

EDUCATION, HEALTH, WELFARE & STATE  
INSTITUTIONS

JANUARY 26, 1977

The meeting was called to order at 8:05 a.m. in Room #323 of the Legislative Building, Carson City.

Senator Schofield was in the chair.

PRESENT: Senator Jack Schofield, Chairman  
Senator Joe Neal, Vice Chairman  
Senator Richard Blakemore  
Senator William Raggio  
Senator Wilbur Faiss  
Senator William Hernstadt

OTHERS PRESENT:

Susan Haase, Nevada Association for Retarded Citizens  
Michael Medema, Nevada State Prison  
Jack Middleton, Mental Hygiene & Mental Retardation  
Patrick Mullen, Nevada State Prison  
Orville A. Wahrenbrock, Department of Human Resources  
Charles Wolff, Warden, Nevada State Prison

The minutes of the previous meeting were distributed and unanimously approved by the committee members. Chairman Schofield remarked that the minutes were a well summarized report of the committee's visit to the Nevada State Prison on the previous day.

Senator Schofield then commended Warden Wolff and those he had assigned to accompany the committee through Maximum, Medium and Women's facilities for their courtesy and cooperation in showing the committee everything it had wanted to see. He commented that the committee came away from the visit feeling satisfied that from what they saw, they would be much more knowledgeable when deliberating on legislation affecting the prison system.

Chairman Schofield then distributed and reviewed the revised committee visitation schedule (see Attachment #1).

Testimony was then heard on the following bills:

SB 96 LOWERS MAXIMUM AGE FOR DETENTION OF MENTALLY RETARDED PERSONS.

Mr. Jack Middleton, Associate Administrator, Department of Mental Hygiene and Mental Retardation testified in favor of the bill. He said that the purpose of the measure was to change the age of majority from 21 to 18 as it deals with the mentally retarded who are cared for in State institutions. The bill does have a fiscal note. At the present time parents pay for the care of children up to the age of 21. The estimated affect will be the loss in fee revenues by \$4,600 the first year and \$5,300 the following year.

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Mr. Middleton commented that the Division feels strongly that the mentally retarded be treated the same as all other Nevadans and that the age of majority should be the same. This would also allow the mentally retarded to receive Supplemental Social Security Income at an earlier age.

Senator Hernstadt asked if the loss of revenue would cause a cutback in staff? Mr. Middleton answered that the revenue received from the parents goes into a non-reverting account for the non-institutional placement of the mentally retarded and, therefore, it would not affect operating costs at all. It would affect the budget for making placements in the community. The primary source of income for this account comes from third party payments and the age change would have no affect on third party payments.

Mrs. Susan Haase, Executive Director, Nevada Association for Retarded Citizens (NARC) was the next to testify in favor of the measure. She stated that the NARC regards the bill as an attempt to normalize and conform the legal view and treatment of the retarded citizen. The NARC supports the bill.

There being no further testimony on the bill, action by the committee was deferred until later in the meeting.

SB 114 REVISES CERTAIN ADMINISTRATIVE AND ACCOUNTING PROCEDURES  
PERTAINING TO THE STATE PRISON.

Warden Charles Wolff and Michael Medema, Financial Manager of the Nevada State Prisons testified as to the purpose of the measure.

Warden Wolff stated that basically SB 114 is requested as a revision based upon the Legislative Audit Report of 1975, in order to refine and bring the statutes up to date with regard to accounting procedures which occur within the Nevada State Prisons.

Mr. Medema was in charge of the Legislative Audit team who audited the prison in 1975. He referred to page 35.5 of the audit report where it is referenced that many of the statutes setting forth the business practices of the Prison were enacted over 100 years ago and may be outdated in view of the way the State currently operates. The Audit Report of 1969 contained recommendations regarding compliance with or amendment of numerous provision of NRS 209 which governs the administration of the Prison. Prison officials had informed the Legislative Auditors that they had requested legislation to amend Chapter 209 during the 1975 Session. SB 114 amends or repeals the applicable sections of NRS 209 to provide for modern business practices in the Prison. SB 114 also takes the work release program out of Chapter

209 and places it in Chapter 213 of NRS which concerns the Parole Department.

Senator Raggio stated that the bill seems to deal in detail with the work release program in sections 12, 13 and 14 and asked Mr. Medema what changes are proposed in the existing law? Mr. Medema said there were no changes, it was just being lifted from the administrative section of the law in verbatim and placing it into the chapter which concerns the Parole Department. Senator Raggio asked if it still retains the 6 months limitation? Mr. Medema answered yes. He continued by saying that when the auditors were at the Prison, they found a fund referred to in the work release program which was confusing because it was in Chapter 209 and, therefore, the auditors thought the Prison administration should be in control of the fund. In effect, this fund should have been in the chapter concerning Parole and Probation and they are the controlling department.

Senator Neal referred to section 7 of SB 114 and asked if a convict has to return to district court does the prison pay his expenses? Mr. Medema answered that Prison officers are allowed per diem, just as other state employees are allowed. When prisoners are transported, they are provided with meals only.

Senator Hernstadt asked when a prisoner earns money and pays back the work release loan account what happens to the excess in the fund and what amount does the prisoner keep of what he earns? Mr. Medema said that the work release loan fund has never been used and the question would have to be answered by the Parole and Probation Department. Warden Wolff stated that there is a use for the fund, it just had not been used up to the time of the audit. Normally, it is used for special required clothing, etc., which a prisoner may need to go to work on the work release program. The income that is earned by a prisoner, once his deductions occur, he is normally assessed the expenses which he is obligated to pay (any loan he has received from the prison, constant maintenance or transportation, other assessments which have been made against him); the remaining dollars are credited to his account to be used for release purposes or other expenses he occurs in the future.

Senator Hernstadt asked if the Warden utilizes a residence at the Prison? Mr. Medema said no, it has not been available for the last 8 to 10 years; however, the current statutes provide that the Warden be paid \$200 a month in lieu of the residence at the Prison as well as payment of utilities which are incurred at the Warden's personal residence each month.



Senator Neal referred to section 18 and asked if there were any changes on the current work program. Mr. Medema answered that section 18 is identical to the present statute and that it is just being lifted from one section of NRS and placed in another section for the purpose of housekeeping.

There being no further questions or testimony on SB 114, action by the committee was deferred until later in the meeting.

SB 116 ESTABLISHES THE DEPARTMENT OF PRISONS

Warden Charles Wolff testified that the intent of the bill is to provide a sound organizational structure which becomes essential to the effective administration of a comprehensive correctional operation. It refines the terminology that is used throughout the United States with regard to addressing corrections and the correctional organization. Penologists basically are placing increasing effectiveness on a fully integrated operation that is linked to a variety of classification requirements with regard to the inmates within the system and there is a definite need for a coherent and consistent administrative legal framework to cope with the demands that are being placed on correctional institutions today.

Warden Wolff continued by saying that most of SB 116 is a consolidation of a variety of statutes that are in force in the State of Nevada and places them into a concise form and refines the terminology with regard to some of the titles and the individual positions in the Nevada State Prisons. It also clarifies the fact that it is, in fact, an operating department within the State of Nevada. It addresses the major issues of policy structure, accountability and operations of the prisons and seeks to provide a more effective approach to corrections with improved standards and procedures for custody care and training and a more systematic administrative organization. Fundamentally, the bill addresses the point that the State does have a basic obligation to protect the public by providing institutional confinement care and training of the offenders; efforts to provide persons in correctional institutions with adequate educational, vocational, counseling training and other services so that they may be prepared for lawful community living which is essential to the reduction of crime; upgrading the correctional institutions and services deserves priority with regard to considerations as a means of lowering crime; preventing offenders and particularly youths and first offenders from establishing careers in crime

and being institutionalized; and, correctional institution and services should be diversified in programs of personnel so as to facilitate individualized custody care, treatment and possible rehabilitation of the offender. He noted that SB 114 is consolidated into the scope of SB 116 in the event SB 114 receives favorable consideration.

Senator Raggio asked a series of questions and Warden Wolff answered as follows:

1. QUESTION: This bill changes the terminology to indicate that the Warden becomes the Director. Are those who are now in the category of superintendents under classified service?  
ANSWER: Yes. The Director and Deputy Director are the only unclassified positions.
2. QUESTION: Does this bill seek to incorporate some of the requisites which have been part of the federal court decisions?  
ANSWER: To a certain extent; however, there is no major thrust in that direction because these requisites are already in the statutes.
3. QUESTION: Is there any provision for temporary furlough of inmates?  
ANSWER: Provision for temporary furlough is made in the present law.  
QUESTION: Has temporary furlough been used during Warden Wolff's tenure?  
ANSWER: This statute has been used for people who are down to having received a parole and have a very short period of time to serve before they are released. The temporary furlough is given them during this period to be used for finding jobs and living locations. The prisoner is accompanied by a probation or parole officer on these furloughs.  
QUESTION: Could this temporary furlough be used when there is a terminal illness in a prisoner's family, a death, etc.?  
ANSWER: Yes, if it is within the State of Nevada.  
QUESTION: Does this provision of the bill cover the situation where a person could be absent without leave from a temporary furlough? Does this constitute an escape?  
ANSWER: It is part of the furlough agreement.

Because this was not specified in the bill or the existing law, Senator Raggio felt the "escape" clause should specifically be written into the section pertaining to temporary furlough.

Senator Raggio moved that SB 116 be amended to specify that an unauthorized departure or absence from any authorized leave by an inmate constitutes an escape. Senator Blakemore seconded the motion. Motion carried unanimously.

Senator Raggio said that he would take the responsibility for getting the amendment made by the bill drafter.

Senator Raggio then asked further questions of Warden Wolff regarding SB 116.

4. QUESTION: Referring to section 51 of SB 116, in most cases do prisoners have other funds when they are released?  
ANSWER: Yes, and if an inmate has from \$0 to \$250 of his own money, he is given a \$50 check from the State; \$250 to \$500, he is given \$35; and, if he has resources of \$500 or more, he is not allowed any "gate" money.

5. QUESTION: Does this bill leave any major omissions from the existing law?  
ANSWER: The only omissions are those which are also contained in SB 114 relating to some of the technical reporting requirements to the Prison Board. In actual practice, these reports have not been made in at least 8 years because they are no longer requested by the Prison Board.

6. QUESTION: What presently is available in the psychiatric area? Is there a resident psychiatrist at any of the institutions?  
ANSWER: There is a fulltime psychologist for the three institutions and a parttime psyciatrist who obligates approximately 20 hours a week. Dr. Molte is the psyciatrist; Dr. Robert Wittemore is the psycologist; and, Dr. Stublefield is the fulltime medical doctor for the facilities. The Governor's Budget contains a recommendation for a fulltime psyciatrist and a parttime psyciatrist for the new facility at Jean.

Warden Wolff stated that he felt reasonable medical care was being provided for the prison population and there is a procedure which handles inmates who need further treatment in an outside medical facility.

Chairman Schofield asked about the academic and physical education programs for the entire prison population.



Warden Wolff stated that the thrust of the prison programs in this area has been in trying to get back to the work ethic and organized activity which will develop skills. He said that there used to be a mandatory school program but court decisions have found that the individuals can be provided the opportunity for education but they cannot be mandated to attend educational classes. He added that an inmate who does participate in classes can accumulate "good time" credits or "reward for effort."

Senator Neal asked if there were any changes regarding responsibilities of the Prison Board. Warden Wolff answered that this could not be changed by statute because the Prison Board's responsibilities are set forth in the State Constitution.

Senator Hernstadt, referring to page 18 of SB 116, line 1, asked why the legal age is 21 instead of 18? Mr. Medema answered that there was no reason for this not being changed and Warden Wolff stated there would be no objection to changing the age of majority. Senator Raggio intervened by saying that it was his opinion if the age was changed, the summary and title of the bill would also have to be changed.

Senator Hernstadt moved that an amendment be drawn to change the age of majority from 21 to 18 to conform with other State laws.

Senator Faiss seconded the motion. The motion did not carry by a vote of 2 in favor (Senators Hernstadt and Faiss) to 3 against (Senators Blakemore, Raggio and Schofield). Senator Neal did not vote.

There was further discussion as to whether or not all of the statutes should be made consistent on the age of majority. Senator Hernstadt was instructed by Chairman Schofield to look into this matter with the Legislative Counsel.

Warden Wolff then requested the possibility of two possible amendments to SB 116 (See attachment 2).

Page 9, line 8 - After commissioners add "upon referral by the Director to the Board." Warden Wolff stated the purpose of this was to give him more latitude.

Senator Raggio commented that he felt the language would then be too limited. Director Wolff withdrew the amendment.

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Page 11, line 41 - This line begins the amendment Director Wolff feels would allow for restitution of victims and that possibly the wording needs clarification of "To pay either in full or ratably the offender's obligation which has been acknowledged by him in writing or which has been reduced to judgement." Warden Wolff would like language added to provide for the possibility of restitution to the victim by the inmate who was sentenced for a crime against that person. He added that this could be as a condition of parole, but not as a condition of sentence; however, the restitution has to be done on a voluntary basis. According to Warden Wolff "restitution to a victim" laws in other states have been quite effective.

Chairman Schofield said that he would get an opinion on this matter from the Legislative Counsel

ACTION WAS THEN TAKEN BY THE COMMITTEE ON THE BILLS WHICH HAD BEEN DISCUSSED AT THE MEETING:

SB 94 Mr. Wahrenbrock asked if he could be heard on SB 94 before any action was taken by the committee. His request was granted.

SB 96 Senator Raggio moved DO PASS.  
Seconded by Senator Blakemore.  
Motion carried unanimously. (See Attachment 3)

SB 114 Senator Raggio moved DO PASS.  
Seconded by Senator Hernstadt.  
Motion carried unanimously. (See Attachment 4)

SB 116 Senators Raggio and Hernstadt will request the Legislative Counsel to make suggested amendment and the bill will be reconsidered at a later meeting.

SB 99 Senator Raggio moved the attached letter from the Department of Mental Health and Mental Retardation regarding SB 99 be made a part of the minutes. (See Attachment 5)  
Seconded by Senator Blakemore.  
Motion carried unanimously.

Senator Hernstadt moved DO PASS  
Seconded by Senator Raggio  
Motion carried unanimously. (See Attachment 6)

Chairman Schofield then announced that the following Senators would give an explanation of specified bills on the floor of the Senate:



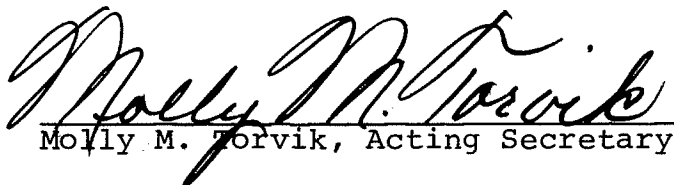
Education, Health, Welfare  
and State Institutions  
January 26, 1977

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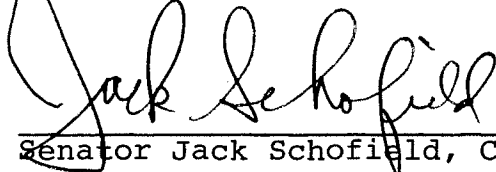
SB 99 - Senator Raggio  
SB 96 - Senator Hernstadt  
SB 114 - Chairman Schofield.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Molly M. Torvik, Acting Secretary

APPROVED BY:

  
Senator Jack Schofield, Chairman



VISITATION SCHEDULE

Senate Committee on Education, Health, Welfare and State Institutions.  
Chairman, Senator Jack Schofield.

Thursday, January 27, 1977

Leave Carson City at 7:15 a.m. for Nevada Mental Health Institute. Reno-visit-Institute facilities, Mental Offender and Mental Retardation programs.

Return to Carson City for 11:00 a.m. roll call.

Tuesday, February 1, 1977

Leave Carson City 7:15 a.m. for Reno. Visit Reno Mental Health Facility, Achievement House, West.

9:30 a.m. Visit Rehabilitation Facility - Reno

Return to Carson City for 11:00 a.m. roll call.

Thursday, February <sup>10</sup> 10, 1977

9:00 a.m. Visit Northern Nevada Children's Home, Carson.

Wednesday, February 16, 1977

At p.m. adjournment depart from Carson City Airport via Air National Guard plane for Elko.

Dinner and evening at Nevada Youth Training Center.

Thursday morning at Training and Elko Community College. Depart Elko approximately 9:30 a.m. for return flight to Carson City.

Friday, February 18, 1977

At noon adjournment, depart Carson City Airport via Air National Guard plane for Las Vegas.

On arrival, visit Health, Welfare, Mental Health facilities during afternoon.

Saturday, February 19, 1977

Leave Nellis Air Base via Helicopter - fly over Prison site at Jean, Bolder City Children's Home, Spring Mountain Youth Camp. Land at Caliente for visit to the Girls' Training Center.

Return to Vegas - P.M.

TO: WARDEN WOLFF

FROM: MIKE MEDEMA

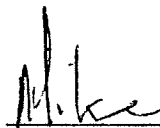
SUBJECT: SUGGESTED CHANGES SB 116      DATE: 1/25/77

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The following are suggested changes for SB 116:

Page 9, Line 8 - after commissioners add "upon referral by the Director to the Board" - This allows latitude to the Director.

Page 11, Line 41 - This line begins the amendment we feel allows for restitution of victims. You may feel the wording needs clarification.

  
MIKE



S. B. 96

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 SENATE BILL NO. 96—COMMITTEE ON EDUCATION, HEALTH  
AND WELFARE AND STATE INSTITUTIONS
 

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JANUARY 20, 1977

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 Referred to Committee on Education, Health and Welfare  
and State Institutions
 

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 SUMMARY—Lowers maximum age for detention of mentally retarded  
persons. (BDR 39-129)

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

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

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 AN ACT to amend NRS 435.360, relating to the age limitation for detention of  
the mentally retarded, by reducing the maximum age for detention from  
age 21 to age 18.

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

- 1 SECTION 1. NRS 435.360 is hereby amended to read as follows:  
2 435.360 1. No mentally retarded client may be detained in a divi-  
3 sion facility after reaching the age of [21] 18 unless:  
4 (a) Such client makes voluntary application for services which the  
5 division is designed and equipped to provide; or  
6 (b) The division initiates proceedings, within 3 working days, for  
7 commitment when such procedure can be shown to be in the client's  
8 own best interest.  
9 2. In no case shall the parents or relatives be responsible for the  
10 costs of further care and treatment within a division facility of a men-  
11 tally retarded client [21] 18 years of age or older.  
12 3. Under subsection 1, the client or his estate, when able, may be  
13 required to contribute a reasonable amount toward the costs of care and  
14 treatment. Otherwise, the full costs of such services shall be borne by  
15 the state.

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**S. B. 114****SENATE BILL NO. 114—COMMITTEE ON EDUCATION,  
HEALTH AND WELFARE AND STATE INSTITUTIONS**

JANUARY 21, 1977

Referred to Committee on Education, Health and Welfare and  
State InstitutionsSUMMARY—Revises certain administrative and accounting procedures pertaining  
to the state prison. (BDR 16-195)FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: No.EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.AN ACT relating to the state prison; revising administrative practices and account-  
ing procedures; 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 209.115 is hereby amended to read as follows:  
2 209.115 1. In addition to the salary provided by NRS 209.110, the  
3 warden [shall be] *is* entitled to:  
4 (a) The use of a residence on the grounds of or near the state prison,  
5 which shall be maintained by the state.  
6 (b) Heat, electricity and water for the residence.  
7 (c) [The use of an electric or gas cooking stove, a refrigerator and  
8 an automatic washing machine.  
9 (d)] Meals at the state prison without charge when supervising  
10 personnel or inmates.  
11 [(e)] (d) The services of convicts as household servants.  
12 2. [Any furnishings or appliances in use in the residence of the  
13 warden on July 1, 1960, may be continued in use in the discretion of  
14 the warden, but no replacements of such appliances or furnishings except  
15 the appliances referred to in subsection 1, may be made at state expense.  
16 3.] The warden [shall receive no] *is not entitled to any* perquisites  
17 except those provided for in this section.  
18 SEC. 2. NRS 209.130 is hereby amended to read as follows:  
19 209.130 1. The warden [shall have] *has* the general superin-  
20 tendence of prison discipline and prison labor.  
21 2. He shall:  
22 (a) Appoint, pursuant to chapter 284 of NRS, such officers and  
23 employees as the board determines to be necessary for the operation of  
24 the prison.

Original bill is 6 pages long.  
Contact the Research Library for  
a copy of the complete bill.



STATE OF NEVADA  
DIVISION OF MENTAL HYGIENE  
AND MENTAL RETARDATION

ATTACHMENT #5

4600 KIETZKE LANE, SUITE 108  
RENO, NEVADA 89502  
(702) 784-4071

MIKE O'CALLAGHAN  
Governor

CHARLES R. DICKSON, Ph.D.  
Administrator

MENTAL HYGIENE AND  
MENTAL RETARDATION

JACK MIDDLETON  
Associate Administrator for  
Mental Retardation

January 25, 1977

Senator Jack Schofield, Chairman  
Senate Health, Education, Welfare  
and State Institutions Committee  
Nevada State Legislature  
Legislative Building  
Carson City, Nevada 89701

Dear Senator Schofield:

During last Monday's testimony, additional information was requested regarding Senate Bills 98 and 99.

In regard to Senate Bill 98, which would change the voluntary admission procedures for children 14 years and older, a copy of a memorandum from Shirley Smith, the Deputy Attorney General assigned to the Division of Mental Hygiene and Mental Retardation, is enclosed. This memorandum briefly summarizes the case of Bartley v. Kremmens, which serves as a conceptual background for Senate Bill 98. More specifically, the same memorandum refers to a case heard in the Second Judicial District Court of Nevada regarding a 15 year old boy who was ordered released from the Nevada Mental Health Institute on grounds he was being detained there against his will. It should be noted, this voluntary admission was sought by the boy's guardian. The written judgment of the court has not yet been obtained since the hearing was held on January 14, 1977. As soon as this document is received, a copy will be transmitted to you.

The Division of Mental Hygiene and Mental Retardation, in proposing Senate Bill 98, recognizes the potential negative implications of being institutionalized for mental health problems. It also recognizes the unfortunate fact that in numerous cases a child is picked out by the family as the "scapegoat" for family problems. In these cases, the family, instead of seeking services as a whole, restricts its attention to the child. Unfortunately, the result of this action is often that the child becomes labeled emotionally disturbed, and this label follows the child for the remainder of his life. Senate Bill 98 is an attempt on our part to protect some children from these circumstances.

Questions also arose concerning Senate Bill 99, which empowers the Division of Mental Hygiene and Mental Retardation to accept funds from the Max C. Fleischmann Foundation for purchase of real property on which to build facilities. After consultation with our Deputy Attorney General (see the attached memorandum) and Frank Daykin of the Legislative Legal Division, it was determined that Senate



Senator Jack Schofield

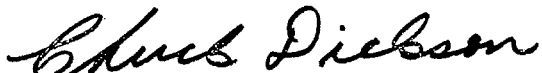
January 25, 1977

Page Two

Bill 99, in conjunction with present law, provides sufficient authority for the Division to accept funds for the purchase of property and to construct facilities. Mr. Daykin indicated that Senate Bill 99 should be seen as supplemental to other existing law which is cited in Deputy Attorney General Smith's memorandum which is attached.

I hope this information is of use to the Committee in its deliberations, and would be happy to provide further information if necessary.

Respectfully submitted,



Charles R. Dickson, Ph.D.  
Administrator  
Division of Mental Hygiene  
and Mental Retardation

CRD:KJS:jq  
enclosures  
cc: Frank Daykin



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
DIVISION OF MENTAL HYGIENE  
AND MENTAL RETARDATION  
4600 KIETZKE LANE, SUITE 108  
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(702) 784-4071

ROBERT LIST  
ATTORNEY GENERAL

SHIRLEY SMITH  
DEPUTY ATTORNEY GENERAL

January 25, 1977

MEMORANDUM

To: Ken Sharigian, Ph.D., Special Administrative Assistant  
Division of Mental Hygiene and Mental Retardation.

From: Shirley Smith, Deputy Attorney General *SK*  
Division of Mental Hygiene and Mental Retardation.

Subject: Senate Bill 99.

NRS 433A.100 authorizes the Division, through its appropriate agents, to accept gifts and bequests to be used for Division mental health facilities:

433A.100 Gifts, bequests to mental health facilities.

1. The administrative officer of each division mental health facility is authorized to accept gifts or bequests of money or property to such facility.

2. A mental health facility gift fund is hereby created for each division facility, and monetary gifts or bequests to the respective facilities shall be deposited in the state treasury to the credit of the appropriate fund. Amounts in the fund shall be paid out on claims as other claims against the state are paid. All claims shall be approved by the administrative officer before they are paid.

3. Gifts or bequests of property, other than money, may be sold or exchanged when it is deemed by the administrative officer and the administrator to be in the best interest of the division mental health facility. The sale price shall be not less than 90 percent of the value determined by a qualified appraiser appointed by the administrative officer. Moneys realized from the sale shall be deposited in the state treasury to the credit of the appropriate mental health facility gift fund and shall be spent for division mental health facility purposes only. Such property shall not be sold or exchanged if to do so would violate the terms of the gift or bequest.

Ken Sharigian, Ph.D.  
January 25, 1977  
Re: Senate Bill 99  
Page Two

NRS 341.121 authorizes the state public works board to utilize grant monies for construction, with the approval of the interim finance committee, where there has been no legislative appropriation.

341.121 Usage of grants. The board may, with the concurrence of the interim finance committee, use grants of money received under authority of this chapter, unless otherwise limited by the conditions of any such grant, for:

1. The design and construction of public buildings or projects for which no appropriation has been made by the legislature.
2. Additional design and construction costs on public buildings or projects, through appropriate contract procedures, for which the original legislative appropriation made no provision.

NRS 341.180, subsection 1, mandates cooperation by the public works board with other state agencies in their planning efforts.

341.180 Cooperation with state agencies, local planning commissions.  
The board shall:

1. Cooperate with other departments and agencies of the state in their planning efforts.

It would appear that the combination of authorities granted by existing statutes and Senate Bill 99 would authorize the Division to accept Fleischmann funds, to purchase real property, and to construct mental health facilities thereon, with the concurrence of the interim finance committee and the public works board.

SS/jq





STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL  
DIVISION OF MENTAL HYGIENE  
AND MENTAL RETARDATION

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ROBERT LIST  
ATTORNEY GENERAL

SHIRLEY SMITH  
DEPUTY ATTORNEY GENERAL

January 25, 1977

MEMORANDUM

To: Ken Sharigian, Ph.D., Special Administrative Assistant  
Division of Mental Hygiene and Mental Retardation.

From: Shirley Smith, Deputy Attorney General  
Division of Mental Hygiene and Mental Retardation. *SS*

Subject: Senate Bill 98.

The proposed amendment to existing statutes, allowing a minor over age 14 to successfully resist his "voluntary" admission by parent, guardian, or spouse, is in conformity with judicial precedents and trends, nationally and within the state.

Bartley v. Kremens, 402 F. Supp. 1039 (E.D. Pa. 1975), successfully challenged the voluntary commitment of persons under age 18 by their parents or guardians against the will of the minor. The United States Supreme Court was scheduled to review the case in the autumn of 1976, the issue on appeal being whether such children have a right to a due process hearing prior to such an admission. Petitioner's argument is founded in part on In re Gault, which provides a due process hearing prior to the institutionalization of juvenile delinquents.

On January 14, 1977, a Writ of Habeas Corpus was granted by the Second Judicial District Court of Nevada, and the release of a 15 year old boy ordered from the Nevada Mental Health Institute on the grounds that he was being detained there against his will on the authority of his guardian. He had been discharged by the Institute from his "voluntary" admission, but remained physically present there because the guardian failed and refused to remove him and make other, more appropriate, arrangements for him. He had been evaluated by the Institute treatment team as not needing intensive, inpatient care, not benefitting from the care available at the Institute, and possibly deteriorating from placement in a program that was staffed and equipped for neuro-psychiatric adult clients.

SS/jq

**S. B. 99**

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SENATE BILL NO. 99—COMMITTEE ON EDUCATION,  
HEALTH AND WELFARE AND STATE INSTITUTIONS

JANUARY 20, 1977

Referred to Committee on Education, Health and Welfare  
and State Institutions

SUMMARY—Authorizes mental hygiene and mental retardation division of department of human resources to apply to Max C. Fleischmann Foundation of Nevada for donation or grant to construct mental health facilities. (BDR S-132)

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

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

AN ACT authorizing the mental hygiene and mental retardation division of the department of human resources to apply to the Max C. Fleischmann Foundation of Nevada for a donation or grant to construct mental health facilities; 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. The mental hygiene and mental retardation division of  
2 the department of human resources is authorized to submit one or more  
3 applications to the Max C. Fleischmann Foundation of Nevada for a  
4 donation or grant to construct mental health facilities. Money received  
5 by the division may be expended to acquire in the name of the State of  
6 Nevada real property upon which to construct the facilities if such use  
7 does not violate the terms and conditions imposed by the donor.  
8 SEC. 2. This act shall become effective upon passage and approval.

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Original bill is on file at  
the Research Library.