

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
April 14, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 12:20 p.m. on Friday, April 14, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Senator Nicole J. Cannizzaro, Senatorial District No. 6

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Karly O'Krent, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Homa Woodrum, Office of the Attorney General
Johnathan Norman, Nevada Coalition of Legal Service Providers
Richard McCann, Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition
Julia Gold, Chair, Probate and Trust Law Section, State Bar of Nevada

Senate Committee on Judiciary
April 14, 2023
Page 2

Alan Freer, Probate and Trust Law Section, State Bar of Nevada
Nick Shepack, Fines and Fees Justice Center
Katie Brandon, Fines and Fees Justice Center
Destiny Rich
Ashley Gaddis
Susan Proffitt, Nevada Republican Club
Margo Tello
Sonya Williams
Jodi Hocking, Return Strong!
John J. Piro, Clark County Public Defender's Office
Erica Roth, Washoe County Public Defender's Office
Tonja Brown, Advocates for the Inmates and the Innocent
Amelia Booth
Nicole Williams
James Dzurenda, Director, Nevada Department of Corrections

CHAIR SCHEIBLE:

We will open the work session starting with Senate Bill (S.B.) 14.

SENATE BILL 14: Makes various changes related to gaming. (BDR 41-259)

PATRICK GUINAN (Policy Analyst):

Senate Bill 14 was heard by the Committee on February 14, 2023, and is summarized on the work session document ([Exhibit C](#)). There is an extensive amendment, [Exhibit C](#), submitted by the Nevada Gaming Control Board.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 14.

SENATOR OHRENSCHALL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 35 was heard by the Committee on April 10, 2023, and is summarized on the work session document ([Exhibit D](#)). The Attorney General's Office submitted an amendment, [Exhibit D](#).

Senate Committee on Judiciary
April 14, 2023
Page 3

SENATE BILL 35: Establishes the crimes of low-level trafficking in fentanyl, mid-level trafficking in fentanyl and high-level trafficking in fentanyl. (BDR 40-423)

SENATOR KRASNER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 35.

SENATOR NGUYEN SECONDED THE MOTION.

SENATOR HARRIS:

I support S.B. 35 out of Committee today but reserve my right to change my vote on the Floor.

SENATOR OHRENSCHALL:

I support S.B. 35 out of Committee today but reserve my right to change my vote on the Floor.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 38 was heard on March 2, 2023, and is summarized on the work session document ([Exhibit E](#)). The Nevada District Attorneys Association submitted an amendment, [Exhibit E](#).

SENATE BILL 38: Revises provisions relating to offenses against children. (BDR 15-425)

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 38.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 61 heard by the Committee on March 6, 2023, is summarized on the work session document ([Exhibit F](#)). The Attorney General's Office submitted an amendment, [Exhibit F](#).

SENATE BILL 61: Revises provisions relating to crimes involving the deposits or proceeds of an account held in joint tenancy. (BDR 15-427)

SENATOR KRASNER:

Does S.B. 61 apply to an account held jointly with an older person? This Body often says nobody can decide who can marry and who can love who, regardless of the color of their skin or gender. I want to make sure that we are not saying that because of a person's age, for example if a man is 25 years older than his wife and says, "honey I cannot get around but, on the holidays, go buy yourself a \$10,000 diamond necklace." Then the next year says, "go buy yourself a nice Rolex watch." Then the husband dies. Are the stepchildren able to bring a case against these expenditures this woman made year after year? I want to make sure that married couples are exempted from this.

HOMA WOODRUM (Office of the Attorney General):

First, I want to address your hypothetical relating to stepchildren trying to bring a case. Senate Bill 61 relates to *Nevada Revised Statutes* (NRS) 200 on criminal matters so the stepchildren could not bring a civil case. To clarify, this is not meant to intrude upon community property or create some new avenue related to married individuals. In prior cases relating to the allegations you described, the only way we have ever been able to address the case is if the marriage itself was a fraud and we are trying to annul the marriage first to figure out whether that conduct was appropriate. But it is not meant in any way to create some crime between May-to-December romances or to intrude on private decisions to provide gifts. Senate Bill 61 is just about whether we could investigate crimes of exploitation where someone is completely wiped out of their funds and unable to take care of him- or herself.

SENATOR KRASNER:

I appreciate you saying there would be no grounds for a civil action. What about criminal action? What if the couple later end up getting a divorce. In the middle of a divorce proceeding, the man who is 25 years older cannot remember that he gave her permission every year on the holidays to buy jewelry. Is she going to be suspected of doing something wrong?

MS. WOODRUM:

Senate Bill 61 would not subject him or her to criminal charges in that situation if the facts did not support the core elements of exploitation in NRS 200 which are highly specific. This would not create a situation where if someone does not remember gifting something and then would have to prove it. The Office of the Attorney General is in discussions with public defender representatives to provide more clarification as to those types of concerns. In the Assembly, we can fine-tune some language to deal with the concerns that were expressed during the first hearing on S.B. 61. It is not our intention to include those situations, and we could work together to craft language to mollify those concerns.

SENATOR STONE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 61.

SENATOR NGUYEN SECONDED THE MOTION.

CHAIR SCHEIBLE:

I had concerns during the first hearing, but this amendment, [Exhibit F](#), does allay those concerns. We are all on the same page about wanting to protect people from victimization and not cast too wide a net that we pull in people who are behaving in noncriminal ways.

THE MOTION CARRIED. (SENATOR KRASNER VOTED NO.)

* * * * *

MR. GUINAN:

Senate Bill 104 was heard by the Committee on February 22, 2023, and is summarized on the work session document ([Exhibit G](#)). There is an amendment, [Exhibit G](#), provided by the Committee.

SENATE BILL 104: Revises provisions relating to traffic offenses. (BDR 43-309)

SENATOR NGUYEN:

There are some implementation problems and issues. Some amazing stakeholders have participated in discussions about the implementation problems and have been a part of that process since S.B. No. 219 of the 81st Session passed in 2021. On the flip side, there are other jurisdictions,

mostly in southern Nevada, that have not participated and enacted the clear intent of this legislation from 2021 which passed in an overwhelming bipartisan manner. I know that because this was implemented in January 2023. Many jurisdictions, like the City of Henderson, City of Las Vegas and others throughout the State have not quite had the same problems as our major jurisdiction of the Las Vegas Justice Court. Hopefully, they will learn from their partners within the State on how to do this and how to implement this correctly, to cut back on their backlog and follow the intent. If we do need to continue to make those corrections to get this implemented or to make our intent abundantly clear if not in all these bills that passed in 2021, I will continue to work on that. Unfortunately, while this is in a good place right now and makes corrections needed by the Las Vegas Metropolitan Police and the jurisdictions that have participated in working groups over the past 18 months, I think there will probably be some more changes.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 104.

SENATOR STONE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 294 was heard by the Committee on April 5, 2023, and is summarized on the work session document ([Exhibit H](#)).

SENATE BILL 294: Revises provisions relating to the safe storage of firearms.
(BDR 15-47)

There is an amendment, [Exhibit H](#), provided by Senator Fabian Donãte. It removes section 3 of the bill, which is the Safe Firearm Storage Act and the penalties associated with it, and retains the current language in statute. New language is added in sections 8 and 9 revising provisions concerning how governing bodies of charter schools and school districts with more than 50,000 students are to train officers, educate students and staff, and communicate with parents and guardians regarding active assailant training, preparedness and notification.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 294.

SENATOR NGUYEN SECONDED THE MOTION.

SENATOR HANSEN:

I will vote no on S.B. 294. While I admire the intent of trying to protect children, this is going to disproportionately affect people in unsafe neighborhoods who have a need to have reasonably quick access to firearms. The No. 1 reason people in those neighborhoods are buying firearms is for self-defense. Where I live, it is nice and safe to say people should store all their weapons in this manner. The reality is people, especially women who live in dangerous neighborhoods, need to have quick access to a firearm for their own self-defense.

Cops cannot be everywhere all the time. This will create a barrier for people wanting to quickly get a firearm and repel a potentially dangerous person from breaking in. This is going in the wrong direction.

CHAIR SCHEIBLE:

I want to clarify that S.B. 294 has been amended to remove the safe storage portions. It leaves in the educational portions and training portions for school and law enforcement personnel.

SENATOR HANSEN:

That is correct. I just got the documents two hours ago. I did not get a chance to read the amendments. I am still going to vote no, but maybe I will change my vote on the Floor if, in fact, all the storage portions have been removed.

CHAIR SCHEIBLE:

I completely understand. We all have been trying to keep up with the copious bills and amendments. That is the intent of the amendment, [Exhibit H](#), and we can continue the conversation.

SENATOR KRASNER:

I just received the packet. I am going to vote no but reserve my right to change prior to Floor after I read through the amendment.

THE MOTION CARRIED. (SENATORS HANSEN, KRASNER AND STONE VOTED NO.)

* * * * *

MR. GUINAN:

Senate Bill 335 was heard on April 4, 2023, and is summarized on the work session document ([Exhibit I](#)).

SENATE BILL 335: Revises provisions regarding real property. (BDR 3-883)

There is an amendment, [Exhibit I](#), by Senator James Ohrenschall and Jonathan Norman of the Legal Aid Coalition that removes sections 2 through 8 of S.B. 335 and inserts language enabling a justice court to create an eviction diversion court and providing guidelines for participation.

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

Jonathan Norman of the Legal Aid Coalition and Judge Melissa Saragosa in southern Nevada worked tirelessly to come up with something workable for the courts that will help protect our constituents.

SENATOR STONE:

I have not had a chance to review the amendment, [Exhibit I](#). Prior to COVID-19, the eviction process was fair and expeditious in cases where people were not paying rent or had problem tenants. Understanding the bill in its present form and having a chance to review those amendments, some of them are attractive. This increases steps, costs and time for a landlord to get an eviction. As a landlord that has been here for five years and never evicted anybody, I worry about the small mom and pops that S.B. 335 could delay getting their units rerented, causing financial harm. For those reasons I am going to vote no but reserve my right to change my vote on the Floor.

CHAIR SCHEIBLE:

It is my understanding that the amendment, [Exhibit I](#), removes the first eight or nine sections. This bill has two components: One is authorizing the diversion courts for eviction proceedings and two is refining the language around stays of evictions when someone has a pending rental application.

Senate Committee on Judiciary
April 14, 2023
Page 9

JOHNATHAN NORMAN (Nevada Coalition of Legal Service Providers):

It is those two components, and we listened to the Committee opinion to craft something that put limits on that defense so that landlords were not waiting for long periods of time. The amendment language from No. 4 in [Exhibit I](#) is to weed out potential bad actors that I think this Committee was worried about to make sure that people who are most at risk are able to access this defense.

SENATOR KRASNER:

I am going through the amendment, [Exhibit I](#), that I received. I am going to vote no and reserve my right to change the vote on the Floor.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
[S.B. 335](#).

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HANSEN, KRASNER AND STONE
VOTED NO.)

* * * * *

MR. GUINAN:

[Senate Bill 343](#) was heard by the Committee April 10, 2023, and is summarized on the work session document ([Exhibit J](#)).

[SENATE BILL 343](#): Revises provisions relating to fentanyl and derivatives of fentanyl. (BDR 40-501)

Three things were added to [S.B. 343](#) in the amendment proposed by Senator Nicole Cannizzaro and Attorney General Aaron Ford. It strikes provisions establishing mid-level and high-level fentanyl trafficking offenses but retains the low-level offense. The definition of fentanyl is amended to mirror that in [S.B. 35](#). The Good Samaritan language concerning overdose reporting is added to the bill.

SENATOR KRASNER MOVED TO AMEND AND DO PASS AS AMENDED
[S.B. 343](#).

SENATOR STONE SECONDED THE MOTION.

Senate Committee on Judiciary
April 14, 2023
Page 10

SENATOR HARRIS:

I reserve the right to change my vote on the Floor.

SENATOR OHRENSCHALL:

I reserve the right to change my vote on the Floor.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 367 was heard by the Committee on April 3, 2023, and is summarized on the work session document ([Exhibit K](#)).

SENATE BILL 367: Revises provisions relating to public safety. (BDR 15-942)

Clark County offered an amendment, [Exhibit K](#), that strikes section 8 from the bill and replaces it with new language setting forth the conditions under which the records of a child who is at least 16 years of age and has been court ordered into a mental health facility must be provided to the Central Repository to show up when a background check is performed relating to the purchase or possession of a firearm. The Nevada Central Repository is to ensure that information is included in the National Instant Criminal Background Check System and may take steps to include the information in appropriate databases of the National Crime Information Center. These provisions do not apply if the child has sought mental health treatment voluntarily. The amendment also provides a means by which a person who is the subject of a report made under this bill may petition the court to have the record removed upon certain findings. There is an amendment, [Exhibit K](#), from the public defenders which seeks to bring the bill into line with federal law from a couple of court cases with sentencing guidelines.

SENATOR NICOLE J. CANNIZZARO (Senatorial District No. 6):

The Committee should have two amendments: one from Clark County and one from the Public Defender's Offices in Clark and Washoe Counties. The Clark County amendment was briefly discussed at the Committee hearing, revising how the background check process works.

The amendment from the Clark County Public Defender's Office and Washoe County Public Defender's Office removes section 2 from S.B. 367. Then section 3 amends the bill to be specific that if a person is prohibited from possessing a firearm, then each firearm they possess is a separate violation. On page 2, section 2 of the amendment is a "dangerous weapon" definition; we are striking that language and using the definition of firearms that exists in NRS 202.360 to make sure there is no confusion by creating multiple definitions across statutes to identify a firearm.

The intent of S.B. 367 is to make clear that each firearm in a prohibited person's possession would constitute a separate charge. Other conforming changes made between the two amendments should address the concerns we heard. When I was in front of this Committee presenting S.B. 367, we were willing to talk about those changes.

SENATOR HANSEN:

One of my big issues with S.B. 367 was what I call stacking charges of separate violations. It sounds like the amendments cleared it up. But the original language of the bill said each dangerous weapon and metal penetrating bullet could theoretically be a separate felony charge. Even a machete and different weapons like that were included. Would what is left in S.B. 367 after the amendment, still allow prosecutors to charge a series of stacked felony charges?

SENATOR CANNIZZARO:

The piece that has been referred to as stacking charges is not stacking charges because these are multiple charges arising out of one course of conduct. It is akin to someone who has five stolen vehicles in their possession, which would be five charges of possession of a stolen vehicle. This amendment would make clear that if he or she is already a person prohibited from owning a firearm, then every firearm in his or her possession is a charge. If it is one firearm, he or she could be charged with one count of possession of a firearm by a prohibited person. If he or she had 5 or 50, that would be 5 or 50 counts that could be charged but only if that person is a prohibited person and has those firearms in possession.

The amendment clarifies the language pertaining to firearms is not the metal projectiles, machetes or other dangerous weapons. We want to make sure that S.B. 367 has the definition of a firearm as defined in NRS but would allow

Senate Committee on Judiciary
April 14, 2023
Page 12

multiple charges for every firearm to be charged against a person prohibited from possessing a firearm and not include anything else.

SENATOR HANSEN:

That alleviates a lot of my concerns. I am still going to vote no, but I will read through the amendments and may switch my vote to yes on the Floor.

SENATOR NGUYEN:

Thank you, Senator Cannizzaro, for taking into consideration the concerns I had with other weapons and metal-piercing bullets because I saw that as being dangerous.

CHAIR SCHEIBLE:

I want to clarify that a prosecutor has discretion to choose how they charge a particular crime. If some reasons did not make sense, then prosecutors could file a criminal complaint, charging one count of possession of a firearm and name three firearms in that count.

SENATOR CANNIZZARO:

That is correct. Nothing about S.B. 367 or any piece of legislation removes the discretion that prosecutors have on charging documents, deciding whether charges are going to be pursued based on evidence and if plea negotiations are made. As much as we pass legislation, the discretion still exists and allows the criminal justice system to be flexible on addressing individual circumstances because trying to put everything in black and white can be difficult.

SENATOR OHRENSCHALL MOVED TO AMEND AND DO PASS AS AMENDED S.B. 367.

SENATOR NGUYEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS HANSEN, KRASNER AND STONE VOTED NO.)

* * * * *

MR. GUINAN:

Senate Bill 379 heard by the Committee on April 12, 2023, and is summarized on the work session document ([Exhibit L](#)).

SENATE BILL 379: Revises provisions relating to gaming. (BDR 41-1016)

There are three amendments; two were proposed during the Committee hearing on S.B. 379 by two students from the William S. Boyd School of Law, University of Nevada, Las Vegas. The third was offered by Chair Scheible. I will go through them individually even though they do not conflict with each other and should all be accepted together or individually as the Committee sees fit.

The first amendment, Exhibit L, offered by Senator Scheible replaces section 3 of S.B. 379 with new language requiring the adoption of strict regulations to register and maintain sports wagering ticket brokers. Section 6 is amended with language providing that certain provisions of NRS 465 do not apply to the operations of a properly registered sports wagering ticket broker.

The second amendment was offered in testimony by Douglas J. Billings from the Boyd School of Law. The distinction between operators and manufacturers included in the language of S.B. 379 is removed. Foreign gaming reporting obligations are reduced, and the statute is further aligned with the Gaming Control Board expected practices with foreign gaming reports.

The third amendment was offered in testimony from Veronika Denisova from the Boyd School of Law and would require the Nevada Gaming Commission to adopt provisions defining the responsibilities with the manufacture or repair of gaming devices and other equipment that must be met to be considered a gaming employee under NRS 463.0157.

CHAIR SCHEIBLE:

I did hear the Committee's and stakeholders' concerns about the licensing versus registration portion of secondary sports wagering companies. The law students and industry stakeholders came to me asking for help to figure out that piece of S.B. 379. We are still working together on possible solutions. It is my understanding that the language proposed in my amendment is an improvement. It might not fix all the problems, but we are on the path to solving those problems, which is one piece of the larger package of S.B. 379.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 379.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 389 was heard by the Committee on April 13, 2023, and is summarized on the work session document ([Exhibit M](#)).

SENATE BILL 389: Revises provisions relating to crimes. (BDR 15-133)

Proposed Amendment 3588, [Exhibit M](#), is offered by Senator Melanie Scheible to add language excluding the sharing of any information in the report required in section 4, subsection 2 of S.B. 389 that would compromise the victim's safety or privacy. It allows entities that receive money from the Contingency Account for Victims of Human Trafficking to use that money to establish a pilot program or programs for alternatives to law enforcement response to victims of human trafficking. A \$1 million appropriation to the contingency account from the State General Fund is included.

SENATOR STONE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 389 WITH PROPOSED AMENDMENT 3588.

SENATOR NGUYEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 410 was heard by the Committee on April 13, 2023, and is summarized on the work session document ([Exhibit N](#)).

SENATE BILL 410: Revises provisions relating to juvenile justice. (BDR 5-1026)

Clark County submitted an amendment, [Exhibit N](#), that was mentioned in testimony on the bill hearing. It clarifies that if an employee has appealed the substantiation report of child abuse or neglect but the hearing has not yet occurred through no fault of the employee, a department of juvenile justice

services must extend the amount of time for the hearing to occur and a decision to be rendered.

SENATOR STONE:

These are employees who have contact with kids. Are there instances where people are wrongly accused, and they deserve due process, which is what S.B. 410 will grant? The judicial system does not always work as fast as we would like. Is the accused person not allowed to have contact with children within the juvenile justice system, until their trial is adjudicated?

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

There was testimony at the hearing establishing that an allegation of child abuse or neglect was different than other accusations like driving under the influence. Until those allegations were resolved, that employee could only work in areas without children. Mr. McCann can provide any further enlightenment on that. I do not want to speak for any department of juvenile justice services, but I believe he has more information.

RICHARD MCCANN (Nevada Association of Public Safety Officers; Nevada Law Enforcement Coalition):

No, if somebody is charged with child abuse and neglect, we do not want them with kids. That is in the NRS.

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 410.

SENATOR STONE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

MR. GUINAN:

Senate Bill 415 was heard by the Committee on April 13, 2023, and is summarized on the work session document ([Exhibit O](#)). Clark County submitted an amendment, [Exhibit O](#), at the bill hearing. It sets forth provisions clarifying when a child may be placed on probation.

SENATE BILL 415: Revises provisions relating to juvenile probation. (BDR 5-317)

SENATOR NGUYEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 415.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR SCHEIBLE:

I will close our work session and open the hearing on S.B. 407.

SENATE BILL 407: Revises provisions relating to personal financial administration. (BDR 12-959)

SENATOR JAMES OHRENSCHALL (Senatorial District No. 21):

Senate Bill 407 is the culmination of 18 months of work from the Probate and Trust Law Section of the State Bar of Nevada. This was presented to the State Bar of Nevada Board of Governors and received unanimous support in August 2022.

JULIA GOLD (Chair, Probate and Trust Law Section, State Bar of Nevada):

When a bill goes to the Board of Governors, it is vetted by every law section at the State Bar of Nevada. Every committee law section vetted S.B. 407 and had no objections to the language and content. This bill was approved 100 percent by the Board of Governors of the State Bar of Nevada. This bill primarily amends Titles 12 and 13 of NRS which deal with trusts in State law.

Section 1 of S.B. 407 amends the statute on jurisdiction and venue on estates to clarify between the separate requirements for jurisdiction and venue and offer greater flexibility to adjudicate estates.

Sections 2 and 3 amend the support of family and small estate statutes to clarify the relevant needs and resources to be considered in establishing a probate homestead and to provide a mechanism for court appointment of a specific person other than a duly appointed personal representative to execute

set-aside documents. Hopefully, it will make it easier to proceed with estates that are under \$100,000.

Sections 4 and 5 amend the sales and conveyances statutes to increase efficiency when we are doing a sale not under the Independent Administration of Estates Act and to eliminate unnecessary correspondence with people that do not have an interest in the property being sold.

Section 6 amends notice provisions of NRS 155.010 and permits electronic service where available. If someone does agree to receive service via email, we can do that.

ALAN FREER (Probate and Trust Law Section, State Bar of Nevada):

Section 7 provides clarity by amending declaratory relief statutes to include the concept of allowing an interested person to bring declaratory relief. The interested person is a defined term under NRS 132.185. This brings in it in line with persons who have standing in probate and trust proceedings.

Sections 9 and 16 are new sections added to NRS 163 and NRS 164 on how to define and establish incapacity and reinstate the capacity of a trustee to serve as trustee and provide guidance to the courts on what standards are to be used.

Sections 10, 13 and 18 have been drafted to streamline the court process and further protect beneficiaries' private information from becoming public records. These sections provide a statutory right in favor of those beneficiaries to keep certain information confidential relating to a trust that otherwise would first be subject to public record and only made private upon going through a motion process to get those records deemed confidential. These sections were done as part of a canvassing of the United States and a middle ground between states that automatically make any case filed for a trust proceeding confidential versus those states that have no protections. We, as a committee, felt that it was best to have a middle ground where certain information will be protected. All of it is still subject to district court that will have discretion and final say regarding the privacy of the information.

Section 11 is clarification to provide a better definition of a support interest. It was ambiguous before, and this provides that a support interest is a mandatory requirement for a beneficiary.

Section 12 is designed to keep up with the evolving area of trust law and the new concepts that have passed in the last few sessions with respect to trust protectors. This sets a default standard that a trust protector is a fiduciary and subject of fiduciary duties to better protect beneficiaries. However, that fiduciary capacity can be changed by the settlers in the trust document itself.

Section 14 is the most expansive clarification in S.B. 407. It amends NRS 164.010 in light of a constitutional jurisdiction concern raised by the Nevada Court of Appeals. This clarifies when and how a court can assume jurisdiction and the factors relevant for determining venue.

Section 15 clarifies what information trustees are required to provide a beneficiary in a notice of irrevocability under NRS 164.021. This clarification was in light of recent Nevada Supreme Court opinions and provides what information a trustee may provide to the beneficiaries.

Section 17, subsection 9 has a technical correction from the Uniform Principal and Income Act. In its original drafting and passage, NRS 164.796 said a trustee is exonerated if he or she “fails to take any action” under the Act. It should read “takes or fails to take any action.”

We submitted an amendment ([Exhibit P](#)). Section 1 of the amendment amends the original drafting of the bill draft request (BDR) that had “interested party,” and we changed it to “interested person” in line with NRS 132.185.

Section 10 was intended to provide a definition of what confidential information would be protected. In the drafting process, it became an absolute trigger that the following information is confidential which was not the intent. We have amended to strike section 10 and include the definition in section 13.

Section 14 cleans up NRS 164 to correct transcription errors in the BDR drafting process and conformity with the language that was presented to the State Bar of Nevada.

CHAIR SCHEIBLE:

I will close the hearing on S.B. 407 and will accept a motion to amend and do pass.

SENATOR STONE MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 407.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY. (SENATOR HANSEN WAS
EXCUSED FOR THE VOTE.)

* * * * *

VICE CHAIR HARRIS:
I will open the hearing on S.B. 416.

SENATE BILL 416: Revises provisions relating to the Department of Corrections.
(BDR 16-322)

SENATOR MELANIE SCHEIBLE (Senatorial District No. 9):
Senate Bill 416 can be referred to as the “cost of incarceration bill” and is the product of many years of work by a lot of people who are invested in ensuring our criminal justice system works. This bill comes out of the Joint Interim Standing Committee on the Judiciary. During the Eighty-first Legislative Session, we heard from numerous family members of inmates, formerly incarcerated people, attorneys, staff at the Nevada Department of Corrections (NDOC), the judicial system and other impacted folks about experiences of being incarcerated in the NDOC system.

Being incarcerated is expensive. We learned a lot on why it is expensive during the Eighty-first Legislative Session and in the Joint Interim Standing Judiciary Committee hearings. The functions of NDOC and some of the ways that they find revenue sources are questionable, such as through fees and fines being assessed to people who are incarcerated. The Committee took our obligation seriously to look at those and ensure they were fair and made sense from a policy standpoint for our State. The work on S.B. 416 has been done by our advocates from the Fines and Fees Justice Center, Nick Shepack and Katie Brandon.

NICK SHEPACK (Fines and Fees Justice Center):
Senate Bill 416 is the culmination of more than two years of attention being drawn to the financial practices at NDOC. While there are financial burdens from

for-profit companies that contract with different departments of corrections across the Country, Fines and Fees Justice Center is a parent to all advocates. It was not until we started seeing 80 percent of an individual's deposits being deducted under the last administration that we realized the financial system that we have built here in Nevada around NDOC is burdensome and at times possibly predatory for individuals who are incarcerated and their families.

We took a deep dive with our partners at Return Strong through public records requests and conversations with NDOC to figure out what this system looked like and what the impact was on Nevada's families.

What we found was shocking. Nevada has some of the highest commissary markups in the Nation and the second-highest medical co-pays which are over double the national average for people seeking medical care. The only state that has a higher medical co-pay is Texas; however, they have a cap and exempt many things from the medical co-pay that Nevada does not. We have submitted fact sheets ([Exhibit Q](#) and [Exhibit R](#)) that provide more details.

Nevada Department of Corrections charges room and board only to individuals who are working. Therefore, if an inmate has a job, he or she is punished financially.

Nevada Department of Corrections also levies debt on individuals who are leaving prison. For example, one individual left \$100,000 in medical debt when released from prison. That was sent to collections. If they are unable to pay that debt in a short amount of time, any savings that inmates may have in their savings account will be deducted down to \$25. Many people leave prison with just \$25 on an extremely predatory debit card.

What we found are huge profits made from things like the commissary to the point where we have an average of about \$14 million in surplus that is not spent but rolled over year to year from commissary profits. With me is Fines and Fees Justice Center intern Katie Brandon. She is a public health master's degree student at University of Nevada, Reno. She spearheaded this project to collect data from currently incarcerated individuals through a survey and prepared a presentation ([Exhibit S](#)). We are going to mention a few of the more important findings after we walk through the bill.

Section 2 requires NDOC to establish an indigency standard for the retrieval of the remains of an offender who passes away. The Committee will hear testimony on how financially burdensome it is to retrieve the remains of a loved one who dies within NDOC.

Section 3 sets a cap on the amount of money that an individual is allowed to spend at the commissary and limits the markup of an item or service at 5 percent.

Section 4 ensures that offenders' saving accounts, which are millions of dollars over the 10,000 inmates, are held in an in-state bank instead of the out-of-state, for-profit bank where these accounts are currently held.

Section 5 provides that incarcerated persons do not incur medical debt from accidents, self-harm or sickness while incarcerated. However, they can still be charged for medical debt if they cause harm to another individual. This section also removes salaries for State employees working at the commissary storefront. Nevada is the only state in the Country that has full-time employees who are funded solely through deposits of money put in by families to spend at the store. This is a backdoor tax directly on the families of the incarcerated individuals to fund staff at NDOC.

Section 6 ensures that medical debt is not incurred from accidents or self-harm, what we would call "man-down" fees. That money is not deducted from individuals who are serving life without parole or on death row. Right now, that money is put into a savings account for when they leave, even though they have no feasible chance of leaving NDOC. This section also ensures that inmates are not incurring medical debt for prescriptions or prosthetic devices.

Section 6, subsection 2 ends medical co-pays and man-down fees. Man-down fees or emergency medical fees are if offenders hurt themselves either because they have become suicidal and attempted to take their life or incur a recreation injury, such as playing basketball and hurting an ankle. If an inmate needs emergency medical attention, the inmate is charged an additional fee on top of the medical fees for receiving that medical care.

Section 7 puts the same caps on the package program for items ordered through a catalog placed at the commissary store. Section 8 takes away the room and board charges.

Section 9 ensures that everyone leaves with \$100 instead of \$25. Most individuals should have at least \$100 in their savings prior to leaving prison. But if they do not, it would require NDOC to ensure they have at least \$100 upon release. This section also discharges outstanding medical and department debt upon release. Released offenders are not left with \$10,000 or \$20,000 or \$30,000 in debt to start back in society. This does not touch restitution at all; inmates remain beholden to pay restitution. We believe that eliminating this debt will make that easier on them. Section 9, subsection 8 gives the option for providing a check or card upon release that has the money, and it eliminates the predatory fees that exist. This section clarifies that restitution is still owed to victims because that is important to everyone.

The increased co-pay creates a burden for access to medicine. Because of this co-pay, we found individuals do not access medical until they are very sick, costing the State much more money and causing them to have worse health outcomes. There are many states that do not charge these co-pays: Illinois, Missouri, Montana, Nebraska, New Mexico, New York, Oregon, Vermont, Virginia and Wyoming all do not have medical co-pays. Nevada also has man-down fees for people who commit self-harm or hurt themselves in recreation. Many individuals have been charged these fees many times, which is also something unique to Nevada that discourages people from seeking the care they need. These man-down fees can range anywhere from \$25 to over \$100, [Exhibit R](#).

KATIE BRANDON (Fines and Fees Justice Center):

We completed a survey study over the last several months involving people who are incarcerated within NDOC facilities. I will go through a presentation, [Exhibit S](#), of the data gathered through surveys mailed in November. Our partner organization, Return Strong, works with incarcerated folks in Nevada. The inmates completed surveys and mailed them back to us. We received surveys from 376 inmates between November and January.

Regarding the man-down fees that would be eliminated in S.B. 416, we heard from 142 people or 37.7 percent of our respondents that have paid such a fee for emergency care while they have been incarcerated, Slide 7, [Exhibit S](#). Out of the 37.7 percent of incarcerated people, 6.2 percent responded that they paid for self-harm like a suicide attempt or non-suicidal self-injury. For recreational injuries, 11.8 percent of inmate respondents had to pay, Slide 7.

We were interested in people who had paid man-down fees for emergency care because of delayed medical care or prescription refills. Out of the 37.7 percent of people who responded, 21.5 percent had paid for emergency care that they needed because they did not get medical care when they originally needed it. Also, 10 percent paid for emergency care because they did not get prescription refills when needed, Slide 8.

We asked respondents about money they owe for medical care that they have received. About 97 percent of the respondents had money taken out of their savings account for medical care during the time they were incarcerated. We discovered that 12 percent of the people who paid money for medical care had upward of \$2,000 taken out of their account. Among those people, 29.9 percent owed for medical care at the time of the survey, and the average debt was \$4,558.10. At the average pay rate that people earn, after deductions of \$72 per month, this amount would take over five years to pay off. The burden shifts to their families, Slide 9.

People who avoid medical care because of the cost and those that delayed medical care and diagnosis can lead to worse health outcomes and more emergencies which are much more costly to the State for both the people who remain in custody and those who come out and are on Medicaid. We discovered that 82.4 percent of respondents avoid medical care because of the cost, Slide 11, two times higher than the general United States population, which is about 41 percent.

MR. SHEPACK:

When talking to families, we talked a lot about the commissary and how expensive it was and what it was costing them, especially with inflation these days. I want to recognize and give a shout-out to NDOC Director James Dzurenda. We have been having these discussions recently, and NDOC has eliminated the markups for all hygiene items, which is a huge start. Senate Bill 416 can codify the policies being implemented.

What we found through budget research ([Exhibit T](#)) is a 66 percent markup. This number is disputed because the math was done a little differently, [Exhibit T](#), page 3. A markup is looked at the same way as in stores through a simple formula that finds out what percentage of the original price is added to the item, giving the markup percent. An almost 66 percent markup across the board is given by the for-profit companies that provide these items.

A 20 percent kickback goes to NDOC when someone orders through the package program, [Exhibit Q](#). Nevada Department of Corrections has been subjected to regulations of their commissary practices since 2010, which include developing regulations to the NRS 233B process. However, there have been no formal regulations created in that timeframe until now. This was found in an audit done by the Governor's Office last year.

Nevada Department of Corrections profits an average of \$439,000 a month, or \$14.2 million in gross sales annually, from their commissary stores. Most of this money comes directly from Nevada families. The offenders store fund has \$14 million in profit that is not spent and rolls over year to year; around \$4.5 million of that profit in the offenders' store funds is allocated to paying for salaries for State employees, and \$2 million from the inmate welfare account is also allocated to paying for salaries, according to talks with NDOC. We have heard that they have 28 positions fully funded through these funds. On 2023 NDOC budget proposals, they asked for an allocation for 99 full-time positions.

The question is who pays for our criminal justice system? This system is an essential government service because we rely on incarceration for our corrections. It is intended to keep all of us safe and protect all of our communities. Yet, a small portion of Nevadans, the families who have done nothing wrong except having a loved one who is incarcerated, are paying for these positions and being charged this exorbitant amount of money.

MS. BRANDON:

In addition to asking close-ended questions, we asked open-ended questions about anything else that incarcerated people wanted to share in the survey, [Exhibit S](#). Overwhelmingly, we received answers about the portion sizes for the prison-issued meals, Slide 12.

A few of these quotes are "Currently portions are too small to sustain an average-size man with necessary calories. Most of us must purchase food from the canteen in order to make up for the small portions." Other inmates said, "Little food, maybe 1000-1100 calories per day," and "Dinner is never enough to stop the hunger. So as you see we have no choice but to pay for food." This background information is so the Committee can understand why people need to buy food from the commissary at these high markups.

The next question we asked incarcerated people is whether they buy food at the commissary because the prison-issued meals are not enough, and 96.5 percent of participants said that this was true. The survey asked if inmates could not afford to buy a variety of items when needed, and 80.9 percent said they could not always afford to buy commissary food when they needed it, Slide 13.

An internal policy at NDOC is to not mark up hygiene products. The Fines and Fees Justice Center would like to see that codified because we heard that several people were not able to access necessary items when needed. On the survey, 74.4 percent of incarcerated participants said they could not afford to buy hygiene products like toothpaste, shampoo, soap and deodorant when needed, Slide 15. Among female participants, 79.2 percent said they could not afford to buy feminine hygiene products when they needed them. Then, 58 percent said they could not buy over-the-counter medical items like antifungal cream, antacids and pain relief when needed. Specifically, with things like antifungal cream, this is important to promote public health within the prison system to make sure that prisoners can take care of health issues so it does not spread to other inmates.

MR. SHEPACK:

What does it look like when an incarcerated person is released? He or she receives a prepaid debit card from a bank in Logan, Utah, and the fees on that card include a \$1.50 weekly maintenance fee. A \$1.50 ATM account inquiry fee, \$2 inactive fee, \$2.75 domestic ATM fee, \$25 account closure fee, \$2.75 ATM decline fee and \$10 fee to replace that lost or stolen card. These are the most predatory fees the Fines and Fees Justice Center has ever seen on a debit card. When people are leaving prison with \$25, it greatly reduces the amount of money they have when trying to reenter society.

Then there is the debt upon release. In the audit from the Governor's Finance Office, Division of Internal Audits, they found \$10.4 million in outstanding debt, which includes \$1.7 million in collections in interest fees. The annual collection rate on this debt ranges between 0.53 percent and 1.60 percent over the last three years. This debt is uncollectible. However, it is setting up individuals who were formerly incarcerated with no chance at establishing a credit score and being hounded by collection agencies.

Senate Bill 416 deals with a lot, and this is a policy committee. There are major fiscal questions that come along with this bill, and it has a fiscal note. Our job is

to figure out with Legislators and the Fines and Fees Justice Center's team, which parts of S.B. 416 we can make happen responsibly for the State and NDOC. How do we move this State to fund our criminal justice system—not on the backs of individuals who have a loved one who is incarcerated—in a more economical-to-manage manner? This is likely not the final iteration of S.B. 416. We are dedicated to ensuring that we bring something responsible to Senate Finance that is workable for the State.

SENATOR NGUYEN:

Could you talk more about medical costs? Are they being incurred by the State as a part of their budgetary process when someone must seek medical care in the prison?

MR. SHEPACK:

It is my understanding that NDOC budgets for medical care within the prisons. When somebody is removed from the prison and does not spend a certain amount of time in a hospital, there is a cost levied against the prison system paid out of the Inmate Welfare Account. The incarcerated individual is then charged that debt, and he or she is paying back what the system paid outside.

Nevada Department of Corrections has paid medical staff onsite whether or not an individual receives care; when an inmate receives that care, the individual is being charged for those visits.

SENATOR NGUYEN:

The statistics shown earlier in [Exhibit S](#) about delayed medical care are costing the State more money, for example, treating an ingrown toenail before it turns into sepsis. I am sure the cost of the ingrown toenail does not rise to the level of people missing out on their medication and going into diabetic shock needing increased care. If there is anything that we can do in S.B. 416, it would be to get people the treatment they need before it costs the State and these families more money to treat something that went untreated. Your statistics on Slide 8 showed 21.5 percent of the people had delayed treated care.

How did you come up with that 5 percent number in section 3, subsection 1, paragraph (b)?

MR. SHEPACK:

We came up with this 5 percent through looking at the average markup that we see at grocery stores and retail stores. We also used what the Clark County Detention Center has in policy. They are not allowed to charge someone who is incarcerated in their custody more for an item than would be reasonably charged at a convenience store in that location. Those markups range from 2.5 percent to 4 percent depending on the store. The 5 percent was higher than the average markup that you would find at either a convenience store or regular grocery store and falls in line with what we see as a State special practice, which is how Clark County Detention Center handles its commissary.

SENATOR NGUYEN:

In section 3, subsection 2 with the exclusive contracts, have you found other states have additional competition? Do you or NDOC know why we have an exclusive contract for supplying commissary?

MR. SHEPACK:

I do not know. Most other states provide multiple vendors, especially for the package programs. California and New Mexico have multiple vendors creating competition within the system and naturally driving down prices. When there is an exclusive contract with a vendor, there are higher prices. The current contract with Keefe is changing, but we have been able to compare Keefe's pricing in Nevada to other states where Keefe is in a competitive contract. Their wholesale pricing is lower in those states where there are other options to buy. Ending the monopoly contracts within NDOC would let the free market drive down costs for incarcerated individuals and likely the State.

SENATOR NGUYEN:

What section talks about not having to pay for the housing? We heard previously about how those individuals who were working are having to pay for their room and board as opposed to someone who was not working and not having to pay for room and board.

MR. SHEPACK:

It is section 8, subsection 4.

SENATOR KRASNER:

You stated that an inmate cannot be charged for prescription medical debt, accident or self-harm but can be charged for harming another. Is that debt discharged when the inmate leaves the prison if the inmate harms another?

MR. SHEPACK:

As written, medical debt would be discharged, I would absolutely be willing to have that conversation. However, if there is restitution owed to the individual to whom harm was caused, that debt would not be discharged.

SENATOR KRASNER:

I appreciate you have restitution in there for victims. If the inmate can harm another inmate or correctional officer and if all that debt is discharged when they leave, it does not seem right.

MR. SHEPACK:

We would be open to an amendment to ensure that an individual who causes harm to another individual is on the hook for that debt.

SENATOR SCHEIBLE:

I totally agree, and Mr. Shepack touched on it. It would have to do with how that debt is categorized, whether it is lumped into medical debt or recognized as a restitution payment. We could probably craft some language to make sure if an inmate causes harm to another person, he or she owes that person restitution. It would ensure that he or she receives the protections of any restitution which follows after an inmate is released from the facility.

SENATOR HANSEN:

The only problem with that is how do you have a competitive environment in a prison setting? I agree with the whole concept of what you are bringing up by inmates getting gouged. But in the absence of a for-profit company, in other states do they have a state-run commissary? Do we have no commissary at all if we eliminate the private sector aspect?

MR. SHEPACK:

Senate Bill 416 would not touch the profits of the private companies that contract. The way that NDOC works its commissary now is by ordering 100 soups at a time. Then NDOC chooses to mark those up. I can provide the Keefe price list. It is a bulk item price list. Regardless of what NDOC's markup

is, Keefe makes the same amount of money; this policy would make no less money for the for-profit companies that are coming in and contracting. The incentive for them to work with the State would not change. We would not be running this apparent \$14 million slush fund within the Department. We would pay that down to something where we are still meeting the needs; however, we are not overcharging everyone. It would not affect the private companies.

SENATOR HANSEN:

The bigger issue here is that NDOC over the years has developed programs because, frankly, the Legislature has underfunded their programs. We are, in effect, passing on to them an underfunded budget, and then NDOC must figure out some way to compensate. I am hoping there are not people in the prisons who are personally profiting from markups on 100 soups in your example. As I listen to the S.B. 416 presentation, I can see what has happened over the years and that NDOC is trying to come up with some mechanism to fund what the Legislature has failed to do. That is my theory. How much of this problem is caused by improper funding on the Legislature's end versus potential gouging by companies or even employees perhaps working within the NDOC?

MR. SHEPACK:

You hit the nail on the head. Session after session, the State has made small budgetary decisions that have ballooned into something extremely onerous and painful for families. Our goal with S.B. 416 is to work with the Senate Committee on Finance to figure out if we can get those positions funded and where to add some money into the NDOC budget to alleviate this. If the Committee passes S.B. 416, I will work to ensure that NDOC keeps its budget and staff, the State picks up more of the tab, and families find some relief. These laws and policies were created in response to a lack of funding by this Body.

SENATOR HANSEN:

I do not want to hold NDOC responsible. It almost sounded like some exceptionally greedy capitalists were running the program, and they had this target market where they can squeeze the heck out of them because they have nowhere else to go when NDOC has been forced to juggle things around trying to balance improper funding from the Legislature. I want to make sure that we are not picking on the wrong guys here. I hope you are not trying to do a work session today because we are running out of Committee time and need to get an exemption real fast.

DESTINY RICH:

I was formerly incarcerated at Florence McClure Women's Correctional Center. The majority of inmates must depend on their families for support. I depended on \$100 a month my family was sending me. Some inmates depended on the wages of \$10 a month from work to help them get commissary. These prices increased over four times in 2022 while I was incarcerated. Inmates who were working at the prison did not get an increase in pay. The hygiene products did increase several times; tampons went from \$7 to \$19, a bag of coffee went from \$12 to \$16.

We found out on Wednesday morning that hygiene products are no longer subjected to a markup, which is a huge positive impact. It would be amazing to see no markups on commissary food and clothing items like underwear and bras because it impacts us. We do not have a choice to buy at another store. These marked up items are what we need to live in this environment. For example, to maintain my mental health and physical health, I work out. I needed the proper attire to work out, and the New Balance shoes that I was finally able to afford after a couple of months of saving cost \$90 at the commissary. Those same New Balance shoes that cost \$90 would be advertised in the town store for half that price. These prices have no limitations to those who have limited financial support from loved ones.

My medical experience was in the month of September when I was incarcerated. I was doing my daily work of picking up chairs, and I lifted a chair too far over my shoulders throwing my back out. I could not walk and was in need of urgent care but refused because of the man-down price of over \$150. To this day, I have issues with my back because the overpriced medical fees in NDOC made me put my health last. I support S.B. 416.

ASHLEY GADDIS:

I am formerly incarcerated and support S.B. 416. The impact that this bill could have for the currently incarcerated and their families is huge. I have been directly impacted by the outrageous pricing of store items that are offered within NDOC. I was often left with the choice to either buy additional food, hygiene products and decent clothing, use the phone or go to medical for any type of complaint. Rarely could I do any combination of these within a month, always leaving me to choose one or the other. I have no idea where the concept came from that incarcerated people are rich, when the truth is most have lost everything prior to prison and continue to have limited to no financial support.

I worked several institutional jobs while incarcerated, including Nevada Division of Forestry. I was paid minimum wage for extensive manual labor eight hours a day. My pay would average \$33 a month. Once deductions were made for room and board, victim funds and other miscellaneous fees, I would net approximately \$21. That amount would be further reduced if I needed to go to medical and pay the \$8, reducing my pay now to \$13 a month. Institutional jobs are some people's only source of income. The biggest concern I have here is profit over prisoners.

It just does not make sense. The mental impact of not being able to provide for myself was one of the darkest times in my life. The high cost of basic needs and medical concerns kept me in a constant struggle with self-worth. I would often ask myself "What should my self-worth look like in a place like this"? Coming up with an answer such as "Well you committed a crime and deserve this" when no, that is horrible. That is not acceptable. After a couple of years with these negative thoughts and ideas, my thinking finally changed. I realized that being in prison does not mean that I have to lose my dignity and self-worth. Luckily, this is how I can stand before you today and ask for support for those who are currently experiencing the same challenges I experienced. I am not alone with those feelings, and passing S.B. 416 is the right thing to do and in the right direction.

How can we focus on the necessary personal changes we need to make to be the best person upon leaving when it has been nothing but a struggle inside prison? There are plenty of reasons why people worry in prison. To have to worry about sufficient food, adequate hygiene products or what illness we might have is just plain cruel. I know there is a way to make this work for everyone. Please understand and know that the cost of incarceration is real, and the results are leaving families in debt while trying to support themselves and an incarcerated person in Nevada.

SUSAN PROFFITT (Nevada Republican Club):

I support S.B. 416. Incarcerated ladies should not have to pay \$10 for one tampon; that is highway robbery. I do not understand why Charles Daniels has not been held accountable financially and criminally for what he did. This Body ought to go after him by doing an audit, see who he was paying off and how many people are in this ring of criminals because this happens in prisons more often than we like to admit. These people deserve to be repaid, make it retroactive. He offered former Governor Steve Sisolak \$1 million. Give that

\$1 million back to these people who need it. If not done already, NDOC should hire a purchasing agent who is responsible for doing a yearly cost analysis on everything in the commissary and make this audit report available to whoever would be overseeing it, like the Governor. I do not know how prison oversight is being done, but they should not be allowed to get away with this. I suspect someone was getting paid off, and this Body needs to find out who.

MARGOTH TELLO:

I am a member of this community and support S.B. 416. Nevada Department of Corrections needs to provide individuals more than \$25 when they are discharged. I have been working in the criminal justice field for over five years. I have seen the effect that the lack of financial stability and crippling debt has on individuals. Plus the difficulty formerly incarcerated individuals have in finding employment due to their criminal history is not setting them up for success. This leads people to continue walking through the revolving door that is incarceration. If our goal truly is to keep our community safe and to help individuals who have served their time be successfully integrated back into the community, I ask the Committee to pass this bill.

SONYA WILLIAMS:

On December 13, 2021, my loved one died in High Desert State Prison after a seven-month battle with kidney and colon cancer. After he died, everybody I talked to at NDOC kept telling me NDOC will pay for his cremation. I refused to let him go back after he died. I took on the costs of a cardboard cremation container which is mandatory, \$175. The direct cremation, which means no funeral services, no obituary and no viewing, was \$1,200. A copy of the death certificate, which is required by NDOC to obtain his personal belongings, was \$39. There is a State regulatory fee of \$10. A temporary urn, which consists of a six-by-eight-by-four-inch plastic box with the name tag on the outside, was \$50. Then, the tax was about \$15. I also had to obtain a copy of his medical records to see what his last moments were like, which was \$367.80. It came to a total of \$1,856.47 a week before Christmas. I cannot even imagine what NDOC would have charged me with their normal 66 percent markup—a little over \$3,000?

I imagine NDOC obtains funds from the State to deal with the death of inmates. However, in my case, Eric had been approved for compassionate release but was delayed repeatedly by NDOC and ended up dying in the cement cell. Return Strong helped me give my daughter a Christmas that year because of these

costs. Two months after he died on Valentine's Day, my daughter was finally able to bring home her dad. I support S.B. 416 and submitted my testimony ([Exhibit U](#)).

JODI HOCKING (Return Strong!):

Those are my families that just spoke, a few of them. Senator Hansen said something earlier that is the core. What we are fighting is the tip of the iceberg and root of the problem. For two years, we have been blaming NDOC; it was not until we saw the exclusive contract, understood the difference in what was happening and realized that in some ways NDOC is getting pinched in the middle of this. What we are doing as a State is choosing to pass the cost of incarceration onto families. Sonya should not have to pay for her daughter's father's body like that. That is not what should be happening. Making sure people understand day in, day out that those costs are being paid from somewhere, from single moms who have lost the income when their husband is now incarcerated, who are now trying to meet all those bills by themselves. They take on that responsibility and now are also being asked to supplement the State choosing incarceration as our main means of social control.

The root of the problem is funding, and where does that funding come from? At the end of the day, there are tons of emails that were sent to you with people's stories. I hope you take the time to read some of them because, like Sonya, Ashley and Destiny, about 8,000 others could show up and tell the stories of how they are impacted by the cost of incarceration.

I want to give a shout-out about the mark down of hygiene products. I got a call from one of our organizers at the Lovelock Correctional Center this morning, and he said there were about 600 people who were going crazy at the price difference. When \$9 Suave shampoo is down to \$4, it did not matter what it was. Everything now has no markup, and the difference has been tremendous. People are taking a breath of fresh air and relief. But S.B. 416 is how we make sure that it is not just hygiene; that is one step. We must look at the rest of it.

JOHN J. PIRO (Clark County Public Defender's Office):
We support S.B. 416.

ERICA ROTH (Washoe County Public Defender's Office):
We support S.B. 416.

TONJA BROWN (Advocates for the Inmates and the Innocent):

This is something that we have struggled with for decades. The new inmate advocate organization, Return Strong, has done a wonderful job with this. Anything that could lessen the financial strain on the backs of the families and inmates is good. We support S.B. 416.

AMELIA BOOTH:

I support S.B. 416. I spend about \$550 every month to support my loved one who is incarcerated. If I was a single mom or still raising my children, there is no way that I could make that work. I have an issue with us, the families, who are already paying a huge price by having our person locked up, being a source of revenue. I submitted a letter ([Exhibit V](#)) of support.

NICOLE WILLIAMS:

I am an activist volunteer and board member with Return Strong as well as an impacted family member who has a loved one incarcerated. I handle all the incoming mail. One out of every three letters we receive has to do with prices at the commissary, prices of packages, small food portions and lack of medical care or receiving prescriptions. I am financially impacted because my husband made a poor decision. It is hard to budget my bills and responsibilities out here but also ensure his well-being in there. I support S.B. 416.

JAMES DZURENDA (Director, Nevada Department of Corrections):

There are some concerns that I have with the language in S.B. 416. I want to make sure everyone is aware. Senator Nguyen, to clarify the questions related to the survey presented, that is not 21.5 percent of the entire inmate population; it is 21.5 percent of the 276 inmates who responded. It is 59 out of 10,000 offenders. The other survey is 27.6 percent out of 10,000 offenders. Not to downplay the issue, I just want to clarify.

I do not have a problem with the cost limits in section 3, but you must have a limit on the quantity because the offenders cannot have more than certain cubic feet in the cell covered due to fire laws and fire marshal concerns for the fire code. The quantity is not a problem; it is the space.

In section 4. I want to make it clear that NDOC can still have access to deduct for victim restitution and for child support in Megan's Law requirements.

I have a question on who pays medical costs in section 6. When you are talking about any cost deducted from the money to repay medical costs, somebody must pay the costs brought up today. If it is not done by this means, there must be some other funding source to pay for this.

In section 7, I want to stress that inmates do not pay for the basic hygiene items. We started about two weeks ago on no markup for the other hygiene items. The biggest issues we see in NDOC are that those items we provide for free are not the quantity or quality that everybody is looking for, which needs to be reviewed. We do have four vendors; Keefe is not the sole vendor. Keefe is our primary contract vendor, and then we have three additional vendors for items that are large, stocked or not provided by Keefe.

In section 9, this is the same thing on the sources to pay; monetary amounts must come from somewhere. Somebody will have to pay for these services somehow.

In section 8, so everybody is aware, we do give up to \$100 in so-called gate money, for those released into the community. Also, when talking about the money that goes back to the offender when released, we do provide a debit card. The debit card has fees that could be provided by NDOC Chief of Inmates Services. The inmates do not get charged for the card. They do get charged if they do not use it. The card holds up to \$9,000; for anything over that, they receive a check. A check can be provided to the offender if the inmate gives notice, and we can send that if they have an address.

It needs to be clear, the markups that we do in the commissary are for what NDOC calls revolving funds. Those markup items are paying for the costs of storage, not just staffing. These revolving funds pay for travel, services and deliveries. These markups do not only pay for the staff to provide services, for commissary items and commissary staff, these funds pay for support services, substance use disorder programming and support staff for those services.

SENATOR HANSEN:

I want to make sure we are not holding Director Dzurenda accountable for this. We want to work with you to resolve a legitimate problem, and it looks like your previous experience will help us. What are we funding on the Nevada side versus Connecticut or your experiences in other areas? The impression I get is that over a period of years, NDOC has developed some internal mechanisms to

make up for the failure of the Nevada Legislature to properly fund NDOC. But since you have been in other states, how do they do it?

MR. DZURENDA:

In both Connecticut and New York, the funds are paid by the taxpayers. You have up to 90 staff that our funds pay for; those staff are actually paid by the taxpayers in the states of New York and Connecticut.

SENATOR HANSEN:

Mr. Shepack has his work cut out for him because you get to go to Fiscal. Assuming the Committee passes S.B. 416 today, I want to help in anyway I can. I want to make sure NDOC staff realizes that we are not looking at you guys and saying you are a bunch of crooks and have been exposed. Does NDOC supply free feminine hygiene products, but they want the better-quality ones? Is that the testimony? If women want better stuff, they have to buy them at the commissary?

MR. DZURENDA:

Yes, those products are free. It is not really what they want, but we do provide them. Every single offender, upon intake into the correctional facility, gets a care package, and every hygiene item that we could provide is in those packages. Indigent offenders get those free as long as they are indigent. However, the issues are that most people would never want to use those provided items. Some of the products, especially the feminine napkins, probably are ones that one would buy in a dollar store.

SENATOR HANSEN:

When a prisoner is convicted, often there is a dollar amount of restitution that they are expected to pay. Is it the responsibility of the offender to pay and NDOC help collects that, or is there another way?

MR. DZURENDA:

Yes, we collect the restitution while they are incarcerated. When offenders are discharged, NDOC collects the restitution when they are leaving before receiving their debit card or check.

SENATOR HANSEN:

Then that money is put on the account for paying back whatever they did wrong. The judge in the sentencing said, "You are going to pay back restitution

to the victim of \$10,000," and this collection is used to offset that. Then what is reported back to the court system before an offender enters parole, or how does that process work?

MR. DZURENDA:

That is the process, but I am not sure of the exact method of who it goes to. It is specified when an offender leaves where the money goes, whether it is going through the Megan's Law restitution, whether it is a court-ordered restitution or whether it is child support. We have those for every offender when discharged, what it is and how much NDOC takes out. It could go to three different accounts or to those areas. Yes, Parole and Probation is notified of what was taken out if they are going on parole.

SENATOR HANSEN:

We are so delighted to get you back. I do not want you feeling like the whole world is coming down on your shoulders and then go to another state where at least they fund the prison system correctly.

SENATOR KRASNER:

We heard the presentation and now we are hearing that you have some concerns and things to clarify. Today is the last day to hear bills. I am wondering if you are interested in working together with the presenters on amending language that would be agreeable to all parties?

MR. DZURENDA:

Yes, and I mentioned before that we need to work on amendments in voicing my concerns. I did not mention about the food. They are correct, but the food that we provide the offenders is monitored by the State Health Department, not NDOC. The Health Department has a dietician and medical doctor who monitor the food provided. The medical doctor gives a quarterly report to the Board of Prisons on the food. It is then dictated by the U.S. Supreme Court. The State of Nevada was the only state that the U.S. Supreme Court mandated a maximum of 2,200 milligrams of sodium in each food meal. That is a bag of potato chips. A lot of issues started coming up because we are putting less sodium in the food, and there are going to be lesser quantities of those foods that people like, and the taste is not going to be pleasant. That is when NDOC started seeing a lot of food problems coming up. Even the food strikes that were coming from the offenders were really because of the results of the U.S. Supreme Court decision.

SENATOR SCHEIBLE:

First, I would like to address Jodi Hocking. You are an advocate, organizer and a better policymaker than some of the elected officials in this Building, more effective anyway. The State is better because Return Strong is here advocating.

I have been so happy to have Senator Hansen with his questions today, really elucidating the need for S.B. 416. We pick on NDOC a lot, but sometimes there are problems that we as a Legislature must solve and NDOC cannot fix without advocates, partners and the Legislature behind them. Literally, without a bill, this cannot be done. That is why it is so important that we pass S.B. 416 today.

This is the deadline day, and we are lucky that all of us have been serving in this Body for more than a session. We have all been here for a few sessions and have gotten to know the Fines and Fees Justice Center, Return Strong and Director Dzurenda. This is one of those cases where I feel confident looking at the team that we have assembled that we will be able to continue to work on language, work on a bill and work this through the finance process.

Mr. Shepack has already said what I am going to say, which is that we are not trying to hide the ball here and pretend that we are going to get a \$12 million General Fund allocation and solve the problem tomorrow. But we need the bill to go to the Senate Committee on Finance, continuing to have those conversations with Senator Nguyen and Senator Harris who are adept Legislators sitting on that budget subcommittee to look at the numbers and say which parts we can do. Is that section 1 or section 3 or section 8 or section 9? We have started the conversation. The way to keep it moving is to pass S.B. 416 through the Senate Committee on Judiciary today, take it to the Senate Committee on Finance and continue to work on this issue, bringing the best and brightest important stakeholders to the table to make the right choices moving forward.

We had some callers in support, but there is something going on with the phones. They have submitted their testimony via email. There were seven people who wanted to call in and express their support. They are understanding of our deadline.

I wanted to drive home the importance of the NDOC commissary and store for those of us who do not have the same exposure to the prison system or a loved one who is incarcerated. When we see it in movies or on TV, it looks like the

corner convenience store; buying food from the commissary might be a treat, or it might be something to pass the time and it might be easy. But the reality is that for a lot of incarcerated people, it is not really an option to utilize the commissary because a lot of them are still hungry after dinner, and that is the only way that they can get more food. They are limited in the hygiene products that they get. Not only we are not talking about luxury products versus dollar store products, we are talking about sheer quantities. I am pretty sure that people who menstruate are given 18 pads to cover them through their entire cycle. If you have a cycle, that is what, six days long, that is three pads per day. For a lot of women, it is just not sufficient. We are not talking about going to the commissary to get a better brand name because it is more comfortable. We are talking about supplementing what we have funded NDOC to provide for free.

Going back to our previous conversation, NDOC is not purposely trying to deprive people of hygiene items. They have reduced the markups so that more people have better access to hygiene items. Imagine if you were traveling and you forgot your hygiene kit, you forgot your toiletries, and there was either nowhere to go or only one place to go, and you had to pay a high price to get those items. That is what we are talking about. We are not talking about people who are sitting at home with all the options available to them deciding whether or not they want an extra soup today. We are talking about people who are hungry, and the only thing they can afford and the only place that they can buy it is at the commissary.

MR. SHEPACK:

I can guarantee that if the Committee passes S.B. 416, I will work with all interested parties. We will make sure that the Department's concerns are addressed. We deeply believe in this. My full dedication plus any excuse to meet the Director to work on an amendment is always most welcome.

VICE CHAIR HARRIS:

The Committee has received nine letters ([Exhibit W](#)) in support of S.B. 416. I will close the hearing on S.B. 416.

CHAIR SCHIEBLE:

I will entertain a motion to do pass S.B. 416.

SENATOR NGUYEN MOVED TO DO PASS S.B. 416.

SENATOR HARRIS SECONDED THE MOTION.

SENATOR HANSEN:

Since this is deadline day, I want to make sure that there is a complete commitment to get this thing resolved. I do not want to go on the Floor and find out that we could not work it out and then have to vote no on it. I am definitely going to vote now in favor of it, and it is definitely needed. I am a little uncomfortable doing it before we have amended it or finding out that we can work out a deal here. Of course, all of us have to recognize that this does need some significant funding from the Legislature if we are to go forward with this in a significant way.

SENATOR KRASNER:

I feel a little uncomfortable voting on a bill when I do not get to see the amendment, but I understand we are under a tight deadline. I appreciate that all the parties have said they are committed to working together. I will vote yes out of Committee and reserve my right to change my vote on the Floor.

THE MOTION CARRIED. (SENATOR STONE VOTED NO.)

* * * * *

MS. PROFFITT:

I did want to point out the worthy comments of Senator Hansen. I do not believe that gentleman who was responsible for all these overcharges is a greedy capitalist. I think he is a criminal, and I really do encourage you to find out just how many more people are tied into it because it is not a good thing.

I wish the Committee would make sure that Governor Lombardo's education bill is passed as soon as possible. We desperately need these schools fixed because once you get the schools fixed, we can attract more people to move here and fill in those medical positions that we desperately need. People are not going to move here unless we have the infrastructure. One more thing I would suggest and that is when you recruit for the next election, that you do it like a business would do, you know who is on your team now and you have weaknesses and strengths. It would be a wonderful thing if you would recruit people to fill in the blanks that you have missing that have the expertise of building companies,

large and small, not just small. We need more businesspeople and less government employees because they do not have the experience of building something from scratch and independent businesspeople do.

MS. BROWN:

These bills are spectacular, especially this last one. Anyway, I want to give a brief history of why I would like to see Assembly Bill 49 amended or my amendment accepted when it comes over.

ASSEMBLY BILL 49: Revises provisions relating to criminal procedure. (BDR 3-419)

My brother was wrongfully convicted. He spent 21 years in prison for a crime he did not commit. In 2009, District Court Judge Brent Adams ordered the district attorney to turn over the entire file in his case. When the file was turned over, all the exculpatory evidence was found hiding in the district attorney's file, including the handwritten notes of the prosecuting attorney who had withheld the exculpatory evidence from the defense. As his attorneys were getting ready to file motions for a new trial and bail, he died from lack of medical care.

Two years after his death, I hired a private investigator to locate the Sparks Police Department's prime suspect Mr. Czarsky. They located Mr. Czarsky in Utah, and he wanted to speak with me. I drove to Utah and heard what he had to say. Yesterday, I spoke about an inmate in Nevada who wrote the declaration that would help exonerate an innocent man from a 20-year-old crime, a murder. Through the Innocence Project, he had been exonerated thanks to this Nevada inmate who confessed to that crime. Although my brother has passed away, he did learn the truth prior to it. I continue to pursue justice for him and to pursue justice for anyone else's families whose loved one has passed away. I will tell you that the private investigator did interview the suspect, Mr. Czarsky, and I have been given a declaration from the private investigator.

Senate Committee on Judiciary
April 14, 2023
Page 42

CHAIR SCHEIBLE:

That concludes public comment. I adjourn the Senate Committee on Judiciary at 2:55 p.m.

RESPECTFULLY SUBMITTED:

Blain Jensen,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 14	C	2	Patrick Guinan	Work Session Document
S.B. 35	D	2	Patrick Guinan	Work Session Document
S.B. 38	E	3	Patrick Guinan	Work Session Document
S.B. 61	F	4	Patrick Guinan	Work Session Document
S.B. 104	G	5	Patrick Guinan	Work Session Document
S.B. 294	H	6	Patrick Guinan	Work Session Document
S.B. 335	I	8	Patrick Guinan	Work Session Document
S.B. 343	J	9	Patrick Guinan	Work Session Document
S.B. 367	K	10	Patrick Guinan	Work Session Document
S.B. 379	L	13	Patrick Guinan	Work Session Document
S.B. 389	M	14	Patrick Guinan	Work Session Document
S.B. 410	N	15	Patrick Guinan	Work Session Document
S.B. 415	O	16	Patrick Guinan	Work Session Document
S.B. 407	P	18	Alan Freer / State Bar of Nevada	Proposed Amendment
S.B. 416	Q	20	Nick Shepack / Fines and Fees Justice Center	Fact Sheet on NDOC Commissary Pricing
S.B. 416	R	20	Nick Shepack / Fines and Fees Justice Center	Fact Sheet on NDOC Medical Cost
S.B. 416	S	21	Nick Shepack / Fines and Fees Justice Center	Survey Presentation
S.B. 416	T	24	Nick Shepack / Fines and Fees	NDOC Budget Documents

			Justice Center	
S.B. 416	U	33	Sonya Williams	Written Testimony
S.B. 416	V	34	Amelia Booth	Support Letter
S.B. 416	W	40	Senator Dallas Harris	Nine Letters of Support