

MINUTES

WAYS AND MEANS COMMITTEE

NEVADA STATE LEGISLATURE - 60th SESSION

February 15, 1979

Chairman Mello called the meeting to order at 8:00 a.m.

PRESENT: Chairman Mello, Vice-Chairman Bremner, Mr. Barengo, Mrs. Cavnar, Mr. Glover, Mr. Hickey, Mr. Mann (late: 10:00 a.m.), Mr. Rhoads, Mrs. Wagner, and Mr. Webb.

ABSENT: Mr. Vergiels

ALSO PRESENT: Dr. Ralph DiSibio, Department of Human Resources; Dick Ham, Alcohol and Drug Abuse; Mervyn Flanders, Services to the Blind; Del Frost, State Rehabilitation Division; Maynard Yasmer, State Rehabilitation Division; and Kathleen Olson, Committee on Employment of the Handicapped. (See attached guest list.)

Chairman Mello directed the Committee's attention to the Minutes of February 2, 5, and 6, 1979. Motion to adopt the Minutes by Mr. Rhoads; seconded by Mr. Bremner. Motion carried unanimously.

REHABILITATION ADMINISTRATION DIVISION

Chairman Mello introduced Del Frost, Administrator, State Rehabilitation Division, and Mr. Maynard Yasmer, Fiscal Officer, State Rehabilitation Division.

Mr. Frost stated that the Bureau of Alcohol and Drug Abuse, the Social Security Disability Adjudication Program, Bureau of Services to the Blind, and Bureau of Vocational Rehabilitation come under the direction of the Administrator of the Rehabilitation Division. He went on to say that the Division administers all these programs and provides support services to the programs, consisting of 12 budget accounts, 27 offices throughout the State, and about 225 personnel.

Mr. Frost stated that when the Division was reorganized and all these programs were put together, an increase of \$1 million in Federal appropriation was effected.

Mr. Frost stated that two new positions are requested -- an internal auditor position, and a clerical position. Further, a Facility Specialist position is requested for transfer from the Bureau of Vocational Rehabilitation into the Administrative budget. The reason for this, Mr. Frost stated, is that under the present configuration, the position can only be used in the bureau in which it is funded. If it is transferred, it can be used in all of the budgets, thereby increasing the Federal funds received. The position can also be used in all public and private rehabilitation facilities.

Mr. Frost added that except for the new position requests, the budget reflects only inflationary increases.

Chairman Mello asked if Mr. Frost's position could be placed in the unclassified service. Mr. Frost replied that, although he was not that concerned about being classified, he felt the position should be kept above partisan politics to provide for solid planning and program continuity. He distributed a position paper (Exhibit "A") detailing his objections to the proposal to unclassify his ~~position~~ position.

Mr. Webb asked for an explanation of the increase in the salary of the Facilities Specialist upon its transfer. Mr. Alastuey explained that the figure in the budget indicates the salary range of that position and that the position was vacant in the old budget account but subsequently was filled at a higher step in the new budget account. Mr. Frost added the position was vacant once again.

Chairman Mello asked about the revenue item identified as "Homebound Industries." Mr. Yasmer said this is a non-State funded program and is in financial difficulty. He explained that it was deleted from the budget so as not to create a financial hardship on other programs, should the program be discontinued.

Chairman Mello asked for an explanation of the out-of-state travel item. Mr. Frost responded that this category provides travel monies for the Council of State Administrators of Rehabilitation, and this organization has benefited the State of Nevada in enabling State money to be kept at a minimum. Mr. Frost added that he had been elected as President of the Council and that the recommended money is necessary for him to attend Council meetings.

Chairman Mello then asked about the 30% increase in the in-state travel category. Mr. Frost said that this is the amount the agency feels is needed, considering the costs for travel. Mr. Alastuey added that the increase provided, in part, travel for the Internal Auditor.

Chairman Mello asked what would happen if the travel expenses were cut back to the work program figures. Mr. Frost said that without the funds, he would not be able to properly supervise/and administer the programs in the State.

Mr. Hickey observed that the Internal Auditor was to be a management tool with which Mr. Frost could cut down his need to travel.

Chairman Mello asked what the other governmental services expense had provided in fiscal year 1977-78. Mr. Yasmer said that this provided tax/commission reimbursement for auditor time.

Mr. Barengo asked about the agency request for legal and court expense, and Mr. Frost replied that the request had been for a half-time Deputy Attorney General. Mr. Barengo then asked what kind of counsel is needed, and Mr. Frost replied that counsel is sometimes needed for hearings and appeals.

Mr. Glover asked how it was decided what types of businesses the client should enter. Mr. Frost replied that the agency uses the Small Business Administration who tailors the business to the needs of the client. Mr. Glover then asked Mr. Frost to provide the Committee with a list of how many clients were set up in business and what types of businesses they were.

#### VOCATIONAL REHABILITATION

Mr. Yasmer addressed the one-shot appropriation request for \$10,000 which would provide an increase in the vocational Rehabilitation Revolving Fund from \$10,000 to \$50,000. Mr. Yasmer said the increase is necessary to provide expeditious payments to clients and vendors.

Mr. Frost went on to say that this agency provides services to the handicapped to assist them in returning to productive employment.



Mr. Frost said that the agency is requesting that two clerical positions and two rehabilitation coordinators be transferred from the social services budget in an effort to provide better services to the State prison.

Mrs. Wagner inquired as to what some of the new methods of rehabilitation service delivery are as referenced in the program statement. Mr. Frost responded that the agency intends to experiment with more efficient ways to deliver services to the severely handicapped, to try and cut costs, and find more efficient and innovative ways to provide services and meet needs. He pointed to the establishment of recreational programs for the handicapped as an example.

Mr. Bremner asked for an explanation of the Client Assistance Program. Mr. Frost replied that it is a 100% Federally funded project designed to work with community colleges and the University of Nevada in an effort to help handicapped students get back in the mainstream. Mr. Frost said although the federal government chose this program as a model, it does not have a high priority within the Rehabilitation Division should federal funding cease. Mr. Frost said that the program will be discontinued.

Chairman Mello pointed to the fact the Division had apparently negotiated with the Governor's office on the travel recommendation. He asked if the Division could now negotiate with the committee and further reduce their travel request. Mr. Frost stated that the agency simply could not live below the recommended amounts.

Mr. Glover asked what the match is on Title XVI monies, and Mr. Frost stated that there is none, as it is a formula grant based upon the number of clients who come through the Welfare Division.

#### SOCIAL SERVICES - VOCATIONAL REHABILITATION

Mr. Frost stated that this program is designed to provide services for those Welfare clients who are eligible for purchase of rehabilitation services through this account. Mr. Frost indicated that the number of eligibles has decreased, thereby causing the agency to reexamine the program and cut back the budget.

#### SERVICES TO THE BLIND

Mr. Yasmer addressed the one-shot appropriation request to increase the funds in the revolving account from \$10,000 to \$25,000. The revolving account has two purposes -- payments to clients and vendors and aids and appliances inventory. There has been a program growth of about 12% and an inflation rate of 19.2% from 1976 to 1978. Mr. Bible inquired as to why no appropriation was contained in the bill for the revolving fund as had been the case in the Vocational Rehabilitation revolving fund request. Mr. Frost emphasized that there was no request for additional appropriations, but simply an increase in the revolving fund authority. After conferring with Mr. Alastuey, Mr. Frost corrected himself and said that an appropriation of \$15,000 would indeed be necessary to provide the increase for the revolving fund and that the appropriation should be added to the bill.

Mr. Yasmer explained that the Services to the Blind program provides special support services and programs such as low-vision aid clinics, a diabetic education program, a talking book machine, and a recreation program.



Mr. Yasmer added that one new clerical position is being requested for the Las Vegas office.

Mr. Bremner asked what the purpose of the Diabetic Education program was. Mr. Frost explained the program, which was started with federal monies, provided education to diabetics, such as teaching people to treat themselves, to help them live with their disease. Mr. Bremner observed perhaps that was the function of the physician of the patient.

Mr. Glover asked why there is no requested increase in in-state travel as in other budgets. Mr. Flanders responded that between the Bureau of Social Services and this budget, the agency has been able to reduce costs by having a social service worker and a counselor travel together as much as possible. Mr. Glover asked if this could be done in other budgets, and Mr. Frost said that it could not, as there were not as many out-reach offices or staff that could team up.

Mrs. Wagner asked about the substantial increase in the line item identified as contractual services. Mr. Frost said when the budget was originally prepared, the agency was anticipating purchasing services of specialists through contracts with physicians. However, in the Vocational Rehabilitation budget, request has been made for a full-time physician. By having a full-time physician available, he can serve both Vocational Rehabilitation and Services to the Blind, which, thereby reduces medical services costs. Mr. Frost said that the program still requires some specialists, and the budget as recommended reflects the on-going full-time medical position and the required specialists.

#### SOCIAL SERVICES FOR THE BLIND

Mr. Frost stated that, like the Bureau of Vocational Rehabilitation, Welfare is required by law to provide social services to severely visually impaired persons, and that these services are contracted out to the Rehabilitation Division. Mr. Frost pointed out that the budget increases are primarily inflationary.

Chairman Mello pointed out that contractual services is omitted from the work program, but that there are requests for contractual services in the up-coming biennium. Mr. Frost explained that contract services had previously been shown in the social services costs category; but that it was now requested contract services be shown as a separate line item in the operating category. When asked by Chairman Mello why a corresponding decrease was not noted in the social services costs category, Mr. Frost explained that the request would have been for more money had the item not been moved.

#### BUREAU OF ALCOHOL AND DRUG ABUSE

Mr. Frost explained that this is not a service-delivery agency, but works with community service programs and provides monitoring of these programs. He said that the program provides technical assistance, identifies program needs, identifies clients needs, and writes and develops programs for use by community programs to meet those needs. Mr. Frost stated that the Bureau's primary responsibility is for certification of personnel, accrediting the programs, and licensure of facilities. He said that the Bureau also operates an occupational program which assists public and private enterprise in planning and implementing the programs.

Mr. Frost stated that the funds in this program are 67% Federal and 33% State. The overall budget increase is 8%, and the State funding increase is 9%.



Mrs. Wagner asked if there was a duplication of services with any community based efforts, and Mr. Frost re-emphasized that there is not because this is not a service-delivery agency.

Mr. Bremner asked for an explanation of the Prevention Model at the University. Mr. Dick Ham, Chief, Bureau of Alcohol and Drug Abuse, replied that this is a \$50,000 Federal grant which provides prevention and education at the University of Nevada, Reno. He stated that this is actually a three year grant for \$150,000, which flows through the Bureau to the University. Mr. Bremner asked if the Bureau would ask the State to pick up this program when the Federal money runs out, and Mr. Ham replied that the Bureau would not. Mr. Bremner also asked if this program includes DUI drivers, and Mr. Ham said no.

#### SPECIAL APPROPRIATION - ALCOHOL AND DRUG ABUSE

Mr. Frost distributed a handout (Exhibit "B") which details this appropriation. He stated that the monies appropriated revert to the General Fund, and Mr. Ham said that this appropriation is included in the present request for funds under the Alcoholism and Drug Rehabilitation account.

Mr. Bible pointed out that the balance of the appropriation for 1977-78 carried forward to 1978-79. Chairman Mello inquired as to the legality of this action. Mr. Frost stated that in the past, all one-shot appropriation money has been carried forward, although the Bureau had some concern about being allowed to do so on this appropriation. It was discussed with Mr. Howard Barrett before the money was carried forward, and he assured the Bureau that the past history of the legislature showed that one-shot appropriations were for the biennium and not the fiscal year.

Chairman Mello requested that Mr. Alasteuy get an Attorney General's opinion on the legality of carrying this appropriation forward.

#### INDEPENDENT LIVING

Mr. Frost stated that this is a new program required by the Vocational Rehabilitation Act and provides vocational rehabilitation services to severely disabled to allow them some degree of independent functioning. Mr. Frost said that the agency is requesting a State match of 90% Federal and 10% State funds in the amount of \$50,000. Mr. Frost pointed out that if Congress does not approve the funding, the \$50,000 will revert to the General Fund.

Mr. Bremner asked if this program is required by law, and Mr. Frost said that a section of the new Act requires this program. He added that this program is the heart of the Rehabilitation Act. Mr. Bremner asked that since it's the heart of the program, why wasn't it included in the 1973 Act? Mr. Bremner then asked how long it is guaranteed that the program will be funded 90%:10%, and Mr. Frost said that that is unknown, but it appears to be a strong assurance that Congress will continue the funding since it is the base of the program.

#### HOMEBOUND INDUSTRIES

Mr. Frost stated that this program is designed to give employment opportunities to the elderly blind or severely visually disabled and that the Division would not ask the General Fund to pick up the program should non-state funding not materialize.



Mr. Bremner asked who travels out-of-state on this budget, and Mr. Frost replied that the Business Enterprise Officer in Reno, who is required to attend Federal training, travels from this budget. Mr. Bremner also asked how many positions are in this program and Mr. Frost said that there are four. He said that the four are needed to properly supervise the 50 people serviced by the program in the Reno area. Mr. Bremner asked if there is a Business Enterprise office in Las Vegas. Mr. Frost said that the position has been vacant for one week. Mr. Frost also added the Las Vegas operation has been closed in an effort to keep the Reno project open due to funding reductions.

#### BUREAU OF DISABILITY ADJUDICATION

Mr. Frost explained that this program is operated on 100% Federal funds on a contract basis with the Social Security Administration. He said that the Bureau adjudicates all claims of persons on Social Security for disability benefits. He said that the claims are filed in the Social Security district office, and then are sent to the Bureau for review and adjudication. If the claim is allowed, the Federal government places the person on Social Security disability. Mr. Frost stated that Nevada is the most conservative state in allowing these claims. In 1977, he said that there was 43.3% allowance rate. Mr. Frost said that the reason for this conservatism is that these allowances have a tremendous impact on Title XIX funds received by the State.

Mrs. Wagner asked for an explanation of the procedure if a claim is not allowed. Mr. Frost explained that the person may ask for a reconsideration and the claim is reviewed by the quality assurance officer. He said that it may be reconsidered by the Social Security Administration, and eventually the individual can ask for a hearing.

Mr. Bremner asked about out-of-state travel and out-of-state travel for training. Mr. Frost said that this entire program is a contract program, and the provisions of the contract as dictated by the Social Security Administration must be followed. He said that provisions include who is sent for training and when. He added that most of the training is out-of-state, in San Francisco.

#### BUSINESS ENTERPRISE CONTINGENCY FUND

Mr. Frost explained that this is the Bureau of Services to the Blind vending stand operation account. He said that the vending stands are located in both Federal and State facilities. In 1978, Mr. Frost stated, the agency realized an adjusted gross revenue of \$1,219,397, and a net profit of \$219,872, or 18% gross profit. Out of the profits, the salaries of the vending operators, which averages \$12,934, are paid. Mr. Frost also explained that every stand is charged a surcharge which comes into a set-aside account for the remodeling of old stands and construction of new stands. He pointed out that it is a self-sustaining program.

#### COMMITTEE TO HIRE THE HANDICAPPED

Mr. Frost stated that this program is an ombudsman advocacy program which insures equal opportunities for employment of all handicapped persons.



Mrs. Wagner asked how many persons serve on the committee. Mr. Frost said there are 13, 7 of whom are handicapped. Kathleen Olson, Governor's Committee on Employment of the Handicapped, distributed a handout (Exhibit "C"), and stated that the committee members have to represent different areas of the State as well as different types of handicaps. Mrs. Wagner asked specifically what the Committee had done to promote employment of the handicapped. Ms. Olson explained the Committee meets with new businesses to explain about opportunities for the handicapped, as in the case of the J.C. Penney building. She said a tour of that facility is being planned by the Committee. She added that there are four meetings per year.

The meeting was adjourned at 10:10 a.m.



DATE: 2/15/1979

WAYS AND MEANS COMMITTEE

GUEST LIST

NAME (PLEASE PRINT)

REPRESENTING:

24 horizontal lines for guest names.

24 horizontal lines for representing organizations.



POSITION PAPER  
CLASSIFIED/UNCLASSIFIED SERVICE

Attached are copies of federal regulations with references to requirements that agency personnel engaged in the administration or supervision of the State's Plan for delivery of rehabilitation services be covered by a merit system. Historically, the Rehabilitation Division has operated under Nevada's merit system, since that system has been approved by the U.S. Department of Health, Education, and Welfare as meeting the regulatory requirements.

In response to statements made in the Legislative Counsel's written review of agencies within the Department, I offer the following information.

The Legislative Counsel's opinion regarding classification of state employees falls short of being correct because it does not properly examine the requirements of the federal regulations and of the State Plans, which are contracts between the state and the federal government, as they relate to agency personnel engaged in the administration or supervision of the programs. A careful examination of all of the regulatory requirements will show that the Director of the Department of Human Resources is the executive head of the Department and all of its Divisions--"the single state agency." In 1973, when the Department was reorganized, it was established that the Director's office was the single state agency for all federal programs operated under the Department and under the direction of the federal regulations applying thereto. This move placed all other personnel in the capacity of program managers who are engaged in the "administration or supervision of the program;" thus, requiring that they be under the merit system.

The opinion does not examine the requirements of the law and the constitutionality of the implied contract/concept, as it applies to incumbents of existing positions. When I accepted the position of Administrator of the Rehabilitation Division in 1969, I did so on the basis of the fact that it was a classified position; thereby, affording me all of the protections and benefits of the merit system. In 1973, when the Department was reorganized, I was promoted to my present position, again in the classified service.

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During the 1977 Legislature, the question of whether Division Administrators should be declassified was raised. At that time, an Attorney General's opinion dated March 16, 1977, and prepared by Patrick D. Dolan, Deputy Attorney General, advised that ". . . an individual who has occupied a position which was classified at the time that the individual took office and has thereafter attained permanent status cannot be divested of such vested interest by the Legislature's determination to reallocate the position from the classified to the unclassified service of the state of Nevada," (copy attached). This same opinion applies to the other positions within the Rehabilitation Division as described in the Legislative Counsel's opinion.

Both the Legislative Counsel's and Mr. Patrick Dolan's opinions have been reviewed by Mr. Michael Melner, Chief Deputy Attorney General, Department of Human Resources, and he has advised me that his informal opinion is that Deputy Attorney General Dolan's position of March 16, 1977, stands.

Aside from legal arguments, there are serious programmatic implications which would result from declassifying the personnel charged with the day-to-day administration and supervision of human service programs. One of the strongest arguments against unclassified service for division administrators and bureau program managers is continuity of quality services to people. Classified administrators must remain non-political--their first responsibility is to keep their programs above partisan politics. Unclassified service would encourage them to curry favor with political candidates and it would encourage exploitation of the political spoils system.

Declassifying the personnel charged with the administration and supervision of the program would make it possible for a new Governor to replace every program manager within a human service delivery division. There would be no guarantee of minimum standards or qualifications for personnel and little continuity in the long-range planning for service delivery. Continuity is the most important aspect of human service delivery, because it is through long-range planning that the most efficient delivery of services may be achieved.

The changes of the type discussed herein are usually justified on the basis of need to improve the way that agency programs are operated. During the course of the past ten years, the Rehabilitation Division has achieved the highest recognition possible on both the state and national levels. We have reduced the average cost per



case rehabilitated from over \$1,800 to a little over \$1,000. We raised our performance from being 48th in the nation to number 2 in the nation for increasing services to people and have stayed in the top ten for efficiency on costs per case served and performance relative to the amount of federal money received. We have received the HEW Commissioner's Award for Outstanding Service to Handicapped People--presented to Governor Mike O'Callaghan in 1977. We have been extremely aggressive in pursuing and acquiring increases in federal funds; thus, reducing the allocation of state funds to the program. The personal ability of our program managers has been recognized by our peers through the election of four out of six of our program managers to the positions of regional representative on national executive committees or presidents of national organizations. It has allowed us to aggressively pursue acquisition of funds and changes in policy which have benefited Nevada.

For programs such as vocational rehabilitation of severely handicapped, rehabilitation of the blind, adjudication of social security disability claims, and rehabilitation and prevention of alcohol and drug abuse, the minimum requirement for personnel is a high level of academic training and experience. In the rehabilitation programs, the minimum requirement is a Masters Degree in rehabilitation counseling. As a result, a high degree of programmatic expertise is required for those who administer and supervise the personnel and programs.

We are required by law to file a state plan with the federal government. The Plan describes the manner in which we will carry out the federal requirements for the administration and operation of the programs. The plan is a contract and failure to comply with all of the provisions of the contract may result in the withdrawal of federal funds. The Nevada State Plan requires that the personnel shall be under the merit system.

The above described issue has been periodically discussed during legislative sessions since 1966. On each occasion, it has been reaffirmed that so long as the Director of the Department, who is the executive head, is in the unclassified service and is the head of the "single state agency," the provisions of state and federal law will be met.

Change solely for the sake of change, is never good. There is no sound justification for subjecting those responsible for the administration and supervision of human service delivery programs to the political pressures which will ensue should the positions recommended in the Legislative Counsel's opinion be unclassified. In fact, it will serve to be the single, most devastating blow which may be delivered to the effective delivery of services to people.

EXHIBIT A



include information relating to the needs and current and projected resources of substate, regional, county, and other local areas. To ensure such inclusion the State plan must incorporate by reference procedures under which the State agency will, as a part of the State planning process:

- (1) Solicit such information from elected officials of local units of government (e.g., county and metropolitan and organizations and individuals engaged in the provision of direct primary "drug" abuse prevention, treatment, and rehabilitation services; and
- (2) Take such information into account in the preparation of the survey of need and resource allocation plan, particularly with respect to the planning of programs to meet the need for services in the respective substate, regional, county, and other local areas.

**§ 54b.112 State plan monitoring and reporting of program performance.**

(a) Assurance. The State plan shall contain an assurance that the State agency has established policies and procedures to ensure that treatment or rehabilitation projects or programs supported by funds from the State's allotment will provide to the State agency a proposed performance standard or standards to measure or research protocol to determine the effectiveness of such treatment or rehabilitation programs or projects.

(b) Review, monitoring, of performance. The State plan shall incorporate by reference the policies and procedures established pursuant to the assurance required under paragraph (a) of this section and policies and procedures under which the State agency will:

- (1) From time to time but not less often than annually, review its State plan and submit modifications thereof to the Secretary as required by § 48b.108
- (b) Constantly monitor and review

the performance of all programs and activities receiving support from the State's allotment in order to assure that adequate progress is being made towards achieving the goals of such programs and activities; and

- (3) Submit, not later than 90 days after the end of each fiscal year, the Secretary may approve a request for an extension of such time data if he determines that the request is justified; a performance report which shall analyze and evaluate the effectiveness of the prevention and treatment programs and activities carried out under the plan. Copies of the performance report shall be furnished to the agency or agencies having direct responsibility for enforcing the State standards for maintenance and operation of prevention, treatment, and rehabilitation facilities and programs.

(c) Contents of performance report. The performance report shall contain the following information with respect to each program, function or activity carried out under the State plan:

- (1) A comparison of actual accomplishments to the goals established for the

fiscal year. Where the output of a particular activity or program can be readily quantified, such quantitative data should be related to cost data for computation of unit costs;

- (2) Reasons for failure to attain established goals; and
- (3) Such other pertinent information as the Secretary may prescribe including, when appropriate, an analysis and explanation of cost overruns or high unit costs.

(d) Interim reporting. States shall promptly inform the Secretary in writing of events occurring between the scheduled performance reporting dates which have significant impact upon the program or activity supported with funds from the State allotment. The following types of conditions are subject to this prompt reporting requirement:

- (1) Problems, delays, or adverse conditions which will materially affect the ability to attain the objectives of the programs and activities receiving support from the State's allotment. This disclosure shall be accompanied by a statement of the action taken or contemplated, and any additional Federal assistance needed to resolve the situation; and
- (2) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

(e) Site visits by the Secretary. Site visits will be made by representatives of the Secretary as frequently as practicable to:

- (1) Review program accomplishments and management control systems; and
- (2) Provide such technical assistance as may be required.

**§ 54b.113 State plan personnel administration.**

(a) Merit system personnel. The State plan shall provide for the establishment and maintenance of personnel standards on a merit basis for persons employed by the State agency in the administration or supervision of the administration of the State plan. Conformity with Standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Health, Education, and Welfare, including any amendments thereto, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 (Public Law 91-448 24 Stat. 1981) modifying or superseding such standards, will be deemed to meet this requirement as determined by the Commission. Laws, rules, regulations, and policy statements and amendments thereto, effectuating such methods of personnel administration shall be incorporated by reference in the State plan.

(b) Equal employment opportunity. Equal employment opportunity will be assured in the State merit system and affirmative action provided in its administration. Discrimination against any person in recruitment, examination, appointment, training, promotion, reten-

tion, discipline or any other aspect of personnel administration because of political or religious opinions or affiliations or because of race, national origin, or other nonmerit factors will be prohibited. Discrimination on the basis of age or sex or physical disability will be prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration. The State merit system must include procedures for appeals in cases of alleged discrimination to an impartial body whose determination shall be binding upon a finding of discrimination. The State must develop an affirmative action plan to assure such equal employment opportunity which shall be subject to inspection, comment, and approval by the Secretary. Such plan shall contain such information and be completed on such date as the Secretary may prescribe.

(b) Other personnel. The State plan must incorporate by reference professional standards to be followed in hiring individuals (other than employees under a governmental merit system) to carry out activities related to the implementation of the State plan. Such standards shall include schedules or other bases upon which the salaries of such personnel are determined and paid which shall be in accord with the usual and customary practices in the State.

(c) Nondiscrimination on the basis of prior drug abuse. The State plan shall contain an assurance that the State will establish policies and procedures to assure that no qualified applicant for a position supported in whole or in part from funds made available from the State's allotment will be denied employment solely on the basis of having or not having a prior history of drug abuse.

**§ 54b.114 State plan financial management systems.**

The State plan shall incorporate by reference documents which provide for the establishment of a State financial management system and which describe policies and procedures under which subgrantees (public and nonprofit private agencies, institutions, and organizations receiving funds from the State's allotment) will be required to establish financial management systems. The State and subgrantee financial management systems must meet the standards set forth in Subpart H of 45 CFR Part 74.

**§ 54b.115 Confidentiality of drug abuse patient records.**

Attention is called to the provisions of section 408 of the Act (21 U.S.C. 1175) which provides that records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be confidential and may be disclosed only for the purposes and under the circumstances expressly authorized under section 408. Violations of section 408 of the Act are



State Nevada  
 General or combined agency Rehab/ SVR  
 Blind agency Rehabilitation/ BSTB  
 Citations  
 Rehabilitation Act as amended or as stated 45 CFR

3.5 Statewideness

- (a)  The State plan is in operation in all political subdivisions of the State.
- (b)  One or more waivers of statewideness are in effect under this plan, for carrying out State Agency VR activities in one or more political subdivisions through local financing. Each waiver conforms with 45 CFR 1361.12. Attachment 3.5A provides a brief description, including scope and focus of all cooperative agreements and third party arrangements.
- (c)  The Commissioner has approved a request under 45 CFR 1361.11 for a special joint project or program involving shared funding and administration as shown in Section 9.10.

Sec. 101(a)(4)

Secs. 1361.2(a)  
 1361.11, 1361.12,  
 1361.81  
 1361.82

Section 4. Personnel Administration

Sec. 101(a)(7)

Sec. 1361.15

4.1 Type of personnel system

- a federally approved State merit system in conformity with the Standards for a Merit System of Personnel Administration (45 CFR Part 70) and any standards prescribed by the U.S. Civil Service Commission pursuant to Section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Attachment 4.1A describes the responsibility for appointment of personnel.

Effective Date October 1, 1977

EXHIBIT A

State NevadaGeneral or combined agency Rehab/ BVRBlind agency Rehabilitation/ SSTBCitationsRehabilitation Act as  
amended or as stated45 CFR

a personnel system other than a federally approved State merit system. Attachment 4.1B describes this system, including the information and policy assurances required by 45 CFR 1361.15(a).

4.2 Affirmative action plan for equal employment opportunity

The State agency will develop and implement an affirmative action plan for equal employment opportunity for all aspects of personnel administration as required under 45 CFR 70.4 and 45 CFR 1361.15(a) and (b).

- (1) Attachment 4.2A is a copy of the basic affirmative action plan for assuring equal employment opportunity for members of minority groups on the basis of race, color, and national origin, older persons, and women. As a minimum, the basic affirmative action plan must cover (a) specific action steps; (b) general time tables; and (c) complaint and enforcement procedures, necessary to assure such affirmative action.
- (2) Attachment 4.2B describes (a) targets and (b) planned activities for the coming fiscal year under the State agency's affirmative action plan for equal employment opportunity. It also reflects (c) number and proportion of staff estimated as of June 30, 1977 with respect to minority groups, women, older persons, and handicapped; (d) achievements during fiscal year 1977; and (3) problems encountered in carrying out the affirmative action plan.

Title VII, Civil Rights Act of 1964, as amended; Sec. 101(a)(7)

29 CFR Chapter XIV, Parts 1600 - 1610.45; CFR 70.4, and Sec. 1361.15(a) & (b)

Age Discrimination in Employment Act of 1967, as amended

Effective Date: October 1, 1977

EXHIBIT A



ATTACHMENT 4.1A

The personnel administration of the Division is conducted in accordance with the standards, rules and regulations of the State Personnel Division, established by the Personnel Act of 1953. This State personnel system has been approved by the U.S. Department of Health, Education, and Welfare.

Policies Relating to Employment of Qualified Personnel

(a) Selection and Appointment

The State Agency advises the State Division of Personnel and its intention to establish new positions and of the existence of vacancies to be filled. The State Division of Personnel submits to the Agency a list of the highest five eligibles appropriate for the grade and class. The Administrator or his designee interviews the applicants. The final appointment is subject to the approval of the Administrator.

(b) Promotion of employees is governed by the rules and regulations of the State Personnel system.

EXHIBIT A 487

(c) Tenure. The employee after the probationary period has been served can be dismissed only for cause and with right to hearing as provided for in the State Personnel system.

(d) The agency follows practices set forth by the State precluding discrimination on the basis of sex, race, creed, color, or national origin. (NRS 233.010)



**DRUG ABUSE OFFICE AND TREATMENT ACT OF 1972**

*For Legislative History of Act, see p. 2045*

**PUBLIC LAW 92-255; 86 STAT. 65**

(S. 2037)

An Act to establish a Special Action Office for Drug Abuse Prevention and to concentrate the resources of the Nation against the problem of drug abuse.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

§ 1. Short title.

This Act may be cited as the "Drug Abuse Office and Treatment Act of 1972".

**TITLE I—FINDINGS AND DECLARATION OF POLICY;  
DEFINITIONS; TERMINATION**

Sec.

- 101. Congressional findings.
- 102. Declaration of national policy.
- 103. Definitions.
- 104. Termination.

§ 101. Congressional findings.

The Congress makes the following findings:

- (1) Drug abuse is rapidly increasing in the United States and now afflicts urban, suburban, and rural areas of the Nation.
- (2) Drug abuse seriously impairs individual, as well as societal, health and well-being.
- (3) Drug abuse, especially heroin addiction, substantially contributes to crime.
- (4) The adverse impact of drug abuse inflicts increasing pain and hardship on individuals, families, and communities and undermines our institutions.
- (5) Too little is known about drug abuse, especially the causes, and ways to treat and prevent drug abuse.
- (6) The success of Federal drug abuse programs and activities requires a recognition that education, treatment, rehabilitation, research, training, and law enforcement efforts are inter-related.
- (7) The effectiveness of efforts by State and local governments and by the Federal Government to control and treat drug abuse in the United States has been hampered by a lack of coordination among the States, between States and localities, among the Federal Government, States and localities, and throughout the Federal establishment.
- (8) Control of drug abuse requires the development of a comprehensive, coordinated long-term Federal strategy that encompasses both effective law enforcement against illegal drug traffic and effective health programs to rehabilitate victims of drug abuse.

(d) No grant may be made under subsection (b) (1) of this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, including assurances satisfactory to the Secretary that the grant will be used by the State for the preparation of a State plan which will meet the requirements of subsection (c), as the Secretary shall by regulation prescribe.

(e) Any State desiring to receive a grant under subsection (b) (2) or (b) (3) of this section shall submit to the Secretary a State plan for planning, establishing, conducting, and coordinating projects for the development of more effective drug abuse prevention functions in the State and for evaluating the conduct of such functions in the State. Each State plan shall—

(1) designate or establish a single State agency as the sole agency for the preparation and administration of the plan, or for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated or established in accordance with paragraph (1) will have authority to prepare and administer, or supervise the preparation and administration of, such plan in conformity with this subsection;

(3) provide for the designation of a State advisory council which shall include representatives of nongovernmental organizations or groups, and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from different geographical areas of the State, and which shall consult with the State agency in carrying out the plan;

(4) describe the drug abuse prevention functions to be carried out under the plan with assistance under this section;

(5) set forth, in accordance with criteria established by the Secretary, a detailed survey of the local and State needs for the prevention and treatment of drug abuse and drug dependence, including a survey of the health facilities needed to provide services for drug abuse and drug dependence, and a plan for the development and distribution of such facilities and programs throughout the State;

(6) provide for coordination of existing and planned treatment and rehabilitation programs and activities, particularly in urban centers;

(7) provide a scheme and methods of administration which will supplement, broaden, and complement State health plans developed under section 314(d) (2) of the Public Health Service Act;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selec-



tion, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

(9) provide that the State agency will make such reports, in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(10) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary an analysis and evaluation of the effectiveness of the prevention and treatment programs and activities carried out under the plan, and any modifications in the plan which it considers necessary;

(11) provide reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this section, and will in no event supplant such State, local, and other non-Federal funds; and

(12) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions of this section.

(f) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (e) of this section.

(g) From the allotment of a State, the Secretary shall make grants to that State in accordance with this section. Payments under such grants may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

§ 410. Special project grants and contracts.

(a) The Secretary shall

(1) make grants to public and private nonprofit agencies, organizations, or institutions and enter into contracts with public and private agencies, organizations, institutions, and individuals to provide training seminars, educational programs, and technical assistance for the development of drug abuse prevention, treatment, and rehabilitation programs for employees in the private and public sectors;

(2) make grants to public and private nonprofit agencies, organizations, or institutions and enter into contracts with public and private agencies, organizations, and institutions, to provide directly or through contractual arrangements for vocational rehabilitation counseling, education, and services for the benefit of persons in treatment programs and to encourage efforts by

Part IV	Fiscal and Administrative Management	425-425.2
420-429	Necessary State Agency Expenses	R-6/30/61

425. Personal Services

425.1 Selection of Personnel--General. Personnel employed for or assigned to duties, the cost of which may appropriately be charged to the OASI Trust Fund under the agreement, must meet the qualification requirements of and be appointed and paid in accordance with the personnel standards contained in the approved State plan of its regular program; the provisions of the State civil service or other merit system of personnel administration in effect for the designated State agency; or the "Standard for a Merit System of Personnel Administration" issued by the Department of Health, Education, and Welfare.

The costs of all personal services required to carry out effectively a State agency's responsibility under an agreement are proper charges to the Trust Fund, subject to section "C--Personnel" of the agreement. Direct personal service costs are such as will be direct charges to the advance from the Trust Fund, whether full or part time. Indirect personal service costs will consist of all personal service charges (except for the medical consultant) that are to be determined by prorating.

425.2 Composition of Necessary Staff. The disability staff will consist of the necessary professional, stenographic and clerical personnel, including a full-time disability supervisor and intermediate supervisors where necessary. In smaller agencies the supervisor would be expected to engage also in the technical job of making determinations.

EX HIBIT A



RECEIVED  
JAN 10 1977  
ADMINISTRATIVE - CENTRAL OFFICE  
NEV. DA STATE WELFARE DIVISION

MEMORANDUM

TO: William A. Bible  
Deputy Budget Director

FROM: Patrick D. Dolan  
Deputy Attorney General

DATE: March 16, 1977

SUBJECT: Legal ramifications attendant reclassification of incumbents from the classified to unclassified service.

Pursuant to your request, I have researched the due process ramifications should the Legislature determine that various positions within the State system should be moved from the classified service to the unclassified service.

The general rule is stated in 67 C.J.S., Officers, Section 62(D) at 263:

"The Civil Service law emphasizes a broad public policy to secure efficient service in the various departments of the government, and therefore the widest range should be given to its applicability, although it will not be extended beyond its obvious meaning. Some provisions protect only employees within the classified service, and whether a particular employment is within such service depends on the statutes under which the employee was appointed and not on changes in the statutes after the appointment\*\*\*"

Thus, the general rule is that it is the status of the position when the incumbent occupied the position that determines the substantive and procedural due process guarantees that individual possesses, and not later changes in the status of the position.

EX HIBIT A

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This general rule, as followed by the majority of American jurisdictions, was the subject of a formal opinion by the Attorney General, AGO-221(6-1-61). In analyzing the legal effect of Chapter 375, 1961 Statutes of Nevada, which created the merit system of personnel administration currently embodied in NRS Chapter 284, it was held as follows:

"Chapter 375, 1961 Statutes of Nevada can be sustained to be valid, only if construed to have prospective effect. It may not be applied with retroactive effect to divest and to deprive the incumbent director of the State Welfare Department of the status and right to tenure possessed by her equally and to the same extent as all other State employees in the classified service, under applicable provisions of the Personnel Act. Any such retrospective application would be violative of 'due process' requirements under both United States and Nevada constitutions.

"It is, therefore our considerate opinion that Chapter 375, 1961 Statutes of Nevada, does not automatically and legally create any vacancy in the position of Director of the State Welfare Department, nor is said act effective, in any matter whatsoever, legally to 'impair' and 'diminish' such status and rights which the incumbent in said position possessed as a State employee in the classified service under the Personnel Act. Her [subsequent] separation or dismissal from the position of Director of the State Welfare Division may only be affected as provided in the Personnel Acts and other applicable law.

Thus, it has been and is the opinion of the Attorney General that an individual who has occupied a position which was classified at the time that the individual took office and has thereafter attained permanent status cannot be divested of such vested interest by the Legislature's determination to reallocate the position from the classified to the unclassified service of the State of Nevada.

PDD:ljg

EXHIBIT A

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state

of nevada

RECEIVED  
Rehabilitation Division

JAN 17 1979 DEPARTMENT OF HUMAN RESOURCES

WELFARE DIVISION

Kinhead Bldg. 281 JESSIE NELL DRIVE, CAPITOL COMPLEX, CARSON CITY, NV 89710  
Carson City, Nevada 89710

January 16, 1979

RECEIVED  
JAN 16 1979  
ADMINISTRATOR - GENERAL OFFICE  
NEVADA STATE WELFARE DIVISION

MEMORANDUM

TO: George Miller, Administrator  
Welfare Division

FROM: Michael J. Melner *MLM*  
Supervising Deputy Attorney General

I have had an opportunity to review the opinion written by Deputy Attorney General Pat Dolan on March 16, 1977 regarding the legal ramifications of changing incumbents from classified to unclassified service. As we have already discussed, it is my opinion that there has been no major change in the law which would effect the validity of Mr. Dolan's opinion. I believe it is a clear statement of legal rights and might add that those rights are probably also protected by the 1970 amendment to the Nevada Constitution (Article 15, Section 15).

MLM:sc

EX HIBIT A  
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REPORT ON NEVADA STATE LEGISLATURE  
ON  
AB 334 SPECIAL APPROPRIATION  
1977 LEGISLATIVE SESSION

EXHIBIT B

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ALLOCATIONS FROM FY 78 LEGISLATIVE APPROPRIATION  
REPORT TO NEVADA STATE LEGISLATURE 60TH SESSION

<u>GRANTEE</u>	<u>ALLOCATION</u>	<u>DESCRIPTION OF PROJECT</u>	<u>TARGET POPULATION SERVED</u>	<u>SERVICES PROVIDED</u>
<u>Washoe County</u>				
Omega House	\$ 26,938	Provides funding to increase number of juveniles served by the Omega Youth Daycare Center	51 juvenile clients	Continuing academic education, individual and family counseling/education, probation support services, skills and career development
NASAC	3,500	Provides audio/visual prevention/education services in Washoe County	4,000 participants (estimate)	Community, school, and media workshops and seminars in substance abuse education
A.R.A. - Original only allotted due to closure.	37,230 11,538	Project was designed to provide additional outpatient, residential and detox services to adults in Washoe County	139 clients served (estimate)	Adult outpatient, residential and detoxification services and treatment
<u>Rural Nevada</u>				
Elko Council	22,099	Provides Criminal Justice Interface in Elko County and Nevada Youth Training Center	50 criminal justice system clients	Combines treatment of substance abuse problems with specialized rehabilitation and services for juvenile and adult public offenders with substance abuse caused disfunctions
<u>Clark County</u>				
No. LV Community Alcoholism Prog.	36,358	Provides funding for a community alcoholism services center in No. Las Vegas	396 clients and family members	Information, referral and/or direct counseling services to substance abusers, their families and the immediate community
Alcohol Program of So. Nevada	36,358	Provides centralization of detoxification entry services to CPC clients	105 Las Vegas Metro referrals	Provides Las Vegas Metro Police with central entry and referral of all appropriate CPC cases
TOTAL MONIES ALLOCATED FY 78 - <u>\$120,362</u>				

EX HIBIT B

PROPOSED ALLOCATIONS OF LEGISLATIVE APPROPRIATION FY 79

<u>NEW PROJECTS GRANTEE</u>	<u>ALLOCATION</u>	<u>PROJECT DESCRIPTION</u>	<u># OF PERSONS EXPECTED TO BENEFIT FROM PROJECT</u>	<u>SERVICES PROVIDED</u>
<u>Washoe County</u>				
Pyramid Lake Paiute Tribe	25,000	Provides substance abuse counseling and vocational adjustment programming to Reservation residents of Pyramid Lake	150 clients	Substance abuse outpatient counseling and education combined with a work incentive program and living skills development
Centro De Informacion Latino Americano	25,000	Provides bilingual substance abuse services in Washoe County	300 clients and family members	Community awareness/education presentations, direct outpatient counseling, information and referral to the Spanish speaking population of Washoe County
<u>Rural Counties</u>				
Carson Regional Council	7,200	Provides audio/visual treatment and training services	320 participants in 1st year of project	Video equipment, tapes and attendant materials to be used for staff training and in individual and group therapy adjunctive to other treatment modalities i.e., job skills and seeking, personal development
Elko and Tonopah Councils	14,000	Provides required match to Federal funding for Community Service Alternative Program	360 court ordered referrals	Provides residential and outpatient treatment and rehabilitative services in combination with court ordered restitution by community service to public offenders whose crime is related to substance abuse.
<u>Clark County</u>				
Operation Bridge	32,077	Provides statewide toll free hot line	24,000	24 hour toll free number for information and referral relevant to substance abuse inquiries and/or problems

B LIB H X E

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PROPOSED ALLOCATIONS OF LEGISLATIVE APPROPRIATION FY 79

<u>NEW PROJECTS GRANTEE</u>	<u>ALLOCATION</u>	<u>PROJECT DESCRIPTION</u>	<u># OF PERSONS EXPECTED TO BENEFIT FROM PROJECT</u>	<u>SERVICES PROVIDED</u>
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Allotments for Continuation Programming

Provision has been made to continue the following programs  
as described in FY 78 allocation report.

Omega Youth       26,904

Elko Criminal    29,564  
Justice

North Las Vegas 19,893  
Community Alco-  
hol Program

PROPOSED TOTAL OF ALL ALLOCATIONS FY 79 - \$179,638

TOTAL BIENNIUM - \$300,000

LIBRARY  
20

GOVERNOR'S COMMITTEE ON EMPLOYMENT OF  
THE HANDICAPPED

GOALS AND OBJECTIVES

The primary objective of the Governor's Committee on Employment of the Handicapped is to insure that the handicapped citizens of the State of Nevada have equal opportunity in competing for employment and in achieving a mobile, independent and more satisfying life.

The Committee serves as clearinghouse for the disabled, as an advocate for their rights, and works with other agencies toward those goals.

The Committee is responsible for contacting Nevada businesses, industries, and labor representatives and initiating programs for creating equal opportunity in employment.

The Committee identifies services needed by the handicapped, and promotes programs which will provide those services.

Removal of architectural, attitudinal and transportation barriers is a high priority of the Committee in that a barrier-free environment facilitates employment of the handicapped.

LOCAL COMMITTEES

Local committees have been organized in Ely, Elko, Fallon; Reno, Carson City, Lake Tahoe and Las Vegas. The committees are free-standing and are organized to meet the unique needs of the area. The State Committee is there to assist them, when requested.

SEMINARS

Seminars have been held under the sponsorship of the Governor's Committee in the areas of compliance with federal laws (Section 503 and 504 of the Rehabilitation Act of 1973) and in barrier-free design. 190 people attended the Barrier-Free Design Workshop and 100 attended the 504 Conference.

PUBLICATIONS

The Nevada Informer, a quarterly newspaper, apprises the disabled of their rights and serves as a communicative link with the state and nation. (2,500 subscribers)

Access Reno and Access Las Vegas, booklets for the wheelchair traveler, give local community information on hotels, restaurants, etc. as to accessibility.

Rights Handbook for the Handicapped, gives concise information in simple terms on the rights of handicapped Nevadans.

Legislative Review, a review of legislative matters with emphasis on laws concerning handicapped Nevadans.



GOVERNOR'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

TECHNICAL ASSISTANCE

The Executive Director and staff of the Governor's Committee were invited to visit the following entities, agencies or private businesses to offer technical assistance with architectural barriers, job engineering and placement or job discrimination under Sections 503 and 504 of the Rehabilitation Act of 1973:

Cities - 7	Convalescent Hospitals - 15	Disabled Vets
State Agencies - 10	School Districts - 10	Architects and
Malls - 4	Police Departments - 4	Engineers Soc.
Corporations - 125	Banks - 5	Reno Coliseum
Casinos - 10	State Principals Assoc.	Henderson Library
Federal Civil Service Comm.	Las Vegas Airport	Washoe and Clark
Reno Civil Service Comm.	Washoe Assoc. Retarded Citizens	County Commissioners
Reno Transit Authority	Washoe Council of Gov'ts	

SELF-EVALUATION PLAN TECHNICAL ASSISTANCE

The Governor's Committee serves as state specialist on compliance with Section 503 and 504 of the Rehabilitation Act and has been invited to visit the following sites to assist in the writing of plans:

Colleges and Universities - 4	Division of Aging Services
State Personnel Division	Welfare Division
Banks - 4	Fallon School District
City Governments - 3	Carson City School District
Counties - 2	

AWARENESS DAYS AND PROGRAMS

The following local committees have had Awareness Days, i.e., sharing the experiences of the handicapped, in their own communities. A total of approximately 2,000 people were on hand at these events. Extensive news coverage was given to these events. The towns were:

Fallon	Yerington	Winnemucca	Las Vegas	Reno
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In addition, other events brought much awareness to the disabled in Nevada;

Las Vegas Job Fair - 15 disabled people were hired as a result of the Fair.  
Handicapped Ski Day - brought awareness of recreation needs of the disabled.  
Rollathon - gained extensive awareness and publicity by wheelchair trip from Carson City to Reno  
Handicapped Fair - brought together all associations and consumers interested in the handicapped population of Nevada  
Miss Wheelchair Pageant - gives disabled women a chance to be judged by their merits and accomplishments and participate in the national Pageant.  
Ability Counts Contests - Report writing and posters bring the message of disabled awareness to students.  
Annual Awards Dinner - names handicapped employees of the year and honors them with plaques. Last year, 190 people attended.

EXHIBIT C -