

**98MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session  
May 25, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 8:30 a.m. on Wednesday, May 25, 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 Dean A. Rhoads  
Senator Barbara K. Cegavske  
Senator Ben Kieckhefer

**STAFF MEMBERS PRESENT:**

Brenda Erdoes, Legislative Counsel  
Rex Goodman, Principal Deputy Fiscal Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Lorne J. Malkiewich, Director, Legislative Counsel Bureau  
Heidi Sakelarios, Program Analyst  
Marian Williams, Committee Secretary

**OTHERS PRESENT:**

Diane J. Comeaux, Administrator, Division of Child and Family Services,  
Department of Health and Human Services  
Tom Morton, Director, Clark County Family Services  
Lisa Gianoli, Washoe County  
Alex Ortiz, Clark County  
Mary Walker, Carson City, Douglas County, Lyon County and Storey County  
Jim Richardson, Faculty Member, University of Nevada, Reno

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Renny Ashleman, Nevada Health Care Association  
Kimberlee Tarter, Deputy Director, Purchasing Division, Department of  
Administration

CHAIR HORSFORD:

We will begin with Senate Bill (S.B.) 447. Amendment 6788 ([Exhibit C](#)) has been proposed for this bill.

**SENATE BILL 447**: Makes various changes concerning the administration of child welfare services. (BDR 38-1218)

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

We worked with Assemblywoman Mastroluca and the counties on this amendment. We tried to come up with a bill that everyone could agree on. This bill clarifies the Division of Child and Family Services' (DCFS) child welfare oversight responsibilities. It allows the child welfare agencies to fund resources in their communities and it allows incentive dollars to encourage child welfare agencies to produce positive outcomes for children. The Division has ultimate responsibility for child welfare oversight and is committed to strengthening community partnerships in order to achieve safety, permanency and well-being of children through effective service delivery systems which can be measured through various quality assurance activities.

*Nevada Revised Statutes* (NRS) 432B currently requires DCFS to plan, coordinate and monitor the delivery of child welfare services throughout the State. Senate Bill 447 proposes language to more clearly define the Division's oversight responsibility as a model of quality assurance that focuses on the use of data collection, evaluation of services, reporting and the review and approval of an agency improvement plan (AIP). Language is included that would require that agencies that provide child welfare services to submit AIP to the Division in January of odd-numbered years. The AIP would cover a two-year period and would include specific performance targets to improve the safety, permanency and well-being outcomes for abused and neglected children in their county. It would also include specific strategies to achieve those performance targets. The AIP must also include a description of the process the agency uses to solicit public input, as well as a summary of the input received. Language is also included regarding a program evaluation process that would require that agencies which provide child welfare services submit data from the previous

fiscal year regarding the outcomes and performance indicators included in AIP. This report would be due on or before September 1 of each year. The DCFS would prepare a report on the progress of improving outcomes throughout the State and would submit this report to the Governor and the Legislature on or before November 1 of each year.

This bill also includes a proposal to implement an annual, capped block grant program to support child welfare services. Currently, NRS 353 states that the Division is required to submit a detailed, line item budget on behalf of Washoe and Clark Counties that outlines budgetary estimates for both revenues and expenditures. The block grant funding concept would decategorize the General Fund money appropriated for the purpose of child welfare integration. This would allow the counties to redirect child welfare funds to services not restricted by traditional definitions and funding limitations, but instead they would be driven by the needs of children and families in their communities. Additionally, the counties would be able to retain and reinvest any unspent General Fund money remaining at the end of the fiscal year (FY).

Finally, S.B. 447 proposes a fiscal incentive payment program designed to stimulate and support improvement in key areas identified in AIP. Language is included that would allow the counties to submit an initial application targeting defined improvement goals, resources to achieve those goals, establish baseline data and a stretch goal that they believe could be achieved in a one-year period. Once the initial application is approved, the counties will have access to the incentive dollars. On or before September 1 of the following year, the counties would submit a final application that would include the actual performance data achieved in the prior year. The performance data achieved will be used as the basis for the final incentive payment. If the county does not meet its targeted outcomes, the incentive award amount would be adjusted on the applicable percentage of performance level achieved and the subsequent fiscal year's incentive award payment would be adjusted.

As I indicated earlier, as a result of a series of collaborative meetings with State and county representatives, as well as Fiscal Staff and Assemblywoman Mastroluca, an amendment has been submitted. Currently, NRS 432B.180 requires DCFS to evaluate all child welfare services provided throughout the State to require corrective action in the event an agency that provides child welfare services is not meeting those requirements.

Section 2, subsection 1 through 3 of the bill, includes new language intended to clarify the Division's process when requiring corrective action by the agency which provides child welfare services. Subsections 4 and 5 ensures that all provisions relating to corrective action are included in one section. The language included in these two subsections remains unchanged.

Section 3 of the bill describes the requirements for an agency to submit AIP and includes an annual requirement to submit data demonstrating the progress they have made toward meeting the specific performance targets set in AIP. In the original draft, AIP was tied to the request for the block grant. As I indicated earlier, AIP is an integral part of the quality assurance model being proposed by DCFS in the change of the oversight responsibility. This is separate and distinct from the block grant. The amendment to subsection 3 removes the block grant language.

Sections 4 through 6 outline the award of an incentive payment to agencies that provide child welfare services in counties whose population is 100,000 or more. The award of the incentive payment is broken down in a three-step process. On or before May 1 of each year, an agency which provides child welfare services may submit an initial application for payment, outlining the goals they agree to achieve by June 30 of the following year. Each year following the award, the agency must include a percentage estimate of the goal established in prior applications that will be achieved by June 30 in their next May application. This estimate will then be used to determine the initial amount awarded for the current fiscal year. On or before September 1, the agency must submit a report on whether the goal established was achieved and, if not, the percentage of the goal that was achieved by June 30 of the fiscal year in which the incentive payment was awarded. If the goal achieved is higher or lower than the goal estimated, an adjustment to the current award would be made.

In the original draft, the incentive payment program was proposed to begin at the beginning of FY 2011-2012 and the percentage awarded was to start at 40 percent if the agency estimated that it would achieve not less than 75 percent of the goal. The amendment to section 6, as well as the addition of section 8.5, would phase in the incentive payment award program over a three-year period and would make the percentage awarded proportional to the percentage points achieved. The first year, FY 2012-2013, the amount of the incentive payment would be equal to 100 percent to the incentive award. In the second year, FY 2013-2014, the amount of the incentive award would be equal

to one and one-half times the percentage point of the completed goal. For each year thereafter, the amount of the incentive payment would be proportionate to the amount of the percentage points completed toward the goal.

Finally, sections 7.5 and 7.7 of the amendment have been added to clearly define the capped block grant for child welfare services. The block grant is divided into two allocations. A base allocation for each year of the biennium would be based on the total General Fund appropriated in the previous biennium. A second allocation would include the estimated cost attributed to the projected caseload growth for the adoption subsidy program. The base allocation may be used to deliver child welfare services without category restriction. Additionally, any unspent General Fund allocations remaining at the end of the year from the base allocation can be retained by the counties and reinvested for the delivery of child welfare services. Section 7.5, subsection 3 requires that the county meet a minimum maintenance of effort (MOE). Specifically, the counties must maintain the amount of local funds spent for child welfare and child protective services at a level equal to or greater than the amount appropriated for FY 2010-2011. If the agency fails to expend the level of local funding, the State will withhold funding equal to the reduction of those local funds.

SENATOR RHOADS:

This bill and its amendment refer mainly to counties with over 100,000 residents. Who take care of the rural counties?

MS. COMEAUX:

The DCFS takes care of the rural counties. The budgetary process for those counties would continue to be the same as all other State agencies.

CHAIR HORSFORD:

Is there a performance requirement for the Division to provide services to the rural counties as there is for the larger counties?

MS. COMEAUX:

The rural counties are not included in the block grant, however, they are included in the requirement to submit AIP every two years, similar to the way the larger counties are required. This is another reason why we have completely separated receiving the block grant from submitting AIP.

CHAIR HORSFORD:

But AIP is not the performance incentive that is covered in the block grant. Senator Rhoads has worked with Assemblywoman Smith on performance-based budgeting for State agencies. Why is it appropriate for Clark and Washoe Counties to be required to meet performance requirements to receive their full allocation, but not have that same requirement for DCFS that provides these services to the rural counties?

Ms. COMEAUX:

The block grant is separate from the incentive payment. The counties will get the block grant regardless and the incentive payment is over and above that amount. There is not an incentive payment built into the rural regions' budget.

CHAIR HORSFORD:

The DCFS provides services to the rural counties.

Ms. COMEAUX:

Correct.

CHAIR HORSFORD:

Regardless of how well the Division performs, it will continue to get funding.

Ms. COMEAUX:

That is correct.

CHAIR HORSFORD:

However, if Clark and Washoe Counties fail to perform, they only get the block grant allocation. They only get the incentive payment if they perform.

Ms. COMEAUX:

That is correct.

CHAIR HORSFORD:

Do you see the inequity between how the Division is being treated as apposed to how the counties are being treated?

Ms. COMEAUX:

I understand what you are indicating, but I do not know how you would do that for a State agency in the existing budget process.

CHAIR HORSFORD:

Senator Rhoads and Assemblywoman Smith have worked on a bill to identify this problem. I think this is the shortcoming of this approach.

SENATOR KIECKHEFER:

Our original concern with this proposal was that we were going to hold back a portion of the base payment, while also asking the counties to perform in order to get their full allotment. From what I understand, this has changed and the block grant will be 100 percent of their allocation for the upcoming biennium. Is that correct?

Ms. COMEAUX:

That is correct.

SENATOR KIECKHEFER:

How does this work in the following biennium? Do we subsequently start holding back part of the base payment? Where does the additional incentive payment come from?

Ms. COMEAUX:

In the budget, there is an allocation for the block grant and a separate allocation for the incentive payment. The counties will get the block grant, regardless of performance. The counties will submit an application to receive the incentive payment. In the first year of the biennium, the counties will receive 100 percent. In the second year of the biennium, the payment will be based on their performance during the first year of the biennium. Section 8.5, subsection 6 indicates that in the first year, FY 2012-2013, the counties will get 100 percent of their allocation, regardless of performance. In the next fiscal year, they will get one and one-half of the amount that they achieve.

SENATOR KIECKHEFER:

Where does the money come from?

Ms. COMEAUX:

It is a General Fund appropriation.

SENATOR KIECKHEFER:

With this system in place, will we base our budget on the assumption that the counties will meet their goals?

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Ms. COMEAUX:  
Yes.

SENATOR KIECKHEFER:  
We will assume that they will meet 100 percent of their goals and budget accordingly. If the counties do not meet their goals, however, and there is money left over, will it revert to the General Fund?

Ms. COMEAUX:  
Yes, the money will revert.

SENATOR KIECKHEFER:  
Would an incentive payment be included in the Base Budget for the next biennium?

Ms. COMEAUX:  
Yes.

SENATOR KIECKHEFER:  
Is there anywhere else that we require MOE by the counties?

Ms. COMEAUX:  
Not that I am aware of. The State felt very strongly about requiring MOE. We did take a look at spending patterns over the last several years. If the State is going to continue to make a commitment, which statute requires, and we are committing to allowing the counties to keep money at the end of the fiscal year to reinvest, the State felt strongly that the counties needed to make a similar effort.

SENATOR KIECKHEFER:  
Under this process, we are budgeting for 100 percent of the incentive payments to be allocated and those incentive payments get rolled into the base payment in the budget process. Is this a mechanism that is going to cause our total cost to grow significantly each biennium?

Ms. COMEAUX:  
I do not believe that the incentive payment and/or the block grant base allocation are going to change year-to-year in the Base Budget. There may be some enhancements, but it will not change in the Base Budget. You will also



see an allocation for adoption subsidy growth. I expect that this allocation will grow over time and we specifically separated it out because we did not want to disincentivize adoptions.

SENATOR LESLIE:

I think we are forgetting the history of child welfare integration and the fact that Washoe and Clark Counties have taken on the burden of part of the system. They have put up their own money, whereas the rural counties have not contributed to child welfare. Is that correct?

Ms. COMEAUX:

That is correct.

SENATOR LESLIE:

We must remember that history. Also, we closed this budget mandating that the rural counties start paying the State or choose to take over child welfare.

Ms. COMEAUX:

That is correct. We have a bill regarding this issue.

SENATOR LESLIE:

This system is going to change and for the first time the rural counties are going to participate in funding, although not at the same level as the larger counties. In Washoe County, the voters voted to assess themselves a specific amount of money to fund child welfare because they were not happy with the level of service that these abused and neglected children were receiving.

Ms. COMEAUX:

That is correct.

SENATOR LESLIE:

I want the record to be clear about this history. Having said that, I think you have done a good job with the amendment. I think this is much better than where we started. Are Clark and Washoe Counties in agreement with this amendment?

Ms. COMEAUX:

To the best of my knowledge, yes they are. When we agreed to submit the amendment, we had all agreed upon it.

SENATOR LESLIE:

If the rural counties refuse to pay, even though we will pass the Governor's recommendation and assess them a charge for child welfare services, what will happen to these children?

Ms. COMEAUX:

The DCFS still has the responsibility to provide that service. If the counties refuse to pay, and it is statutorily authorized, then the Division would work with the Controller's Office on collecting the assessment.

CHAIR HORSFORD:

How much is budgeted for the rural child welfare services provided by the State?

Ms. COMEAUX:

I do not have that budget with me. I do not know the exact number.

CHAIR HORSFORD:

Why would the performance standards not apply to the rural counties? Is it because they do not receive an incentive?

Ms. COMEAUX:

You are correct, the rural counties do not receive an incentive payment.

CHAIR HORSFORD:

Could Clark and Washoe Counties lose money from their Base Budgets if they fail to perform?

Ms. COMEAUX:

We identify the block grant as their base funding, so the incentive payments go over and above that base.

CHAIR HORSFORD:

How was the base determined for Clark and Washoe Counties? Also, how was the base determined for the rural funding?

Ms. COMEAUX:

The \$50 million block grant was based on the total General Fund appropriation from the previous biennia.

CHAIR HORSFORD:

The block grant funding is now flat. Will it not change?

MS. COMEAUX:

It will not change, except for the adoption subsidy. If you look at the county budgets, the adoption subsidy is the portion of the budget that continues to grow. We have fewer children coming into foster care, so we are seeing declining costs. This is why we separated out the adoption subsidy. We are seeing large growth in this area, around 9 percent to 10 percent every year. The subsidy is separate and the State will continue to fund the growth in order not to disincentivize adoptions.

CHAIR HORSFORD:

What about kinship care? We cut the kinship care rate under the Governor's recommended budget.

MS. COMEAUX:

That is in the Division of Welfare and Supportive Services budget.

CHAIR HORSFORD:

Yes, but it is all tied together. If kinship care is not provided, they will end up in your system. I look at it all as one thing. I know other people do not.

I do not understand why DCFS receives a set budget to serve rural counties and does not have performance standards, yet Clark and Washoe Counties must meet performance standards to get incentive payments. I am struggling with this inconsistency in how we treat all 17 counties.

Ms. Comeaux, we need you to work with Fiscal Staff to figure out a solution.

TOM MORTON (Director, Clark County Family Services):

We had several meetings with DCFS and Washoe County to discuss the nature of this amendment. We came to an agreement to phase in implementation of the incentive portion of the block grant. This is consistent with the amendment. We support the amendment.

We would like to express, however, certain reservations. If funding had remained as it has been in the past, our General Fund allocation would have been approximately \$42 million. The base in the block grant is \$37.5 million for

Clark County. This is a reduction of nearly \$5 million from what we would have received. The incentive portion of the block grant for Clark County is approximately \$5.2 million. We do not consider the incentive portion as base funding. The Department of Finance in Clark County has taken the position that going forward, due to the contingency nature of the incentive funds, we will not be able to consider that money as part of the base funding beyond the next two years. This puts us in a position of treating the block grant as the base funding which would potentially mean that we would have to reduce our annual operating budget by about \$5 million. This could mean laying off people and attempting to hire them in temporary, nonpermanent positions due to the contingent nature of the funding.

We are prepared to go forward with the amendment and look at the next two years to determine what kind of experience we have. I just want to make it known that our Base Budget, in terms of the block grant, has been reduced from \$42 million to \$37.5 million.

CHAIR HORSFORD:

If we modify this bill to suspend or delay the incentive and incorporate the incentive into the base block grant, would you be able to use that money to provide services under the DCFS program?

MR. MORTON:

Yes, the County would then consider the incentive portion as part of the base in the block grant because the block grant would then be more than \$42 million which would be equivalent to our current appropriation from the General Fund.

CHAIR HORSFORD:

Would you still be required to meet the standards within the federal AIP? Is AIP based on the federal requirements that the State and counties must meet together?

MR. MORTON:

That is correct. The provisions in the federal AIP would still apply to us and any penalties that would accrue to the State would be proportionately passed down to Clark County. Clark County would then have to pay as a result of nonperformance across the State, though not specific to Clark County.

CHAIR HORSFORD:

You would have to meet the federal AIP. That has nothing to do with the incentive.

MR. MORTON:

We would have to meet the federally approved AIP.

CHAIR HORSFORD:

I do not think there is anything wrong with the incentive approach if it were adding money, but the block grant is cutting money and saying that you must meet your performance standard in order to get the incentive, which you cannot even use to provide services. This is counterproductive to achieving success.

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

In working on this with the counties and with DCFS, the amount of the block grant is not included in the bill. Going forward, if economic conditions improve for the next biennium, the Legislature could decide to increase the amount of the block grant up to the current amount of the block grant plus the incentive. As Mr. Morton indicated, in the future the amount of the block grant could be the entire amount that is currently projected to be needed and then the incentive could be added on top of that, if that were the desire of the Legislature.

CHAIR HORSFORD:

We could just take the incentive away or delay it, put whatever money we were planning to put toward the incentive into the block grant for the two counties, the improvement plan for federal compliance would have to be met, and then all 17 counties would be treated the same over the next two years. Is that correct?

MR. MORTON:

That is correct.

LISA GIANOLI (Washoe County):

We have been working with DCFS, as mentioned, and we have worked through this with our Director. We feel that we can deal with this as it is currently written. I also agree that if you change it the way you just mentioned, it will give us a bit more certainty. We do feel comfortable that we can meet the criteria with the incentive plan as it is currently laid out.

CHAIR HORSFORD:

What services would not be provided without the incentive shift being put into the block grant?

MS. GIANOLI:

I do not know specifically. Our Director has indicated that we will not need to necessarily change how services are provided, but we will need to continue to successfully leverage federal dollars. We believe we can maintain our services.

MR. MORTON:

If you look at the State portion of our budget, about one-third of this budget goes toward personnel, one-third goes toward foster care maintenance payments and one-third goes toward adoption subsidies. This represents over \$5 million in General Fund appropriation. If you roll in the federal funding we receive, it totals about \$8 million. If we take \$8 million out of our budget, it would come out of personnel or foster care payments and adoption subsidies. The impact of a straight reduction would be the lessening of foster care payments and adoption subsidies or a large cut in personnel.

CHAIR HORSFORD:

But the adoption subsidy is separate and apart from this funding. The adoption subsidy is not included in the incentive payment.

MR. MORTON:

The base adoption subsidy is included in the incentive payment. They have added for additional adoption subsidy growth. Only the growth is outside of the Base Budget. The current Base Budget for adoption subsidy payments is part of the block grant.

CHAIR HORSFORD:

But it is not a part of the incentive. We are discussing the incentive payment, and, if it was moved to the block grant, what impact it would have on the services you provide.

MR. MORTON:

If I have to treat the incentive payment as contingent funding, as the Clark County Department of Finance has advised, I would have to take about \$8 million out of my \$21 million personnel budget. This would mean increasing caseloads to about 50 children per worker.

CHAIR HORSFORD:

Increasing caseloads to 50 children per worker would be the impact in Clark County. That is what I wanted to know.

Ms. COMEAUX:

If you look at the amendment, section 7.7 states that there would be a separate categorical grant for each agency for the adoption assistance program. The entire adoption assistance program is outside of the block grant and is not part of the incentive payment.

I would also like to clarify another point. As we were working through the block grant process, we asked ourselves what cuts would need to be made to the Clark County budget. To answer this question, we looked at the difference between what the Governor's budget would have been without the block grant and what the block grant incentive program is. In the budget closing, we made adjustments to several of the revenues in order to ensure that Clark County had higher Title XX and Title IV-B of the Social Security Act revenues included in their budget. We also looked at caseloads and how the budget figures compared to actual caseload. With these numbers, we did some projections and found that the specialized foster care caseloads are considerably lower than what was originally projected. This generated a General Fund savings of \$1.9 million in the first year and \$1.8 million in the second year of the biennium. There is also a savings with the substitute foster care caseloads of about \$1 million in the first year and \$795,000 in the second year of the biennium.

As the budget is built with the block grant, we believe that the county will have this money to put toward services.

CHAIR HORSFORD:

I have to think about the average caseworker who I talk to and not the system. The savings should be used to reduce the already high caseload experienced in DCFS. One of the reasons we do not have effective family preservation and restoration efforts is because we already have extremely high caseloads. If there are savings, I would hope that the savings would go to reduce that rate and not toward another function. We have had a system that has been inadequately funded for a long time and now we are going to take our savings out of the system and put it toward an incentive payment. I do not understand how we do that at a time when the demand on services is great. This does not treat all 17 counties equally.

MS. COMEAUX:  
I understand.

MR. GOODMAN:

The concern regarding taking current funding and putting it toward an incentive plan was discussed in the meetings between DCFS and the counties. The compromise reached in these meetings is described in section 8.5 of the amendment which delays the implementation of the incentive plan. The funding is guaranteed for the next two years. The incentive plan is guaranteed and will not be reduced because of performance over the next two years. In the next biennium, if the fiscal conditions improve and the Legislature is able to allocate more money for the base amount and the incentive plan, the language is in place for this to happen. Alternatively, the Legislature can continue with this language which would keep the incentive plan in abeyance and guarantee funding. There should not be a concern that this funding could not be used for caseworkers or child welfare services in this biennium because the funding is guaranteed.

CHAIR HORSFORD:

Where is the Clark County Finance Department on this? Would section 8.5 allow you to book this as revenue under the block grant?

MR. MORTON:

Yes, our Finance Department has agreed to consider the incentive money as part of our base for the next biennium. This is why we can agree with the amendment, but we still have long-term concerns.

CHAIR HORSFORD:

We will close the hearing on S.B. 447 and open the hearing on S.B. 448.

**SENATE BILL 448**: Makes various changes concerning the regulation of mental health services provided to children in this State. (BDR 39-1217)

MS. COMEAUX:

This bill was heard in the Senate Committee on Health and Human Services. Following that hearing, DCFS asked that the Committee take no further action on S.B. 448. I am not prepared to offer testimony because we asked that this bill be withdrawn.



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MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):  
We just needed to get this on the record.

SENATOR LESLIE MOVED TO INDEFINITELY POSTPONE S.B. 448.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:  
We will open the hearing on S.B. 476.

SENATE BILL 476: Makes various changes concerning the juvenile justice system. (BDR 5-1216)

MS. COMEAUX:

Based on the way the budget was closed, we have prepared Amendment 7141 ([Exhibit D](#)) to S.B. 476. Section 1 of the bill allows DCFS to assess the counties for activities of its Youth Parole Bureau. This assessment will be equal to the budgeted amount that the Legislature approved for the operation of Youth Parole, divided by the total number of pupils enrolled in Grades 7-12 in State public schools. Each county would pay this in quarterly installments which would be due the first day of the month in the calendar quarter. The remainder of the bill, with the exception of section 5, has been deleted.

Section 5 regards reimbursement for county detentions. The budget was closed without the State reimbursing county detention costs. This bill changes the language that indicates that the State "must" pay all actual, reasonable and necessary costs. The language has changed to "may" pay those costs, to the extent that money is available for that purpose.

SENATOR LESLIE:

Does section 5 deal with youth who are placed in a local detention facility before they are placed in a State facility?

MS. COMEAUX:

No, this deals with youth who have a parole revocation. The judge has the option of placing the youth at a State facility or at a local detention facility.

CHAIR LESLIE:

Are we saying that we might pay, but the locals should not count on payment?

MS. COMEAUX:

When the budget was closed, these costs were not included in DCFS's budget. This language allows DCFS the ability and authority to pay if the funding is provided during the next biennium.

MS. GIANOLI:

We would like language included in this bill, and others like it, that would give us some latitude to work with DCFS to see if there are situations where we could provide these services in a more appropriate and less expensive manner for Washoe County. We will pay on a monthly basis, but we would like to work with them and see if there are things that we can take over. We can leverage federal money and other things to get the best benefit for the children who are being served.

CHAIR HORSFORD:

Can you provide some language to that effect for our consideration?

MS. GIANOLI:

I have provided that language to the Assembly Committee on Ways and Means. I have worked with Rick Combs, Assembly Fiscal Analyst, and Michael Willden, Director of the Department of Health and Human Services. We can work together to author some language that we all find acceptable.

SENATOR LESLIE:

I would like to see that language. As you said, this may be applicable to a number of bills that we have before us. We closed the budget yesterday by dumping one-half of the cost onto the counties for youth parole. Can you confirm how much this will cost Washoe County?

MS. GIANOLI:

The annual cost is around \$950,000, so it would be one-half of that. The next year of the biennium it is slightly more than that. We are in the \$475,000 range for each year of the biennium.

SENATOR LESLIE:

How are you going to pay for that?

MS. GIANOLI:

We are in the process of looking at all of this. We have had our departments working on budget cuts as large as 25 percent, based on worst-case scenario. After all of those cuts are considered, we will have to take the ones that cause the least impact to our citizens.

SENATOR LESLIE:

As I understand your testimony, you will be looking to see if you can do this more efficiently and you will be considering taking over youth parole for the children in Washoe County.

MS. GIANOLI:

Correct, but it will take some time to do that.

ALEX ORTIZ (Clark County):

We concur with some of the comments made by Washoe County in that we would like to have some flexibility in these bills. As you know, we are also taking on children's mental health development services and we would like to have some flexibility.

CHAIR HORSFORD:

We will be expecting some language regarding flexibility.

We will close the hearing on S.B. 476 and open the hearing on S.B. 480.

[SENATE BILL 480](#): Provides for the collection of costs for providing child protective services in certain less populated counties. (BDR 38-1219)

MS. COMEAUX:

The DCFS Rural Child Welfare Program supports child protective services and child welfare services throughout rural Nevada. Among the services are

prevention, investigation and treatment for abused and neglected children. This bill proposes an assessment to the rural counties for the cost of child protective services currently funded with General Fund appropriations. Requiring rural counties to fund these services directly is consistent with the current practice in Washoe and Clark Counties. This bill would authorize DCFS to assess each county, with the exception of Washoe and Clark, for the cost of protective services as defined in NRS 432B.044. The DCFS is proposing that the assessment be determined based on the percentage of the population of persons under the age of 18. This bill will assist in reducing the General Fund burdens for the provision of rural child welfare services in counties whose population is less than 100,000, while ensuring the children's safety and the protection of children remain paramount.

CHAIR HORSFORD:

Will the full amount of what is appropriated to DCFS be recouped through the rural assessment?

Ms. COMEAUX:

We have a process in place. Rural Child Welfare handles both child protective services and child welfare services, both of which are included in the full budget. We have a random moment time study that captures the amount of time that they spend specifically on child protective services. We based our determinations on this study. Included in the budget is \$2.3 million in the first year of the biennium and \$2.4 million in the second year of the biennium to cover those costs. This is the General Fund share.

CHAIR HORSFORD:

What does that cover?

Ms. COMEAUX:

It covers the cost for child protective services.

CHAIR HORSFORD:

Will that amount be fully assessed?

Ms. COMEAUX:

Yes, it will be fully assessed to the counties.

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CHAIR HORSFORD:

Is the welfare portion assessed?

Ms. COMEAUX:

No, it is not assessed. This is consistent with Washoe and Clark Counties. The State pays for the child welfare portion.

SENATOR LESLIE:

With the passage of this bill, rural Nevada will be paying for child protective services for the first time, which Clark and Washoe County have been paying for since integration. Correct?

Ms. COMEAUX:

That is correct.

SENATOR LESLIE:

If the counties cannot pay, or they refuse to pay, we will enact provisions to collect payment. My main concern is that we have child protective services throughout the State and that children are not being left unprotected.

SENATOR KIECKHEFER:

Why is the population calculation based on overall population and not actual caseload? If you are able to track how much each county is to be assessed based on the work of your caseworkers, why are we not allocating it that way?

Ms. COMEAUX:

In our random moment time study, we do not track based upon county, but on the amount of activity we have. This is required for our federal cost-allocation plan. We do know how many investigations occur in each county and we had a discussion regarding setting the assessment based on those numbers. However, we did not want to disincentivize reports of abuse or neglect in those counties. We wanted to base the assessment on population numbers from across the State. This way, counties will know each year what the allocation will be and it will not fluctuate every year based on the number of reports.

SENATOR LESLIE:

We discussed that in detail at the Joint Subcommittee on Human Services and Capital Improvements hearing. We do not want to disincentivize people from

reporting abuse or neglect. Has there been any indication from any of the rural counties that they would rather take over this service than pay the State?

Ms. COMEAUX:

I have not heard anything like that. We have heard from some of the smaller counties that they are concerned that they would not be able to take over this particular activity, certainly not within the next two years.

SENATOR LESLIE:

I am just wondering if we need to add language that will allow for counties to take over this service if they so desire. Would the current language allow for that?

Ms. COMEAUX:

No, the current language does not allow counties to take over this service. You would need new language. We also ask that if you add that type of language, that it is based upon the approval of the Interim Finance Committee because we need approval if we are going to need to initiate layoffs.

SENATOR LESLIE:

No one has come forward to me to say that a particular county is looking to do this, but two years is a long time.

Ms. COMEAUX:

I am not certain what language in NRS 432 would need to be added or changed in order to allow the counties to take over this service.

MARY WALKER (Carson City, Douglas County, Lyon County and Storey County):  
We rise in opposition to S.B. 480. We are not against taking over the services, but the timing is poor. When the Governor's original budget came out, there were 13 specific services that were being shifted to the counties. Some of those services have been provided by the State for over 50 years. All of a sudden, within a period of a few months, we have a tsunami of services coming to the rurals.

We spent months looking at these services in order to determine what we know we can do. We do not want to harm the services as we take them over. We have offered to take over community health nursing and consumer health, along

with several other services. We have also offered to pay for some of the Indigent Accident Fund supplemental funds and the other indigent funds.

Our problem with this bill is that we do not know how to do this. We do not have the skill or expertise to take this on. We would appreciate adding language that would allow us to take this service on in the future. We may also try some regionalization efforts. We have a plan to take on new services every six months and we know we can accomplish that goal. If we are going to do something else, however, it is going to harm us and it is going to result in layoffs.

We are trying to take on other services at the same time. We would like to establish a public health base in our region which could be a model for some of the other counties.

We would have to pay for this with layoffs. There is no other option.

SENATOR LESLIE:

Do you want language added so this is more flexible?

MS. WALKER:

Yes, we do. Just in case.

SENATOR LESLIE:

We need to work together to ensure that children are protected. I agree with you that we should not dump this responsibility on the counties, but unfortunately that is the Governor's recommendation. Please work with Washoe and Clark Counties to ensure that the language they propose will work for your counties as well. Also, if there are other statutes that need to be changed, please look into that. Child welfare is more complicated than some other services.

CHAIR HORSFORD:

Please provide that language as soon as possible.

MS. WALKER:

Yes, we will get you that language.

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CHAIR HORSFORD:

We will close the hearing on S.B. 480 and open the hearing on S.B. 499.

[SENATE BILL 499](#): Repeals the provisions creating the Fund for the National Judicial College and the Fund for the National College of Juvenile and Family Law. (BDR 1-1284)

MR. KRMPOTIC:

This legislation was requested by the Committee to implement a decision made by the money committees, regarding the Judicial College's budgets and how they were closed. In closing the Judicial College's budgets, the money committees recognized that the fund for the National Judicial College and the fund for the National Judicial College of Juvenile and Family Law no longer have any funding and are no longer used. Therefore, the money committees recognized that these funds could be repealed in statute which is what this bill does. This act is effective upon passage and approval.

## FINANCE AND ADMINISTRATION

### ADMINISTRATION

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(Volume I)  
Budget Account 101-1302

SENATOR KIECKHEFER:

Did we appropriate money to these accounts? Are we now going to be appropriating money straight from the General Fund?

MR. KRMPOTIC:

The budget account itself still exists and the Legislature did appropriate General Fund money to that account, as it has in the past. These were funds that were set up as special revenue funds. I believe these funds received donations at one time.

SENATOR LESLIE:

Is the National College of Juvenile and Family Law now the National Council of Judicial and Family Court Judges? Are they the same thing?



MR. KRMPOTIC:

I do not know if they are the same thing. I will need to get back to you on that.

JIM RICHARDSON (Faculty Member, University of Nevada, Reno):

I work with the Judicial College and the National Council of Juvenile and Family Court judges. Several years ago, after trying for several Sessions to put something in the budget for these two institutions, Ex-Senator William J. Raggio set up these trust funds. These two organizations bring thousands of people to Reno every year and those visitors infuse a lot of money into the local economy. When these funds were established, there was extra money in the General Fund and some of that money was set aside to be given to the Colleges with certain caps that are in statute. During Governor Bob Miller's administration, the money was taken back due to a budget shortfall, but an allocation was put in place for each year of the biennium. This has continued ever since, but the old language for the trust funds was never taken out of statute. This bill removes that language.

Regrettably, the decision was made not to give these institutions very much money in this budget. But, they are still a part of the budget and we are happy about that. In the future, we hope that more funding can go toward the Colleges. The funding is used to send representatives to Washington, D.C. and those representatives bring back a substantial amount of money to the State.

SENATOR LESLIE MOVED TO DO PASS S.B. 499.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR HORSFORD:

We will open the hearing on Assembly Bill (A.B.) 490.

[ASSEMBLY BILL 490](#): Makes an appropriation to the Legislative Fund for major computer projects for the Legislative Counsel Bureau. (BDR S-1240)

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LORNE J. MALKIEWICH (Director, Legislative Counsel Bureau):  
I have submitted a memorandum ([Exhibit E](#)) that summarizes both A.B. 490 and A.B. 492.

**ASSEMBLY BILL 492**: Makes appropriations to the Legislative Fund for dues to national organizations. (BDR S-1239)

Both of these measures were requested by the Legislative Commission in connection with the budget for the Legislative Counsel Bureau as separate, one-shot appropriations. Both of these are included in the *Executive Budget*.

Assembly Bill 490 is an appropriation of \$734,000 for one-time expenditures for information technology purchases. These are outside of our budget because these are not continuing purchases. There are three particular items, the first of which are switches and hardware for Information Technology Services. We need to replace some switches. We have some client switches whose end of life is May 2011. We have a core switch whose end of life is November 2012. All of these need to be changed at once and this is why the appropriation is to replace all of them.

The other two components are smaller. The first component is the new accounting system. We have an out-of-date accounting system that has limited functionality and is no longer being updated. We have been looking at other options and have found accounting software that is far more robust than what we currently have. It will cost approximately \$125,000, including training, support and migration costs.

The smallest component is one of the most important. The third piece is our Granicus hardware and software. This is our video system. We want to do a test project to test this software. What we have seen so far is promising. Other states use this software and it would replace our For the Record (FTR) software which is used to record meetings and prepare minutes. The Granicus software has a great deal more functionality and we believe that FTR is not keeping up with technology. Granicus will be a better way to go in the future, but we would like to try it before we commit to replacing FTR.

In A.B. 492 there is an appropriation for dues for national organizations for the current fiscal year and for the next two fiscal years. Last Session, when we were preparing our budget, we needed to cut about \$2 million in personnel

costs. With the dues included in the budget, we were faced with eliminating 23 positions to pay dues or eliminate 20 positions and not pay dues. The decision was made to suspend payment of dues for two years and we have not paid dues to these national organizations to which we have traditionally paid dues. I am pleased to say that, without exception, these organizations have continued to provide services to us and have continued to allow us to participate in their various programs.

To avoid the same situation, the Legislative Commission agreed to separate the issues and have this as a one-shot appropriation separate from our budget in order for it to be considered independently by the Legislature. This appropriation includes funds to pay these dues for the current fiscal year and for each of the next two fiscal years.

SENATOR DENIS:

Looking through my notes, I cannot find any details about your requests for the switches, hardware or accounting system. Could you provide that?

MR. MALKIEWICH:

I do have more information that I can provide for you regarding the switches. The core switch is the largest that needs to be replaced. The current switch was purchased in 2004 and it has an end of life of November 2012. We are hoping to implement a redundant switch, meaning we will then have two core switches and it will only cost an extra \$12,000. We will have ten-gigabit uplinks for faster network capabilities. The client switches have an end of life of May 2011, after which we will no longer be able to receive support from the manufacturer. The new switches will be able to handle 10 times more traffic a gigabit versus 100 megabits. This will increase our speed. The switches will have a ten-gigabit uplink to the core switch in order to better handle our increased network traffic. We will also have power over Ethernet to allow for an easier and less expensive move to voice-over internet protocol, also known as voice-over-IP or VoIP, if we decide to go in that direction. Servers are the final component of this and they have an upgrade cycle of four years. We will be upgrading division servers as well as servers for audio visual streaming to the public. We will also be implementing virtual technology to save on hardware costs. Regarding the accounting system, we are still in the process of looking for a new system, so we cannot provide specifics about which system we will choose at this time. We can provide you additional information about the Granicus software.

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SENATOR DENIS:

I would just like to see all of this written down.

MR. MALKIEWICH:

I would be glad to provide more detailed information in writing.

CHAIR HORSFORD:

We will close the hearing on A.B. 490 and A.B. 492. We will open the hearing on S.B. 54.

**SENATE BILL 54:** Revises provisions governing the Fund to Increase the Quality of Nursing Care. (BDR 38-444)

MR. KRMPOTIC:

On March 23, the Committee heard S.B. 54. This bill revises provisions governing the fund to increase the quality of nursing care. This legislation was requested by the Governor to implement the \$20 per day reduction in skilled nursing facilities. The Committee only approved a \$5 reduction in the closing yesterday. It would appear that this legislation would need to be passed by the Committee in order to implement that reduction.

CHAIR HORSFORD:

Why are we required to have a bill? Is there something in statute that requires a set amount and by reducing it, we must change the statute?

HEIDI SAKELARIOS (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

Currently, statute requires that money paid into the account for the fund to increase the quality of nursing care cannot be used as a General Fund offset. During the budget hearings, the Department of Health and Human Services (DHHS) testified that they believe that this legislation would be necessary under an abundance of caution and to try to avoid any litigation. The Agency testified that they were concerned that long-term care providers could claim that the budget reduction that recommended a rate reduction for them, while using this account to increase their daily reimbursement rate, was in essence a General Fund offset.

SENATOR LESLIE:

Looking at the bill, we will be removing that section permanently. In the future, we would then have the flexibility to set the rate without needing to worry about language in statute. Is that correct?

MS. SAKELARIOS:

That is correct. This bill takes out the language that states that this fund cannot be used to replace General Fund appropriations. It also eliminates the section that currently defines how the reimbursement rates would be established in the event that federal regulations determine what we are doing in the State to increase payments for skilled nursing facilities is not acceptable. Currently, the statute states that in the event the federal government determines what we are doing to maximize federal reimbursement rates is not acceptable, the rates will then be based on where the rates were as of June 30, 2003. This bill takes out this requirement and states that the Division will determine what the rates should be.

CHAIR HORSFORD:

Would the other option be to only have this legislation apply for the next two years? This way, in future biennia, the Legislature can determine the rate.

MR. KRMPOTIC:

Yes, that would be another option. You could put a sunset provision on the bill and it would expire by limitation on June 30, 2013.

RENNY ASHLEMAN (Nevada Health Care Association):

Although it is not in our best interest, we do concur that if you are going to make the cuts, you will need to change the statute. We would prefer a sunset provision to a repeal. We know that the State of Nevada is trying to keep its bargain with us, and as soon as we can get back to that bargain, we would certainly appreciate it.

SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 54 WITH THE SUNSET PROVISION.

SENATOR PARKS SECONDED THE MOTION.

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

\* \* \* \* \*

CHAIR HORSFORD:  
We will now open the hearing on S.B. 429.

SENATE BILL 429: Revises the authority of the Department of Health and Human Services to contract for transportation services for the recipients of services under the Children's Health Insurance Program. (BDR 38-1197)

MR. KRMPOTIC:  
This bill, which was previously heard on May 14, 2011, revises the authority of DHHS to contract for transportation services for the recipients of services under the Children's Health Insurance Program. This bill was requested by the Governor to implement a decision unit in the Nevada Check Up budget which eliminated funding to provide contract transportation services to children.

MS. SAKELARIOS:  
The budgets were closed and the funding that had been previously included for nonemergency transportation services for Nevada Check Up recipients was eliminated. The Division indicates that not many families utilize this service and thus, it was not a cost-effective component of that program. This bill would modify the language in statute indicating that the State may provide emergency transportation, but it would eliminate the requirement. Nonemergency transportation is an optional service for Nevada Check Up.

SENATOR LESLIE:  
During the Subcommittee hearings, the Division indicated that they would keep track of any problems and bring those forward. They did make the case that this is an area we could cut with minimal impact compared with the other cuts. The Committee was united in wanting to know if there were any problems. I am not sure we need a formal report, but they did agree to track this carefully.

SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 429 WITH THE SUNSET PROVISION.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR HORSFORD:

We will open the hearing on S.B. 428.

**SENATE BILL 428**: Makes an appropriation to the State Gaming Control Board to replace computer and technology hardware. (BDR S-1243)

MR. KRMPOTIC:

This is a one-shot appropriation for the Gaming Control Board.

MS. SAKELARIOS:

The Governor's recommended budget includes a one-shot appropriation for the Gaming Control Board to replace computer equipment that has exceeded its expected life span. At the Committee's request, the Board provided a letter dated May 16, 2011, that provided additional information about some of the hardware that was requested, as well as some of the video-conferencing equipment that was requested. The letter also provides a prioritized list for the equipment that they believe needs to be replaced during the upcoming biennium which includes desktop computers, laptop computers, printers, video projects and other things. I would note that in the revised video-conferencing equipment costs provided by the Board, there is about \$14,400 less than what was included in the Governor's recommended budget. It appears that the one-shot appropriation could be reduced by that amount.

CHAIR HORSFORD:

I am not prepared to consider this bill at this time. One-shot appropriations are not a priority.

We will close the hearing on S.B. 428 and open the hearing on S.B. 439.

**SENATE BILL 439**: Makes various changes relating to fire protection. (BDR 42-1203)

MR. KRMPOTIC:

This bill was heard by the Committee on May 13, 2011. The bill was testified on by the State Fire Marshal. This bill revises provisions in statute relating to the State Fire Services Board and the Fire Services Standards and Training Committee. The bill eliminates the Fire Services Standards and Training Committee, and section 3 of the bill revises the membership and duties of the Board. The bill is required to implement the budget because there are savings incorporated into the budget based on the Committee's closing action that reflects the elimination of travel and per diem for members of the Committee. Staff has no additional concerns.

SENATOR LESLIE MOVED TO DO PASS S.B. 439.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR HORSFORD:

We will open the hearing on S.B. 452.

SENATE BILL 452: Eliminates the Medicaid waiver carried out pursuant to the Health Insurance Flexibility and Accountability demonstration initiative. (BDR 38-1198)

MR. KRMPOTIC:

This bill was heard by the Committee on May 13, 2011. In the budget, the Health Insurance Flexibility and Accountability Waiver (HIFA) waiver was eliminated effective November 30, 2011. This was based on actions taken by the federal government as well. This bill implements the budget.

MS. SAKELARIOS:

The HIFA waiver will expire on November 30, 2011, and changes in the national Children's Health Insurance Program have indicated that States are no longer able to have waivers that will allow them to provide services to adults. This legislation is necessary to take the requirement for this program out of statute.

SENATOR RHOADS MOVED TO DO PASS S.B. 452.



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SENATOR LESLIE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR HORSFORD:

We will open the hearing on S.B. 477.

**SENATE BILL 477**: Authorizes the Administrator of the Division of Health Care Financing and Policy of the Department of Health and Human Services to administer oaths, take testimony and issue subpoenas for the purposes of recovering Medicaid benefits paid on behalf of certain recipients. (BDR 38-1195)

MR. KRMPOTIC:

Recovery monies were built into the Medicaid budget based on the passage of this legislation. The money committees acted on this consistent with the Governor's recommendation.

SENATOR LESLIE MOVED TO DO PASS S.B. 477.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR HORSFORD:

We will open the hearing on S.B. 437.

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

MR. KRMPOTIC:

This bill relates to the Family Preservation Program in the Division of Mental Health and Developmental Services. The bill provides for the Division to establish a waiting list for applicants who are eligible for assistance, but are

denied assistance because the Legislative appropriation is insufficient to provide assistance for all eligible applicants. The bill was heard in Committee on May 13, 2011. In talking to Staff, it is my understanding that the passage of this bill will help avoid the situation of the Division having to reduce the benefit for a greater number of people to participate in the program if additional recipients came forward to apply for benefits.

SENATOR LESLIE:

This is an issue that has come up for several Sessions and until this Session, we have been able to avoid a waiting list. The concern is that if we cut the monthly subsidy that we provide to these families, more families will not be able to take care of their relatives and the State will become responsible. It is more cost efficient to have families care for their loved ones and it is better for everyone involved. Looking at the proposed change, it states that the Division may establish a waiting list. I understand why they want to establish this waiting list instead of automatically cutting the subsidy. However, if they are going to establish a waiting list, we should change the wording from "may" to "shall." I want to see how many people are being denied assistance because the Legislative appropriation is insufficient to provide assistance for all eligible applicants. We need that information.

SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED  
S.B. 437 WITH THE AMENDMENT REQUIRING THE DIVISION TO  
ESTABLISH A WAITING LIST.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

We will recess now at 10:01 a.m. until the Call of the Chair.

The Committee will come to order at 12:54 p.m.

MR. GOODMAN:

In the discussion of S.B. 480, which allocates the cost of child protective services to the rural counties, the statement was made that this was the

Governor's recommendation. While this was his recommendation in his original budget, the Governor submitted an amendment to restore funding to that service. The Committee in its closing actions did not accept that amendment and passed the budget with his original recommendation to have the counties support those costs.

CHAIR HORSFORD:

We will open the hearing on S.B. 359 and Proposed Amendment 7170 ([Exhibit F](#)). I will ask Senator Leslie, the Chair of the Subcommittee, to update us on this bill.

**SENATE BILL 359**: Revises provisions relating to contracts with a governmental entity. (BDR 23-973)

SENATOR LESLIE:

The members of the Subcommittee were myself, Senator Parks and Senator Kieckhefer. We met three times and took a great deal of testimony from a number of interested parties. We received input from the State Purchasing Division as well. The amendment you see before you is the result of that work. We made two changes since our last meeting. Throughout the work of the Subcommittee, we made a lot of progress and have given a lot of specific direction to State and local government about the direction that contracting should take. Transparency is the overriding goal of this legislation. We also looked to make sure the rules were fair so that everyone could compete. This is a big step forward.

CHAIR HORSFORD:

I will relinquish the gavel to Senator Leslie for this portion of the hearing because this is my bill.

VICE CHAIR LESLIE:

We will defer to legal counsel to explain the two new amendments.

BRENDA ERDOES (Legislative Counsel, Legal Division, Legislative Counsel Bureau):  
The first change in the amendment mock-up, [Exhibit F](#), begins on line 12. This changes the definition of "Public body." Currently, it reads "a state, county or municipal department, housing authority, agency or board." All of these would be either state or county under this definition, but we have now limited it to county, city, school district, or State agency, bureau, board, commission,

department or division in lines 15-17 in the new amendment. This has limited the definition to county and city for the local governments and school districts.

The next change is on page 2, section 7, line 11. This is a clarification to explain what sections 2 to 14, inclusive, of this act apply to. The existing bill had language regarding independent contractors and spoke to a service contract between public body and an independent contractor. The change clarifies that this does not apply to any contract for a public work governed by the provisions of NRS 338. Construction contracts would not be covered by sections 2 to 14. Also, these provisions would not apply to a contract relating to a franchise entered into by a local government. Franchise agreements will not be covered by this.

The next change is in section 9, line 37. We changed the word "consumers" because it was not very clear and added the language "persons who are not a party to the contract," meaning anyone who is not a part of the contract. This provision deals with fees that would be charged to anyone who is not a part of the contract. The change on line 39 requires that the report be about the total dollar amount generated by such fees, rather than the dollar amount of the income. Once again, this is a clarification because income was not as clear as total dollar amount.

In section 10, line 44 we took out the language "or intended to be used." This will now read "All subcontractors used by the independent contractor to perform the contract." Parties will no longer have to disclose other parties that will never actually work on the contract.

The next change is in section 10, subsection 1, paragraph (c) on line 3. Once again, we removed the word "consumers" and clarified the language. This is for consistency. Also, we made the same changes to line 6 on page 3 as we did to line 39 on page 2. This added the word "total."

In section 11, starting on line 9, we added the clause "Except as otherwise provided in subsection 2..." because we added language to subsection 2. It now reads "A public body may not enter into a sole source contract unless the period of the sole source contract does not exceed 2 years." We struck the language from subsections 2 and 3 and replaced it with the block of green text as seen on page 3. This is a clarification to the way that it is currently written to make it work. We added subsection 3 for all the State Executive Branch contracts.

Section 11.5 is new. We discussed this yesterday. This provision states that you can have contract extensions as long as the extension does not exceed two years and the public body approves the extension by a two-thirds vote.

The next change is on page four. We added the wording "competitively bid" to lines 1 and 5.

In section 14, line 13 on page 4 we took out the provision that stated "The independent contractor is permanently prohibited from entering into a contract with a public body." The rest of the changes within that section were required for us to take out that subsection.

The next change is found on line 35 of page 4. The provision previously stated "Report the information" and it now states "Report and update the information." On line 40 of page 4, the provision previously stated "Report to the State Public Works Board" and now states "Enter or cause to be entered through the application on the Internet Website of the State Public Works Board created pursuant to paragraph (a) of subsection 3." This will allow the process to be electronic instead of entirely on paper.

The next change is in subsection 2 and deals with the reporting requirements for Public Works contracts. The big difference here is that the provisions of this section apply only with respect to employees and applicants for employment who applied directly to the contractor, subcontractor or other person for employment, rather than applying for employment through another entity such as an employment agency or trade union. This resolved the issue of contractors and subcontractors who employ people do not have the information of the individuals who applied if they did not employ them directly.

The next change is in subsection 3 on page 5. This change creates a duty for the State Public Works Board to create an application on its Website so that this process will be electronic. It also provides that the person who enters the information be a data collector for the purposes of NRS 603A.

The last change on page 5 allows chapter (b) to work with the Internet Website.

On page 6, section 16 has been deleted and section 17 is deleted and replaced with new language. The last change is the addition of section 18.5, which provides that contracts entered into before October 1, 2011, are not subject to

the provisions of sections 1 to 14, inclusive, of this act. No existing contracts will be affected by these provisions. This is broken up because sections 1 through 14 are effective on October 1, 2011. The subsection was added for the same reasons.

SENATOR CEGAVSKE:

On page 4, lines 1 and 5, why was this language added?

MS. ERDOES:

This was added to limit what needs to be reported under this provision. Previously, it said "the number of contracts" which would mean all contracts and this new language limits it to competitively bid contracts. Section 13, subsection 1, paragraph (a) requires sole source contracts which are not competitively bid. If you do not add this language, you are requiring a re-reporting of the contracts you report under paragraph (a). The dollar amount was the same issue in paragraphs (c) and (d).

SENATOR CEGAVSKE:

Is this clean-up language?

MS. ERDOES:

Yes, it is clean-up language.

SENATOR CEGAVSKE:

On page 5, section 2, line 17, what is the result of this report? Why does this information need to be reported? What are they going to do with this information?

MS. ERDOES:

We were asked this Session to draft provisions which would have provided for preferences for various minority groups. The research we did showed that unless the State had specific data that one minority group was being discriminated against, you cannot adopt preferences. The U.S. Supreme Court has been very clear that they will not uphold preferences based on things like gender unless you have specific statistics in your State to show that there has been discrimination on that basis. Therefore, you are adopting the preference to remedy that discrimination.

We were asked to go through those cases and come up with exactly what you would need to gather to determine if there was discrimination occurring. We believe this is the information you need to gather to determine discrimination.

SENATOR CEGAVSKE:

As an employer, I only have the applicants that apply. How does that fit in? What if you do not have a lot of diversity in your applicant pool?

MS. ERDOES:

We understand that problem and this is why we are asking for both the applicants and the individuals who are hired. For example, if only males apply for the job, it would explain why only males received the job.

SENATOR CEGAVSKE:

On page 6, line 25, why is the design-build team excluded?

MS. ERDOES:

This section allows us to gather data from the Department of Transportation and we discovered that the only place where the Department was not currently collecting data was the nondesign build team professionals. The design build team provisions in NRS 338 cover the professionals in that category and we only needed NRS 408 to cover the nondesign build team professionals. It is a matter of how you want to collect data and we wanted to ensure that we were not collecting the data twice. The design build professional provisions in NRS 408 and NRS 338 are different.

SENATOR PARKS:

In section 7, we excluded contracts related to franchise agreements. For the most part, franchise agreements are difficult to limit to a two-year contract.

On page 5, line 17 did we ever consider including age? Age discrimination is an issue and we could include it along with race, ethnicity and gender.

MS. ERDOES:

It was not something that was raised previously, but it is a protected class and could be added.

VICE CHAIR LESLIE:

We can definitely consider that.

MR. ASHLEMAN:

Directing your attention to page 6, lines 4, 5 and 6, I testified before the Subcommittee regarding this section. My point was that it is not always easy to decide who has a controlling interest in a corporation. Certainly, in multinational, international and national corporations, there can be layer upon layer of control corporations. What this amendment changes does help the situation, however, I would like the same consideration given to the local governments that is given to the contractors. On line 4, I would like to add the language "if known" following the phrase "the required information." I will yield to Ms. Erdoes as to where to best place that phrase. You can ask people to identify these things, but they are not required to respond. For a local government to figure out who has a controlling interest, when a Wall Street scholar cannot figure it out, would be difficult. This will not come up very often, but I would like to have some leeway on that.

KIMBERLEE TARTER (Deputy Director, Purchasing Division, Department of Administration):

In section 11.5 the term "competitively bid" has been removed and now it reads "A contract may include a provision allowing..." There is no longer a distinction from sole source as there is in the reporting section. The reporting section uses the term competitively bid to ensure there is not redundancy in respect to sole source contracts, but that is not the case here. This leads one to believe that sole source contracts fall within the restrictions of the extensions.

VICE CHAIR LESLIE:

Where do you want to insert the words "competitively bid?"

MS. TARTER:

It would now read "A competitively bid contract may include..." on line 26 of Section 11.5.

MS. ERDOES:

Previously, this read "If it was initially competitively bid" and there was some confusion with the application of this section. We were specifically asked to pull section 11.5 out of the bill because there was confusion that it would not apply to both. The intent, as I understood it in drafting this section, was that section 11.5 would apply to both sole source and competitively bid contracts.



VICE CHAIR LESLIE:

The intent in section 11.5 is to cover all contracts.

MS. TARTER:

As section 11.5 reads, it would apply to all contracts. The Board of Examiners sees approximately 50 to 300 contracts every month and this section will apply to all of those contracts. If you have a contract that was awarded for a two-year period, then this law would provide the Board the ability to extend it for an additional two-year period, thus the contract would have a four-year term. With the State's contracting process it takes a significant period of time to initiate a request for proposal (RFP). In year three of a contract, an agency would begin preparing for the RFP process which requires a six-month window to complete the process and get the RFP to the Board. My concern is that, as written, this section would not appear to contemplate for any options to extend beyond that two-year period. There are certain things that an agency cannot plan for, but do happen on occasion, such as the scope of the contract changing.

VICE CHAIR LESLIE:

Is this not why we put the two-thirds majority vote of the members of the public body into the section? This way, the contract can be opened up and addressed.

MS. TARTER:

The way I read it, the two-thirds vote is only if a contract includes a provision extending it for two years. My understanding, based on the testimony yesterday, was that there was going to be an option to have a two-year extension in the contract or if the agency needed an extension that was different from what was contemplated in the original contract. In the second situation, the agency could go to the Board and they could approve an extension with a two-thirds vote. The way this is currently written, the second option has been left out or is not very clear.

SENATOR HORSFORD:

It is my goal to allow for the type of circumstance that Ms. Tarter just outlined. Without any specific language from the Purchasing Division, Ms. Erdoes, can you describe for the Committee how we could accomplish this?

MS. ERDOES:

Currently, you can expand a contract for two years with a two-thirds vote of the Board. Would you like the period to be longer?

VICE CHAIR LESLIE:

I think that there may be some unforeseen circumstances, regardless of the timeline, that require a modification in the contract that would be permitted with two-thirds approval from the Board.

MS. ERDOES:

We can certainly add that language.

MS. TARTER:

That would alleviate our concerns.

VICE CHAIR LESLIE:

There were three suggestions for this bill. The first was the addition of language that was just discussed to clarify the two-thirds vote for unforeseen circumstances. The second was the suggestion from Mr. Ashleman regarding section 15 and adding the language "if known." And the third suggestion was Senator Park's recommendation to add age to the criteria on which we will collect information.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS AS AMENDED S.B. 359, WITH THE ADDITIONAL AMENDMENTS AS SUGGESTED.

SENATOR DENIS SECONDED THE MOTION.

SENATOR KIECKHEFER:

Many of the provisions relating to contracting are good and necessary. The Subcommittee did a lot of good work. Unfortunately, I am not going to support the bill because of the stated intent of section 15 which is to collect the baseline data to create a minority- or gender-based preference for bidding on Public Works contracts. Over time, we have created a public works process that is designed to offer a fair and equitable opportunity for individuals to bid on. Ultimately, that determination should be based on price. The testimony indicated that the process is being utilized to be the solicitor of those bids is somehow flawed. If that is the case, we need to address that process, but

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ultimately, it is the duty of our government to try to get the best product for the best price for the taxpayers. Preferences of any sort, whether they are geographically based, gender based or racially based, undermine that premise. For these reasons, I will not be supporting the bill.

THE MOTION CARRIED. (SENATORS CEGAVSKE AND KIECKHEFER VOTED NO.)

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VICE CHAIR LESLIE:  
I will relinquish the gavel to Senator Horsford.

CHAIR HORSFORD:  
We will open the hearing on A.B. 500.

ASSEMBLY BILL 500: Temporarily revises distribution of revenue from certain licensing fees for slot machines. (BDR 41-1165)

MR. KRMPOTIC:  
This bill transfers the quarterly slot tax to the Problem Gambling account. It also provides that \$2 be directed to the General Fund, while \$1 will continue to be directed to the Problem Gambling account. Currently, \$2 is directed to the Problem Gambling account. Passage of this bill is necessary to implement the budget closings and this would implement the Governor's recommendation with respect to the other \$1 that goes to the General Fund.

HUMAN SERVICES

HUMAN SERVICES – DIRECTOR'S OFFICE

HHS-DO – Problem Gambling — Budget Page DHHS DIRECTOR-26 (Volume II)  
Budget Account 101-3200

SENATOR LESLIE MOVED TO DO PASS A.B. 500.

SENATOR PARKS SECONDED THE MOTION.

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THE MOTION CARRIED UNANIMOUSLY.

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CHAIR HORSFORD:

With no further business before the Committee, we will adjourn at 1:33 p.m.

RESPECTFULLY SUBMITTED:

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Marian Williams,  
Committee Secretary

APPROVED BY:

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Senator Steven A. Horsford, Chair

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

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
SB 447	C		Proposed Amendment 6788
SB 476	D		Proposed Amendment 7141
AB 490 and AB 492	E	Lorne Malkiewich	Memorandum
SB 359	F		Proposed Amendment 7170