budget which will result in more layoffs.

JEFFREY FONTAINE (Nevada Association of Counties):

We are opposed to S.B. 443. We are concerned about the cost shift. This is a State service. All counties will be impacted. The amounts will be smaller in the rural counties, but this cost will be absorbed in their general fund appropriations and will impact other services. The latest figure we were working from was \$10.6 million for all counties.

CHAIR HORSFORD:

There being no further business to come before the Committee, this meeting is adjourned at 1:16 p.m.

RESPECTFULLY SUBMITTED:

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Patricia O'Flinn,  
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	Marian Wright Edelman	CDF – Children in NV
	D	Mark Krmpotic	Closing List #6
SB 75	E	Treasurer Kate Marshall	Proposed Regulation – Creation of NV Capital Investment Corporation
SB 72	F	Keith Munro	Reno Gazette-Journal article of 2/14/10