

SENATE JUDICIARY COMMITTEE

2-101

MINUTES

March 18, 1971

Chairman Monroe called the meeting to order at 8:30 a.m.

Committee Members Present: Chairman Monroe
Senator Close
Senator Foley
Senator Dodge
Senator Swobe
Senator Wilson
Senator Young

Others Present: Bede Rogers - Nevada Subcontractors
Darrell Luce - Christian Science Church of Nevada
Walt Olds - Business Manager - Churchill County
School District
Curtis Blyth - Nevada Municipal Association
Edward Greer - Business Manager - Clark County
School District
George Brighton - Washoe County School District
Grant Davis - Legislative Counsel Bureau
Press

S.B. #431 - Requires general contractors to inform owners
of certain provisions of mechanics' lien law.
Committee on Judiciary.

Bede Rogers, representing the Nevada Subcontractors, testified on this bill. Chairman Monroe told Miss Rogers that the committee was having trouble determining who should actually receive the notice of intent to lien. She replied that it should be the owner of record. Chairman Monroe then asked Miss Rogers how the subcontractor will know who the owner of records is. Miss Rogers replied that the general contractor knows who the owner of records is.

Miss Rogers suggested omitting the words "persistent failure" from Sub-section 3 on Line 19. Chairman Monroe explained that the committee left this wording in because they felt there should be some flexibility and to protect the subcontractor in case of prejudice against them by the state contractor's board.

Grant Davis will draft an amendment.

S.B. #528 - Makes an exception to bond requirements
for construction controls.
Senator Close

Miss Rogers testified on this bill. She felt that construction controls exercise a bit more control than lending institutions. Senator Foley asked how these construction control companies are approved. Miss Rogers thought that FHA and VA check them out.

Senator Close will ask the requestor to testify on this bill.

2-100

S.B. #333 - Provides additional penalty for
child abuse and neglect.
Committee on Judiciary.

Mr. Darrell Luce from Las Vegas testified on this bill as a representative of the Christian Science Churches in Nevada. He proposed an amendment to this bill so that members of his religion will not be accused of not taking care of their children and prosecuted because they are following the practice of their religion. He stated that the teaching of that religion would not require an adherent decision and that the final decision is up to the individuals.

He also stated that the amendment would not prevent a judge from ordering medical treatment if he felt the case warranted it. His statement is attached to these minutes as Attachment 1, along with the amendment he proposed and the statutes of other states which have incorporated this same type of amendment.

No final action was taken.

S.B. #378 - Gives counties commissions on
collections of vehicle privilege taxes.
Committee on Judiciary.

Chairman Monroe read a letter (Attachment 2) from the Elko County Manager, James Polkinghorne, favoring this legislation.

The committee heard the following opponent testimony on this bill.

MR. WALT OLDS, BUSINESS MANAGER FOR CHURCHILL COUNTY SCHOOL DISTRICT:

I spent six years on the advisory committee of the State Tax Commission and observed that the cities and counties were constantly trying to take other entities' funds. There was another bill where the cities and counties tried to take the entire proceeds away from the school districts, but it didn't pass. Now they are trying to take 6% off the top. We want to protect ourselves and urge you to leave the law as it is now.

CURTIS BLYTH, NEVADA MUNICIPAL ASSOCIATION:

We feel this bill should not pass. We do not feel this bill would give us any more revenue than we had in the past. We understand the rationale, but any reduction will hurt the cities.

EDWARD GREER, BUSINESS MANAGER, CLARK COUNTY SCHOOL DISTRICT:

We feel this bill is not justified if it is strictly for a cost basis. We receive payments on a monthly basis and would certainly volunteer to receive all the money and pass it out if that is the problem.

GEORGE BRIGHTON, WASHOE COUNTY SCHOOL:

If this gives the counties permission to collect a 6% fee for handling the collection of this tax, what will happen to the state distributive funds

because the county also handles this. It could be a possible wedge in the disbursement of money from the counties to the cities. 2-106

Senator Young made a motion to "do not pass." Senator Dodge seconded the motion. Motion carried.

S.B. #557 - Clarifies procedure governing preparation of fiscal notes for legislative bills.
Committee on Judiciary.

Senator Close explained that this bill requires fiscal notes on all bills except for executive bills, if the fiscal impact is more than \$2,000. He felt that if there is a fiscal impact it, should be made known, then the introducer can argue the bill in front of the Finance Committee. He reminded the committee that Russ MacDonald mentioned that there have been bills requested with a fiscal impact of several thousand dollars. This would smoke those people out of the woods. Chairman Monroe felt it was a good bill, and would save arguments on the floor.

Senator Dodge made a motion to "do pass." Senator Wilson seconded the motion. Motion carried.

S.B. #220 - Repeals provision requiring the giving of ineffective notice under certain lien laws.
Senator Pozzi.

Chairman Monroe asked for a motion to kill this bill since it was redrafted as S.B. #431.

Senator Young made a motion to "kill" this bill. Senator Foley seconded the motion. Motion carried.

Meeting adjourned at 9:45 a.m.

Respectfully submitted,

Eileen Wynkoop
Eileen Wynkoop, Secretary

Approved: _____

2-107

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PROVIDED AMENDMENT TO S.S. 151

Provided, however, no provision of this section shall be construed to mean a child is abused or neglected, or that the health of a child is endangered for the sole reason his parent or guardian, in good faith, selects and depends upon non-medical remedial treatment for said child, which treatment is recognized and permitted under the laws of this state in lieu of medical treatment.

The Juvenile Court Act of 1971, contains the following provision in the definition of "Neglected Child":

"...provided, however, no child who in good faith is under treatment solely by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall, for that reason alone, be considered to be a neglected child." Sec. 13027.

ARIZONA - "Notwithstanding any other provision of this chapter, no child who in good faith is being treated through means alone through prayer by a duly accredited practitioner shall, for that reason alone, be considered to be an abused, neglected or dependent child." - Ariz. Rev. Stat. Ann. Sec. 13-362.01.

ATTACHMENT 1.

Senate Judiciary Committee Minutes
March 18, 1971

Copy of
Pages 107, 108
109. (29)

S.B. 333

I don't want you to feel that Christian Scientists don't love their children, and if their children are ill they rely on Christian Science treatment, because they are convinced from their own experience that Christian Science is the most effective means of healing.

They are not forced into this decision by their church, but they make this choice out of their own deep religious convictions. There are thousands of Christian Science children through the world whose parents have a good record of providing adequately for their children's health care and it is very rare to have a Christian Scientist in court for any reason.

Please be assured that the proposed amendment would not prevent juvenile judge from ordering medical treatment if he felt the case warranted it, but it would prevent the possibility of a member of our church being punished for nothing more than following the teachings of his religion.

In 15 States and in the District of Columbia, the legislators have taken steps to assure the Christian Scientists in their jurisdictions that they will not find themselves in danger of criminal prosecution just because they raise their children in the Christian Science religion.

I have attached copies of three pieces of legislation that have been enacted into law in Arizona, Wyoming, and in the District of Columbia in the past year.

(Statement by Darrell D. Luce, Christian Science Committee on Publication for the State of Nevada.)

Wyoming The Juvenile Court Act of 1971, contains the following provision in the definition of "neglected child":

".....provided, however, no child who in good faith is under treatment solely by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall for that reason alone, be considered to be a neglected child" Sec. 3 (15).

Arizona "notwithstanding any other provision of this chapter, no child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner shall, for that reason alone, be considered to be an abused, neglected or dependent child"
Ariz. Rev. Stat. Ann. Sec. 8-201.01

PROPOSED AMENDMENT TO S. B. 333

Provided, however, no provision of this section shall be construed to mean a child is abused or neglected, or that the health of a child is endangered for the sole reason his parent or guardian, in good faith, selects and depends upon non-medical remedial treatment for said child, which treatment is recognized and permitted under the laws of this state in lieu of medical treatment.

The child who in good faith is under treatment either by medical means through proper assistance with the laws and get into a condition which is subject to treatment by a duly qualified medical person having skill, for that kind of work, is considered a patient and the purpose of this article is:

1. To define the meaning of section 20, 21.

2. To define the meaning of section 22, 23.

3. To define the term "medical means" as used in section 20, 21, 22, 23.

4. To define the term "duly qualified medical person" as used in section 20, 21, 22, 23.

5. To define the term "patient" as used in section 20, 21, 22, 23.

6. To define the term "treatment" as used in section 20, 21, 22, 23.

7. To define the term "medical means" as used in section 20, 21, 22, 23.

8. To define the term "duly qualified medical person" as used in section 20, 21, 22, 23.

9. To define the term "patient" as used in section 20, 21, 22, 23.

10. To define the term "treatment" as used in section 20, 21, 22, 23.

11. To define the term "medical means" as used in section 20, 21, 22, 23.

12. To define the term "duly qualified medical person" as used in section 20, 21, 22, 23.

13. To define the term "patient" as used in section 20, 21, 22, 23.

14. To define the term "treatment" as used in section 20, 21, 22, 23.

15. To define the term "medical means" as used in section 20, 21, 22, 23.

16. To define the term "duly qualified medical person" as used in section 20, 21, 22, 23.

17. To define the term "patient" as used in section 20, 21, 22, 23.

18. To define the term "medical means" as used in section 20, 21, 22, 23.

19. To define the term "duly qualified medical person" as used in section 20, 21, 22, 23.

20. To define the term "patient" as used in section 20, 21, 22, 23.

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22. To define the term "medical means" as used in section 20, 21, 22, 23.

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26. To define the term "medical means" as used in section 20, 21, 22, 23.

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34. To define the term "medical means" as used in section 20, 21, 22, 23.

35. To define the term "duly qualified medical person" as used in section 20, 21, 22, 23.

36. To define the term "patient" as used in section 20, 21, 22, 23.

37. To define the term "treatment" as used in section 20, 21, 22, 23.

38. To define the term "medical means" as used in section 20, 21, 22, 23.

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No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered a neglected child for the purposes of this subchapter.

“(10) The term "mentally ill child" means a child who is mentally ill within the meaning of section 21-501.

“(11) The term "substantially retarded child" means a child who is substantially retarded within the meaning of section 21-1101.

“(12) The term "custodian" means a person or agency, other than a parent or legal guardian, to whom legal custody of a child has been given by court order and who is acting in loco parentis.

“(13) The term "detention" means the temporary, secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

“(14) The term "shelter care" means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

“(15) The term "detention or shelter care hearing" means a hearing to determine whether a child who is in custody should be placed or continued in detention or shelter care.

“(16) The term "factfinding hearing" means a hearing to determine whether the allegations of a petition are true.

“(17) The term "dispositional hearing" means a hearing, after a finding of fact, to determine-

“(A) whether the child in a delinquency or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

“(B) what order of disposition should be made in a neglect case.

“(18) The term "probation" means a legal status created by Division order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in the community subject to appropriate supervision and return to the Division for violation of probation at any time during the period of probation.

“(19) The term "protective supervision" means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

“(20) The term "guardianship of the person of a minor" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and concern with his general welfare. It includes (but is not limited to)-

“(A) authority to consent to marriage, enlistment in the armed forces of the United States, and major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;

“(B) the authority and duty of reasonable visitation (except as limited by Division order);

“(C) the rights and responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution); and

“(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

Stat. 751
L.P. 568.

“(21) The term "legal custody" means a legal status created by Division order which vests in a custodian the responsibility for the custody of a minor which includes-

“(A) physical custody and the determination of where and with whom the minor shall live;

“(B) the right and duty to protect, train, and discipline the minor; and

“(C) the responsibility to provide the minor with food, shelter, education, and ordinary medical care.

A Division order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

“(22) The term "residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

“§ 16-2302. Transfer of criminal matters to Family Division.

“(a) If it appears to a court, during the pendency of a criminal charge and before the time when jeopardy would attach in the case of an adult, that a minor defendant was a child at the time of an alleged offense, the court shall forthwith transfer the charge against the defendant, together with all papers and documents connected therewith, to the Division. All action taken by the court prior to transfer of the case shall be deemed null and void unless the Division transfers the child for criminal prosecution under section 16-2307.

“(b) If at the time of an alleged offense, a minor defendant was a child but this fact is not discovered by the court until after jeopardy has attached, the court shall proceed to verdict. If judgment has not been entered, the court shall determine on the basis of the criteria in section 16-2307(e) whether to enter judgment or to refer the case to the Division for disposition. If judgment has been entered, it shall not be set aside on the ground of the defendant's age unless the court, after hearing, determines that (1) neither the defendant nor his counsel, prior to the entry of judgment, had reason to believe that defendant was under the age of eighteen years, and (2) the defendant would not have been transferred for criminal prosecution if his age had been known and the procedure set forth in section 16-2307 had been followed. If the judgment is set aside, the case shall be referred to the Division for disposition. The disposition and all prior proceedings in any court of any case referred to the Division for disposition pursuant to this section shall be subject to the confidentiality provisions of sections 16-2330 through 16-2335.

“(c) The court making a transfer shall order the minor to be taken forthwith to the Division or to a place of detention designated for children by the Division. The Division shall then proceed as provided in this subchapter.

“(d) Nothing in this section shall affect the jurisdiction of a court over a person twenty-one years of age or older.

“§ 16-2303. Retention of jurisdiction.

“For purposes of this subchapter, jurisdiction obtained by the Division in the case of a child shall be retained by it until the child becomes twenty-one years of age, unless jurisdiction is terminated before that time. This section does not affect the jurisdiction of other divisions of the Superior Court or of other courts over offenses committed by a person after he ceases to be a child. If a minor already under the jurisdiction of the Division is convicted in the Criminal Division or another court of a crime committed after he ceases to be a child, the Family Division may, in appropriate cases, terminate its jurisdiction.

(ATTACHMENT 2)

2-111

ELKO COUNTY COMMISSIONERS
OFFICE OF COUNTY MANAGER
Elko, Nevada 89801

COURT HOUSE
PHONE 702 - 738-5399

JAMES POLKINGHORNE
COUNTY MANAGER

March 10, 1971

TO: All State Senators & Assemblymen
FROM: James Polkinghorne, Elko County Manager
SUBJECT: Favorable consideration of S.B. 378 clarifying the Counties right to a commission on collections of vehicle Privilege Tax.


I shall as briefly as possible explain Elko County's support of SB.378 (copy attached) which is necessitated by existing conflicting interpretations of N.R.S. 482.180.

Most Nevada counties had retained a commission until approximately fifteen months ago when the Nevada Tax Commission determined that counties are not entitled to a commission for the collection of privilege tax under existing 482.180. Needless to say, we fail to see the rational of what we consider a strained interpretation of the Statute when it so clearly provides that the State shall receive a commission in those counties where they do the collecting (Clark & Washoe) and where the cost of collection is such an easily identifiable burden upon the counties.

Elko County has engaged in extensive correspondence and numerous phone conversations to the Tax Commission with a resultant impasse. We did however, in our last phone conversation, agree to seek legislative clarification.

Your favorable consideration of SB 378 is earnestly solicited and If I can be of any assistance via phone, letter, or appearance, please feel free to call upon me.

Sincerely,


JAMES POLKINGHORNE
Elko County Manager

SENATE BILL NO. 378—COMMITTEE ON JUDICIARY

MARCH 3, 1971

Referred to Committee on Judiciary

SUMMARY—Gives counties commissions on collections of vehicle privilege taxes. Fiscal Note: No. (BDR 43-149)

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

AN ACT relating to the vehicle privilege tax; allowing counties commissions on collections of such taxes; 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 482.180 is hereby amended to read as follows:
 2 482.180 1. There is hereby created in the state treasury a fund which
 3 shall be known as the motor vehicle fund. The state treasurer shall deposit
 4 all money received by him from the department or otherwise under the
 5 provisions of this chapter in the motor vehicle fund.

6 2. Funds for the administration of the provisions of this chapter shall
 7 be provided by direct legislative appropriation from the state highway
 8 fund, upon the presentation of budgets in the manner required by law.
 9 Out of such appropriation the department shall pay every item of expense.

10 3. The department shall certify monthly to the state board of exam-
 11 iners the amount of privilege taxes collected for each county by the depart-
 12 ment and its agents during the preceding month, and such funds shall be
 13 paid monthly to each county assessor in the same manner as other claims
 14 against the state are paid. Privilege taxes collected on vehicles subject to
 15 the provisions of chapter 706 of NRS and engaged in interstate or inter-
 16 county operation shall be distributed among the counties in the following
 17 percentages:

18 Carson City.....	1.07 percent	Lincoln.....	3.12 percent
19 Churchill.....	5.21 percent	Lyon.....	2.90 percent
20 Clark.....	22.54 percent	Mineral.....	2.40 percent
21 Douglas.....	2.52 percent	Nye.....	4.09 percent
22 Elko.....	13.31 percent	Pershing.....	7.00 percent
23 Esmeralda.....	2.52 percent	Storey.....	.19 percent
24 Eureka.....	3.10 percent	Washoe.....	12.24 percent
25 Humboldt.....	8.25 percent	White Pine.....	5.66 percent
26 Lander.....	3.88 percent		

1 4. Each county assessor and the assessor of Carson City shall *reserve*
 2 *and pay into the county treasury, for the benefit of the general fund of the*
 3 *county, 6 percent of such funds, and shall distribute the balance of such*
 4 *funds in the same manner, to the same recipients, and in the same ratio,*
 5 *as personal property taxes were distributed in the previous fiscal year, but*
 6 *the State of Nevada shall not be entitled to share in any such distribution.*
 7 *As commission to the state for collecting the privilege taxes on vehicles*
 8 *subject to the provisions of chapters 482 and 706 of NRS the department*
 9 *shall retain 1 percent from Carson City and counties acting as agents of*
 10 *the department and 6 percent from counties where the department has*
 11 *established branch offices. The department shall be held liable for checks*
 12 *dishonored upon presentment for payment which have been received in*
 13 *payment for such taxes as provided in NRS 482.183.*

14 5. When the foregoing requirements have been met, the state con-
 15 troller shall transfer monthly to the state highway fund any balance in
 16 the motor vehicle fund.