

SENATE FINANCE COMMITTEE
MINUTES OF MEETING
FEBRUARY 15, 1977

The meeting was called to order at 3:30 P. M.

Senator James I. Gibson was in the chair.

PRESENT: Senator Floyd R. Lamb, Chairman
Senator James I. Gibson, Vice-Chairman
Senator Eugene V. Echols
Senator Norman Ty Hilbrecht
Senator Thomas R. C. Wilson
Senator C. Clifton Young

EXCUSED ABSENCE: Senator Norman D. Glaser

OTHERS: Ronald W. Sparks, Chief Deputy, Fiscal Analyst
Howard Barrett, Budget Director
Dan Miles, Budget
Cy Ryan, UPI
Twain Walker, Audit Chief, Legislative Counsel Bureau
Lt. Governor Robert Rose
Public Defender, Horace R. Goff
Thomas Susich, Chief Defender
Al Ramirez, Director/Chairman, Manpower Services
Bill Green, Manpower Services
Duke Drakulich, Manpower Services
Andy Grose, Research Director
Fred C. Gale, Archivist
George Miller, Director, Welfare Division
Minor Kelso, Welfare Division
John Duarte, Chief, Management Services, Welfare Division

A.B. 66: Creates Nevada equal rights commission and Nevada Indian Commission gift funds.

Twain Walker of the Audit Division, explained that this bill was designed when it became obvious that there was a need for these funds to be established after two audits by the Legislative Counsel Bureau. Each of these Commissions do have administratively created gift funds and donations collected should be deposited. The bill is designed upon the principle of fund accounting.

A.B. 87: Provides for disposition of local government records. Mr. Grose referred to the Fiscal Note which probably should have been attached to the bill in 1973, which gave the state archivist the responsibility of municipal and county records as well. This agency has recently moved into new quarters with about 11,000 square feet. Local officials are aware of the fact and, under the law, the archivist has to take anything given to him. Experience shows that they are rapidly availing themselves of this provision from the 1973 law. There is no request for funds in this bill.

He introduced Fred Gale, State Archivist. Mr. Gale presented his budget to the Committee. He requested an additional biennial appropriation of \$27,500 in order to carry out the duties in S.B. 87. He needed one new position for \$16,800 for the biennium; \$4,000 for in-state travel; \$700 for an additional telephone line; and \$6,000 for steel shelving for the county records and other additional equipment required for processing these documents.

In answer to Senator Young's query as to the permanency of the microfilm records, Mr. Gale stated that they were permanent only to a point, because the contributing agency maintains ownership of the documents and has a right of recall. The archives are merely a repository for the counties and cities.

SENATE FINANCE COMMITTEE
MINUTES OF MEETING
FEBRUARY 15, 1977
PAGE TWO

Senator Gibson explained that this bill had been heard by the Government Affairs Committee and was only referred to the Finance Committee because of the fiscal note.

S. B. 176: Makes supplemental appropriation to the welfare division of the Department of Human Resources for medical care program.

Mr. Duarte spoke on the supplemental appropriation for Title 19. This is an outgrowth of the financial problems that Title 19 ran into during the last biennium. They met with the Interim Finance Committee on May 13, 1976 at which time \$1.2 million was appropriated to carry the program into this session. The supplemental is based on the overrun the division had during the first year of the biennium. Also with the limitations on the cut backs that were imposed into the program, it is estimated that the program now is \$4.9 over spent. Of this, 50% is federal dollars and 50%, state dollars. The state portion is \$2.5M. The budget office has recommended that \$1,018,544 in anti-recession money be applied to the deficit, leaving the general fund request in the bill of \$1,451,372.

Mr. Barrett stated that a publication from the Council of State Governments indicates that the money committees in Congress have recommended approval of a 5th quarter for the anti-recession money. The money in the bill is the budget office's estimate of what 4 quarters would be. Under the present bill you can spend the money in areas where you lost tax revenue or have insufficient income so that you have to cut back on your services.

In answer to Senator Gibson, he stated that the budget office is recommending that the Legislature pass this bill. Then if they know certainly before adjournment, what the federal government is going to do with the new anti-recession money, then another bill would have to be passed that would amend Section 2.

Senator Gibson asked Mr. Miller if he had further comments. Mr. Miller said there were two additional items which they have discussed with the Budget Office. The Governor is recommending in his budget increases in their rates for payments to physicians for the next beinnium. A raise which was placed in the budget for this biennium was not provided because of their limitations and they did not implement those raises. At this time they would like to see the 6% raise recommended for the next biennium be implemented and they are recommending that this be made effective March 1st. This would cost approximately \$20,000 additional in state dollars.

The other item consists of severly injured people who go into a hospital situation where they cannot determine their eligibility before they die. The federal government refuses to pay on cases where death occurs before eligibility has been established. The cost estimate on this program is anywhere between \$1.2M and \$1.5M per year. They are requesting an additional \$300,000 be added for the rest of this year. Discussion followed on the federal interpretation of this ruling. Mr. Barrett explained that if they got the 5 quarters of the anti-recessio money it might offset this need for \$300,000 in state funds.

LIEUTENANT GOVERNOR'S BUDGET: Lt. Governor Robert Rose reviewed his budget. Mr. Rose stated that there were 2 areas in his budget that showed increases. One was in-state travel and the second, contractual services. On the travel budget, the original allocation had proved insufficient for the amount of travel required of the office. On the second, he was requesting an increase for his secretary in the Las Vegas office and asked that that position in Northern Nevada be

re-established on a part time basis. He explained that his secretary in Las Vegas functioned as an administrative assistant, rather than as a secretary. She was a year round employee, the only staff he had, and devoted all her time to state business. He felt it would be very helpful to have an office in Northern Nevada to carry on work and contacts made in this part of the state. Discussion followed on these positions and the travel budget. There being no further questions Senator Lamb thanked him for appearing.

PUBLIC DEFENDER: The State Public Defender's Office was created by the 1971 Legislature to represent indigent persons with regard to felonies, gross misdemeanors, post convictions, habeas corpus, and parole and probation violations. The Public Defender's Office serves fifteen counties and also, by statute, must provide services in Clark and Washoe Counties for post conviction appeals and parole violations even though these counties have county public defender offices.

Mr. Goff was accompanied by his Chief Defender Thomas Susich. Mr. Goff spoke justifying his requests for increased unclassified salary levels and new positions as well as other increases in travel, operating and equipment. He submitted detailed information regarding these areas to the Committee, copy attached. In answer to questions he outlined the function of his office, the increase in case loads and the difficulty in finding attorneys to serve at the salaries offered. S. B. 158, listing amounts to be collected from the counties throughout the state for services received from the Public Defender's office was discussed. Senator Lamb asked him to ascertain that all the counties were aware of the amount of the assessment listed in S. B. 158. Mr. Goff explained the increase in costs for in-state travel as an increase in work load plus the costs of using transportation provided by State Motor Vehicles.

Mr. Goff explained that there would be no more LEAA money available after July 1st, so the office was dependent on state money and county contributions.

S.B. 160, which eliminates the private practice of law by deputy state public defenders, had the endorsement of the Public Defender and he discussed the bill with the committee. He said that the men in his office were too busy to be able to carry on a private practice without endangering their health or providing less than acceptable services to the Public Defenders Office.

Senator Lamb thanked them for appearing.

MANPOWER SERVICES: Mr. Ramirez introduced two of his staff, Mr. Duke Drakulich and Bill Green. Mr. Ramirez stated that on his previous appearance before the Committee he had covered the legislation for CETA in terms of its mandates, the structure of the funding, the various titles under the Act and the services allowed along with a complete report on the number of clients being served under CETA. At that time there was a question from the Committee with respect to the salaries on the top five positions. He submitted an information memo with regards to this to each Senator, copy attached.

He explained these positions and the salaries in detail. The Senators asked him to detail his duties and responsibilities, in order to justify his budget. He detailed the functions of his own position and the numbers of people who worked for him at the various levels. He then asked Mr. Drakulich to give information on his area of responsibility. Mr. Drakulich listed the programs which operated throughout the state under CETA funds, their monitoring services, the number of jobs which they generate and other functions of the program. Mr. Ramirez and Mr. Drakulich answered questions directed to them by the Senators.

SENATE FINANCE COMMITTEE
MINUTES OF MEETING
FEBRUARY 15, 1977
PAGE FOUR

There were no further questions and Senator Lamb thanked them for appearing.

S. B. 176: Makes supplemental appropriation to Welfare Division of Department of Human Resources for medical care program. Senator Hilbrecht moved that the committee add \$20,000 and amend and do pass. Senator Wilson seconded and the motion passed.

S. B. 160: Eliminates private practice of law by deputy state public defenders. Senator Hilbrecht voted to pass and Senator Wilson seconded. The motion was approved.

S. B. 158: Authorized amounts to be contributed by counties for support of state public defender's office

Senator Hilbrecht suggested the following amendment: On line 6, page 2 between the words "collect" and "the" the insertion of the words "not to exceed". Senator Echols moved to amend and do pass. Senator Hilbrecht seconded and the motion passed.

S. B. 87: Provides for disposition of local government records. After discussion on this bill, Senator Gibson moved its acceptance and Senator Echols seconded. The motion passed.

S. B. 213: Appropriates money from state general fund to legislative fund. Senator Gibson moved to approve, Senator Wilson seconded and the motion passed.

A. B. 66: Creates Nevada equal rights commission and Nevada Indian commission gift funds. Senator Gibson moved to pass, Senator Echols seconded and the motion carried.

S. B. 177: Makes supplemental appropriation and appropriation for new equipment to mental hygiene and mental retardation division of department of human resources.

Senator Hilbrecht moved to delete the position of Sr. Acct. Clerk and reduce the sum of the requested supplemental to \$157,475 and do pass. Senator Gibson seconded and the motion passed.


S.C.R. 13: Authorizes augmentation of amounts appropriated for certain capital improvement projects. Senator Gibson moved the resolution be passed; the motion was seconded by Senator Wilson and passed.

S. B. 223: Requires that use by state public works board of certain grants of money be approved in advance by concurrent resolution of legislature when it is in session.


Senator Gibson moved do pass; Senator Hilbrecht seconded and the motion passed.

The meeting adjourned at 5:30 P. M.

RESPECTFULLY SUBMITTED


MURIEL P. MOONEY, SECRETARY

APPROVED:


FLOYD R. LAMB, CHAIRMAN

2/4/77

OFFICE OF THE
NEVADA STATE PUBLIC DEFENDER



P.O. Box B
CARSON CITY, NEVADA 89701
TELEPHONE 895-4880

January 7, 1977

MEMORANDUM

TO: THE HONORABLE MIKE O'CALLAGHAN, Governor
MR. HOWARD E. BARRETT, Director, Administration
MR. JOEL PINKERTON, Management Analyst, Administration

FROM: HORACE R. GOFF, Nevada State Public Defender

SUBJECT: COUNTY FEES

Recently the office of the Nevada State Public Defender submitted a memo setting forth proposed funding for the office for the next two years. In that memo facts were set forth concerning the problems with the present county contribution system. It was hoped that the proposal therein would temporarily solve the problems. New information more fully set forth below obtained since that time has demonstrated that a complete review of the funding of the Nevada State Public Defender is in order.

Submitted for your consideration are three proposals for financing the Nevada State Public Defender's office for the coming biennium:

1. Total funding by the State, eliminating county contributions.
2. Partial funding by county contributions with State assistance of \$47,000 over what the Budget Division recommends.
3. Apportionment as proposed by the Budget Division.

I recommend State funding as the standard and goal, based not only on my own experience, but for the reasons more fully set forth in Exhibits A, B and C.

The problem confronting the Nevada State Public Defender is clearly set forth in the language of the last paragraph of the comments in Exhibit C:

"However, it is clear that funding the defender office is the responsibility of the state. Constitutional mandates do not permit local options as to when counsel

may be provided, for counsel must be provided uniformly throughout the United States. However, most states have communities that range from the very wealthy to the poverty-stricken. To further aggravate the situation, in counties having a low tax base there is likely to be a higher incidence of crime; in those counties, a higher percentage of criminally accused are financially unable to provide counsel. Hence, where the need may be greatest, the financial ability will tend to be the least capable of meeting the need as required. Also, because county officials have greater susceptibility to citizen insensitivity to the rights of the accused, it is often politically impossible to provide adequate funding for the protection of those rights on the local level in many areas, where the demand for tax dollars must compete with other, more popular causes. This recommendation for state funding of the defender office has received the strong endorsement of the National Advisory Commission on Criminal Justice Standards and Goals, in its Standard 13.6."

If implementation of financing proposal one is impossible, the office submits plan two. In this proposal, I have cut out approximately \$43,000 from the "Governor recommends" column of the budget print out for 1977-78 and 1978-79. This has been done by eliminating or reducing the following categories:

CATEGORY 1 - Personnel:

- | | |
|--|----------|
| 1. Eliminate legal research position. | \$14,000 |
| 2. Eliminate field attorney for Elko office. | 18,214 |

CATEGORY 3 - In State Travel

- | | |
|--|----------|
| 3. Reduction from \$17,500 to \$12,000. | 5,500 |
| 4. Training from \$2,000 to \$500. | 1,500 |
| 5. Estimated fringe benefit personnel cut. | 3,786 |
| TOTAL | \$43,000 |

I propose the State match this with \$47,000. The county contributions under this plan are set forth in Exhibit D, attached hereto.

I predict, financing plan three, acceptable to the Budget Division will cause the collapse of the Nevada State Public Defender system as it exists for the following reason:

The amount of individual contributions are as follows:

| | |
|-------------|-----------|
| Carson City | \$ 33,823 |
| Douglas | 27,306 |
| Elko | 27,306 |
| Humboldt | 19,936 |

| | |
|------------|-----------|
| Lander | \$ 13,951 |
| Lyon | 13,312 |
| Mineral | 14,100 |
| Pershing | 14,271 |
| White Pine | 19,979 |

(See Exhibit D for other counties)

While not unreasonable when viewed in the light of the District Attorney's budget or the number of murder trials and other serious felony trials in the past year, it is of an amount that the counties may well exercise their statutory option and hire private attorneys as county public defenders, or retain an attorney in a regional system. (See NRS Chapter 260)

If this is done, and political forces in Elko County have already indicated they intend to pursue that option, then the Public Defender will be forced to close the embryonic Elko Regional office, reduce the staff in Carson, with the inevitable consequence that the remaining counties will receive inadequate service.

The only alternative is to make the county contributions mandatory, eliminating the option to withdraw from the Nevada State Public Defender system.

The process will inevitably place a financial burden on the State because of the "Jackson v. Warden" syndrome. In Jackson v. Warden, Jackson waived his preliminary hearing on the advice of counsel (Ross Eardley, then contracting with the State Public Defender,) he was placed on probation, then revoked. At the Nevada State Prison, he filed an "In Pro Per" writ, and the Nevada State Public Defender was successful in getting his conviction overturned. (See Exhibit E attached hereto.)

Attention is attracted to the language underlined in Exhibit C and quoted on page 2 of this memorandum.

From professional experience, a \$15,000 retainer will be attractive to numerous private attorneys who will commit themselves to representing individuals concomitant with private practice in District Court but whom I feel will not approach the professionalism I feel Public Defenders should maintain, and I predict the Jackson v. Warden syndrome, a common practice prior to my taking office will be revived.

A comment must be made regarding how the percentages were arrived at in financial proposal three.

Previous budgets have been heavily subsidized by Federal Funds obtained through LEAA.

| | |
|---------|----------|
| 1971-72 | \$49,830 |
| 1972-73 | 70,000 |
| 1973-74 | 32,653 |
| 1974-75 | 35,000 |
| 1975-76 | 6,172 |

Because of the previous lack of statistics upon which to accurately prorate costs of defense and reliance on Federal and State funding, the counties are for the first time being confronted with the problem of bearing what appears to be the full costs of providing adequate defense services.

The rural counties have had extreme difficulty in the past in funding adequate law enforcement facilities, let alone defense services, and the facilities they now have creating caseloads for our office are largely developed through Federal and State funds.

Some of the statistical problems are discussed in Bulletin 77-3 of the Legislative Commission of the Legislative Counsel Bureau.

The office has been unsuccessful in continuing that subsidization on a biennial basis.

No meaningful statistics were kept prior to 1974 giving the office insight into the number of man hours spent per caseload contribution. I instituted a man hour diary and instructed the secretaries to compile the number of hours spent in each contributing unit upon closing cases from that jurisdiction.

The percentages were then computed based on the figures available. No representation is made that they are accurate.

Inevitably, demands for services in each county fluctuate depending upon the District Attorney's prosecutorial discretion, and the crime rate, not to mention economic and demographic factors.

For example, a prognosis on the number of homicides to be expected in Esmeralda County necessitating Public Defender services is obviously difficult to do based on past services performed.

I strongly urge careful consideration of the text of this memorandum, and would solicit an interview to present our position more fully and answer questions.


HORACE R. GOFF
Nevada State Public Defender

P.S. If you determine to stick with proposal 3, please find table of county contributions as calculated according to your final recommendation. We have modified our original request to bring it in line with the Governor's recommendation. We strongly urge that you supplement your recommendation for funding to adopt proposal 1 or 2 since proposal 3 will result in far more trouble in the long run. As stated above, our position on proposal 3 was changed based on concrete information received since it was proposed. The Legislative Counsel Bureau has advised us that a change in the original amounts of county contributions sent to the Legislature would require a supplemental request from the Governor even if the adjustments were minor. Please advise us on this.

HRG/msb

EXHIBIT "A"

STATE OF NEVADA GOVERNOR'S COMMITTEE ON STANDARDS AND GOALS

REVIEW OF NATIONAL ADVISORY COMMISSION CRIMINAL JUSTICE
STANDARDS AND GOALS (JANUARY 28, 1975)

COURTS

STANDARD 13.6 Financing of Defense Services

Defender services should be organized and administered in a manner consistent with the needs of the local jurisdiction. Financing of defender services should be provided by the State. Administration and organization should be provided locally, regionally, or statewide.

Standard 13.6

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Commentary

Most organizations that have studied the problem of providing adequate counsel for the indigent defendant have emphasized the need for a flexible approach that enables local jurisdictions to choose the system best suited to their own needs, provided that minimum standards are observed. (See American Bar Association Project on Minimum Standards for Criminal Justice, *Standards Relating to Providing Defense Services, Approved Draft*, 17-18 (1967); Council of State Governments, *Suggested State Legislation 1967*, Vol. D-67 (1966).) The head of the National Advisory Council of the National Defender Project has stated, "The system adopted by a particular jurisdiction should be designed to fit the geography, demography and development of the area." (National Defender Project, National Legal Aid and Defender Association, *Report of Proceedings of the National Defender Conference*, 183 (May 14-16, 1969).)

without imposing an unreasonable burden on some communities is through a State-financed system. This need not preclude local autonomy in organizing and administering defender services.

This standard expects that provision is made for local administration. This is somewhat inconsistent with the Model Public Defender Act, which authorizes the Defender General to create offices but apparently intends that these are to be under the control of the statewide office. (Model Public Defender Act § 11 (1970).) The Commission feels, however, that the need for local autonomy outweighs the value of centralized administration and control.

Such flexibility also takes into account the differing needs of jurisdictions located in States with strong central government and a uniform court system, compared to those located in States with a weak central government where the administration of criminal justice is centered at the local levels.

In endorsing a plan to allow each jurisdiction to choose the defender system best suited to its own needs and resources, however, the American Bar Association has warned against allowing local tradition to serve "as an excuse for failure to establish an adequate system for providing counsel." (American Bar Association Project on Minimum Standards for Criminal Justice, *Standards Relating to Providing Defense Services, Approved Draft*, 18 (1967).)

Financial support is a critical element in providing effective defender services. Local governments are less able than the State to finance such services, and it is often politically impossible to provide adequate funding for defense services on the local level. Further aggravating the situation is that counties with a low tax base often have a higher incidence of crime. Often an especially high percent of defendants in these counties are financially unable to provide counsel. Hence, where the need may be greatest, the financial ability tends to be the least. The only way to balance the resources so that counsel can be provided uniformly to all indigent criminally accused

References

1. American Bar Association Project on Minimum Standards for Criminal Justice. *Standards Relating to Providing Defense Services, Approved Draft*. Chicago: American Bar Association (1967).
2. National Defender Project, National Legal Aid and Defender Association. *Report of the Proceedings of the National Defender Conference* (May 14-16, 1969).

Related Standards

The following standard may be applicable in implementing Standard 13.6:

- 13.2 Payment for Public Representation

STANDARD

1.3

THE STATE HAS THE RESPONSIBILITY TO ASSURE ADEQUATE FUNDING OF DEFENDER OFFICES SERVING CLIENTS CHARGED WITH STATE AND LOCAL OFFENSES. THE DEFENDER OFFICE MAY BE ORGANIZED AND ADMINISTERED AT EITHER STATE, REGIONAL OR LOCAL GOVERNMENT LEVEL, WHICHEVER IS THE MOST EFFICIENT AND PRACTICAL AND IS BEST ABLE TO ACHIEVE ADEQUACY OF FUNDING AND INDEPENDENCE FOR THE OFFICE.

(No specific mention is made of the federal government and its responsibilities to provide defender services to those charged with federal crimes. This omission is warranted not because of any lesser responsibility or obligation on behalf of the federal government, but rather, because the federal government has for the most part acknowledged and met its responsibilities in enacting the Criminal Justice Act of 1964, as amended, 18 U.S.C. §3006A(d) (2). The Criminal Justice Act has spawned a viable and well administered defender system in the federal courts. Nonetheless, the point is made that this Standard applies, and is intended to apply, with equal force and effect to the federal government as well as to the individual states.)

A number of states have developed defender offices on a statewide basis, and state-level organization was recommended by the Advisory Commission on Intergovernmental Relations in 1971, as well as the President's Commission on Law Enforcement and Administration of Justice, in its 1967 report. Statewide organization seems to be the trend. (See Gerald L. Goodell, "Effective Assistance of Counsel in Criminal Cases: Public Defender as Assigned Counsel", Winter 1970, Kansas Bar J., 339, 342-3.)

At least thirteen states have adopted state-financed public defender systems under the direct supervision of a public defender or defender commission. Alaska has recently adopted a statewide system under the supervision of a state public defender, as has the state of Delaware. Colorado's state public defender was appointed in 1970. Hawaii's public defender system, headed by a state public defender, became effective during 1971. Kentucky passed legislation creating a statewide defender system in April 1972 and has an appointed defender general. In Maryland, a state public defender system headed by a state defender was instituted in 1971. Massachusetts in 1960 created the Massachusetts Defender Committee, which is responsible for directing statewide defender services. Minnesota has a statewide defender system headed by a state public defender. Missouri passed statewide defender legislation in May of 1972. New Jersey has, since 1967, operated a statewide defender system under the direction of a state public defender. Nevada has recently appointed a state public defender. Rhode Island has also appointed a state public defender for its state-financed defender services. Vermont's statewide defender legislation became effective July 1, 1972, and the program is being directed by a defender general. In addition, several states have adopted a statewide defender system on the appellate level. In July 1972, the Illinois legislature created a state appellate agency. Oregon and Wisconsin have defender appellate offices organized at the state level.

However, in its 1973 report "Courts", the National Advisory Commission on Criminal Justice Standards and Goals in Standard 13.6, recognized that organizational flexibility will allow for differing needs of the various states; hence, the Commission refused to recommend that the defender office be a state agency, although directing that all jurisdictions have an organized defender office.

Regional or local government defender organization also permits the state to enjoy a variety of defender office struc-

tures within the state, thus permitting some experimentation in order to arrive at the best structure, based upon performance.

Moreover, a strong argument can be made for the proposition that a defender office should not be a governmental agency at all, but a private, not-for-profit corporation funded by the state. This form may be the best method of assuring the independence of the defender operation, continuity in defender leadership through changes in political control of the state, and may entirely free the defender from political considerations.

In any event, defender systems in many places are in the developmental stage, and, taking that into consideration, it is believed that it is too early in the history of the defender movement to recommend state agency organization of a defender office over private, corporate, regional or local governmental organization.

However, it is clear that funding the defender office is the responsibility of the state. Constitutional mandates do

the United States. However, most states have communities that range from the very wealthy to the poverty-stricken. To further aggravate the situation, in counties having a low tax base there is likely to be a higher incidence of crime; in those counties, a higher percentage of criminally accused are financially unable to provide counsel. Hence, where the need may be greatest, the financial ability will tend to be the least capable of meeting the need as required. Also, because county officials have greater susceptibility to citizen insensitivity to the rights of the accused, it is often politically impossible to provide adequate funding for the protection of those rights on the local level in many areas, where the demand for tax dollars must compete with other, more popular causes. This recommendation for state funding of the defender office has received the strong endorsement of the National Advisory Commission on Criminal Justice Standards and Goals, in its Standard 13.6.

NATIONAL ADVISORY COMMISSION
ON CRIMINAL JUSTICE
STANDARDS AND GOALS, COURTS

EXHIBIT "C"

EXHIBIT "D"

COUNTY CONTRIBUTIONS AS CALCULATED IN PROPOSAL NO. 2

| COUNTIES | 1977-78 | 1978-79 |
|--|------------|------------|
| Carson City | \$ 18,579 | \$ 18,487 |
| Churchill | 7,153 | 7,133 |
| Douglas | 15,999 | 15,925 |
| Elko | 14,900 | 14,925 |
| Esmeralda | 4,761 | 4,747 |
| Eureka | 3,591 | 2,583 |
| Humboldt | 10,950 | 10,897 |
| Lander | 7,663 | 7,625 |
| Lincoln | 4,223 | 4,212 |
| Lyon | 8,812 | 8,776 |
| Mineral | 8,745 | 8,707 |
| Nye | 8,984 | 8,959 |
| Pershing | 7,839 | 7,800 |
| Storey | 2,222 | 2,221 |
| White Pine | 10,974 | 10,920 |
| Total County | \$ 135,494 | \$ 133,917 |
| Total State | \$ 158,983 | \$ 158,903 |
| Additional State over previous request | (\$46,714) | (\$46,924) |
| Total Budget | \$ 294,477 | \$ 292,820 |

COUNTY CONTRIBUTIONS AS CALCULATED IN PROPOSAL NO. 3

| COUNTIES | 1977-78 | 1978-79 |
|--------------|------------|------------|
| Carson City | \$ 33,823 | \$ 33,731 |
| Churchill | 7,562 | 7,541 |
| Douglas | 27,306 | 27,232 |
| Elko | 27,306 | 27,232 |
| Esmeralda | 7,027 | 7,013 |
| Eureka | 4,897 | 4,889 |
| Humboldt | 19,936 | 19,882 |
| Lander | 13,951 | 13,913 |
| Lincoln | 6,047 | 6,036 |
| Lyon | 13,312 | 13,276 |
| Mineral | 14,100 | 14,061 |
| Nye | 9,074 | 9,049 |
| Pershing | 14,271 | 14,232 |
| Storey | 2,405 | 2,404 |
| White Pine | 19,979 | 19,925 |
| Total County | \$ 220,994 | \$ 220,416 |

STATE PUBLIC DEFENDER

AMENDMENT OF N.R.S. 176.091

176.091 (4.)

All monies ordered to be paid pursuant to this section shall be paid over to the Department of Parole and Probation who shall deposit such monies in the office of the County Treasurer of the respective county wherein the criminal prosecution was commenced and the Order requiring payment entered. The County Treasurer shall upon receipt of such monies credit same to an account to be entitled, "Public Defender's Fund" and shall deposit said monies in the county's general fund.

(5.)

The County Treasurer shall continue to deposit in the county general fund the monies that are credited to the "Public Defender's Fund" until such time as sufficient monies are obtained to cover the charges for services set forth in N.R.S. 180.110 for the fiscal year currently in operation. All other funds accumulated pursuant to this section, after the fee for services set forth in N.R.S. 180.110 have been met, shall be turned over to the State of Nevada, on a monthly basis, for deposit in a "Public Defender's Fund".

(6.)

The monies turned over to the State of Nevada shall be used by the Public Defender to cover the cost of appointment of expert witnesses for indigent defendants and for the cost of transporting witnesses to and from criminal proceedings on behalf of indigent defendants. The Public Defender shall not request the counties to pay for these services until all such monies in the Public Defender's Fund with the State of Nevada have been exhausted.

(7.)

The County Treasurers of the various counties shall submit a yearly report, at the end of each fiscal year, setting forth the amounts of money collected pursuant to this section including the amounts credited to the county general fund and those monies forwarded to the State of Nevada for crediting to the Public Defender's Fund.

replied that he had decided to talk to the officer. Defendant then confessed. The court held (338 N.Y.S.2d at 834) that under such circumstances "[T]he constitutional safeguards laid down by *Miranda v. Arizona* [cite omitted] during a period of custodial interrogation have been effectively met."

[8] The situation in the case at bar is similar to the circumstances in *People v. Pellicano*. Here, Gardner's counsel was available, and the entire episode was at the instance and request of the defense.

[9] The final argument is that Gardner's plea was coerced because he feared the death penalty and that, since the death penalty, in effect at the time, was unconstitutional, then his plea was obtained in violation of his constitutional rights. The argument is without merit. *Conger v. State*, 89 Nev. 263, 510 P.2d 1359 (1973).

The order of the district court denying Gardner's petition for post-conviction relief is affirmed.

GUNDERSON, C. J., and BATJER, ZENOFF, and THOMPSON, JJ., concur.



Gene Glenn JACKSON, Appellant,

v.

WARDEN, NEVADA STATE PRISON,
Respondent.

No. 7817.

Supreme Court of Nevada.

July 9, 1975.

After conviction of battery with intent to commit mayhem, a petition for post-conviction relief was filed. The Fourth Judicial District Court, Elko County, Joseph O. McDaniel, J., denied relief and the petitioner appealed. The Supreme Court

held that petitioner made sufficient allegations of denial of effective assistance of counsel to warrant an evidentiary hearing.

Reversed and remanded.

1. Criminal Law §641.13(1)

A defendant's right to assistance of counsel is satisfied only when such counsel is effective.

2. Criminal Law §641.13(1)

"Effective counsel" does not mean errorless counsel, but rather counsel whose assistance is within the range of competence demanded of attorneys in criminal cases.

See publication *Words and Phrases* for other judicial constructions and definitions.

3. Criminal Law §641.13(1)

Presumption exists that counsel in criminal case has fully discharged his duties and ineffectiveness of counsel will be recognized only when the proceedings have been reduced to a farce or pretense.

4. Criminal Law §641.13(1)

A primary requirement of effectiveness of counsel is that counsel will conduct careful factual and legal investigations and inquiries with a view to developing matters of defense in order that he may make informed decisions on his client's behalf both at the pleading stage and at trial.

5. Criminal Law §641.13(2)

If counsel's failure to undertake careful investigations and inquiries with a view toward developing matters of defense results in omitting a crucial defense from the case, the defendant has been denied effective assistance of counsel.

6. Assault and Battery §63

Battery with intent to commit mayhem is a specific intent crime to which the defense of diminished capacity is applicable. N.R.S. 193.220, 200.400.

7. Criminal Law §998(17)

Allegations in defendant's petition for postconviction relief warranted evidentiary

nearing on issue of whether defendant was denied effective assistance of counsel because of failure of court-appointed counsel to make careful investigations and inquiries into the circumstances and in failing to apprise defendant, who was charged with battery with intent to commit mayhem, of the defense of diminished capacity. N.R. S. 193.220, 200.400.

Horace Rodlin Goff, State Public Defender and Michael R. Griffin, Deputy State Public Defender, Post Office Box B, Carson City, for appellant.

Robert List, Atty. Gen., Carson City, Robert C. Manley, Dist. Atty. and Gary E. DiGrazia, Deputy Dist. Atty., Elko, for respondent.

OPINION

PER CURIAM:

Gene Glenn Jackson entered a plea of guilty to the felony charge of battery with intent to commit mayhem. NRS 200.400.

He was sentenced; placed on probation, which he later violated; and eventually incarcerated in the Nevada Prison.

Jackson has petitioned for post-conviction relief, primarily on the ground that he was denied effective assistance of counsel at the time he entered his plea. His petition was summarily denied below without an evidentiary hearing. We reverse and remand, with instructions to conduct an evidentiary hearing in accordance with the views expressed herein.

1. On February 28, 1972, the district court appointed the state deputy public defender to represent Jackson. Jackson claims that the deputy did not meet with him until the morning set for the preliminary examination, March 10, 1972, even though he had been in jail since February. At this March 10 meeting, counsel urged petitioner to waive the preliminary examination and plead guilty. At the advice of counsel, the preliminary hearing was waived. An information was filed on

March 16, 1972, to which Jackson entered his guilty plea. The information contained a list of witnesses, including the policemen and a doctor. Jackson, in his petition, claims that his counsel made no pretrial investigation of his case. According to the presentence report, dated March 27, 1972, a part of this record, there was no offense report filed, neither the victim nor any witnesses could be located, and policemen interviewed indicated that no one at the bar (the scene of the incident) knew what had happened. In fact, after repeated trips to the bar, the investigating officers were never able to produce any concrete information regarding the incident.

[1-5] A defendant's right to assistance of counsel is satisfied only when such counsel is effective. *Powell v. Alabama*, 287 U.S. 45, 71, 53 S.Ct. 55, 77 L.Ed. 158 (1932). Effective counsel does not mean errorless counsel, but rather counsel whose assistance is "[w]ithin the range of competence demanded of attorneys in criminal cases." *McMann v. Richardson*, 397 U.S. 759, 771, 90 S.Ct. 1441, 1449, 25 L. Ed.2d 763 (1970). While Nevada law presumes that counsel has fully discharged his duties, and will recognize the ineffectiveness of counsel only when the proceedings have been reduced to a farce or pretense, *Warden v. Lischko*, 90 Nev. 221, 223, 523 P.2d 6, 7 (1974), it is still recognized that a primary requirement is that counsel "conduct careful factual and legal investigations and inquiries with a view to developing matters of defense in order that he may make informed decisions on his client's behalf both at the pleading stage . . . and at trial . . ." In re *Saunders*, 2 Cal.3d 1033, 88 Cal.Rptr. 633, 638, 472 P.2d 921, 926 (1970). If counsel's failure to undertake these careful investigations and inquiries results in omitting a crucial defense from the case, the defendant has not had that assistance to which he is entitled. In re *Saunders*, *supra*; *People v. Stanworth*, 11 Cal.3d 588, 114 Cal.Rptr. 250, 522 P.2d 1058 (1974). Further, in *People v. White*, 514 P.2d 69, 71-72

(Colo.1973), the court noted that the American Bar Association Standards for Criminal Justice set forth minimum standards by which the assistance of counsel may be judged. The following sections of *The Defense Function Standard* are of particular relevancy here: 1.1(b) (Role of the Defense Counsel), 3.2 (Interviewing of Client), and 4.1 (Duty to Investigate).

FOX v STATE

[6] 2. Battery with intent to commit mayhem is a specific intent crime to which the defense of diminished capacity is applicable. NRS 193.220. The record before us indicates that petitioner, an Indian with a fourth-grade education, had been drinking for some 20 hours before the incident, much of that time with his friend, the victim, and that he had no recollection of the event. Without more, we do not know whether or why defense counsel urged a waiver of the preliminary examination and failed to apprise petitioner of the defense of diminished capacity.

[7] The Ninth Circuit Court of Appeals dealt with a similar situation in *Brubaker v. Dickson*, 310 F.2d 30 (1962). There, the appellant urged that through lack of investigation and preparation Brubaker's court-appointed counsel failed to discover and present substantial defenses which appellant had to the charge against him, among them being a lack of capacity to form the intent required for first-degree murder. After reviewing the allegations, the court said, at 38-39:

"Upon an examination of the whole record, we conclude that appellant alleged a combination of circumstances, not refuted by the record, which, if true, precluded the presentation of his available defenses to the court and the jury through no fault of his own, and thus rendered his trial fundamentally unfair. Appellant does not complain that after investigation and research trial counsel made decisions of tactics and strategy injurious to appellant's cause; the allegation is rather that trial counsel failed to prepare, and that appellant's defense was withheld not through deliberate though faulty judgment, but in

default of knowledge that reasonable inquiry would have produced . . . It follows that appellant must have an opportunity to support the allegations of his petition, by proof, in a hearing before the District Court."

3. Petitioner additionally urges that his plea was not entered voluntarily with a full understanding of the nature of the charges. Since an evidentiary hearing must be conducted, it is presumed that the district court will take testimony on the voluntariness of petitioner's plea.

The case is reversed and remanded to the district court for appropriate hearing consistent with this opinion.



J. M. BOUNDS, Appellant,

v.

WARDEN, NEVADA STATE PRISON,
Respondent.

No. 8059.

Supreme Court of Nevada.

July 9, 1975.

Appeal was taken from an order of the First Judicial District Court, Carson City, Frank B. Gregory, J., denying post-conviction relief. The Supreme Court held that where defendant voluntarily, with advice of counsel, entered plea of guilty to homicide charge and there was no allegation of coercion, it would be assumed that defendant was fully advised of consequences of plea.

Affirmed.

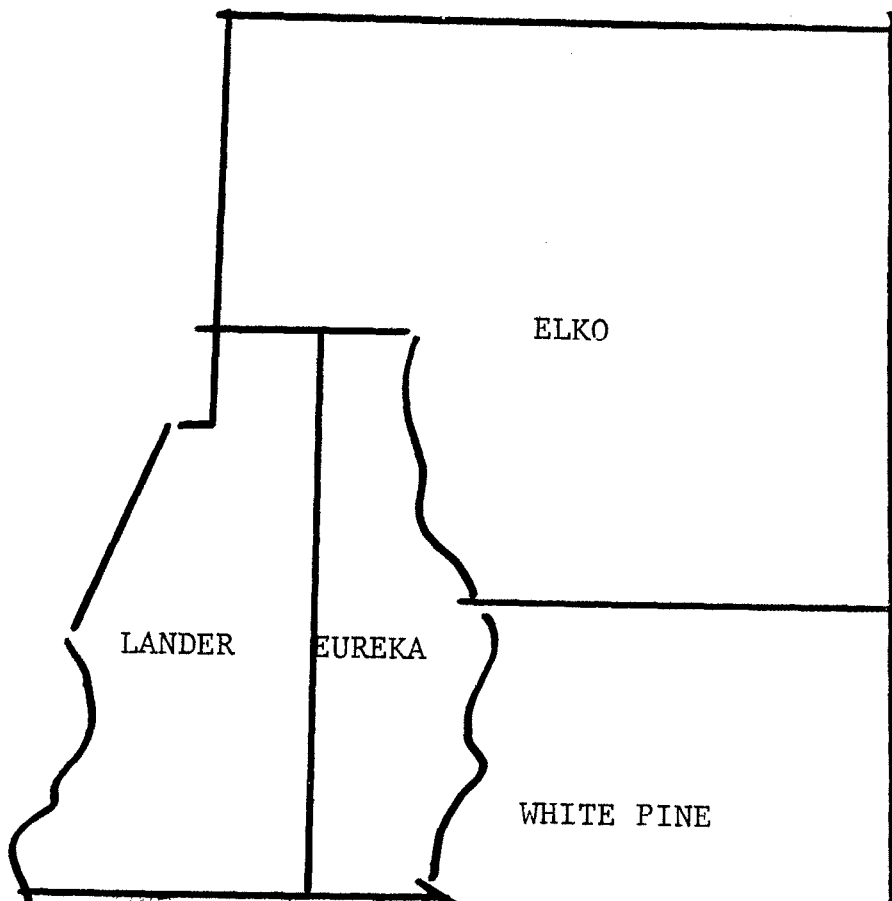
Zenoff, J., did not participate.

I. Criminal Law ⇐ 1134(8)

Supreme Court, on appeal from denial of postconviction relief, would not consider contention regarding events that occurred prior to petitioner's guilty plea.

ELKO REGIONAL OFFICE

COUNTY FEES



| | <u>PROPOSAL 2</u> | <u>PROPOSAL 3</u> |
|------------|-------------------|-------------------|
| ELKO | \$ 14,999 | \$ 27,306 |
| EUREKA | 3,591 | 4,897 |
| LANDER | 7,663 | 13,951 |
| LINCOLN | 4,223 | 6,047 |
| WHITE PINE | 10,974 | 19,979 |
| | <hr/> | <hr/> |
| | \$ 41,450 | \$ 72,180 |

| <u>POSITION TITLE</u> | <u>BEGINNING SALARY/DATE</u> | <u>GRADE & SALARY as of 1/1/77</u> | <u>TOTAL STATE SERVICE</u> |
|-----------------------|---------------------------------------|--|--------------------------------|
| Director/Chairman | \$17,294.16 (9/15/71) Unclassified | \$21,767.00 Unclassified | 5 years 5 months |
| Executive Secretary | \$11,000.00 (12/1/69) Grade 37 | \$20,679.00** Grade 37-15 Top | 17 years 7 months |
| Manpower Planner | \$13,852.28 (7/24/71) Grade 37 | \$20,679.00** Grade 37-15 Top | 5 years 4 months |
| E.E.O. Officer* | \$15,493.14 (10/26/74) Grade 37 | \$20,679.00** Grade 37-15 Top | 6 years |
| Area Coordinator* | \$12,800.00 (3/22/71) Grade 35 | \$18,959.00** Grade 35-15 Top | 12 years 7 months |

*These two positions are in the process of being reclassified to Program Monitoring, in accordance with U.S. Department of Labor instructions. We are presently working with the Nevada State Personnel Department in the development of new job descriptions.

**Salary levels are at the top of the grade and step due to longevity and also because of past legislative cost of living increases.

DIRECTOR/CHAIRMAN

State Comprehensive Employment and Training Office

Funding and scope of work:

Al Ramirez, Director, five professionals and two clerical staff. Funding source is provided under the rules and regulations issued by the Department of Labor which requires that the Governor establish and appoint a Council "and provide the council with professional, technical, and clerical staff." [95.13 (c)(3)]

- 1) Organize and coordinate the councils activities.
- 2) Direct the planning and administration of the Governor's CETA Grant and implement Federal requirements.
- 3) Supervise the staff which is composed of the Fiscal/Statistical, Planning and Monitoring Departments and supportive staff whose responsibilities include:
 - A. Plan, administer, and coordinate the Governor's Special Grant.
 - B. Supervise the staff which is composed of the Fiscal/Statistical, Planning and Monitoring Departments and supportive secretarial staff.
 - C. Staff responsibilities include:

Fiscal/statistical reporting and control; planning, grant and contract preparation and modifications; monitoring; Federal and state reporting; providing technical assistance; 5% non-financial and financial negotiations, mediations and agreements; subgrantee staff training; contract compliance; reviewing state and prime sponsor's plans; establish Federal and state inventories; and the development of the Governor's End of the Year Report.
 - D. Serve as Chairman of the State Comprehensive Employment and Training Council.

- E. Conduct special projects and participate on special committees for the Governor as the need arises.
- F. Maintain liaison with the National and Regional levels of the Federal Government as well as county and city government within the state.
- G. Serves as the central information/advisory source to the Governor and to state, local and private agencies with special interests and responsibilities in the manpower area.

EXECUTIVE SECRETARY (Fiscal and Data)

Under the administrative direction of the Chairman, coordinates and supervises all accounting and fiscal activity and procedures pertaining to the Governor's Special CETA grant. Performs and directs technical duties requiring the maintenance of complex accounts which includes required Federal and State reporting. Prepare reports required by the Planning and Monitoring departments prime sponsors and council. Instruct the Manpower Analyst and the Principal Clerk Steno in proper work methods, procedures and performances of assigned fiscal and statistical duties. Is responsible for:

- A. The development and compilation of the Governor's Special CETA Grant application;
- B. All office financial management, personnel records, data gathering and dissemination;
- C. Prime Sponsor plan review and comment to Chairman;
- D. Development of contract and subcontract agreements for services;
- E. Desk review of prime sponsors programs;
- F. Development and publication of current Labor Market and Socio Economic information;
- G. Audit of all Special Grant contractors and 5% Vocational Education programs;
- H. Provide technical assistance to prime sponsors in the area of Budget and Labor Market;

- I. Develop Statewide data and statistics to be utilized in preparing the Annual Report to the Governor.

MANPOWER PLANNER

Planning/Coordination

Under administrative direction of the Director, is responsible for developing the planning and coordination activities for both the council and services program and does related work as required:

- A. Plans, organizes, and assists with the implementation of activities directed toward supporting and re-enforcing prime sponsor efforts in the areas of employment and training.
- B. Recommends new programs and program mixes to fill gaps and avoid duplications in prime sponsor efforts.
- C. Serves as liaison between SCETO and prime sponsors with reference to planning and coordination consistency.
- D. Coordinates the Governor's services and related activities in the areas of planning.
- E. Assists Director with Governor's Manpower Task Force (GMTF).
- F. Plans, develops, and implements procedures for utilization of the Governor's 5% Vocational Education Special Grant.
- G. Plans, develops, and implements procedures for utilization of the innovative portion of the Governor's 4% Special Grant.
- H. Evaluates and coordinates labor market information for prime sponsor perusal.
- I. Directs development of the manpower matrices as information service to prime sponsors and state agencies.

- J. Leads and participates in conference workshops and meetings related to the improvement of manpower.
- K. Serve as technical and liaison staff on the Nevada Vocational Technical Education Council.
- L. Plan, organize and implement the Nevada State Youth Conservation Corps program for both the State and Federal program.

EQUAL EMPLOYMENT OPPORTUNITY SPECIALIST (Monitoring)
(Manpower Services Officer III)

Under the general direction of the Director:

- A. Designs and implements an evaluation/monitoring program and operates such a program to certify compliance for SCETO funded subcontractors and evaluates program effectiveness on a regular basis.
- B. Supervises and participates in the monitoring and evaluation of program activities.
- C. Designs and conducts, and implements a cooperative system for monitoring CETA prime sponsors and subgrantees on a quarterly basis.
- D. Monitors Governor's 5% Vocational Education and 4% Special Program classroom and job sites for involvement of clients interviews, data collection, and observation of client's service operation.
- E. Encourages adequate review of the prime sponsor's comprehensive manpower plan by community groups to ensure responsiveness to participant groups.
- F. Provides training and technical assistance to CETA staff and subgrantees.
- G. Designs and publicizes to all prime sponsors and effected state agencies the intent and procedures of monitoring.

- H. Provides written monitoring reports to all primes, Federal government and councils, including data information of special evaluations and related studies and presents viable corrective program alternatives.
- I. Functions as the responsible member from the monitoring unit to the SCETO "Evaluation Team".
- J. Assists in coordination of all related manpower programs, services, so as to eliminate conflicts and duplications, and coordinates program linkages with programs financed by Wagner-Peyser Act.
- K. Develops informational exchange between state and local governments concerning economic, social and political forces and its reaction in the labor market systems in the different prime sponsor's areas.
- L. Verifies agreements with and responsiveness of state agencies to prime sponsors.
- M. Submits comparative results of monitoring reviews to all prime sponsors.
- N. Performs other duties as the Director may assign.

AREA COORDINATOR (Monitoring)
(Manpower Services Officer II)

Under general direction of the monitoring supervisor:

- A. Performs technical review, monitoring and evaluation.
- B. Encourages adequate review of the prime sponsor's comprehensive manpower plan by community groups to ensure responsiveness to the participant groups.
- C. Implements a system for monitoring compliance with subgrantees.

- D. Provides monitoring information to all primes, Federal government and councils, including providing data, information, and special evaluations, monitoring and related studies.
- E. Participates in the designing and implementation of an evaluation monitoring program and operates such a program to certify compliance for SCETO funded subcontractors, evaluates program effectiveness, and performs other duties as the supervisor may assign.
- F. Conducts monitoring reviews of all three prime sponsors on a quarterly basis.
- G. Submits comparative results of monitoring reviews to all prime sponsors.
- H. Assists in the coordination of all related manpower programs, services, so as to eliminate conflicts and duplications, and coordinates program linkages with programs financed by Wagner-Peyser Act. Verifies agreements with and the responsiveness of state agencies to prime sponsors.
- I. Monitors Governor's 5% Vocational Education and 4% Special Program classroom and job sites for involvement of clients interviews, data collection and observation of clients' service operation.
- J. Develops informational exchange between state and local governments concerning economical and social conditions relative to the labor market among the prime sponsor areas.
- K. Prepares procedures, forms and reports as well as follow-up with respect to Federal and state monitoring activity.
- L. Assists with the coordination of other programs and services with prime sponsors.

S. B. 177

SENATE BILL NO. 177—COMMITTEE ON FINANCE

FEBRUARY 2, 1977

Referred to Committee on Finance

SUMMARY—Makes supplemental appropriation and appropriation for new equipment to mental hygiene and mental retardation division of department of human resources. (BDR S-720)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Contains Appropriation.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT making appropriations to the mental hygiene and mental retardation division of the department of human resources for the desert developmental center; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. There is hereby appropriated from the state general fund
2 to the mental hygiene and mental retardation division of the department
3 of human resources for the desert developmental center:
4 1. The sum of \$159,850 as an additional and supplemental appro-
5 priation to that allowed and made by section 32 of chapter 679, Statutes
6 of Nevada 1975.
7 2. The sum of \$40,000 to be used for the purchase of new equip-
8 ment.
9 SEC. 2. After June 30, 1977, the unencumbered balance of the
10 appropriation made in subsection 1 of section 1 shall not be encumbered
11 and shall revert to the state general fund.
12 SEC. 3. After June 30, 1979, the unencumbered balance of the
13 appropriation made in subsection 2 of section 1 shall not be encumbered
14 and shall revert to the state general fund.
15 SEC. 4. This act shall become effective upon passage and approval.

Ⓢ

Original bill is on file at
the Research Library.

435

S. B. 213

SENATE BILL NO. 213—COMMITTEE ON FINANCE

FEBRUARY 11, 1977

Referred to Committee on Finance

SUMMARY—Appropriates money from state general fund to legislative fund. (BDR S-1292)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Contains Appropriation.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT making an appropriation from the state general fund to the legislative fund.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. There is hereby appropriated from the state general fund
- 2 to the legislative fund existing pursuant to the provisions of NRS 218.085
- 3 the sum of \$500,000.
- 4 SEC. 2. This act shall become effective upon passage and approval.

⑩

Original bill is on file at
the Research Library.

466

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 176

SENATE BILL NO. 176—COMMITTEE ON FINANCE

FEBRUARY 2, 1977

Referred to Committee on Finance

SUMMARY—Makes supplemental appropriation to welfare division of department of human resources for medical care program. (BDR S-719)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: Contains Appropriation.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT making an additional and supplemental appropriation to the welfare division of the department of human resources to maintain the present level of medical services provided recipients under the Title XIX Medical Care Program; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. There is hereby appropriated from the state general fund
2 to the welfare division of the department of human resources the sum of
3 \$1,471,372 to maintain the present level of medical services provided to
4 recipients under the Title XIX Medical Care Program. This appropriation
5 is additional and supplemental to that allowed and made by section 32 of
6 chapter 679, Statutes of Nevada 1975.
- 7 SEC. 2. Any money received under Title II of the Public Works
8 Employment Act of 1976 (PL 94-369) shall be expended for medical
9 services under the Title XIX Medical Care Program and shall be
10 expended prior to any money appropriated in section 1.
- 11 SEC. 3. After June 30, 1977, the unencumbered balance of the
12 appropriation made in section 1 shall not be encumbered and shall revert
13 to the state general fund.
- 14 SEC. 4. This act shall become effective upon passage and approval.

SENATE BILL NO. 160—COMMITTEE ON JUDICIARY

JANUARY 28, 1977

Referred to Committee on Judiciary

SUMMARY—Eliminates private practice of law by deputy state public defenders.
(BDR 14-356)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the state public defender; eliminating the private practice of law by deputy state public defenders; clarifying their employment status; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 180.030 is hereby amended to read as follows:
2 180.030 1. The state public defender may employ:
3 (a) Deputy state public defenders, who shall be in the unclassified
4 service of the state [.] and receive a salary as provided in NRS 284.182.
5 (b) Clerical, investigative and other necessary staff, who shall be in
6 the classified service of the state.
7 2. Each deputy state public defender shall be an attorney licensed
8 to practice law in [the State of] Nevada, and shall not engage in the
9 practice of [criminal] law, except in performing the duties of his office.
10 3. The state public defender and the employees of his office shall
11 receive the traveling expenses and subsistence allowances provided by
12 law.
13 SEC. 2. NRS 284.140 is hereby amended to read as follows:
14 284.140 The unclassified service of the [State of Nevada shall be
15 comprised] *state consists* of positions held by state officers or employees
16 in the executive department of the state government as follows:
17 1. Persons chosen by election or appointment to fill an elective
18 office.
19 2. Members of boards and commissions, and heads of departments,
20 agencies and institutions required by law to be appointed.
21 3. At the discretion of the elective officer or head of each depart-
22 ment, agency or institution, one deputy and one chief assistant in [such]
23 *each* department, agency or institution.
24 4. All employees in the office of the governor and all persons

488

SENATE BILL NO. 158—COMMITTEE ON FINANCE

JANUARY 28, 1977

Referred to Committee on Finance

SUMMARY—Authorizes amounts to be contributed by counties for support of state public defender's office. (BDR 14-357)

FISCAL NOTE: Local Government Impact: Yes.
State or Industrial Insurance Impact: Executive Budget.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the state public defender; authorizing the amounts which must be paid by the counties for support of the state public defender's office; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 180.110 is hereby amended to read as follows:
 2 180.110 1. *Each fiscal year the state public defender may collect*
 3 *from the counties the amounts authorized by the legislature for use of his*
 4 *services during that year.* [The state public defender may collect the
 5 following amounts from the respective county for the use of his services:
 6 For the fiscal For the fiscal
 7 year ending year ending
 8 June 30, 1976 June 30, 1977
 9 Carson City..... \$11,966..... \$13,128
 10 Churchill..... 6,325..... 6,957
 11 Douglas..... 12,000..... 13,200
 12 Elko..... 8,981..... 9,879
 13 Esmeralda..... 2,656..... 2,921
 14 Eureka..... 2,150..... 2,365
 15 Humboldt..... 8,146..... 8,960
 16 Lander..... 2,783..... 3,061
 17 Lincoln..... 2,643..... 2,907
 18 Lyon..... 7,147..... 7,862
 19 Mineral..... 7,210..... 7,931
 20 Nye..... 6,514..... 7,165
 21 Pershing..... 5,363..... 5,899
 22 Storey..... 1,998..... 2,197
 23 White Pine..... 7,653..... 8,418]
 24 2. The state public defender shall submit a bill to the county on or

S. B. 87

SENATE BILL NO. 87—COMMITTEE ON
GOVERNMENT AFFAIRS

JANUARY 20, 1977

Referred to Committee on Government Affairs

SUMMARY—Provides for disposition of local government records. (BDR 19-80)

FISCAL NOTE: Local Government Impact: Yes.
State or Industrial Insurance Impact: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to public records; providing for the disposition of certain records by local government entities; prescribing the powers and duties of the division of state, county and municipal archives within the office of the secretary of state regarding such records; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 239 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *As used in this chapter "division of archives" means the division of*
4 *state, county and municipal archives within the office of the secretary of*
5 *state.*
6 SEC. 2. NRS 239.070 is hereby amended to read as follows:
7 239.070 1. In lieu of or in addition to the method of recording
8 required or allowed by statute, the county recorder may use the microfilm
9 method of recording.
10 2. *The division of archives shall provide microfilming service to any*
11 *local government entity. The charge for the service shall not exceed the*
12 *actual cost.*
13 3. If such microfilm method be used:
14 (a) The microphotographs or micronegative films shall be properly
15 indexed and placed in conveniently accessible files.
16 (b) Each film shall be designated and numbered.
17 (c) Provision shall be made for preserving, examining and using the
18 same.
19 [3.] 4. A duplicate of such film shall be made and kept safely in a
20 separate place.
21 [4.] 5. Duplicates of such film shall be made available by the county
22 recorder for sale at a price not exceeding cost upon request of any person,

Original bill is 3 pages long.
Contact the Research Library for
a copy of the complete bill.

FISCAL NOTE

BDR 19-80
 A.B. _____
 S.B. 87

Date Transmitted _____

• STATE AGENCY ESTIMATES Date Prepared Nov. 17, 1976

Agency Submitting Secretary of State - Division of Archives

| Revenue and/or Expense Items | Fiscal Note 1976-77 | Fiscal Note 1977-78 | Fiscal Note 1978-79 | Continuing |
|---------------------------------|------------------------|------------------------|------------------------|--------------------|
| In-State Travel | 400.00 | 2,000.00 | 2,000.00 | 1,000.00 |
| Communication | 350.00 | 350.00 | 350.00 | 400.00 |
| Equipment | 1,000.00 | 3,000.00 | 3,000.00 | 1,500.00 |
| One New Position | -0- | 8,200.00 | 8,600.00 | 9,000.00 |
| Total | \$1,750.00 | \$13,550.00 | \$13,950.00 | \$11,900.00 |

Explanation (Use Continuation Sheets If Required)

In-State Travel:

Under the provisions of BDR 19-80, each individual County and City agency will require guidance, assistance and supervision by the Archives in instituting and maintaining a records program. During the fiscal years of 1977 to 1979 considerable travel will be mandatory.

Communications:

Between January 1 and October 29, 1976, approximately 45% of the Local Government Impact YES NO
 (Attach Explanation)

Signature *Howard E. Barrett*

Title Director of Archives

• DEPARTMENT OF ADMINISTRATION COMMENTS Date December 14, 1976

The above cost estimates would not be reimbursed by the local government and would therefore be costs to the State's General Fund.

In my estimation, they appear to underestimate the actual costs.

This has not been included in the Executive Budget.

Signature *Howard E. Barrett*
 Howard E. Barrett
 Title Director of Administration

• LOCAL GOVERNMENT FISCAL IMPACT Date January 25, 1977
 (Legislative Counsel Bureau Use Only)

This measure will make microfilming service available to local governments. Those choosing to use the service would incur relatively small costs. These expenses would be offset to varying degrees by savings in storage costs.

Signature *E. A. Schan*
 Title Deputy Fiscal Analyst

Explanation (Continued)

Communication (Continued)

Archives communication budget went toward contact between the Archives and the Counties/Cities. This influx was not budgeted for the 1975-1977 biennium. An additional incoming and out-going line would be required to alleviate an overcrowded situation.

Equipment:

Contained within the 1977-1979 Archives budget request is an amount of \$5,000.00 for the shelving and storing of State records. An additional biennial request of \$6,000.00 would be necessary to shelve and store County and City records.

New Position (1):

The new position requested is that of an Archives Assistant I, at a grade 20 level. The major duties being: Removing, shelving, retrieval and general records center duties and maintenance for the County Records.

- * -

Local Government Impact:

With the passage and approval of BDR 19-80, the Division of Archives would be in the position to officially and physically assist all County and City government agencies to alleviate the over crowded record conditions that exist in the large percentages of Court Houses and City Halls throughout the State.

A pilot project, initiated by the Archives and the Douglas County Clerk, clearly shows that within a total period of twenty-four hours, the County Clerk had forty-six (46%) per cent more space after the Archives survey, disposal and removal of old records from the Court House.

- *** -

S. B. 223

SENATE BILL NO. 223—COMMITTEE ON FINANCE

FEBRUARY 14, 1977

Referred to Committee on Finance

SUMMARY—Requires that use by state public works board of certain grants of money be approved in advance by concurrent resolution of legislature when it is in session. (BDR 28-1251)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the state public works board; requiring that use of grants of money for certain construction projects be approved in advance by concurrent resolution of legislature when it is in session; extending the purposes for which such grants may be used; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 341.121 is hereby amended to read as follows:
2 341.121 The board may, with the [concurrency] approval of the
3 interim finance committee [.] when the legislature is not in regular or
4 special session, or with the approval of the legislature, by concurrent reso-
5 lution, when the legislature is in regular or special session, use grants of
6 money received under authority of this chapter, unless otherwise limited
7 by the conditions of any such grant, for:
8 1. The design and construction of public buildings or projects for
9 which no appropriation has been made by the legislature [.] , or the
10 acquisition of real property for such buildings or projects, or both.
11 2. Additional acquisition, design and construction costs on public
12 buildings or projects, through appropriate contract procedures, for which
13 the original legislative appropriation made no provision.
14 SEC. 2. This act shall become effective upon passage and approval.

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Original bill is on file at
the Research Library.

773

S. C. R. 13

SENATE CONCURRENT RESOLUTION NO. 13—
COMMITTEE ON FINANCE

FEBRUARY 9, 1977

Referred to Committee on Finance

SUMMARY—Authorizes augmentation of amounts appropriated for certain capital improvement projects. (BDR 1246)

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

SENATE CONCURRENT RESOLUTION—Authorizing augmentation from federal moneys of amounts appropriated for certain capital improvement projects.

- 1 WHEREAS, The sum of \$456,000 was appropriated from the state gen-
2 eral fund to the state planning board and allocated in section 12 of chap-
3 ter 668, Statutes of Nevada 1973, for the construction of improvements
4 for the National Guard, Carson City, Nevada, which included the Army
5 Aviation Support Facility at Stead (project No. 73-14B); and
6 WHEREAS, The sum of \$1,275,377 was appropriated from the state
7 general fund to the state public works board in subsection 1 of section
8 1 of chapter 601, Statutes of Nevada 1975, for capital improvements for
9 general state agencies, which included remodeling of the Heroes Memorial
10 Building and the Supreme Court Building (project No. 75-27); and
11 WHEREAS, The state public works board has demonstrated the need
12 for an augmentation of the amounts appropriated for these projects; and
13 WHEREAS, Federal grants of money received under the authority of
14 chapter 341 of NRS are available for this purpose; now, therefore, be it
15 *Resolved by the Senate of the State of Nevada, the Assembly concur-*
16 *ring,* That an augmentation of the amount appropriated from the state
17 general fund to the state planning board and allocated in section 12 of
18 chapter 668, Statutes of Nevada 1973, for the construction of improve-
19 ments for the National Guard, Carson City, Nevada, is hereby authorized
20 in the amount of \$616,492 for additional design and construction costs
21 for the Army Aviation Support Facility at Stead (project No. 73-14B),
22 from federal money received under the authority of chapter 341 of NRS
23 and available for this purpose; and be it further
24 *Resolved,* That an augmentation of the amount appropriated from the
25 state general fund to the state public works board and allocated in sub-
26 section 1 of section 1 of chapter 601, Statutes of Nevada 1975, for capital
27 improvements for general state agencies is hereby authorized in the
28 amount of \$4,981 for remodeling of the Heroes Memorial Building and

Original bill is 2 pages long.
Contact the Research Library for
a copy of the complete bill.

ASSEMBLY BILL NO. 66—ASSEMBLYMEN BANNER
AND DEMERS

JANUARY 19, 1977

Referred to Committee on Government Affairs

SUMMARY—Creates Nevada equal rights commission and Nevada Indian
commission gift funds. (BDR 18-452)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to state funds; creating the Nevada equal rights commission
gift fund and the Nevada Indian commission gift fund; and providing other
matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. NRS 233.060 is hereby amended to read as follows:
2 233.060 The commission shall:
3 1. Foster mutual understanding and respect among all racial, reli-
4 gious, handicapped and ethnic groups and between the sexes in the State
5 of Nevada.
6 2. Aid in securing equal health and welfare services and facilities for
7 all the residents of the State of Nevada without regard to race, religion,
8 sex, age, physical or visual handicap or nationality.
9 3. Study and investigate problems arising between groups in the State
10 of Nevada which may result in tensions, discrimination or prejudice
11 because of race, color, creed, sex, age, physical or visual handicap,
12 national origin or ancestry, and formulate and carry out programs of edu-
13 cation and disseminate information with the object of discouraging and
14 eliminating any such tensions, prejudices or discrimination.
15 4. Investigate any complaints of discrimination, tensions or prejudice
16 filed with or referred to the commission.
17 5. Secure the cooperation of various racial, religious, handicapped,
18 nationality and ethnic groups, veterans' organizations, labor organizations,
19 business and industry organizations and fraternal, benevolent and service
20 groups, in educational campaigns devoted to the need for eliminating
21 group prejudice, racial or area tensions, intolerance or discrimination.
22 6. Cooperate with and seek the cooperation of federal and state
23 agencies and departments in carrying out projects within their respective

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Original bill is 2 pages long.
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a copy of the complete bill.

| Name | Organization | Address | Phone |
|------------------|---------------------|---------|----------|
| A. R. Mortelette | State Welfare | C.C. | 885-4690 |
| W. Jakobiec | " " | " | 4546 |
| B. Henry | St. Welfare Board | L.U. | 648-9394 |
| Arawn Magnuson | NSWD - Title XIX | C.C. | 885-4775 |
| Minor Kelso | " " | " | " |
| J. Duarte | Welfare Division | C.C. | 885-4771 |
| H. Miller | " " | H | H |
| Fred E. Gale | State Archives | C.C. | 885-5210 |
| Audrey P. Grose | LCB | C.C. | 5637 |
| Donna Andres | State Welfare Board | L.U. | 870-2354 |
| Red Goff | STATE PUBLIC DEF | C.C. | 4880 |