Senate

EDUCATION COMMITTEE
11th Meeting

Minutes of meeting - March 13, 1973

Committee members present:

Chairman Foley
Senator Raggio
Senator Walker
Senator Young
Senator Bryan
Senator Neal

Witnesses present:
Genevieve Lauris, Operation Bus-Out, Las Vegas
Mrs. H. L. Bagley, Operation Bus-Out, Las Vegas
Kenny Guinn, Clark County Schools, Las Vegas
Robert Petroni, Clark County Schools, Las Vegas
Robert Rose, State Board of Education, Reno

Other interested citizens is attached hereto and marked Exhibit "A".

Chairman Foley called the meeting to order at 3:15 p.m.

Mrs. H. L. Bagley:
Mrs. Bagley stated that Bus-Out is in favor of S.B. 170, but against the present busing in the State. Mrs. Bagley further stated that of all studies taken, none show that busing works. Mrs. Bagley referred to the Armor Report (see Additional Exhibits and Information booklet), and commented that the only benefit shown from this report indicated that as the student reached college age, the black students were more inclined to attend college. However, after two years of college, the number of black students that had withdrawn from college would average out, showing no real benefit.

Mrs. Genevieve Lauris:
Mrs. Lauris presented the committee with a petition which endorses "Stop Forced Busing", and further stated that she does have a list of more than 25,000 signatures in support of S.B. 170.

Senator Neal commented that S.J.R. 6 & 7 are segregation measures. Mrs. Bagley stated that she was not aware of this.

Senator Bryan commented on S.J.R. 6, 7 & 8, stating that aside from Sixth Grade Centers, if amendment were adopted would you (addressed to Kenny Guinn) conduct busing at junior and senior high level. Mr. Guinn replied that the resolutions would preclude them from busing black students out of the West side.

Robert Petroni:
Mr. Petroni stated that S.J.R. 6 will be subject to Supreme Court legislation.
Senator Neal stated that the measures are designed specifically to keep blacks out of schools across town. The only ones involved are the blacks.

Senator Foley stated that the background that was presented to the committee indicated that back in 1971, an integration policy statement was prepared by the Equal Education Opportunity consultant of the State Board. The State Board did not take any action on this. In 1972 a task force met and were advised by a Deputy Attorney General. The minutes of these meetings indicated that the task force decided to follow along legal lines. In July of 1972 they had another meeting. At that meeting Mr. Cliff Laurence was expressing terms of goals in the field of integration and not specifics. On October 5, 1972 the State Board met and adopted the guidelines. This item on the agenda was not something that had been previously scheduled and not something that had been circulated around the State to the school boards for their in-put or to offer them an opportunity to give criticism on the point.
Senator Neal stated that perhaps he and Senator Foley were not listening to the same testimony. Senator Foley asked if Senator Neal questioned this; and if so, what part. Senator Neal replied that he questioned the fact that the Superintendents did not know anything about it. Senator Foley commented that he would re-state this, as it is important that they all understand what the point is. It is Senator Foley's understanding that the draft that was finally adopted was not from the guidelines part of it, and that had not been circulated as a definite quota. Senator Foley further commented that he feels that the State Board acted unwisely at that point in adopting that regulation without getting the specifics from the local area. As a result of that, a great deal of controversy arose. On November 14, the Attorney General ruled that the regulation was not legal - within their authority and the State Board did not accede to the advice of the Attorney General. The question comes down to S.B. 170. What we have to decide is the philosophy of education in the State of Nevada that is between the State Board and

and the local board. Senator Foley stated that he feels that the general intention is that the State Board act in areas of statewide concern, provide services of a statewide nature. Does S.B. 170 go beyond and do more than fix the responsibility. The question here is where is the ultimate authority for fixing up the guidelines in regards to desegregation? Is it in the State Board or in the local school board? What we are trying to get at is that, at this point, is the local board better able to formulate a policy on integration and the Legislature has not stepped into this area and laid down a policy on integration. The power should be vested in the school board, but the State Board and the School Board should work together to advise the Legislature on what is the best policy of integration.

Senator Bryan stated that he felt a change should be made on Line 11, sub-section 2: the word "rights" should be changes to "powers".
Richard Morgan offered that Line 9, sub-section 1: the words "of this Title" should be changed to "of the Law".

See Exhibit B-1 for memo from Clinton Wooster
See Exhibit B-2 for letter from Wm. & Karen Kelly
See Exhibit B-3 for letter from Robert List
See Exhibit B-4 for letter from Robert Petroni

Following further discussion it was moved and seconded that S.B. 170 be passed with amendments." Senator Neal voted "No"on S.B. 170.

S.B. 170 (Do Pass as amended):

Section 1. Chapter 385 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. The legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this Title are intended to reserve to the boards of trustees of local school districts within the state such rights and powers as are necessary to maintain control of the education of the children within their respective districts. These rights and powers shall only be limited by other specific provisions of the law.

2. The matter of implementing a statewide policy of integration or desegregation of public schools is reserved to the legislature.

3. The responsibility of a local policy of integration or desegregation of public schools is delegated to the local school trustees not inconsistent with that granted by the State Legislature.

4. The State Board of Education, the Board of local school trustees and school officials shall advise the legislature each regular Session as to recommendations of legislative action to insure equality of educational opportunity for all children in the State of Nevada.

5. The State Board of Education shall follow the provisions of NRS 233 B for adoption of regulations.

Section 2. This act shall become effective upon passage and approval.

Senator Foley adjourned the meeting at 4:35 p.m.

Respectfully submitted,

Sharon W. Maher, Secretary

John Foley, Chairman

PLEASE PRINT

S-1373

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NAME	REPRESENTING	ADDRESS
[illegible]	[illegible]	—
Dave Kosso	Senator Walker Reg Dirtor	Reno
Robert Petrini	Clark County Schools	Las Vegas
Ernie Ewing	Clark County Schools	Las Vegas
Robert Rose	State BI & Ed	Reno
Shirley Weden	State Bd of Ed	Sparks
David Shonnard	Myself	Reno
Dan Freighton	Leg. Intern for Sen. Neal	"
Dennis Ok	Dept of Education	C.C.
Tom Lorentzen	Intern / reporter Echo	Reno
Mrs H.L. Bagley	Operation Bus Out	Las Vegas
Karen Kelly	Creative Learning Center	C.C.
Raymond Lundin	Operation Bus-Out	Las Vegas
Bob Bell	Nev State School Boards Assn.	Carson City
K.L. Hansen	State Superintendent	Carson
		EXHIBIT "A"

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
CARSON CITY, NEVADA 89701

ARTHUR J. PALMER, *Director*

LEGISLATIVE COMMISSION
CLIFF YOUNG, Senator, *Chairman*

CLINTON E. WOOSTER, *Legislative Counsel*
EARL T. OLIVER, C.P.A., *Fiscal Analyst*
ARTHUR J. PALMER, *Research Director*

M E M O R A N D U M

TO: SENATOR JOHN FOLEY

DATE: February 27, 1973

RE: Effect of S.B. 170 in Relation to Federal Statutes, Rules and Regulations

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You have asked for the opinion of the legislative counsel on three questions relating to S.B. 170. This brief memorandum is intended to answer your questions quickly and without exhaustive legal citations. If you desire greater detail, please let us know.

Question No. 1: Does S.B. 170 violate any Federal statute, rule or regulation?
Answer: No.

Question No. 2: Is S.B. 170 inconsistent with any Federal rule or regulation?
Answer: No.

Question No. 3: Would S.B. 170 have any adverse effect upon the State's ability or any school district's ability to receive Federal funds?
Answer: No.

Analysis

S.B. 170 is a proposal for legislation in an area in which the states have great flexibility -- internal state organization for providing public education at the elementary and secondary levels.

Nothing in the federal constitution, laws or regulations gives the federal government the power to require the states to adopt a particular organizational structure for public education. It is each state's prerogative to determine how much authority to leave

EXHIBIT B-1

with local school districts and how much to place with the state department of education.

In Nevada this is solely a matter for the state legislature, since §§ 1 and 2 of Article 11 of the Nevada Constitution impose few restrictions regarding legislative structuring of the state/local educational system:

> The legislature shall . . . provide for a superintendent of public instruction and by law prescribe . . . the duties thereof.
>
> The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months every year . . . and the legislature may pass such laws as will tend to secure a general attendance of the children in each school district upon said public schools. (Emphasis added.)

What S.B. 170 does is reaffirm the statutory limits the legislature has imposed on the exercise of powers at the state level. It does not in any way prohibit the exercise of such powers at the local level. Thus it is legislation aimed primarily at the state/local division of powers, not the willingness or unwillingness of Nevada schools to comply with federal statutes, rules or regulations. S.B. 170, in our opinion, does not in itself affect the relationship between the state's schools and the federal government.

The major concern during discussion of S.B. 170 appears to have centered on rules and regulations relating to the integration or desegregation of local schools. Therefore the federal laws and regulations which are probably most pertinent to your request are related to the Civil Rights Act of 1964 and are contained in 42 U.S.C.A. § 2000d et seq and 45 CFR, Part 80. Copies are available in our office if you need them.

We have checked S.B. 170 against these statutes and regulations and have found nothing to indicate that Nevada's passage of the bill would result in violations or inconsistencies or that it would adversely affect the ability of any school district to receive federal funds.

It is possible, under the provisions of S.B. 170, for all schools in the State of Nevada to comply with federal civil rights requirements even though there are no state department rules and regulations on the subject. State-imposed rules and regulations for school desegregation are not federally required; it is sufficient to show that the local school districts are meeting civil rights guidelines on their own. The state department (if it serves as the reporting agency or conduit in a particular program or situation) can then forward to federal officials the required assurances that the districts are in compliance.

As to federal funds intended for use at the state department level, it is true that the state board must have authority of its own to enforce internal compliance with Civil Rights Act. It appears that the existing statutory powers of the state board under Title 34 (particularly chapter 385 of NRS) already provide adequate authority in this regard, since they include the power to adopt rules and regulations for the board's own governance and administration.

This being the case, S.B. 170 would not adversely affect the ability of the state department of education to meet the Civil Rights Act conditions for receipt of federal funds. Under S.B. 170, those powers which are expressly granted to the board by existing statute remain untouched.

Our conclusion, then, is that all three of your questions should be answered in the negative. Assuming no major changes in other statutes governing the structure and powers of the state board of education or the local boards of trustees, the passage of S.B. 170 would not adversely affect the ability of the schools of the state or the state department of education to meet the Civil Rights Act conditions precedent to receipt of federal funds, and would not result in the violation of (or even inconsistency with) any federal civil rights statute, rule or regulation. If any such violation, inconsistency or federal fund cut-off were to occur in the State of Nevada, our opinion is that it would be a result of actions other than the passage of S.B. 170 by the state legislature.

Very truly yours,

CLINTON E. WOOSTER
Legislative Counsel

Janet Wilson

Janet Wilson
Deputy Legislative Counsel

KELLY BROADCASTING COMPANY

WILLIAM CODY KELLY
PRESIDENT

BOX 658
CARSON CITY, NEVADA 89701

March 13, 1973

Honorable Members of the Committee on Education
The Senate
State of Nevada
Carson City, Nevada

Gentlemen and Mrs. Herr:

Mrs. Kelly and I are transplants from Ohio and having lived here for a number of years have come to deeply appreciate the freedom of ideas held by Nevadans which are not now so prevalent in the eastern parts of the United States.

We believe in absolute freedom of education, both private and public. If a parent choses to send a child to a private or parochial school, without burdening the State or County or local City, we are all for that idea.

Similarly, we believe that each local school district should determine its own local rules relating to the allocation of students.

For that reason, we are in complete accord with S.B. 170, and urge its adoption.

The minute you allow a state-controlled board to tell local people how to run their schools, you destroy the very fundamentals of education. Nevada should not become another eastern state regulated by some fiat from the professional educators.

Sincerely yours,

Karen L. Kelly
KAREN L. KELLY

William Cody Kelly
WILLIAM CODY KELLY

EXHIBIT B-2

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
ROOM 341, LEGISLATIVE BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

February 28, 1973

Honorable John Foley
Nevada State Senate
Legislative Building
Carson City, Nevada 89701

Dear Senator Foley:

This is in reply to your letter of February 23, 1973, concerning possible conflicts of Senate Bill 170 with school district funding. At the outset, you should be aware that the State Department of Education and the various county school districts in Nevada have been successful in obtaining federal funding for many of their programs for many years without having State Department of Education regulations for desegragation of the various school districts.

You have asked if SB 170 violates any federal statute, rule or regulation. We know of no possible conflict between SB 170 and the various federal statutes, rules and regulations. The Bill would not be inconsistent with any federal statute, rule or regulation that we are aware of. You have also asked if SB 170 would have an adverse effect on the State's ability or any school district's ability to receive federal funds. We envision no possible adverse effect at this time.

Sincerely,

ROBERT LIST
Attorney General

RL:JCS:llr

EXHIBIT B-3

CLARK COUNTY SCHOOL DISTRICT

LAS VEGAS, NEVADA 89121

2832 EAST FLAMINGO ROAD - TELEPHONE 736-5011

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March 6, 1973

The Honorable Senator John Foley
Nevada State Senate
Carson City, Nevada

Dear Senator Foley:

I have reviewed the law and discussed the questions contained in your letter of February 23, 1973 with our Federal Projects people and have come to the following conclusions in answer to your questions.

1. SB 170, to my knowledge does not violate any federal statute, rule or regulation, in that there is no federal statute, rule or regulation requiring state boards of education to have the authority to adopt state-wide integration guidelines. Some states have legislation directing their state boards of education or state commissioners of education to adopt state-wide integration guidelines. However, there are no federal laws requiring this. The only federal statute requiring integration guidelines of local school boards is Title IV of the Civil Rights Act of 1964. Section 2000 (c) authorizes the Attorney General in specified circumstances to initiate federal desegregation suits. In Swann v. Charlotte-Mecklenburg Board of Education, 91 S. Ct. 1267 (1971) it was stated by the court that the length and the history of Title IV shows that it was not enacted to limit but to define the ruling of the federal government in the implementation of the Brown vs. Board of Education decision. It makes no mention that state boards of education are required to adopt state-wide integration regulations as a condition to receiving any federal funds.

It is true that the Nevada State Board of Education is authorized to approve or act as the clearing agency for certain federal programs such as Title I and Title III. The programs are actually submitted by the local boards through the State Department who then indicates whether or not there is compliance with the requirements of the federal statute or regulations providing the funds to the local school district. There are no requirements in either of those titles that the State Board of Education adopt state-wide integration guidelines in order that local school boards may receive federal funds for those programs. As a matter of fact, if the State Department of Education does not approve a program under Title I or Title III, the local school board may appeal directly to the federal agency and contest the

EXHIBIT R-11

recommendation of the State Board of Education. Some of the federal programs are reviewed and approved by other departments and boards within the state and in the case of the recently enacted Emergency School Aid Act, the federal office of Civil Rights approves the request for a grant to the local school board. The only concern of the Federal Government is that the local board requesting a program be approved meet the requirements of that federal program and regulation.

2. In light of my above response to your question 1, it is my opinion that SB 170 is not inconsistent with any federal rule or regulation. Again this is because there are no federal rules or regulations requiring state legislation or regulations controlling integration in the local school districts. There are no Congressional acts requiring any state agency to adopt state-wide integration guidelines. As I stated before, some state legislatures have enacted legislation requiring a state agency to enforce state-wide integration. However, this is not necessary under any federal rule or regulations.

3. SB 170 would not have an adverse effect upon the states' ability or any school district's ability to receive federal funds. Even if SB 170 were enacted this would not in my opinion take away the authority of the State Department of Education to review local boards' applications for federal funds and determine and advise the federal agency as to whether or not the local school board meets the requirements of the federal program. As you know, the Clark County School District is subject to a federal court integration order and therefore there is no reason for the State Board of Education to have the authority to adopt state-wide integration guidelines which may exceed the requirements of the federal court order. The State Department of Education in those programs where it is the approving agency for federal funds, does have the authority to make a determination as to whether the federal program guidelines are met in order to receive the federal funds requested by the local board. However, each one of the federal programs has a definite purpose and requirement and each application must be looked at individually to determine whether or not the particular federal guidelines are met. None of the federal guidelines or programs require a state-wide integration regulation or law as a condition of receiving the funds. Therefore, SB 170 would have no adverse effect upon the ability to receive federal funds.

Sincerely yours,

Robert L. Petroni, Legal Counsel

RLP:cv