

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON FINANCE

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 21, 1981

The Senate Committee on Finance was called to order by Vice Chairman, James I. Gibson, at 7:30 a.m., Thursday, May 21, 1981, in Room 231 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator James I. Gibson, Vice Chairman
Senator Eugene V. Echols
Senator Lawrence E. Jacobsen
Senator Norman D. Glaser
Senator Thomas R.C. Wilson
Senator Clifford E. McCorkle

COMMITTEE MEMBER ABSENT:

Senator Floyd R. Lamb, Chairman (excused)

STAFF MEMBERS PRESENT:

Ronald W. Sparks, Chief Fiscal Analyst
Dan Miles, Deputy Fiscal Analyst
Candace Chaney, Secretary

OTHERS PRESENT:

(Please refer to Exhibit B)

ASSEMBLY BILL NO. 647 - Increases number of members of joint board of museums and history.

Mr. Jack Porter, Director of Museums and History, testified in support of this bill which would add four new members to the Board. He felt with the additional institutions that the board had to care for, seven members were to few.

Senator Lamb commented, in his experience, the smaller the committee, the more that got accomplished. Mr. Porter said he would be inclined to concur with the Senator, but added the Chairman of the Board told him what to do and he executed it.

Senator Glaser inquired as to where the board met. Mr. Porter stated the Board had one meeting a year in Las Vegas and three meetings a year in either Carson City or Reno. He noted the annual cost of these meetings was \$1,892.

Senator Lamb inquired as to who appointed the members. Mr. Porter noted the Governor appointed the members of the Board.

Senator Glaser asked besides the Historical Society, the Nevada State Museum, the Lost City Museum, the V & T Museum, what other facilities were under the jurisdiction of the Board. Mr. Porter said it would also include the State Museum in Las Vegas which would probably be operating by 1982.

ASSEMBLY BILL NO. 499 - Makes appropriation for refurbishment of certain buildings of Nevada Mental Health institute.

Mr. Ken Sharigian, Deputy Administrator of the State Division of Mental Hygiene, testified with regard to this bill. He noted this bill was a

Senate Committee on Finance
May 21, 1981

one shot appropriation of \$105,012 to be used at the Nevada Mental Health Institute for doing some work on two buildings. The monies would be used primarily for expansion of the facilities to add more beds, interior painting, tile replacement, security screens, and remodeling showers. He added one of the buildings had not been occupied for quite some time and needed extensive work.

Senator Glaser inquired if this money was already included in the budget. Mr. Sharigian said it was.

Senator Echols requested an explanation of why the repairs and improvements were handled in this way. Mr. Barrett stated the Public Works Board decided not to include these kinds of items in their budget and suggested they be in the agency's budget rather than in their capital improvement budget.

ASSEMBLY BILL NO. 586 - Provides for payment of members of sanity commission from reserve for statutory contingency fund under certain circumstances.

Mr. Sharigian provided testimony concerning this bill. He said the bill essentially added to items that could be paid for from the statutory contingency fund; the cost of sanity commissions. At present, in Lake's Crossing's budget, the line item of \$28,800 for the first year and \$31,500 for the second year was being considered for the sanity commissions. This was where an outside review of people felt to be ready to go back to trial had to be paid for.

Mr. Sharigian stated that this was an uncontrollable expense, and if this bill were to pass, after the division expended that amount of money, the division could go to the Board of Examiners and request that they approve payment from the statutory contingency fund. This would be done rather than moving money within the budget or coming to Interim Finance requesting a supplemental.

Mr. Barrett noted his Division was not objecting to the bill, but the statutory contingency fund was virtually broke at this time. He did not know whether to come back to request a supplemental for the fund again, or, to come to Interim Finance. Senator Lamb commented he thought Mr. Barrett should request a supplemental from this session.

Senator Lamb asked Mr. Sharigian as to how he felt about the Mental Hygiene Department. Mr. Sharigian indicated the division still had some problems. He felt one of the current problems involved a lot of unrest among the division's employees due to cutbacks in services. He thought the division had taken more of an administrative rather than a programs stance in trying to administrate more efficiently.

Senator McCorkle inquired as to what a sanity commission was. Mr. Sharigian said a sanity commission was involved when an individual was determined under Statute, NRS 178, not competent to stand trial and was sent by the district court to Lake's Crossing. The facility treated that individual until they were ready to stand trial and reported the fact back to the court. The court appointed three psychiatrists independent of the division to evaluate the person's competence, the cost was on the division, and the three psychiatrists comprised the sanity commission. The cost amounted to \$150 per psychiatrist.

Senator Echols asked if there were any volunteers involved in the Mental Hygiene Division. Mr. Sharigian indicated there were. He noted it would help to have more money to do more public relations to attract more volunteers.

Senate Committee on Finance
May 21, 1981

Senator McCorkle remarked that he had heard the division's Volunteer Coordinator position was cut by Ways and Means. Mr. Sharigian noted Ways and Means was presently taking a look at what to do about the Henderson program which the Finance Committee had moved to appropriate more money for. The Ways and Means Committee had cut the Director of Volunteers at the institute and a half-time volunteer coordinator at CBS, Clark County.

Senator Jacobsen, referring back to Assembly Bill No. 586, commented there was no documentation of the commission's caseload. Mr. Sharigian stated they were estimating with their line item of the first year for 64 sanity commissions. He added that the sanity commissions were an uncontrollable number.

ASSEMBLY BILL NO. 639 - Makes an appropriation to Nevada Racing Commission for support of Henderson Track.

Mr. Duane Goble, Executive Secretary for the Nevada Racing Commission, testified with regard to this bill. He indicated the bill requested an additional supplemental appropriation of \$34,545 to carry the track through this fiscal year at Las Vegas Downs. The reason for the request was that the handle had not met the projected figure and was approximately half of what was expected.

Senator Wilson inquired as to the definition of "handle". Mr. Goble said it referred to the gross pari-mutuel handle, the amount of money bet on one performance at a race track.

Senator Echols inquired as to what was to be done with the money. Mr. Goble noted he had presented the Department of Administration with projected expenditures versus projected revenue of what the commission took in on the 1¢ tax and the difference. Also included in the appropriation was the proposed pay increase.

Senator Gibson asked Mr. Goble how it would affect his budget if the pari-mutuel were attached to the Gaming Control Board. Mr. Goble said it would decrease their budget.

Senator Jacobsen asked what would happen if the appropriation were not approved. Mr. Goble stated that racing would be totally unregulated and their payroll would not be met.

Senator Lamb inquired how many days the appropriation would take care of. Mr. Goble stated it would suffice between now and the end of the fiscal year; that was included in the revenue projection from April 10, which was the base date.

Senator Gibson thought that money would come out of what the State was receiving, which was 2%.

ASSEMBLY BILL NO. 648 - Alters statutory provisions relating to payment and distribution of tax on pari-mutuel.

Mr. Duane Goble testified regarding this bill. The bill allowed the Racing Commission to prepare a budget on exactly what a new track would cost to regulate by the State Racing Commission. Rather than going to Interim Finance, they were requesting an allocation from the State's share of the tax to regulate the track. The track would come up with the up-front money which would then be deducted until the allocation was exhausted; after that, they would go on the regular funding method.

In section two of the bill, this revised the method by which the Racing Commission was funded. Presently, the Commission received 1% of the total pari-mutuel handle, the State General Fund received 2%, and the City of Henderson received 1% on Greyhound racing only.

Senate Committee on Finance
May 21, 1981

Senator Lamb asked why Henderson only received a percentage on Greyhounds. Mr. Goble said that was the way the bill was originally set up. Mr. Barrett indicated that was the present law. Senator Gibson commented the reason for that was because horse racing was already authorized in the State and did not affect the distribution. Senator Lamb asked if it was the intent of the legislature that Henderson receive so much from dog racing and horse racing. Mr. Goble indicated, as written in Senate Bill No. 68, Henderson also shared in horse racing revenues.

Mr. Goble stated the funding method was that the Racing Commission would receive on greyhound racing the full 4% until such time they reached their legislative authorized budget. After that, the funds were deposited to the General Fund and divided on a two-third/one-third ratio; two thirds of the remaining funds went to the General Fund, one-third went to the City of Henderson. He noted the Racing Commission wanted to support the theory behind the funding method and had no problem in allowing the City of Henderson to receive their 1%. The primary goal of this bill was to fund the Racing Commission as the 1% would not be able to do so presently based upon the present handle and the anticipated handle.

Senator Glaser, referring to section two, lines 15, 16 and 17, asked if that would be the amount that was set in the budget. Mr. Goble concurred.

Senator Echols felt the language should be changed in section one of the bill. For clarification, Mr. Goble explained that the cost of regulating the track was estimated, which was paid by the licensee in the form of a deposit. The daily pari-mutuel tax was credited against the licensee's deposit until that deposit was exhausted from which time the tax then went to the State. He noted that horse racing was more expensive than Greyhound racing to regulate. Mr. Goble said the bill would be applicable to the new race tracks only and the costs incurred would be for staffing that racetrack. The tax consisted of an assessment of 4% for Greyhound racing as use tax, and 3% on horse racing.

Senator Wilson asked why didn't the licensee pay the up front costs of examination and inspections and why they receive a credit on their deposit. Mr. Goble indicated that the initial investigation of the licensee was done by the Gaming Control Board and the cost of the investigation was paid by the licensee to the Gaming Control Board.

Senator McCorkle noted confusion regarding the second page of the bill. He asked what the difference was between depositing the remainder of the taxes imposed to the General Fund and a remainder to be deposited to the County Agricultural Association. Mr. Goble said that was based on an assumption that the Racing Commission would not spend all that was allotted to them within their budget. Originally, anything in excess of \$10,000 would go to any agricultural district which conducted races. The additional tax, after the commission had met their budget, would be paid on a two-thirds/one-third ratio to the General Fund and the General Fund and the local jurisdiction where racing was held. If the Commission were not to meet their budget, it would revert to the agricultural association on a pro-ration basis. Senator Glaser indicated the Agricultural Association involved the two race tracks in Elko and Ely and added, presently, anything in excess of \$10,000 went to the Association. Mr. Goble did not believe there had ever been any monies in excess of \$10,000.

Senator Echols felt page one, line seven of the bill should be reworded to say:

"The Commission may use the deposit against the payment of the tax as it becomes due until the deposit is exhausted."

Senate Committee on Finance
May 21, 1981

SENATE BILL NO. 441 - Creates commission to promote production of motion pictures in Nevada.

Mr. Walt McKenzie, Director of the Department of Economic Development, testified in support of this bill. He felt this bill was very worthwhile because of the monies that would be generated for the State with greater use of Nevada by the motion picture industry.

Senator Lamb inquired as to exactly what the thrust of the bill was and how movie production in Nevada would be promoted. Mr. McKenzie stated they would encourage on location production in the State to produce clean industry dollars. This would be done through the medium of advertising to the industry, the availability of site locations, the availability of people and movie services, etc. He believed this was also an opportunity to promote and advertise the entire State of Nevada at a relatively low dollar level which in turn would generate a larger interest in the State through the identification of locations. It was primarily advertising and personal contact that would influence the movie industry to use the State. Basically, the bill was to generate new business in all parts of the State of Nevada.

Senator Glaser commented that the bill also restructured the Department of Economic Development; it set up a division to promote the production of motion pictures and, also an advisory council. Senator Glaser noted one of the major complaints of the Department of Economic Development was that they did not do anything and remarked possibly the advisory council would help in providing the department a broader spectrum of what they should be doing. Mr. McKenzie felt the department was accomplishing something and did not agree entirely with the Senator's statement.

Senator Glaser inquired if there would be an additional fiscal impact with the addition of the commission. Senator Lamb noted there were two different figures for the amount of money necessary; one figure was \$112,000 and Mr. Barrett thought it should be \$80,000 to \$81,000. Senator Gibson indicated the \$80,000 figure was the result of the Budget Division trimming down the agency request to a reasonable amount without losing the concept of the bill.

Senator Jean Ford testified in support of this bill. She noted that rather than adding a third advisory council to the department, it would be better to combine the three into one that covered advertising, development and promotion. She indicated the other concept of the bill was the department adding a division of motion picture promotion consisting of staff that would actually carry on the liaison efforts between the producer and the State.

Senator Glaser assumed the cost of the bill would be absorbed in the proposed budget. Mr. McKenzie said it was not. Senator Gibson indicated the budget would have to be altered to account for it. Senator Ford said the bill also provided for fees where the Director would establish and collect an application fee to be paid either by the company applying to use the property or services of the State or for political subdivisions. She felt it would be better to establish a system of fees for certain kinds of service and have those fees cover the majority of the costs.

Senator McCorkle questioned the need for the State to get into this kind of promotion whereas the private sector could do it at no cost to the State. Mr. McKenzie noted those duties had historically been done by the Department of Economic Development but, almost exclusively in the Las Vegas area only. He felt this was the kind of thing to provide jobs for local people and generated a lot of money that would flow through the State.

Senate Committee on Finance
May 21, 1981

Mr. McKenzie indicate the film services division would be responsible for maintaining liason with the film industry in Hollywood and with the major producers of television movies and commercials. The division would have a resource catalog containing usable sites in the State. The thrust of the commission was to maintain a liason with Hollywood, provide resources, and make sure the movie industry knew about them.

SENATE BILL NO. 296 - Adds requirements for approval of permit for discharge of pollutants.

Senator Virgil Getto testified with regard to this bill. He noted the bill was a compromise between Senator Wilson and himself. He said the original bill would have placed the resonsibility upon the applicant in case a suit was filed which would have brought adverse effects on the entities upstream as far as their progress in the development of a sewer treatment plant.

The Senator noted the purpose of the bill was to recognize the problems at Lahontan, then to appropriate money for a study by the Desert Research Institute to thoroughly examine the pollution problems at Lahontan Dam.

Senator Gibson requested an explanation of the \$250,000 requested by the bill for the study. Sentor Getto stated there was an Assembly bill passed appropriating some money which tied the financing to boat user fees. He noted that, if Lahontan were to be closed again this summer and next summer due to pollution, there would not be a lot of money raised by increasing the boat user fees.

Dr. Peter Krenkel, Executive Director of the Water Resources Center of the DRI testified with regard to this bill. (See Exhibit D.)

Dr. Krenkel noted the situation at Lahontan involved the process of eutrophication which described the aging of lakes with man accelerating the process. He indicated the study would provide a solution in the most cost effective manner to resolve the Lahontan problem.

The plan was, Dr. Krenkel indicated, to develop a model that would describe the Lahontan Reservoir as part of the system. (Some money has already been received from Geological Survey to develop part of the model.) Once developed, changes could be made with input to a computer and predict what would happen to the reservoir and then deterime the most cost effective method for obtaining the water quality goals of Lahontan Lake.

Senator Gibson asked if the document presented to the committee was the budget for this project. Dr. Krenkel said the Department of Environmental Protection had received \$40,000 from EPA to help with the study and also from the original budget.

Senator Jacobsen inquired as to how complete the current ongoing study was on the lake. Dr. Krenkel stated it was essentially completed; they could now describe the movement of the water in the reservoir which was a major part of the problem. The most difficult part was describing the quality aspects, the phosphorous and nitrogen cycle.

Senator Jacobsen requested an explanation of the budget item for air fare to and from Las Vegas. The doctor replied the most competent individual mathematically at the center was in Las Vegas and had to make a number of trips necessary for the study.

Senator Jacobsen asked if the center had at their disposal the samples obtained from previous studies of Lahontan. Dr. Krenkel said the major problem with that is the samples were not taken for a purpose and, therefore, had no scientific merit.

Senate Committee on Finance
May 21, 1981

Senator Wilson inquired if the USEPA grant would be used for the first year of the biennium. Dr. Krenkel did not know how the grant would be divided but added they would like to spend the money in the first year.

Senator Glaser asked if there was an Assembly bill that was similar to the bill under discussion (Assembly Bill No. 515.) Dr. Krenkel concurred. Senator Glaser noted this bill's bottom line figure was \$167,000 which included the \$40,000 EPA Grant whereas Assembly Bill No. 515 called for \$250,000. Dr. Krenkel stated the \$250,000 budget figure was pared of \$80,000 of overhead monies and grant monies which then amounted to the \$167,000 figure; it was the same budget.

Senator Jacobsen, referring to the amendment to the bill, asked the reason for the 25,000 population figure. Senator Getto said that was a population requirement that applied to an area that had two population centers over 25,000, upstream, Carson City and Reno. Senator Gibson added that Clark County was opposed to the bill without that particular amendment. Senator Getto stated the way the bill was originally drafted any entity that was applying for a permit for sewage disposal would have to notify every entity downstream all over the State. Senator Jacobsen felt the requirements for sewage disposal and water quality in the Carson and Truckee Rivers should be more defined. Senator Wilson thought the bill, as amended, had some fairly good general applications. Senator Jacobsen wanted to make sure when the study was completed there would be something factual and pertinent in order to obtain solutions to the problem.

Senator McCorkle asked, if the detergent bill were passed, would that preclude the need for this bill. Dr. Krenkel said it would not.

Dr. Clifford Murino, President of the Desert Research Institute, indicated all of their research staff had to go out and get their support on research programs from research sponsors in the Federal Government and private industry. They were not provided salary in any way. If this bill were not approved, the staff would have to seek support from other research programs.

SENATE BILL NO. 609 - Provides for re-alignment of and increases number of judges in certain judicial districts.

Senator Virgil Getto introduced Judge Llewellyn Young to the committee. He noted it was Judge Llewellyn Young who brought this situation to his attention regarding the need in rural counties for changing some of the districts and the need for additional judges. With the changing of county seats there was no longer continuity in the old judicial districts. Also, the number of caseloads had increased tremendously causing court calendars to be filled months in advance.

Judge Young testified in support of Senate Bill No. 609. (See Exhibit E.) Judge Young noted the bill was a result of rural judges getting together to solve the problem of increased caseloads. The bill would provide the adding of Lander County to Pershing County and Humboldt County and put Eureka County with Merlin Point's district. It would possibly give Judge Smart Lyon County and Judge McKibben would have Douglas County solely.

The Judge felt the transient population should be added to the local population in order to determine what the population should be to create a judgeship. He noted the transient population had an effect on the rural areas. He indicated there were not sufficient judges presently in the rural areas to take care of the expanded caseloads.

Senate Committee on Finance
May 21, 1981

Senator Gibson commented that what the bill actually did was to create two additional judges, one in the 6th District and one in the 9th District. Judge Young concurred. Senator Gibson asked if those judges would be elected. Judge Young said he did not know.

Senator Glaser asked how the rural caseloads compared with metropolitan areas. Judge Young said those statistics were available at the Supreme Court. Senator Glaser inquired as to what the fiscal note on the bill was. Mr. Sparks indicated the cost would be \$43,000 per year salary, for each of the two judges.

Senator Jacobsen asked if Judge Young felt any of the rural judges were not carrying their share of the load. Judge Young did not think there were any.

Mr. Frank Daykin, Legislative Counsel, presented himself before the committee to answer questions concerning this bill.

Senator Gibson told him the committee was considering the possibility of combining all of the judicial bills into one bill. He asked Mr. Daykin if any benefit would be derived by doing this. Mr. Daykin said it would derive one benefit. He noted if the legislature merely passed three provisions as one bill, he did not believe anything would be gained. If all the counties in the State were combined into one judicial district as done in the 1890's then the occurrence of a vacancy anywhere on the bench of the district court would give constitutional occasion to allow for appointment for new judges.

Senator Wilson asked if they provided a period of time during which all the districts would be one district, during which one judge retired or resigned, and then the act sunsetted and reverted back to the present structure would there be a vacancy. Mr. Daykin stated the combination would not become effective until the vacancy occurred. But if the combination were all the judicial districts, any vacancy anywhere in the State would touch it off. Then, there would be one district in the enlarged number of district judges and the time to dissolve it again would be the end of the present term and would make it return to nine or however many districts desired. On January 1, 1984, for the purpose of nominating and electing the judges in the newly restored district there would be one enormous district from the first vacancy until the end of 1984 but no one would have to run statewide.

Judge Young inquired as to what would be wrong in calling it one judicial district and leaving the others, departments. Mr. Daykin said nothing would be wrong with that. He indicated you could have one judicial district court for the State of Nevada divided into departments. Senator Wilson asked if you then elected within each department. Mr. Daykin said there would be a problem with respect to elections because elections would be statewide and the Constitution never mentioned departmental elections. The departments, forever, would create the problem of election but the departments for the next three years would not create a problem because no one would have to run in the enlarged district; it would be restored before anyone ran.

Senator McCorkle asked why would you have to wait until a term expired before reconstituting all the districts. Mr. Daykin replied the reason was because the change in the districts could only happen in one of two cases; the occurrence of a vacancy or the expiration of a term.

Senator Wilson asked Mr. Daykin if the legislature was a proper party to file a suit for Declaratory Relief judgment. Mr. Daykin did not see any reason why the legislature should not.

Senate Committee on Finance
May 21, 1981

Senator Gibson requested Mr. Daykin to explain how Senate Bill No. 609 worked. Mr. Daykin noted the judges in the small counties would run for election in 1982 because there was a provision in the Constitution that a vacancy had to be filled by election for the unexpired term at the next general election that arose.

Senator Gibson commented that there was no triggering language in the bill. Mr. Daykin said there was not at the insistence of the Judiciary Committee that it be taken out which made the bill unconstitutional.

ASSEMBLY BILL NO. 546 - Entitles retired justices of Supreme Court and district judges to accumulate credit toward maximum pensions for additional active service upon recalls.

Judge Young testified with regard to this bill. He noted that last year the legislature passed an act permitting retired judges to be recalled for active service. This bill proposed to supplement that act and allow those retired judges to receive their additional service under the pension by serving as a retired judge. The judge would only get credit for the time he served. Judge Young noted the retired judges recalled for active service helped much to relieve the caseloads and time of those judges who were active. He indicated there was no capital cost for the retired judge as the facilities were already there.

Senator Gibson inquired if the judges would receive a month's credit for a month's service. Judge Young concurred, but if a judge had sixteen years he could only receive six months credit.

SENATE BILL NO. 531* - Creates division of visual and aural services in the Department of Human Resources.

Mr. Rick Kuhlmeier, Volunteer Lobbyist for the Nevada Council of the Blind, testified in support of this bill. He felt this bill was a viable alternative to what the Governor's legislation was trying to do. Mr. Kuhlmeier said the committee had requested an alternative that was innovative and creative which he believed this bill fulfilled.

Mr. Kuhlmeier noted the bill would create a visual and aural services division for the State of Nevada within the Department of Human Resources. He added the bill had been put together by consumers who knew the future rehabilitation services for the blind and the deaf must speak to the best possible expenditure of the rehabilitation dollar invested. He stated a separate division was requested because the Nevada Council of the Blind believed the administrator of the specialized services must be free of the general rehabilitation program to administer the program for the deaf and the blind as he saw fit.

Speaking to the legality of the bill, Mr. Kuhlmeier stated the Department of Human Resources was the sole authority for accomplishing a state plan which the Federal government required and added the bill did not change that status. (See Exhibit F.)

Senator Wilson, referring to pages 1 and 6 of the bill, denoting a new definition for blind persons, asked how did that affect the criteria for qualification of benefits. Mr. Kuhlmeier stated the definition stated in the bill was the Federal definition. He added the old language that was removed was somewhat limiting and spoke to only rehabilitating individuals who could be employed. Senator Wilson inquired if the language had a fiscal impact. Mr. Kuhlmeier said the fiscal impact would be nil because by policy the Bureau of Services to the Blind had been providing rehabilitation services and training to the blind senior citizens.

The meeting was recessed at 10:30 a.m. and reconvened at 2:00 p.m.

*S.B. 631

Senate Committee on Finance
May 21, 1981

Mr. Kuhlmeier said by making a separate division that budget account 3254, Bureau of Services to the Blind, would be used and also the Social Services budget, 3277, would be brought under the new division. Various positions from other division under the Department of Human Resources would also be moved into the new separate division. He felt this bill would eliminate administrative expenses and incur budget savings.

Mr. Del Frost, Administrator of the State Rehabilitation Division, testified with regard to Senate Bill No. 531. (See Exhibit G.) He noted in a copy of a telegram provided each member of the committee showing that Senate Bill No. 631 as proposed was not allowed under the Federal regulations.

Mr. Frost said his division felt there were two major problems with the bill and for that reason were opposing it. One reason was that the creation of the new division would use a shortfall of \$80,000 in the Rehabilitation division budget and provided for duplication of costs. The other reason had to do with the question of legality in creating a new division. Mr. Frost indicated the organizational structure created under Senate Bill No. 631 was not allowable under Federal regulations.

A third problem, according to Mr. Frost, dealt with a group of individuals who were willing to give up services in order to get an organizational structure that, in some way symbolized for them, something they felt they either did not have presently or would have more abundantly.

Mr. Ace Martell, Director of the Department of Human Resources, said the real issue in the department's opposition to Senate Bill No. 631 was the question of its legality and noted he was opposed to the addition of a new division under the Department on the basis of cost-effectiveness. He stated there was no doubt in his mind that creating a new division would create additional cost.

Senator McCorkle commented that the issue was not Senate Bill No. 631, the issue was the unresponsiveness of the Department of Vocational Rehabilitation to the needs of the blind and the deaf. Mr. Martell remarked the department would respond to any claims if they had basis and foundation and not general allegations. Mr. Kuhlmeier noted the Governor had previously promised to meet with the Council of the Blind before a decision was made to break from general Rehabilitation but, broke that promise. Mr. Martell said that he would meet with anyone who asked to meet with him.

Mr. Paul McComb, representing Deaf Constituents, using Mr. Dan Miles as reader, testified in support of Senate Bill No. 631.

Mr. Kae Pohe, representing the blind vendors working under the Bureau of Services to the Blind, testified in support of Senate Bill No. 631.

ASSEMBLY BILL NO. 500 - Makes appropriation for equipment for vocational education at Southern Nevada Correctional Center.

Mr. Perry Comeaux, Assistant Director of the Department of Prisons, testified with regard to this bill. He said the purpose of the bill was to provide funds for a limited amount of equipment for the five vocational education programs to the Southern Nevada Correctional Center. The five programs included automotive repair, bakery, building trades, landscaping and a laundry/dry cleaning program.

The programs were not properly equipped at present and this appropriation requested by Assembly Bill No. 500 would provide the minimum funding necessary to make the programs more effective.

Senate Committee on Finance
May 21, 1981

Senator Gibson asked if this money was in the budget. Mr. Barrett indicated it was on page 819 of the Executive budget.

ASSEMBLY BILL NO. 397 - Authorizes state public defender to collect certain amounts from counties for use of his services.

Mr. Norman Herring, Nevada State Public Defender, testified with respect to this bill. He noted this bill provided authority to the State Public Defender to collect from the respective counties served by the State Public Defender. Mr. Herring said they had taken the approved amounts in the budget and broke that down by counties based upon the 1980 fiscal year recording statistics for those counties. The total figure of \$399,114 was prorated according to the amount of work done by the Public Defender's office in the individual counties.

Senator Gibson noted the bill was a formality as the committee had already acted on the amounts.

Senator Jacobsen inquired if all the counties were aware of the amounts owed. Mr. Herring indicated they had all been billed for the services.

ASSEMBLY CONCURRENT RESOLUTION NO. 35 - Authorizes expenditure by State Public Works Board of additional Federal money for capital improvement project at Army Aviation Support facility at Stead.

Major Stewart McRitchie, Facilities Officer for the Nevada Army National Guard, testified with regard to this bill. He stated this resolution would increase the amount of federal participation on a construction project that was previously approved at the Army Aviation Support facility at Stead.

Senator Gibson asked what the project was. Major McRitchie said it was a combination Armory flight facility. The armory would house two aviation related units and the flight facility itself was a maintenance and operation facility for the operation of aircraft.

ASSEMBLY BILL NO. 473

Senator Jacobsen moved to approve Assembly Bill No. 473 as amended.

Senator Wilson seconded the motion.

The motion carried unanimously.

SENATE BILL NO. 538

Senator Glaser moved to approve Senate Bill No. 538 as amended.

Senator Jacobsen seconded the motion.

The motion carried unanimously.

There being no further business the meeting adjourned at 3:00 p.m.

Respectfully submitted by:


Candace L. Chaney, Secretary

APPROVED BY:

Senator Floyd R. Lamb, Chairman

DATED: _____

SENATE AGENDA

COMMITTEE MEETINGS

Committee on FINANCE, Room 231.
Day THURSDAY, Date MAY 21, 1981, Time 8:00 a.m.

1. S. B. No. 296 - Adds requirements for approval of permit for discharge of pollutants. (Senator Getto)
2. S. B. No. 441 - Creates commission to promote production of motion pictures in Nevada. (Walt McKenzie)
3. S. B. No. 609 - Provides for realignment of and increases number of judges in certain judicial districts. (Senators Getto & Jacobsen, Mike Brown)
4. S. E. No. 631 - Creates division of visual and aural services in department of human resources. (Del Frost)
5. A.C.R. No. 35 - Authorizes expenditure by state public works board of additional federal money for capital improvement project at Army Aviation Support Facility at Stead. (Gen. Engel)
6. A. E. No. 546 - Entitles retired justices of supreme court and district judges to accumulate credit toward maximum pensions for additional active service upon recalls. (Assemblyman Rackley, Mike Brown, Vernon Bennett)
7. A. B. No. 586 - Provides for payment of members of sanity commission from reserve for statutory contingency fund under certain circumstances. (Jerome Gripenrog)
8. A. E. No. 639 - Makes appropriation to Nevada racing commission for support of Henderson track. (Sharon Brandsness, Duane Goble)
9. A. B. No. 648 - Alters statutory provisions relating to payment and distribution of tax on pari-mutuel wagers. (Sharon Brandsness, Duane Goble)

SENATE AGENDA

COMMITTEE MEETINGS

Committee on FINANCE, Room 231
Day THURSDAY, Date May 21, 1981, Time 8:00 a.m.

SUPPLEMENTAL AGENDA

1. A. B. No. 647 - Increases number of members of joint board of museums and history. (Jack Porter)
2. A. B. No. 500 - Makes appropriation for equipment for vocational education at southern Nevada correctional center. (Charles Wolff)
3. A. B. No. 499 - Makes appropriation for refurbishment of certain buildings of Nevada mental health institute. (Jerome Gripentrog)
4. A. B. No. 397 - Authorizes state public defender to collect certain amounts from counties for use of his services. (Norman Herring)

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON FINANCE

DATE: MAY 21, 1981

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
Ken Shapiro	M.I./MR	885-5942
Harry [unclear]	M.I./MR	885-5943
Duane Goble	RACING COMM. L.V.	386-5283
Will Keating	PERS	275-4200
Norm Herring	State Public Defender	825 4820

1981 MAY 15 PM 3:34

RECEIVED
Rehabilitation Division

MAY 15 1981

Kinkead Bldg.
Carson City, Nevada 89710

WU CC AGT
330P PDT

REA186(1617)(1-024905C135)PD 05/15/81 1611

TLX HEW WSH A DLY PD
ZCZC 042 DLY PD WASHINGTON MAY 15
PMS DEL FROST ADMINISTRATOR (DVR DONT PHONE)
REHABILITATION DIVISION DEPT OF
HUMAN RESOURCES KINKEAD BLDG 5TH FLOOR
505 E KING ST CARSON CITY NV

IT IS MY UNDERSTANDING THE NEVADA LEGISLATURE IS CONSIDERING A BILL (SB 631) TO ESTABLISH A NEW AND SEPARATE UNIT TO BE RESPONSIBLE FOR ADMINISTERING A VOCATIONAL REHABILITATION PROGRAM FOR THE VISUALLY AND AURALLY HANDICAPPED. IT IS ALSO MY UNDERSTANDING THAT THIS PROGRAM IS EXPECTED TO RECEIVE PARTIAL FUNDING UNDER SECTION 110 OF THE REHABILITATION ACT OF 1973, AS AMENDED. I WANT TO CALL YOUR ATTENTION TO THE REQUIREMENTS IN SECTION 101(A) OF THE ACT WHICH PROVIDES THAT IN A MULTI-PROGRAM AGENCY SUCH AS NEVADA'S DEPARTMENT OF HUMAN RESOURCES, THERE MUST BE A SINGLE ORGANIZATIONAL UNIT DEVOTED SOLELY TO VOCATIONAL REHABILITATION OR VOCATIONAL AND OTHER REHABILITATION, WITH RESPONSIBILITY AND AUTHORITY FOR CARRYING OUT THE VOCATIONAL REHABILITATION PROGRAM OF THE STATE. REGULATIONS IMPLEMENTING THE REHABILITATION ACT SPECIFY THAT THE VOCATIONAL REHABILITATION ORGANIZATIONAL UNIT BE RESPONSIBLE FOR THE ADMINISTRATION OF THE DESIGNATED SOLE STATE AGENCY'S VOCATIONAL REHABILITATION PROGRAM. LATITUDE, HOWEVER, IS EXTENDED UNDER THE ACT WITH RESPECT TO SEPARATE REHABILITATION AGENCIES FOR THE BLIND, SO THAT COMPLETELY INDEPENDENT RESPONSIBILITY FOR ADMINISTERING SUCH PROGRAMS CAN BE VESTED IN A STATE BLIND COMMISSION OR OTHER STATE AGENCY WHICH PROVIDES ASSISTANCE OR SERVICES TO THE ADULT BLIND. UNDER SUCH AN ARRANGEMENT, THIS STATE PLAN ALSO MUST MEET ALL STATUTORY REQUIREMENTS. THERE IS NOT AUTHORITY UNDER THE REHABILITATION ACT OF 1973, AS AMENDED, FOR SEPARATE VOCATIONAL REHABILITATION SERVICES TO BE PROVIDED TO THE DEAF EXCEPT BY THE DEPARTMENT OF HUMAN RESOURCES (THE DESIGNATED SOLE STATE AGENCY) THROUGH THE REHABILITATION DIVISION (THE DESIGNATED VOCATIONAL REHABILITATION ORGANIZATIONAL UNIT).

FREDERICK SACHS ACTING DEPUTY COMMISSIONER OF REHABILITATION
SERVICES OSERS RSA DEPT OF EDUCATION
NNNN

NEVADA REHABILITATION DIVISION
 TESTIMONY ON S.B. 631
 SENATE FINANCE COMMITTEE

With passage of S.B. 631 all positions proposed to be deleted under S.B. 575 must be restored with an increase of \$107,000 above the Governor's recommended budget. In addition, new personnel costs, fringe benefits adjustments, and loss of administrative assessment revenues to Budget Account #3268 (Rehabilitation Administration) represent a total increase in costs of \$103,319.

Additional Position (New)

Rehabilitation Coordinator II	\$ 16,797
Fringe Benefits	2,811
Total	<u>\$ 19,608</u>

Deviation From Executive Budget In Calculation of Fringe Benefits

\$ 3,483

Deficit Created by withdrawal of Administrative Assessment from BA#3268 (Rehabilitation Administration)

Governor recommends Administrative Assessment BA#3254 and BA#3277	\$112,052
Staff Transfers From BA#3268	(31,824)
Net Loss of funding to BA#3268 (Rehab. Admin.)	<u>\$ 80,228</u>

Total Additional Costs Attributable to S.B. 631

\$103,319

In order for the proponents of S.B. 631 to attempt to partially contain the real costs of that bill, they are deleting the Statewide Rehabilitation Recreation Program for all vocationally handicapped.

Because of the increased costs, the loss of services to handicapped people, and the fact that federal regulations do not allow an organizational unit such as that created by S.B. 631, the Rehabilitation Division must oppose the bill.

ESTIMATED BUDGET STATUS 5/19/81

<u>Revenue</u>	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>
Beginning Balance	\$ 66,143,000		
Projections as of 1/1/81	336,222,000	363,387,000	405,165,000
Adjustments as of 5/19/81			
Additional Interest	3,000,000		
Quarterly SUT to Monthly	3,318,000	4,838,000	
Quarterly Casino Ent. to Monthly		1,500,000	1,500,000
Additional Drivers License		628,000	667,000
Estimated Reversions	16,500,000	8,000,000	2,500,000
Racing Pari-Mutuel	(100,000)	(600,000)	(750,000)
Miscellaneous Fee Changes		500,000	500,000
Increase in Gaming--A.B. 134		7,000,000	10,300,000
Total Revenues	\$425,083,000	\$385,253,000	\$419,882,000
 <u>Expenditures</u>			
Executive Budget	\$392,914,000	\$369,964,000	\$403,578,000
Sunset Agencies		843,000	886,000
Committee Changes:			
Budgets (5/19/81)		2,565,000	(1,940,000)
Bills	1,337,000	349,000	63,000
S.B. 516--Classified Sal. Increases	(284,000)	(1,725,000)	(2,907,000)
BDR on Advance Planning & Study of Jean Water	575,000		
Reduce University Prof. Salaries			(430,000)
Additional for Schools		7,603,000	23,841,000
Replace G.F. with Property Tax for Bonds		(1,831,000)	(1,835,000)
Total Expenditures	\$394,542,000	\$377,768,000	\$421,256,000
 Ending Balance	 <u>\$ 30,541,000</u>	 <u>\$ 38,026,000*</u>	 <u>\$ 36,652,000*</u>
Less Est. Cost of 1983 Legislature			\$ 3,250,000

* Excludes \$9,108,100 contingency appropriation for Federal In-Lieu Taxes--S.B. 238.

Exhibit D

**THIS EXHIBIT IS MISSING FROM BOTH THE ORIGINAL
MINUTES AND THE MICROFICHE.**

Exhibit E,

SIXTH JUDICIAL DISTRICT COURT

PERSHING COUNTY COURT HOUSE
LOVELOCK, NEVADA 89411

LLEWELLYN A. YOUNG
DISTRICT JUDGE
TEL. 273-2103

May 8, 1981

Honorable Melvin D. Close, Jr.
Chairman of Judiciary Committee
Legislative Office Building, Room 201 B
Carson City, Nevada 89710

Dear Senator Close:

I am writing you regarding Senate Bill 609.

After testifying on this bill this week. I came home and checked my case load with regards to the local and transient criminal cases. For the period of time 1/1/80 through 4/30/81, the same time period to which I testified in person showing that my backlog or closing inventory had increased about 50%, I find that I handled 96 criminal cases in Pershing County and 116 criminal cases in Humboldt County. Of the cases in Pershing County, 22 were the result of local residents and 74 were the result of transient population; i.e. people who had been in the County less than 10 days. In Humboldt County 17 cases were the result of crimes by local residents and 99 cases were the result of crimes by transients.

I would imagine that at some point in a city's growth the "transient" crime does taper off and almost equals "local" crime; but in the small rural areas, particularly along I-80, the "transient" crime is several times higher than "local" crime. I am sure the heavy case load in Judge McKibben's district is not caused by the farmers in Douglas County.

It thus appears to me that using the static population of an area for determining the number of judges is not a proper method.

Honorable Melvin D. Close, Jr.
Page 2
May 8, 1981

It would appear that the static population plus the transient population as determined by highway and air terminal surveys should be utilized to determine the number of judges assigned to an area.

Case load status alone is not a good method for allocating judges. For example, in the same time frame I have referred to hereinbefore, I had two death penalty cases and selected the jury for two more death penalty cases. These matters alone required approximately 13 weeks of my time, yet I can only get credit for completing two trials on a statistical basis.

In my opinion in allocating judges to the Reno and Las Vegas area, another factor should be taken into account. Both of these towns are trading centers. Out-of-town attorneys check Martindale-Hubbell when they want an attorney in Nevada and most generally when the matter is a business matter in the northern part of the state, they will select a Reno attorney, and in the southern part of the state, a Las Vegas attorney. These towns also have better transportation access. As a result of this, both of these towns are entitled to additional judges because of this factor.

The number of duties of judges has also increased over the years. For example, there is now a Judicial Council. The state is divided into five districts and each district has periodic meeting and there are several state meetings. To make this organization a viable body, each judge in the state should spend at least three or four days a year on this organization.

In the bigger cities one judge is assigned to take care of budget problems with the County Commissioners. In the rural counties each judge has to meet with as many different groups of Commissioners as there are counties in his district. The same is true of the Juvenile Departments and County Clerks.

In the bigger cities vacations can be taken rather easily by one judge because his case load can be shifted to the other judges. This is not true in the "cow counties." Vacation time must be planned very carefully. You ask, "Why don't you get another 'cow county' judge to cover for you?"

Honorable Melvin D. Close, Jr.

Page 3

May 8, 1981

The answer is we do try but each judge's case load is just as bad as the others and it is hard to find someone to accommodate you. Getting a judge out of the big cities for this purpose is not possible.

The Bar Association is now proposing that judges attend Continuing Legal Education Programs. This is an additional call on our time.

There are a number of Bar Association meetings that are available; i.e. Southwest Judicial Conference, American Bar Association meetings, Nevada State Bar meetings, Atlas Trial Lawyer meetings. With our present case loads in the rural areas, we find very little time available to attend any of these. Yet, all are good and have worthwhile programs.

In bigger cities Jury Commissioners take care of excusing jurors. In the rural areas this is all done by the judge. I can usually tell when the sheriff is serving the juror summons because that is when I start receiving phone calls at night at home concerning jury duty.

Having sat in Reno and Las Vegas on many occasions, I know that they have never been given enough judges. So, however many judges you plan to assign to them, these towns are growing so rapidly that I am sure it will not be a sufficient number to cope with the increase in crime. By the same token the rural areas have been growing and the rural judges do need some help. I believe you will find all of them very dedicated to their work, frequently working more hours than is required. Most rural judges do not get a month's vacation such as the city judges.

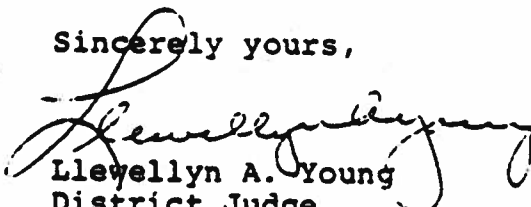
Our case loads have also increased to such an extent that we find it difficult to cover for one another. Recently I was called to cover for both Judge Gabrielli and Judge Smart but I was unable to give any time. In previous years when my case load was down, I covered for nearly every judge in the state during times of sickness and vacation.

Travel time is another thing that rural judges do that city judges do not have to do. Much of this travelling is done on our own time so that we can begin and end court in accordance with the district into which we are invited.

Honorable Melvin D. Close, Jr.
Page 4
May 8, 1981

As I said when I testified before you, I really didn't know what information you needed. I hope this letter in some way helps you to see the rural judges' plight and urge you to support S.B. 609 modified to include transient population in the allocation of judges.

Sincerely yours,



Llewellyn A. Young
District Judge

LAY:js

cc Honorable Keith Ashworth
Honorable Donald Ashworth
Honorable Jean Ford
Honorable Wm. H. Hernstadt
Honorable William J. Raggio
Honorable Sue Wagner
Honorable Norman D. Glaser
Honorable Virgil Getto

Exhibit F

STATEMENT
OF
ROBERT R. HUMPHREYS
before the
SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES
STATE OF NEVADA
with respect to
SENATE BILL 631 and SENATE BILL 575
May 8, 1981

Mr. Chairman and Members of this Committee, I deeply appreciate this opportunity to appear before your committee and to offer testimony on two bills, S.B. 631 and S.B. 575. I am appearing today on behalf of the Nevada Council of the Blind and the American Council of the Blind. The American Council of the Blind is the national membership organization, of which the Nevada Council is a State affiliate, whose purposes include improvement of educational and vocational opportunities for blind persons, and encouraging such persons to develop their potentialities and elevate their social, economic and cultural level.

By way of introduction, I am currently a member of a Washington law firm, Hoffheimer, Johnson and Peterson; I am the immediate past U.S. Commissioner of the Rehabilitation Services Administration, a post in which I served at the pleasure of the President for a period of three years. RSA is the Federal administering agency through which formula

grants to States as well as a variety of discretionary grants are provided for vocational rehabilitation and independent living services to physically and mentally handicapped persons, with federal funds of more than \$1 billion annually. Prior to my service as Commissioner, I was for six and one half years Special Counsel to the U.S. Senate Committee on Labor and Human Resources. In that capacity I was chief Senate draftsman of the Rehabilitation Act of 1973, the Randolph-Sheppard Act for the Blind Amendments of 1974, and other measures.

I believe I am in a unique position to provide insight to this Committee based on my experience and knowledge in both the Executive Branch and the legislative branch of the Federal Government, on the two measures now under consideration. I have traveled to Nevada for two reasons: first, the action this Committee and the State's legislature takes on S.B.631 and S.B. 575 will have national implications for service programs to aid blind persons, and second, I feel very strongly that the needs of blind persons are best met through a system of specialized services.

I have had an opportunity to review both of the Bills that are the subject of this hearing. The Administration's bill, S.B. 575, would submerge within the Rehabilitation Division of the Department of Human Resources the existing Bureau of

Services to the Blind and would greatly reduce the authority of the chief of that Bureau. The bill supported by blind consumers and their organizations, as well as by organizations of deaf persons, S.B. 631, takes an approach that is diametrically opposed to that of the Administration. It would establish a Visual and Aural Services Division in the Department of Human Resources that is equivalent, in organizational level, to the Rehabilitation Division and other major components of the Department.

Although I was unable to attend this Committee's hearing held last week on the Administration's bill, and thus cannot comment on the specifics of testimony by the Administration's representatives, I assume that the Committee was assured that savings, both in terms of service dollars and personnel, would accrue to the State of Nevada should S.B. 575 be enacted. I assume further that you were told that the organizational structure for providing rehabilitation services would be improved, along with overall program accountability. One of the bases for such assurances is a study performed under contract to the State by the consulting firm of Warren King and Associates, Inc.

The arguments in favor of the changes proposed by S.B. 575 have a superficial appeal. No one can be against cost savings and organizational improvements, particularly in a time of

severe financial constraints that are affecting every State and community in the country. I submit, however, that these appealing arguments are based on premises that are fatally flawed, and that further, good policy dictates that the bill advocated by the blind and deaf citizens of Nevada should be the measure enacted rather than the one supported by the Administration.

A national study evaluating programs for blind and visually handicapped persons was published in December, 1980. The findings and recommendations of that study are directly applicable to the issues before this Committee, and I believe you will find them enlightening. The study concluded that blind clients are served better in specialized caseloads. The corollary recommendation was that blind and visually handicapped vocational rehabilitation clients should be served in specialized caseloads of only blind and visually handicapped clients.

Another conclusion of the study was that the type of administrative structure of state rehabilitation agencies has only a slight relationship to program outcomes, and that there is no evidence to indicate that any one type of agency is more cost effective than another. The study stated that "the assumption that combined agencies are more cost effective (than separate blind agencies) should be seriously questioned."

The study, entitled "Evaluation of RSA Program for Blind and Visually Handicapped Persons" was developed under contract to the Rehabilitation Services Administration by the JWK International Corporation, a well known consulting organization of good reputation. Should this Committee wish to review the study in depth, I expect either RSA or the JWK Corporation would be happy to provide you a copy.

Senate Bill 575 in my opinion would do substantial, perhaps permanent, damage to programs serving blind persons in Nevada. The specific and visible authorities for the provision of services to blind persons contained in current State law would be eliminated. Such services very possibly could be reduced and deemphasized as a result. Further, the proposed legislation compounds the danger by designating the chief of the Office of Services for the Blind as an advocate for blind persons in the State, while at the same time placing that former program office head in a position subordinate to -- and reporting to -- the Rehabilitation Division director. It is most unlikely that free and unfettered advocacy for blind persons would be possible under such conditions. In any case the submergence of the Chief of Blind Services represents a major step backward, and I respectfully urge this committee to consider carefully the implications of such a result.

With your permission, Mr. Chairman, I would like to turn now to the other measure before this Committee, S.B. 631, to establish in the Department of Human Resources a separate Visual and Aural Services Division. This bill represents a new and exciting organizational and service delivery concept which, if enacted, would unquestionably enhance services to both blind and hearing impaired persons, while in no way diluting or reducing services to other handicapped populations. It is a proposal that is worthy of your support, and I endorse it with great enthusiasm.

The bill supported by organizations of and for blind and deaf persons represents a departure from the usual organizational structure of State agencies delivering rehabilitation services. In many States there are two agencies, a general agency providing services to physically and mentally handicapped persons, and a separate agency providing services to blind and visually handicapped individuals. In other States there is only one rehabilitation agency, which serves all categories of disabilities.

Because of the uniqueness of the structure proposed in S.B. 631, concerns have been raised by the State Administration and by the regional office of the Rehabilitation Services Administration that the creation of a Visual and Aural Services

Division in the Department of Human Resources would not be in conformity with the requirements of section 101 (a) (1) of the Rehabilitation Act of 1973, as amended.

As a former Commissioner of the Rehabilitation Services Administration and chief Senate draftsman of the Rehabilitation Act, let me put those concerns to rest. It is my expert opinion that enactment of S.B. 631 would not violate section 101 (a) (1) or any other provision of the Rehabilitation Act.

The Federal statute requires each State to designate a sole State agency to administer the State plan for vocational rehabilitation except where State law authorizes rehabilitation services to be provided to blind persons through a separate agency. A State agency may share funding and administrative responsibility with another State or local agency to carry out a joint program of services to handicapped individuals.

The law is sufficiently flexible to permit the creation of the proposed Division, since there would be, under the terms of S.B. 631, a separate State agency for the blind and one, as section 101 (a) (1) provides, for "the rest of the State plan." I can assure you further that no lawmaker who developed the 1973 Rehabilitation Act contemplated either the exclusion or inclusion of a State unit such as that described in S.B. 631. Neither the Federal law, nor

legislative history, nor enabling regulations specifically prohibit the inclusion of services to aurally impaired persons by a State agency serving blind persons.

The 1978 amendments to the Rehabilitation Act distinguish between a "designated State unit" and a "State agency." The latter may be, and often is, an umbrella agency that includes a designated State unit for vocational rehabilitation. In the case of Nevada, for example, the State agency is the Department of Human Resources. As long as that State agency includes a unit primarily concerned with vocational rehabilitation, such as the Rehabilitation Division, the State agency could also house a Visual and Aural Services Division.

The principal, overriding purpose for the rather unusual and strict requirements of section 101 (a) (1) was the perceived need to insure that the vocational rehabilitation program in a State is not scattered or diluted by intermingling its activities with other kinds of human or social service programs, to the detriment of disabled persons and their needs. Clearly, the proposed Division is not of the kind that the Federal statute was designed to prevent.

Section 101 of the Rehabilitation Act undertakes to do much more than limit the authority of States in creating their organizational structures. That same section also requires States to be innovative and creative in striving

to provide better services for their handicapped residents. The proposed Visual and Aural Services Division would be the very kind of innovative activity contemplated in section 101 (a) (4), (5) and other paragraphs of that section; an activity that would enhance service delivery to a substantial segment of the population that is severely disabled: those who are blind and those who are deaf.

It has been suggested that the creation of a Visual and Aural Services Division pursuant to S.B. 631 would cause problems and be so cumbersome and expensive that such disadvantages would outweigh any possible benefit. The Director of the Department of Human Resources has stated that "a separate state plan for the aurally impaired may be disallowed." No such plan would be required. Rather, plans for services to deaf and hearing impaired persons would be folded into the overall plan -- one for the State agency serving the blind. Should the Regional Commissioner of Rehabilitation Services disapprove such a plan, and I do not believe that after careful research of the law such would be the case, the State would have recourse to the Commissioner in Washington. I feel certain that departmental General Counsel would agree that my interpretation of the provisions of section 101 is reasonable, and that there would be no legal basis for disapproval of the plan due to lack of organizational conformity.

The Director of the Department of Human Resources has raised another spectre: that allocation of funds would be difficult, and fiscal accounting would be costly. In my opinion this argument has no validity. State rehabilitation agencies now separate cost of service and client demographic and service data according to disability. It would be a simple matter to identify the appropriate ratio of service dollars for the client population that would be served through the new Division.

A final argument against the establishment of a Visual and Aural Services Division states that it would be required to undertake a host of activities beyond the mere provision of rehabilitation services to clients, including research, training, interagency agreements, studies and evaluations, technical assistance, accounting and computer programming. The suggestion seems to be that these would be duplicative, new, and expensive. Such activities are routinely provided by any service agency of substance.

There is no reason why these ancillary activities could not be performed in conjunction with the Rehabilitation Division, or under the direction of the Department, under whose aegis all such activities dealing with disability might be conducted, thus avoiding duplication and excess costs.

In conclusion, Mr. Chairman and members of the Committee, the Governor's bill, S.B. 575, would have a negative impact on services to blind persons in the State of Nevada. In contrast, S.B. 631 would enhance those services and would in addition improve the State's attention to the needs of another underserved population, those who are deaf and hearing impaired. Nothing will be lost by the enactment of S.B. 631, and there is much to be gained. I urge your approval of this important measure.

It has been an honor and pleasure to have the opportunity to testify before the Senate Human Resources and Facilities Committee, and I will be happy to answer any questions you may have.