

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-sixth Session
March 14, 2011**

The Senate Committee on Finance was called to order by Chair Steven A. Horsford at 8:09 a.m. on Monday, March 14, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file 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:

Rex Goodman, Principal Deputy Fiscal Analyst
Mark Krmpotic, Senate Fiscal Analyst
Wayne Thorley, Program Analyst
Wade Beavers, Committee Secretary

OTHERS PRESENT:

David F. Sarnowski, Esq., General Counsel and Executive Director, Commission on Judicial Discipline; Standing Committee on Judicial Ethics and Election Practices
Joyce Haldeman, Associate Superintendent, Community and Government Relations, Clark County School District
Carolyn Edwards, President, Clark County School District Board of Trustees
E. Lavonne Lewis, Alpha Kappa Alpha Sorority; National Coalition of 100 Black Women; Delta Sigma Theta Sorority; The Links, Incorporated; Chief Operating Officer, Las Vegas Urban League
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education

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Craig K. Stevens, Director of Government Relations, Nevada State Education Association
Kathleen Conaboy, K12 Inc.
Laura K. Granier, Nevada Connections Academy
Dotty Merrill, Ph.D., Executive Director, Nevada Association of School Boards
Mary Pierczynski, Nevada Association of School Superintendents

CHAIR HORSFORD:

We will begin with a hearing on the budget for the Commission on Judicial Discipline, budget account 101-1497.

LEGISLATIVE/JUDICIAL

JUDICIAL BRANCH

Judicial Discipline — Budget Page JUDICIAL-51 (Volume I)
Budget Account 101-1497

DAVID F. SARNOWSKI, ESQ. (General Counsel and Executive Director, Commission on Judicial Discipline; Standing Committee on Judicial Ethics and Election Practices):

The Commission on Judicial Discipline and the Standing Committee on Judicial Ethics and Election Practices serve as internal investigatory boards for complaints made against the judiciary.

The membership of the Standing Committee on Judicial Ethics and Election Practices is composed of judges, attorneys and lay members of the community. The lay members are appointed by the Governor. The attorneys are appointed by the State Bar. The judges are appointed by the Supreme Court.

The Standing Committee has two basic functions. It provides advisory opinions to judicial officers. It also assists judicial candidates who ask for advisory opinions concerning election practices and general ethics as they may relate to the *Nevada Code of Judicial Conduct* (NCJC). The Code is enacted and updated by the Supreme Court of the State of Nevada.

The Commission on Judicial Discipline is comprised of a different set of people, although the components and appointment jurisdictions are the same. All

members serve as unpaid volunteers except for the judges who continue to receive their judicial salaries.

Costs associated with meetings are paid for by the General Fund. Members of both entities are infrequently asked to travel for out-of-state training. The main training function that they are obligated to attend is a biannual function in Chicago, the College of Judicial Ethics. This is sponsored by the American Judicature Society. It is an excellent training venue and is the only function on a national scale to offer training to people who perform duties in this area of the law. We also provide some in-state training which is done in conjunction with our regularly scheduled meetings. The staff for these entities, consisting of myself and 1.5 full-time equivalent supporting positions, attend a limited number of in-state training sessions. Occasionally, I attend out-of-state training venues in different locations throughout the Country. I have tended not to go to the ones that are more expensive. Nevada has hosted this training several times.

The majority of our operating budget is dedicated to the operation of the Commission on Judicial Discipline. We hold physical meetings quarterly, at a minimum. We also have teleconferences between those meetings. The purpose of these meetings is to handle the caseload of complaints regarding the 700 judicial officers in the State who are subject to NCJC.

There are several hundred full-time judges in Nevada. The Supreme Court recently appointed several hundred mediators under the foreclosure mediation program. They are now subject to NCJC as well. We oversee a significant number of part-time judges, both attorney and nonattorney, throughout the State who assist our judicial officers in conducting their business. They are subject to NCJC when serving as judicial officers and from time to time we receive complaints about them.

We do not have staff investigators. We are unique in that we hire outside investigators to do our work. Only one other state utilizes private investigators for this type of inquiry. We have had a contract in place for more than nine years with one entity, the Advantage Group. They are very skilled in what they do. They are all retired peace officers. They do a wonderful job for us. They have maintained a steady rate of \$65 an hour for several years.

We also expend money on outside counsel, who are generally referred to publicly as special prosecutors. By law, I must hire them when a case reaches a

contested public hearing stage. They present evidence to the Commission on Judicial Discipline in an adversarial forum, which I cannot do as counsel to the Commission. Those attorneys have always charged us well below the market rate for their services. They currently charge us \$150 an hour. Occasionally, there are matters that I cannot handle and so I have people handle them in my stead. They are also on similarly rated contracts.

From time to time, we are sued and must hire outside counsel for defense. The lawsuits come in fits and starts. Sometimes we will go for a year or two without being sued. Sometimes we will have several cases pending at the same time. We are sued, mainly, by unhappy complainants, but occasionally by judicial officers who challenge provisions of NCJC. This happened last fall in federal court, when we were sued by a candidate for judicial office. We are sometimes sued by judges who have been subject to the disciplinary process and feel that they have a legal basis to get another court to intervene and stop the Commission's disciplinary action.

The Committee has been provided with a packet containing statistics relevant to this account ([Exhibit C](#)). I will not belabor these figures except to point out that, on average, we handle between 135 and 160 complaints a year. Most of these are against District Court Judges, who handle the more serious cases. We receive a significant number of inmate complaints that arise from the criminal proceedings in the District Courts.

CHAIR HORSFORD:

There is a recommended increase in training expenditures for the Base Budget in the upcoming biennium. What factors are contributing to the recommendation of this increase?

MR. SARNOWSKI:

We did not previously have a separate decision unit for training expenses. Those costs used to come from another unit within the budget. We separated them out based on guidance from fiscal analysts. The plan is to send the same number of people to the training that we have sent in the past. The judges that we send to the out-of-state training generally travel using money allocated to the Administrative Office of the Courts. Generally speaking, the Supreme Court has worked with us. They have been helpful in paying for the judicial officers who sit on the Committee and the Commission so that we can allocate our money to training the lay members who are typically new to the legal system.

We also allocate money to training the attorney members of the entities who, while legally trained, often have no background in this area of the law.

We try to send each member of the Standing Committee and the Commission to the out-of-state training session. We see a certain amount of turnover. We recently lost a lay member of the Commission who did not have the opportunity to attend the training because it was cancelled. We base our budget on the projected number of people we will send.

CHAIR HORSFORD:

Historically, you have not expended the entire amount of the training dollars that have been allocated to this budget. How can you predict whether you will utilize the full training allowance during the upcoming biennium?

MR. SARNOWSKI:

We have spent money on training, but these expenditures were not previously separated out from the overall expenditures in a distinct decision unit. Formerly, the training was conducted in even numbered years. This was, unfortunately, during election time at the end of October. The organization offering the out-of-state training realized this conflict and cancelled the training session for one year. This was the only time when we have not utilized the entirety of the training funds that were allocated to us.

CHAIR HORSFORD:

Seeing no further questions from the Committee, I will close the budget hearing for the Commission on Judicial Discipline.

We will now take up a discussion of Senate Bill (S.B.) 11.

[SENATE BILL 11](#): Revises the Nevada Plan for School Finance for funding school districts, charter schools and university schools for profoundly gifted pupils. (BDR 34-304)

JOYCE HALDEMAN (Associate Superintendent, Community and Government Relations, Clark County School District):

Senate Bill 11 is one of two bills that the Clark County School District (CCSD) has been allowed to bring forward this Session.

This bill would modernize the Nevada Plan for School Finance by recognizing that the costs of instructional programs vary depending on the specific services required to address the needs of students. The bill would implement a weighted funding model, similar to models already in use in many states.

I would like to provide a brief history of the Nevada Plan. On March 16, 1967, there was a Joint Committee Meeting of the Senate Finance and Taxation Committees. They came together to consider a recommendation that had been made by Bulletin No. 69 of the 54th Session.

This recommendation came from four years of study on the funding mechanism used to pay for education in the State. In 1956, 200 school districts were consolidated into the 17 school districts we know today. At that time, they adopted a model known as the Peabody Plan. This Plan had certain problems in the ways in which it determined funding. In 1963, a commission was put together and charged with conducting a study of present law concerning State support for public schools in Nevada. This would determine whether any inequities existed stemming from the implementation of the Peabody Plan. It was found that there were serious inequities, but it was believed that corrective legislation would not marshal support until additional funding for schools was available.

There are many consistencies between the situation I have described and the situation we face today. There are most likely inequities that exist in the current Nevada Plan. I also recognize that, even if we find inequities and find a way to correct them, we will probably not be able to marshal support to make changes until we reach a time when there is additional funding available.

I want to emphasize that we are not asking for additional funding for education. We want to examine the mechanism that we are using to fund education. We want to determine whether there are inequities in the State's education system.

The Nevada Plan was instituted in response to the aforementioned Bulletin No. 69 of the 54th Session. The Legislature had solicited input from a number of individuals who had dealt with financial issues. They looked at what other states had done, although they ultimately sought to create solutions for the specific problems facing Nevada. When completed, it read "if the formula is adopted, future experience may dictate necessary changes that are not indicated by today's conditions."

We have used the Nevada Plan since that time, but the conditions have changed. In 1967, when the Plan was adopted, there were about 100,000 students in the State of Nevada. Ninety-five percent of these students were white. At the time, the census only indicated whether a student was white, black or "other." Legislators could not have anticipated the changes that would occur in the State demographically.

The Committee has been provided with a chart showing these changes over time ([Exhibit D](#)). It shows the growth that CCSD has seen since 1988. The category for Hispanic students did not exist in 1967. It is now the dominant racial category in CCSD. We are 42 percent Hispanic, 32 percent Caucasian, 12.4 percent black and 7 percent Asian.

The second chart on [Exhibit D](#) shows a breakdown of the demographics as proportions of a hypothetical 33-student classroom.

Fifteen of the students in this classroom would qualify for free and reduced lunch, which means that they are living in poverty.

Six of the students would be learning the English language. Approximately 20 percent of the students in CCSD are currently enrolled in our English as a Second Language (ESL) program.

Three of the students in the classroom would have individualized education programs (IEP). They are special education students.

Two of the children would be likely dropouts in the future, and two of them would be gifted students.

These are demographics that are not considered by funding allocation in the Nevada Plan.

Clark County School District would like to see the passage of a bill that would establish a study commission to determine the true cost of educating students who come to school with certain conditions.

We want to determine the true cost of educating a student who does not speak English. We must not only teach that student the basics that we teach every other student, but we must help him or her learn another language.

We want to determine the true cost of educating a student who is gifted or a student who participates in career or technical education (CTE) programs. We want to study the additional effort required to teach students with multiple disabilities.

Page 7, section 4 of the bill describes amendments to the original language of *Nevada Revised Statutes* 387.121. The original language reads as follows: "The Legislature declares that the proper objective of state financial aid to public education is to ensure each Nevada child a reasonably equal educational opportunity." This sentiment describes our purpose in proposing the bill. We want to make sure that educational opportunities are equal for every child, regardless of the conditions that they bring with them to school.

We propose that we add weighted values to the Nevada Plan as a part of determining what the funding should be. Specifically, we would like to determine what the base funding would be for each student based on certain variables.

A "base student" would be one with no particular categorical needs. They would be allocated a set dollar amount of support. We would think of it as a weighted value of 1.0. You would multiply that dollar amount based on the number of students with that same basic need. Other students, the ones whom we have delineated in these categories, would have a weighted value added to them. A special education student, for example, might be twice as expensive to educate. He or she would be assigned a value of 2.0. A gifted student might be weighted at a 1.35. Because of the cost of additional education, an English language learner might be assigned a weight of 1.5. The number of students fitting into each category would then be multiplied by the weight. We have not yet done the study that would determine the actual values that would be utilized in this weighting system.

We might have a student who is an English language learner, gifted and in special education classes concurrently. In this case, rather than adding all of the weighted values together, we would select the weight that was the highest.

We would like to propose that there is an opportunity for us to examine the categories within special education. There are some mild special education categories which would not need as much weight, perhaps. At the same time,

there are more severe categories that require a significant amount of additional funding.

This is not a new concept. Many other states have instituted similar programs. James McIntosh, who works for CCSD and will testify later today, came from Georgia, where they utilized weighted per-pupil funding. The delineations in Georgia are so stringent they sometimes create unwanted complications. They spend a great deal of time trying to categorize students and they generate so much paperwork that it is not worth the effort.

There are, however, many other plans throughout the Country that have taken care to categorize the specific needs of students.

On page 9, section 6, subsection 4 of the bill, we delineate the categories that we would like to be considered. We would like to create categories for:

- Pupils with disabilities.
- Gifted and talented pupils.
- Pupils enrolled in CTE.
- English language learners.
- Pupils who are eligible to receive free or reduced-price meals.
- Pupils who are homeless.
- Pupils who are transient.
- Pupils in foster care.

In several of these cases, it may be difficult to quantify exactly what the true costs of education are. This is one of the reasons we believe it is so important to have this issue formally studied.

In addition, please note that we want to maintain several categories that were established by the Nevada Plan. We would like to maintain the special category for school districts with enrollment of 10,000 or fewer students. This includes every district in the State except for those in Washoe County and Clark County. We would also maintain the categorical designation for schools with enrollment of 200 or fewer pupils within a school district of over 10,000 pupils. Clark County School District has approximately 6 schools with fewer than 200 students. Some of them have fewer than 50 students. The new plan would recognize the individual funding parameters for these schools.

I would like to make a correction to the bill. On page 30, section 20, subsection 2, I would like to change the effective date that is indicated for sections 1 to 18. I suggest that these sections become effective July 1, 2013, rather than January 1, 2013. If we find that we want to adopt the recommendations of the proposed study commission, I believe that the 2013 Legislature would most likely want to review that plan and make the final decision on funding. It may be determined that the plan should be put off until 2015 depending on the availability of funding.

The most important thing is to use the study to examine where we are today. Once we determine the true costs of educating individual students in the State, we must have the courage to face those conclusions head-on if we expect every school district to educate every student to the standards that we have established.

In CCSD's experience with Empowerment Schools, we have discovered that, when funding is available and the flexibility is given to meet the various demographic needs of the population, educators and school administrators know what to do to improve performance. Almost always, the solutions to a school's problems can be boiled down to a matter of time and staffing. Our educators need additional time to meet with less prepared students. Some students come to school less prepared, some come to school with less experience, some need to learn English and some are dealing with personal issues in their lives. The problem is not that these students cannot learn. They may simply need more time on tasks. Our schools also need additional staffing. When teachers have between 33 and 40 students in a class, they do not always have the time to devote individual instruction time to the students who need more attention.

In CCSD, we have occasionally utilized additional people who are not necessarily licensed personnel. Schools hire parents who serve as teacher's aides to work in small groups with students. The opportunity to have more time with students is sometimes exactly what is needed based on categorical needs.

In the past, when we have tried to bring this bill forth, we have been told that we could not meddle with the Nevada Plan because the Nevada Plan has kept us out of the courts. As a State, we have been proud of the portion of the Nevada Plan that deals with equity.

Concerns have been raised by other school district officials. They believe that we are trying to indicate to people that Clark County has a different population than the rest of the State and that we have more needs than other counties. They believe that we are trying to take a greater share of the education dollars in the State. We are not interested, however, in changing the division of the existing funds.

We believe that it is time to recognize the true cost of educating students and we want to put a long-term plan in place so that we can meet those needs.

I have asked Jeremy Aguero of the business advisory firm Applied Analysis to develop hypothetical weightings for four student categories in an attempt to project the way this program might affect division of education funding in the State. He used the following four categories:

- Students receiving free and reduced-price lunch.
- Students who are enrolled in CTE.
- English language learners.
- Special education students.

According to the estimated numbers that resulted from this analysis, CCSD would come out on the losing end of the funding. One reason for this is that CCSD does not have as many special education students as other counties. About 10 percent of our students qualify for special education while other counties have proportions several percent higher. Special education is the most expensive component of the weighted value system, and so the advantage of the weighting would go to these other school districts.

We would ask representatives of the other school districts not to be concerned about Clark County potentially receiving a disproportionate benefit from this legislation. We want to improve the allocation of funding for all students.

There are some inequities in the Nevada Plan. When the Peabody Study was discarded and the Nevada Plan was adopted, attention was paid to problems in economies of scale. Administrators examined the plight of the small school districts. They saw that providing an education in a small district was considerably more expensive than it was to provide the same service in a large district.

Economy of scale issues are a two-edged sword. In CCSD, we have far larger class sizes than anywhere else in the State. There is an inequity built into the size of our district. We have high school proficiency exams. If we are trying to teach the math principles from these tests in a class of 30 to 35 students and there are 6 children simultaneously trying to learn English and 3 children who are on an IEP, we are seeing an inequity that needs to be addressed as much as any other.

I would encourage the Committee to read an education briefing that has been prepared by the Las Vegas Chamber of Commerce ([Exhibit E](#)). It is titled "Education Funding in Nevada" and it was produced in December of 2010. It discusses how the Nevada Plan works in the State of Nevada. It points out that the distribution formula takes a significant amount of money away from Clark County and sends it to other counties.

Last Session, many of you heard Senator William Raggio make the comment that Clark County "has 70 percent of the students and 90 percent of the problems" in the State. I take issue with this statement, particularly in light of the fact that Clark County is only allowed to keep 67 percent of the funding that it generates. As we take a look at the true costs of educating students, I would hope that we would take into account those things that the Legislature would not have been able to predict in 1967. We have students who are learning English. We have students who are dealing with autism. We have teachers who have very crowded classrooms because the economy of scale wound up being a detriment to the school district.

I request that the Committee consider this bill. I would ask that you not worry about the costs associated with this program. I ask that you put together a reliable commission to study this issue and help develop a plan to fund the real costs of education in this State.

CAROLYN EDWARDS (President, Clark County School District Board of Trustees):
I would like to speak in support of [S.B. 11](#).

Ten years ago, I testified before the Legislature that we needed to create a ten-year plan for how to address education needs in Nevada. Nothing was done.

We are presented with an opportunity to begin the development of a plan that could last for more than ten years. We should look forward to addressing the problem of determining the true costs of education in Nevada.

The major concern that we have heard from other counties is that this bill will take money from them and divert it to CCSD. I want to assure the Committee that this bill was not intended to do that, and it will not do that. It would be egregious to allow that to happen. This bill is designed to benefit all students.

When I was a child attending elementary school in the 1950s, I was diagnosed with a speech impediment. I also had, but was not diagnosed with, a reading disability. School administrators were not aware that reading disabilities existed, and I was simply labeled as "slow."

I have a son who has three disabilities and is gifted. I have another son who has no disabilities and is also gifted. As a mother, I have learned quite a bit about these disabilities over time. I have learned that what is fair is not always equal. Some students need more resources than others in order to succeed to the best of their abilities. Senate Bill 11 aims to make changes that will reflect this fact.

My son who is gifted but has disabilities continues to receive resources from me, while my son who is gifted but has no disabilities, does not. This is an example of the different ways that children's needs for learning are exhibited.

I would encourage the Committee to consider this measure as the beginning steps toward a long-term plan.

CHAIR HORSFORD:

Regarding the categories identified in section 6 of the bill, could you please provide an explanation of the selection process for these particular groups? Some are easier to understand than others. I am particularly interested in the classification process for transient students. How would that designation be determined and how often would it be reviewed?

MS. HALDEMAN:

The first five categories are typical in most discussions of weighted funding models. The next three categories were added at the request of Assemblywoman Smith. The numbers of students in those categories are

recently on the rise, particularly in Clark County. We recognize that students in these classifications bring with them certain problems.

Children who are homeless are dealing with a number of issues. These issues do not necessarily impact their ability to learn, but they may need extended time or certain situational accommodations. In CCSD, the number of homeless students is approaching 4,000. Many of these are high school students whose parents cannot take care of them. They have been forced to be on their own. We have developed a collection of centers for homeless students throughout the school district in Las Vegas that provide basic amenities, such as microwaves and hygiene products. These students sometimes need tutoring or places to study. They may need extended time on assignments in order to have an opportunity to be equal with their peers.

There is more difficulty in classifying transient students. Their parents are typically chasing cheap rent around the city. The students, as a result, bounce from school to school. Every time they move from one school to the next, they may be chapters ahead or behind the rest of the class. They sometimes need additional tutoring or Saturday school in order to be brought up to speed with what they have missed.

Another category has been proposed for students in foster care. It is difficult to quantify what the needs of these students might be. This is one of the categories that was added by request, and should be examined by the Committee.

CHAIR HORSFORD:

I want to make sure I understand. If a student is included in the weighting as being homeless or transient they can receive the weighted formula. If they are counted, but then became homeless after, the districts would not get the money.

MS. HALDEMAN:

That is correct. Although transient students and students who are homeless would most likely already be counted in the free and reduced lunch category. These may be superfluous categorizations.

CHAIR HORSFORD:

Do you envision weighted values being the same for all districts or would you propose having different weighted formulas based on the individual needs of each district?

MS. HALDEMAN:

My initial proposal is that the formulas could be the same for each county. The special education population is already recognized as a weighted group and receives additional funding. The formula, however, is not based on anything in reality. We count the number of special education students that we have and we are assigned units, which were originally supposed to equate to the cost of one teacher. The units no longer equate to the cost of a teacher and they no longer have much relationship to the number of students. All districts must now supplement their special education funding. We believe that these students can be categorized into different categories based on whether their disabilities are mild or moderate or severe. Quantification of the true cost of education can be done based on their needs. Some have to have an aide. The difference in cost would not be derived from whether they live in a rural county or an urban county.

CHAIR HORSFORD:

Section 7 of the bill removes the establishment of the special education program units. This could potentially jeopardize the State's maintenance of effort (MOE) requirement for federal funding. Why are you proposing this change?

MS. HALDEMAN:

There are inherent flaws in funding education based on these program units. The bill was written this way with the hope of correcting that. We hope to move to a differently weighted per-pupil formula for special education which would dramatically increase the number of units that would be available. This should allow us to exceed our MOE expectations. I estimate that this would not put us in jeopardy of losing federal funding. If it did, we would back away from those changes.

CHAIR HORSFORD:

How would you prevent a district or a school from keeping a student in a specific category longer than they should in order to attract the additional weighted funding?

MS. HALDEMAN:

That is an excellent question. This would have to be written into the provisions of the bill. This could particularly present a problem for students learning English. Numerous studies show that, after three years in a quality English language program, a student can become conversant. That student could become proficient in reading and writing after five years. We are currently one of the few states in the Nation that does not recognize the need to fund English language education with some sort of additional support. We are aware of programs that work, but there should never be an intent to keep a student in that category for the entire duration of their education. Particularly in this instance, the intent should be to work with students and train them to get them out of that category.

Studies show that students who come to the U.S. and learn English statistically outperform their peers once they become proficient. People tend to assume that, when we refer to English language learners, we are talking about people whose first language is Spanish, but that is not necessarily true. In CCSD, 145 different languages are spoken. We are not teaching students how to learn in Spanish, as some believe. We are teaching students how to be functional in English.

CHAIR HORSFORD:

What happens to the non-General Fund money that goes directly to the school districts for some of these categories? There is funding that goes directly to the districts for CTE and for disability accommodation. How will this be represented so that there is an accurate reflection of all the money, State, federal or otherwise, that is being provided?

MS. HALDEMAN:

That could be addressed by the recommendations that would come out of the proposed study. In many cases, there are funds available that would be supplemented by additional funds once we determine the costs of educating different types of students. For example, we receive funding for CTE that is helpful but inadequate for our purposes. We have excellent programs in our academies and high schools. They help students stay engaged and they provide subjects that require a high level of involvement. They also have a cost. They typically require smaller class sizes, expensive equipment or certification upkeep. Those supplemental funds would be built into the weighted formula in

determining the cost of education. In this case, you could get rid of some of those categories.

CHAIR HORSFORD:

Once the weighted formula was put in place, would this allow programs to utilize longer school days or longer school years in order to meet the students' educational needs?

MS. HALDEMAN:

Yes.

CHAIR HORSFORD:

I appreciate the history you have provided about the adoption of the Nevada Plan. Just as we are now reviewing the decisions made by the Legislature in the 1960s, someone will someday be reviewing the decisions that we will make as a Legislature this Session.

MS. HALDEMAN:

I would like to conclude my remarks with some additional history. As the Legislature was considering S.B. No. 15 of the 54th Session, a hearing was held before the Assembly Committee on Ways and Means. Each of the 17 school superintendents was brought to the testifier table one at a time to discuss their individual budgets. The problems they had 40 years ago were almost exactly the same as the problems being discussed today. Only the dollar amounts have changed. The teachers were demanding more money and they were experiencing the frustrations of making cuts to their budgets.

Each superintendent noted, however, that they wanted to retain the Peabody Plan. They understood it and they were not certain what would happen if the Nevada Plan were adopted. At that hearing, not a single person testified in favor of the Nevada Plan. The Legislators chose to adopt it into law anyway. My point is that sometimes we are afraid of the unknown and we cling to the comfort of certainty, at the expense of positive change. I encourage the Committee to take this into account when considering S.B. 11.

There is one part of the bill that I did not address. It concerns the funding formula for students who will receive education online. This was included at the request of Dr. Keith Rheault, the Superintendent of Public Instruction. He is available today to address any concerns you may have on that part of the bill.

CHAIR HORSFORD:

We have discussed that issue in other policy committees.

SENATOR CEGAVSKE:

You are asking for more money, with the appearance that it is for the benefit of students. Can you guarantee that this money will get to the students? Will we have qualified, experienced personnel to help students in these areas? We lack special education teachers. We lack science and math teachers. It is fundamentally important that we have those people if we are to be successful in each of these categories. You are essentially asking for a pay raise for teachers unless we expressly restrict it in writing. I want assurance that this money will go to the students.

MS. HALDEMAN:

That is a good point. One of the benefits of this bill is that it is designed so that the money follows the student. There are funding mechanisms in states across the Nation in which money truly follows the student into the classroom. This is the underlying principal of Empowerment Schools. Administrators identify individual students in the school who are in need of funding, and the money goes to them. The principal is given the authority to use it as necessary.

The plans that we have looked at in other states begin with a target class size. For instance, Georgia uses a 1:27 student-to-teacher ratio as a basic secondary school class size. Based on other factors, the class size might be reduced. We are not asking for pay raises but we may be asking for additional teachers. Because of economy of scale problems, this is where CCSD has lost ground. We keep pouring more students into classrooms.

Regarding your question on qualified staffing requirements, I would say that we would have the necessary staff to improve education. This may be a work in progress, but I believe that if we pay teachers in accordance with the needs of the classroom, we would be able to recruit and retain qualified personnel. If we continue to work with the universities, we will be able to generate enough teachers to meet our needs.

SENATOR KIECKHEFER:

I appreciate the concept of recognizing additional costs that go along with educating certain categories of students. This bill is a good effort to address that. In particular, I like section 19 which creates the panel that would review

how to create this formula. This is critical in deciding what the financial implications will be. If we do not add to the total amount of funding, we will be reducing basic per-pupil support in order to fund the weighted averages. It is difficult to evaluate the bill comprehensively without knowing who the winners and losers will be.

Section 6 of the bill discusses the apportionment of the State Distributive School Account (DSA). It requires that the basic per-pupil support for each school district and the weighted value be established for each school year. A set of recommended weighted averages would be provided by the proposed panel. Does the Legislature have the ability to set the averages on its own in case of an inability to fund the recommendations? In what way will we be beholden to the recommendations of the panel?

MS. HALDEMAN:

Yes. The Legislature currently establishes the guaranteed per-pupil spending every year. This would not change. The flexibility would come in that you would differentiate the funding by category.

The focus of this bill is primarily to establish a study committee. No single person is qualified to determine real educational costs. A serious study should be undertaken to make this determination.

SENATOR LESLIE:

The concept of the bill is intriguing as long as we are increasing the amount of money available to the students. Additional money would be allocated to districts based on a weighted formula. Would you expect to see this money passed down to schools on a weighted formula as well? Is that written into the bill?

MS. HALDEMAN:

I would personally recommend that model. When this bill was initially proposed, Clark County Superintendent Dr. Walt Ruffles planned to pilot the plan in Clark County. We intended to establish several weighted values based on the money that was available to us and then implement the system as a school district to see how it worked. The plan was intended to resemble similar plans across the U.S. in which the money follows the child. The weighted amount goes directly to the school and it is used accordingly.

SENATOR LESLIE:

Is that discussed in the bill as it is written now?

MS. HALDEMAN:

No. The study committee would most likely return that as a recommendation.

SENATOR LESLIE:

The language of the bill describes what could happen, but all you are really asking for is an interim study to work out the details.

MS. HALDEMAN:

That is correct. The time is right because there is no money available for education funding. As we move forward, and the economy improves, we would like to see changes made in the way we calculate the costs of education.

When the Nevada Plan was adopted, the Legislature also adopted the Local School Support Tax in order to fund it. I am not suggesting that the implementation of our proposal would require a new revenue stream, but it might. This may be required of us if we are realistic about our expectations for education and its costs.

SENATOR LESLIE:

You have mentioned in your testimony that you have data showing that CCSD would be on the losing end of this weighted funding model. Would you be willing or able to share those numbers with the Committee and with the public?

MS. HALDEMAN:

I will do that at the request of the Committee. The release of this information might create problems. It is based on a significant amount of conjecture, and it may not be appropriate to share with the public.

There were other counties that were on the losing end of the model as well. There were, however, seven counties that would benefit from the proposal, including Washoe County.

SENATOR LESLIE:

It may not be appropriate to make those numbers public. I am interested in the idea of your proposal, however. This may be something worth pursuing.

CHAIR HORSFORD:

It is interesting that we are using states like Florida, Texas and Georgia as examples to follow. There has been a great deal of focus on education reform in those states, and they each have weighted formulas factored into their basic education support. They invest in early childhood education and a number of other innovative approaches.

We can agree that reform is necessary, but we have to put the necessary resources in place to allow the reform to be as effective as it has been in other states, such as Florida.

We should decide whether early childhood would be listed in these formulas. We have a formula basis for full-day kindergarten that is not the full per-student allocation. Attention should be paid to reviewing the full cost of providing early childhood education and full-day kindergarten.

MS. HALDEMAN:
I agree.

Many comparisons have been made to education reform in Florida. They have devoted a great deal of money to an enviable early childhood program. We could see something similar come out of this bill, although we initially only focused on traditional K-12 funding. If we want to prepare students to learn, an early childhood program is important.

CHAIR HORSFORD:

This plan would determine the direction of our State for the next 10 to 20 years. You began by describing where we were in 1966, when we had a mostly homogeneous population of 100,000 students throughout the school system. Today, we have a diverse population of over 400,000 students. As we begin to set policy for the next 10 to 20 years, we need to make decisions based on the twenty-first century economy and the new means of education that will be implemented. This means investing in schooling from preschool to graduate study. We will need to break out of our traditional modes of thinking.

Change is difficult to implement, as was seen when the 17 school districts resisted the Nevada Plan. We are seeing resistance to change today. The longer we resist it, however, the more difficult it is going to be to adapt. I appreciate the opportunity for discussion that will be sparked by the introduction of this

bill. I look forward to the opportunity to discuss the actual costs of educating students based on their differences in needs.

MS. HALDEMAN:

I want to emphasize that we are trying to tie our funding more closely to the reality in the State. Currently, we are pretending that we can bring our students up to world class standards with an inadequate amount of money. This is simply not true.

SENATOR DENIS:

I agree with Chair Horsford that, if we are going to reform education, we need to look at every facet of education. This includes funding. We cannot separate those issues. As I consider reform, it seems that we know what needs to be done, but I am not sure that we are willing to step forward and say that we will make changes for the sake of our children. This bill will encourage an important discussion about equality in the classroom. Each child is an individual. We have tried to treat students as if they are cookie-cutter copies of each other, but we should take all variables into consideration if we really want to help them.

What was cited as the impetus for the development of the Nevada Plan in 1966? Were they acting in response to poor economic conditions?

MS. HALDEMAN:

They were responding to growth. The population of Clark County was experiencing a significant increase and they were looking for ways to deal with a greater number of new students and new schools.

CHAIR HORSFORD:

That was 45 years ago. We should consider that, 45 years from now, someone will be judging our decisions as well.

MS. HALDEMAN:

I would like to do away with the Nevada Plan before its 50th anniversary.

CHAIR HORSFORD:

It should be shown on the record that this bill also applies to charter schools in the same way.

Seeing no further questions, I will move on to public comment.

E. LAVONNE LEWIS (Alpha Kappa Alpha Sorority; National Coalition of 100 Black Women; Delta Sigma Theta Sorority; The Links, Incorporated; Las Vegas Urban League):

The organizations I am representing today promote the interests of over 500 primarily African-American, middle-class women in Las Vegas. We are here to lobby on numerous issues, but I wanted to speak, specifically, in support of S.B. 11.

We support this bill because we believe that it is important to ensure that school funding in Nevada is equitably distributed. Students who come to school with challenges, such as those who are gifted, have learning disabilities, must learn English or are unprepared to learn, need additional resources and attention in order for them to function effectively in the school environment. Students who come to school with challenges cost more to educate than students without similar challenges. They need more resources. Unless we adequately fund our school districts to deal with these challenges, we will lose these children. You may lose the next Mark Zuckerberg, Ben Carson or Carolyn Edwards.

This bill will provide weighted funding for each of several categories. The funding follows the student. If the student transfers to another school, the money goes with them. This means that the money goes directly into the classroom and not to administration or transportation. The money is most needed in the classroom. The goal is to make sure each child is successful and that his or her needs are met at the individual level.

Students need time and assistance. Additional time is necessary for some students in order for them to learn the content. This may come in the form of a longer school day or Saturday school. One of the organizations to which I belong sponsors a Saturday school program. They have found that this program is highly successful in improving the performance of the students who attend, when compared to students from the same school who do not attend.

All of our organizations are committed to education. We spend the majority of the money we raise on educational endeavors. We support scholarships, Saturday school and other efforts to improve the educational attainment of our students. We are educators, social service professionals, doctors, attorneys, parents and grandparents, and we recognize that equitable distribution of education resources is essential.

All students can learn, but we cannot treat them all the same. This bill allows us to differentiate in a positive way, so that those students who need more resources can get them.

Most importantly, we are Nevadans, and we believe that the best way to ensure the economic viability of our State is to invest equitably and adequately in our children's education. Our future depends on it.

KEITH RHEAULT, PH.D. (Superintendent of Public Instruction, Department of Education):

As a representative of the Department of Education, I am in full support of S.B. 11. The Department will support the development of the weighted formula and its introduction in a subsequent Legislative Session, as provided in section 19.

When I began working in Nevada 24 years ago, the first report I authored was a survey of the funding mechanisms used by other states to pay for CTE. These programs typically cost more because of the need for supplies, equipment and small class sizes. At that time, 18 or 20 states had weighted formulas for their CTE programs. I have been a long-time supporter of weighted formulas.

I support the concept that we maintain our current per-pupil funding as the base amount, because it provides equity. We have never been challenged on the equity of our education funding. We are in need of improvement in the area of adequacy, however, and the weighting should assist in this area. When the two methods are combined, we will have the best funding formula in the country.

I would caution that the number of categories listed here would add a level of complexity to our auditing functions. When you start adding categories, there is a chance that you can overstate a population.

Currently, when I send our auditors in to count students, they physically go into classrooms and count heads and match them to names. This is a simple process. In the proposed plan, we would have to ensure that we can identify any special classifications for each student as well. I would support a smaller list of categorical denominations. There are certain classifications that can be proven and identified for auditing purposes. Students with disabilities will have an IEP, which can be easily tracked. An ESL student is required to take a proficiency test to show whether or not they are proficient. This can be

documented. In the case of CTE programs, we can verify that students have enrolled in specific classes.

The rates of transient students or gifted and talented students are more difficult to verify. There is currently no state designation for how to determine a gifted student. It varies by district.

CHAIR HORSFORD:

I find it shocking that there is no state standard for determining gifted and talented status. Why has this not been addressed?

DR. RHEAULT:

This has not been addressed because the State does not fund gifted and talented programs. The school districts decide whether they want to offer these programs.

CHAIR HORSFORD:

The absence of this type of classification process indicates that we, as a State, have very little regard for supporting our gifted and talented students.

DR. RHEAULT:

Section 6 of the bill discusses the process for establishing set, per-pupil payment for distance education students. The Department of Education brought this issue before the Legislature during the last Session. Our proposal targets distance education programs in which the students never come to a facility. Currently, a distance charter school at the elementary level can enroll students from all 17 districts in the State. Currently, we fund the education of those students based on the county in which they live. The per-pupil funding varies dramatically based on where the student is located. The courses and teachers are exactly the same.

CHAIR HORSFORD:

I do not want to have this type of policy discussion today. Furthermore, I do not believe that section 6 is germane to the overall purpose of this bill. You are trying to set the policy in this section, while the rest of the bill aims to initiate a study to make recommendations on the weighted formula. Section 6 has been included to set the basic support for distance education as if the conclusion has already been reached.

We have had this policy discussion in previous sessions. There is a reason that this proposal was not passed at those junctures. If there is a reason to bring it up, then it should be brought up as a separate bill.

DR. RHEAULT:

I looked at this issue as relevant to cleaning up funding issues with different types of programs throughout the State. Would you be open to looking at this proposal as part of the review during the interim?

CHAIR HORSFORD:

Cleaning up funding distribution issues during an interim study is a different issue. Section 6 reads that "the Legislature shall establish a separate basic support," and that this "must be determined by adding the basic support guarantee." This language is not permissive. It does not look at reviewing this as part of the overall weighted average review. It should be taken up separately.

SENATOR CEGAVSKE:

Please discuss the 2006 study, "Estimating the Cost of an Adequate Education in Nevada," that was commissioned by the Legislature. If S.B. 11 were to pass, would you recommend including that study in the consideration of the weighted formulas? Could you provide the results of that study to the new Committee members? The State spent approximately \$100,000 for this study.

DR. RHEAULT:

That would be a good starting point. Weighted formulas were recommended in that study, so it would probably be a good basis to work from for this proposed advisory group.

SENATOR CEGAVSKE:

I would like to emphasize a point that you made earlier. The State has never been sued for equity problems in its education funding, thanks to the language that is written into the Nevada Plan. It is important for the Committee to be aware of that. We have been repeatedly saved from lawsuits that have been seen in other states. The Nevada Plan is old, but we should make sure that we keep the important parts of it intact. We are fortunate to have had it for all these years.

CHAIR HORSFORD:

There is no funding provided for hiring third-party experts who would assist in the development of this weighted average formula. We want the results of this study to be lent credibility by nonpartial, third-party analysis. We do not want the people who would ultimately benefit to design the formula. What is the Department of Education able to do to support this? Should there be additional funding in place to make sure this is done in a way that provides credibility?

DR. RHEAULT:

The bill, in section 19, specifies who would sit on the advisory group. It would include someone from the Legislative Counsel Bureau, someone from the Governor's Budget Office and some representatives of the school districts. Typically, in these cases, the individuals are provided at no cost to the State. The quality of the study would be aided if some additional funding were provided to hire consultants to review the directions and information coming out of the group. We have not looked at the cost of that, but we could.

CHAIR HORSFORD:

Please identify those additional costs and provide that information to the Committee.

CRAIG M. STEVENS (Director of Government Relations, Nevada State Education Association):

The Nevada State Education Association supports S.B. 11.

KATHLEEN CONABOY (K12 Inc.):

I represent K12 Inc., which provides services to Nevada Virtual Academy. Nevada Virtual Academy is a distance education charter school which was chartered by the Nevada State Board of Education.

The language in section 6 of this bill has been discussed before. The exact language in section 6 of S.B. 11 was lifted from S.B. No. 384 of the 75th Session which, fortunately, failed to pass. Because this language aims to cut DSA funding for virtual education students, I am here to speak in opposition to section 6.

In weighting formulas used in other states, the weighting criteria focused on the attributes of children. These were considered in the categories enumerated by Ms. Haldeman this morning. They include ESL students, homeless students,

gifted students and others. Distance education is not an attribute of a child, it is a delivery model.

If there is to be a study during the interim which would discuss including distance education providers in the weighted funding model, K12 Inc. would be happy to contribute to the discussion. If the issue concerning distance educators were to be carved out and presented in another bill, we would be in support of S.B. 11.

CHAIR HORSFORD:

What is the net effect of reducing the DSA allocation for distance education by 25 percent, as it is written in section 6?

MS. CONABOY:

This would be the lesser of two elements which were included in S.B. No. 384 of the 75th Session. I would have to look at that to calculate the impact. We currently have 3,200 students enrolled in Nevada Virtual Academy. A 25 percent reduction would most likely represent a significant financial impact.

LAURA K. GRANIER (Nevada Connections Academy):

I am speaking today on behalf of the Nevada Connections Academy, which is a statewide virtual charter school providing highly individualized education to hundreds of students throughout Nevada.

Chair Horsford has addressed our concerns. I would like to concur with the statements made by Ms. Conaboy. I am glad to hear that a study has been suggested. The issues concerning distance education charter schools should also be considered in any proposed study. There is no reason to single out distance education.

The question revolves around whether there is any basis to differentiate funding based on whether a student comes into an office for a once a week face-to-face meeting. These virtual schools demonstrate a model for highly individualized education without any need for face-to-face meetings. These students have around-the-clock access to their teachers through e-mail, videoconference, telephones and other modes of communication. As Chair Horsford recognized, we need to break out of the traditional modes of thinking and make sure that

we are doing everything we can to provide the best module we can for today's learners.

The National Association of Charter School Authorizers has recognized that most virtual schools can act as their own local education authorities, meaning that they are responsible for testing and special education services. This includes individualized support, curricular modifications and adaptations and provisions of related services.

These schools educate all of the different types of students that have been identified. At Nevada Connections Academy, every student has their own individualized learning plan so that they can learn at their own pace and their individualized needs are met. We would encourage the State to support this type of individualized instruction that has proved critical to rural communities where access has always been a problem.

CHAIR HORSFORD:

What is the process for enrolling a student from a rural district when the allocation that student receives is different from the allocation that a student from Clark County would receive?

MS. GRANIER:

I would have to ask the school about how the accounting process works. Every student in the academy is provided with a laptop and has the same access to the teachers as the other students.

CHAIR HORSFORD:

Is the funding provided based on the county of residence of each student?

MS. GRANIER:

That is correct.

DOTTY MERRILL, PH.D. (Executive Director, Nevada Association of School Boards):
It was interesting to hear Ms. Haldeman's historical account of the development and adoption of the Nevada Plan. There were reasons then that it took two biennia of study for the Legislature to fully consider the Plan prior to its adoption.

Although the Nevada Association of School Boards is neutral on this bill, we strongly support the idea of a study commission. We believe that it is important to determine the true cost of educating students in Nevada for the benefit of the children, the teachers and the taxpayers. No study of these weighted values has yet been undertaken. Additional categories may need to be considered.

We hope that a decision on this issue would be made on the support of extensive research and data.

MARY PIERCZYNSKI (Nevada Association of School Superintendents):
The Nevada Association of School Superintendents is neutral on S.B. 11. The bill calls for an examination of the Nevada Plan, which we support. We particularly support the language in section 19 which allows the financial officers of each school district to be a part of the study commission.

CHAIR HORSFORD:
Seeing no further public comment, we will close the hearing on S.B. 11. Our fiscal Staff will now present an update on our progress as a Committee this Session.

MARK KRMPOTIC (Senate Fiscal Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):
There were a total of 49 budgets to be heard by the full Committee. As of this morning, the Committee has heard all of these.

There were a total of 328 budgets assigned for subcommittee recommendation and review. The subcommittees have heard a total of 216 of these as of last week. Another 57 will be heard this week. Within two weeks, the subcommittees will have heard almost all of the budgets assigned to them.

There are currently ten bills that have been referred to the Committee. We have heard one of those bills this morning. There are 42 capital improvement projects to be reviewed by the Joint Subcommittee on Human Services and Capital Improvement Projects. Ten of those have been reviewed.

Sixty-five percent of the subcommittee budgets have been heard and we will reach 85 percent of those by the end of next week.

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SENATOR CEGAVSKE:

I would like to bring forward a clarification. Wells Fargo Bank has recently received negative attention in the press for a perceived failure to appear and speak before this Committee on March 7, 2011. This was regarding the State contracting processes. Wells Fargo was not asked to attend that meeting. Representatives of another organization, with whom Wells Fargo works on one of these contracted operations, were asked to attend and did not attend.

CHAIR HORSFORD:

It is my understanding that the primary contract was with ACS State and Local Solutions. They were in attendance. It is not clear whether they notified Wells Fargo of the meeting. The meeting was publicly noticed and the contracts were identified. There was a request for the contractors to be present. Wells Fargo indicated that they were not aware of the meeting. I would like to make them available at any time to come before the Committee and answer questions pertaining to the fees they are charging.

Seeing no further business, this meeting is adjourned at 9:47 a.m.

RESPECTFULLY SUBMITTED:

Wade Beavers,
Committee Secretary

APPROVED BY:

Senator Steven A. Horsford, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	David Sarnowski / Commission on Judicial Discipline	Commission on Judicial Discipline Budget Outline
	D	Joyce Haldeman / CCSD	CCSD Demographic Chart
	E	Joyce Haldeman / CCSD	Las Vegas Chamber of Commerce Education Report