

MINUTES

EDUCATION COMMITTEE
FEBRUARY 28, 1977
3:00 p.m.

Members Present: Chairman Vergiels
Mrs. Gomes
Mr. Goodman
Mr. Horn
Mr. Kissam
Mr. Schofield

Member Excused: Mr. Rhoads

Guests Present: Richard Siegal, ACLU
James P. Costa, Department of Education
Nash Sena, Assemblyman
John Griffin, Rehabilitation Division
Barbara Guzman, Devel. Disability Council
Chris Lanphere, Rehabilitation Division
Dick Wright, Washoe County School District
Hope Roberts, Advisory Council for Vo/Ed
W.W. Galloway
Ruth Gallaway
Billie Lee Schofield

Chairman Vergiels called the meeting to order at 3:04 p.m.
in Room 214 and introduced Mr. Sena, sponsor of AB 300.

Nash Sena, Assemblyman, District #21, and school teacher in Clark County, gave a brief history of the removal of prayer from the public schools and the current efforts being made in various states to reintroduce prayer. He advised that Mr. Daykin, legal counsel, told him his first effort, calling for use of the Lord's Prayer, would be unconstitutional, but that he deemed this bill, with the use of the words "silent" and "voluntary" would be constitutional. Mr. Sena said he is aware of a trend "back to basics" in schools and he considers prayer very basic.

Mr. Schofield asked about religious connotations and Mr. Kissam about forced participation and implementation. Mr. Sena pointed out it is his intent to provide an opportunity but no coercion, that this has, in fact, worked out satisfactorily in his school with children who are not required to pledge allegiance to the flag; therefore, he anticipates no problem with a "silent," "voluntary" prayer. He would send an explanation to parents before involving children.

Assembly

Mr. Vergiels asked for a ruling as to a spoken prayer or specified prayer and questioned the use of "shall" rather than "may." Mr. Sena objected to consideration of any spoken prayer, saying that is not his intent.

Mrs. Nancy Gomes, Assemblywoman from District #24, Reno, left the committee to testify, supporting the constitutional interpretation that the Lord's Prayer is unconstitutional but supporting AB 300 as a recognition on the part of all that there are many forms of worship, that each may be silent in his own way, to contemplate his feelings about god, his beliefs, whatever, that moments of silence for reflection are important for all.

Mr. Kissam wondered whether there would be a problem in calling this "prayer" rather than "silent period." Mr. Vergiels opted for making the wording as strong as possible within the law while Mr. Goodman stated he felt it should be individual reflection or meditation rather than prayer.

Dr. Richard Siegel, member of the National Board of Directors of the American Civil Liberties Union and teacher of constitutional law, offered to clarify some of the issues involved. He stated that while the ACLU would not oppose a moment of silence, there would be some question about meditation and outright opposition to the word "prayer." The operating dictum of the Supreme Court, in his view, has been to continuously uphold the separation of church and state and he quoted from *Everson vs. Board of Education*. He suggested the committee seek rulings from Mr. Daykin and the State Attorney General. His testimony is included verbatim as Exhibit A.

Mr. Kissam took exception to Dr. Siegel's statement, questioning the idea of forbidding prayer in school because it is tax supported, saying churches are tax supported in another fashion, and also questioning why the legislature should not consider this issue.

Dr. Siegel answered that while children are required to attend school, they are not required to attend church.

When Mr. Horn suggested that if technicalities in the constitution prohibit prayer, maybe it's time to change the constitution, Dr. Siegel agreed, but pointed out the legislature shouldn't try to pass legislation that the courts have interpreted to be unconstitutional.

Mr. James P. Costa, Deputy Superintendent of the State Department of Education, called attention to a technicality: that the bill seeks to amend Sec. 389 of the Nevada Revised Statutes, which is devoted to required courses of study, rather than NRS Sec. 388, "system of public instruction," including patriotic services which might be more applicable.

The chairman asked for rulings from Mr. Daykin and the Attorney General and announced AB 151 would not be considered at this committee meeting as previously announced.

SB 138 - Hope Roberts, chairman of the Advisory Council of Vocational-Education, explained that the bill is an amendment of NRS 399 in response to PL 94-482 which increases the number and representation of members, broadens the scope of responsibilities and revises the terms of members of the council. Her prepared statement is attached as Exhibit B.

Discussion followed concerning the number of members on the council and the categories enumerated. According to Ms. Roberts PL 94-482 requires a minimum of 20 and the Senate added one more, private postsecondary educational institutions, and Rehabilitation is asking for an additional category or a modification of Sec. 2, "r".

Mrs. Gomes questioned the workability of large committee. Ms Roberts responded that with an expanded mandate, they need more personnel; however, she agreed the large number is difficult. As she said, the law requires a minimum of 20 to conform with federal regulations to obtain the \$1.6 million for the vocation-education program. Mrs. Gomes asked why, when 35% of Nevadans are employed in gaming, they aren't prepared for that. Merlin Anderson, of the State Department of Education, said they are included in the "private postsecondary education institutions" which train gaming personnel.

In response to Mr. Vergiel's question about funding, Ms. Roberts replied the Council's share was increased from \$50,000 to \$75,000 per year but where they used to meet six times in all parts of the state, they will probably meet four times in fewer locations, cut down on public hearings and divide into subcommittees. She noted members are volunteers, paid only for expenses.

John Griffin, Chief of Planning, Research and Program Development for the Rehabilitation Division, explained he feels the state has chosen to narrow the interpretation of the federal guidelines, specifically in No. 4, Sec. 105 A which describes economic development and eliminates industrial agencies and again in the following section where it speaks of institutions of higher learning and eliminates area vocational schools, technical institutes and post-secondary agencies. It is Mr. Griffin's contention that "r" in state law should be enlarged to include rehabilitation or include it specifically under another letter. His prepared statement is attached as Exhibit C.

Mr. Costa, speaking for the State Department of Education, supported the bill because, as he explained, with ~~no~~ advisory council, the State does not get any funds from the Federal government. His prepared statement is attached as Exhibit D. Mr.

Costa also questioned the advisability of locking into an advisory council specific groups and agencies which he said tends "toward a snowball effect." He also pointed out that PL 94-142, the Education Law and Handicapped Act, made departments of education responsible for coordinating all educational activities for handicapped persons in any state and that vocational-ed is primarily a secondary education program with some postsecondary implications and cautioned against spreading the limited funds too thin to serve anyone well; in fact, he contended this legislation is not necessary because federal regulations do not require it and the matter could be handled through the state plan.

Mr. Horn suggested the law should provide a mandate only and might better eliminate the enumeration of categories, simply state a minimum number. Chairman Vergiels proposed that the bill should drop all enumeration or include rehabilitation as well as clarify inclusion of minorities. He expressed his desire to cooperate with the Senate in acting on this bill and appointed Mr. Goodman to work out details with Mr. Griffin and check with Ms. Roberts and Mr. Costa.

The meeting was adjourned at 4:22 p.m.

Respectfully submitted

Harriet M. Knauff

Harriet M. Knauff
Assembly Attache

GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE: _____

NAME, ADDRESS & PHONE NO.	REPRESENTING	TESTIFYING ON BILL NO.
Richard Siegel	ACLU	300
Jim Costa	Dept. of Educ.	SB 138 AB 151
Nash Sena	Assemblyman	AB 300
John Giffen	Rehab.	SB 138

VERBATIM TESTIMONY OF DR. RICHARD SIEGEL

ASSEMBLY EDUCATION COMMITTEE

February 28, 1977

The position of the ACLU on this issue is that we would not be opposed to moments of silence, certainly. We would, the word meditation, would remain a questionable area in our own mind. It, there is some question, for example, right now whether transcendental meditation programs around the country meet the test of separation of church and state. It's been suggested that their Buddhist and Hindu origins raise religious issues. We would be adamantly opposed to the use of the term "prayer" and we would be adamantly opposed to any suggestion to teachers that meditation or silent period should be translated to mean prayer or that students should be directly encouraged to pray.

And we say this with the full belief that our point of view is the operating position of the U.S. Supreme Court and we have substantial confidence that the Attorney General's office of this State would take the position that, that only a very narrow scope for meditation or silent period would be possible. The pattern of the Attorney General's opinions on separation of church and state in this State has been one to limit the scope of prayers and related things to a very considerable extent. So I would very much urge this committee to get the opinion of the State Attorney General who would be actually the person to defend this is a court of law, as well as Mr. Daykin who would not be the person who would have to defend this in a court of law. And it would seem to me, if nothing else, wrong to pass the law when you could check and possibly learn that the Attorney General's office would not welcome the opportunity to defend, certainly to use the worst term, prayer.

I would also add that I do not think it is the most appropriate function of the legislature to provide for such activity, designate activities in the schools such as this. If anything, it is the function of the the State Board of Education and that's one of the reasons we would object to this. And we would like to see if any such proposal, we would like to see it come through the State Board of Education.

I wanted to read to you a few of the things the Supreme Court has said on school prayer and related issues to give you an idea of the context that you're operating under, whichever Mr. Daykin's is... Well, I won't refer directly to Mr. Daykin, I just want to read two things that appear in Supreme Court dictum to get the context of the issue in constitutional terms. They said, at one point, "neither a state," this is in *Everson v. Board of Education*, "neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions or

prefer one religion over another." And it is the issue of aiding all religions that is declared to be unconstitutional in *Everson V. Board of Education* that I think is very much the controlling issue here. It isn't the matter that Mrs. Gomes, whom I thought that I would never agree, disagree with on anything, has pointed out. The, it isn't the question that it's all right if, if, if everybody's taken care of. The controlling thing is, well, another statement from the *Everson Case*, "The first amendment's purpose was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion as long as what you do is stated to be a prayer, or is interpreted officially in any context as a prayer, it will certainly be viewed as support for religion." One last phrase from the Supreme Court. "The test may be stated as follows: what are the purposes and the primary effects of the enactment. If either is the advancement or inhibition of religion, then the enactment exceeds the scope of legislative power as circumscribed by the constitution." That is to say, that to withstand the structures of the establishment clause, there must be a secular legislative purpose and the primary effect that neither advances nor inhibits religion.

Now, I happen to believe in this. I recognize that a majority of the people to whom I'm talking don't believe this, don't want this to be the case, but it is the operating dictum of the Supreme Court and the Supreme Court has not backed off on separation of church and state. It has strengthened its interpretation on a series of parochial school aid cases. So I really believe we have to realize we're operating under this kind of extremely broad restraint and if, if you people, if the legislature wants to have a silent period which has no direct religious association, that is fine. If you want to go with the concept of meditation, that, that's going to get into a tricky area and it's going to depend if the legislature history says that meditation comes essentially as a disguised way of saying prayer, I don't think it's going to go constitutionally either.

So, and I just want to say one last thing, I'm somebody who has regularly taught Sunday School, I believe in religion and I'm as involved with religion as anybody in this room. I simply believe that the school is not the place. And 38 religious demoninations have systematically opposed all efforts to amend the constitution to try in any way to get new kinds of prayers into the public schools. It is not, it is not a small minority, it is a lot of people who simply want the schools to stay out of the prayer. If this was a full body, I could have a Jehovah's Witness on one side of me. I could have the majority of Jews here that would be reflecting, that would be taking my position, I'm sure of it, and many other, many other religious groups that are adamantly opposed to any infusion of prayer into the public schools.

Dr. Siegel also asked that reference to *School District of Abbington V Schempp*, 374US203, and *Engel V. Vitale*, 370US421, be included.



NEVADA ADVISORY COUNCIL FOR
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February 28, 1977

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TO: Committee on Education
Nevada State Assembly

FROM: Hope Roberts, Chairman

SUBJECT: SB-138 - Summary

An Amendment to NRS 399 in response to Public Law 94-482 enacted by the Senate and House of Representatives of the United States of America in Congress assembled October 12, 1976, cited as the Education Amendments of 1976.

Increases number and representation of members, broadens the scope of responsibilities and revises the terms of members.

As per Sec. 105 of Part A, Title 1 of PL 94-482 the proposed amendments to NRS 399.060 and 399.070 increases the number of council members from 13 to 22 by broadening categorical representation and thus the overall expertise within the council. Each member may represent only one of the listed categories. The state board for vocational education is charged to ensure appropriate representation on the council of: both sexes, racial and ethnic minorities, and geographic regions, with a majority of members not being professional educators. Amendment to NRS 399.080 adjusts and staggers council member terms to 3 years with a limit of two terms, thus also conforming to recommendations by the Governor's Office of Planning Coordination.

Amendment to NRS 399.100 expands responsibilities of the council:

1. Shall advise the State Vocational Education Board in development of: 5 year state plan, annual program plans, accountability report and policy matters arising out of administration of programs.
2. To provide annual evaluation and analysis of vocational programs, service, activities, and the distribution of federal funds in Nevada with followup recommendations for improvement.
3. To consult with the State Comprehensive Employment and Training Office with comments annually on programs. Also to identify and assess, after consultation with SCETO, the vocational education employment and training needs of Nevada.
4. To aid in the formation of and to provide technical assistance to local advisory councils throughout the State.

Amendment to NRS 399.110 designates the council as an advisory body to: the State Board of Vocational Education, institutions, agencies, departments, the Governor's manpower planning council and any other such body engaged in manpower programs utilizing federal funds.

Many of the responsibilities found in the "76" amendments are currently being achieved through the preparations of the annual evaluation report and through a series of six scheduled public hearings throughout the State for the gathering of public opinions and comments regarding the effectiveness of current programs, services and activities; the next public hearing will be March 15 in Fallon, followed by one in Las Vegas on April 19 and one in Elko on May 20.

We have prepared this bill (SB-138) in accordance with current interpretations of Federal legislation as found in PL 94-482. Specific rules and regulations, which are in the process of being developed by the Office of Education, will not be completed until June 1. In the event there are adjustments necessary, we will compose such changes as necessary as quickly as possible for approval and acceptance.

TESTIMONY

S.B. 138

Committee on Education, Health and Welfare, and State Institutions

John Griffin

I would urge that Section 3(r) be changed to read as follows: "(r) A. a representative of the Rehabilitation Division."

I support that request as follows:

1. A comparison between S.B. 138 Requirements for Agency Representation and those required Public Law 94-482 discloses that in two membership categories the State statute proposes to narrow the requirement to a single state agency where the federal statute is more permissive. In no instance is the reverse true. Further, the State proposal would specifically add a representative of the Employment Security Department, where Federal Regulation makes no such requirement. Since the tendency of this State Legislation is toward specificity in any agencies, Rehabilitation Division should be specifically named.
2. One of the major missions of the Council is to reduce duplication in services. The Rehabilitation Division programs and the vocational education programs under PL 94-482 share a common mission - they both provide major services to their clients on a statewide basis. Cooperation between the two programs should be facilitated in every way possible - permanent membership on this Council by Rehabilitation is one of those ways.
3. By not specifying in state law that the Rehabilitation Division would be a member of the council, the Division's representation could be inadvertently limited to a finite number of terms by state legislation requiring that persons may only serve for two consecutive terms on state councils.
4. Since the council's inception, the Division has served as a member. However, one result of the recent council cutback to 13 members was that the Rehabilitation Division was removed from the Council and the representation of the handicapped consolidated with another area. This was a step backward indeed.
5. Finally, the Division is uniquely qualified to represent the handicapped on this council. Through its Bureaus of Vocational Rehabilitation, Services to the Blind, Alcohol and Drug Abuse, the Division continues to be the major service provider for all of Nevada's vocationally handicapped citizens.

STATEMENT OF
THE DEPARTMENT OF EDUCATION
TO THE
ASSEMBLY COMMITTEE ON EDUCATION

Monday, February 28, 1977
Room 214, 3:00 P.M.

S. B. 138 -- Increases number of members to fill additional required categories, revises terms of members and clarifies and expands duties of the Nevada Advisory Council for Vocational-Technical Education.

In October, 1976, the President of the United States signed into law P. L. 94-482, an Act amending the Vocational Education Act of 1963. P. L. 94-482 authorizes Federal grants to states to assist them in providing Vocational Education programs so that persons of all ages in all communities of the State will have ready access to vocational training. Nevada has been receiving grants under Federal vocational legislation for approximately 60 years.

The new Federal legislation mandates that all states participating in the Federal grant program create an advisory council for Vocational Education. The council must have a minimum of twenty (20) members representing various groups of people including management, labor, educational institutions, State agencies and various organizations. For the State to receive its share of the Federal appropriation for Vocational Education, a membership list for the Nevada Council for Vocational-Technical Education must be approved by the U. S. Commissioner of Education and on file in Washington, D. C. by June 30, 1977.

The purpose of S. B. 138 is:

- 1) To increase the number of Advisory Council members from thirteen (13) to twenty-one (22) so that Nevada's Advisory Council will conform to the Federal Act and permit the State to continue receiving Federal grants for Vocational Education.
- 2) To set the term of appointment for three (3) years and organize the various appointments so that each year there are seven (7) appointments made.
- 3) To enumerate the Council duties so that they are consistent with P. L. 94-482.

Fifteen school districts, three community colleges, two universities and several state agencies participate in offering vocational education programs and all institutions depend on receiving their share of the Federal funds made available. The State Board for Vocational Education is the sole administrative agency to receive the Federal funds and make the proper distribution.

The State Board for Vocational Education supports the passage of S. B. 138.