

Committee in Session at 8:41 am on Tuesday, May 8, 1979.

Senator Keith Ashworth in the Chair.

PRESENT: Chairman Keith Ashworth
Vice-Chairman Joe Neal
Senator Clifton Young
Senator Wilbur Faiss
Senator Jim Kosinski

ABSENT: Senator Rick Blakemore

GUESTS: Assemblyman Mike Malone, Clark County Assembly
District No. 4
Ms. Joyce Woodhouse, Nevada State Education Association
Mr. John Ciardella, Chief, Motor Vehicle Registration
Division, Department of Motor Vehicles
Mr. Michael A. de la Torre, Department of Law Enforcement
Assistance
Mr. Ted Sanders, Superintendent of Public Instruction,
Department of Education
Mr. Frank South, Director of Special Education, Department
of Education
Mr. Frank Daykin, Legal Counsel, Legislative Counsel
Bureau
Mr. Larry Ketzenberger, Las Vegas Metropolitan Police
Department
Mr. Daryl E. Capurro, Executive Director, Nevada
Franchised Auto Dealers Association
Ms. Susan Haase, Nevada Association of Retarded
Citizens
Mr. Robert Petroni, Clark County School District
Mr. Robert McQueen, President, Washoe County School
Board
Mr. Robert Cox, Washoe County School Board
Ms. Helen Cannon, Clark County Board of School Trustees
Dr. Claude Perkins, Superintendent, Clark County
School District
Ms. Elizabeth Lenz, Vice President, Washoe County
School Board

Chairman Ashworth opened the hearing on A.B. 90.

Assemblyman Mike Malone, Assembly District No. 4, Clark County, stated that A.B. 90 was the result of the interim study committee on pupil achievement. He stated that the bill addresses a problem with the truancy laws. He said presently a child enrolled in the first grade at 6 years old is not covered by a mandatory requirement for them to continue their schooling if they do not so desire; only if they are 7 years old. He said the bill extends the public school requirements in that regard. He introduced Ms. Joyce Woodhouse who had requested A.B. 90.

Ms. Woodhouse, Nevada State Education Association, spoke in support of A.B. 90 and presented Exhibit "A" to the committee.

Senator Kosinski questioned the origination of Section 1. Ms. Woodhouse stated that this was an amendment added in the Assembly Education Committee and was accepted on the floor of the Assembly. Senator Kosinski questioned how this relates to the problem of truancy. Ms. Woodhouse stated that it does not; it was an additional problem that came up during committee hearings and they wished to address it in A.B. 90. Senator Kosinski questioned if school districts have policy governing this area. Ms. Woodhouse responded that school districts do have policies on retention. Chairman Ashworth questioned why it was needed in the law. Ms. Woodhouse stated that she did not have a response because she had no position on the amendment; her concern was the truancy matter.

Senator Faiss questioned the number of students this bill would affect. Ms. Woodhouse stated that it has been her experience that one out of thirty students per school year would be affected.

Senator Neal stated that the bill is directed to the child yet the problem appears to be with the parent; he questioned how this bill would correct the problem. Ms. Woodhouse stated that the problem is corrected in an indirect manner.

Senator Young stated that he could see the desirability for Section 1 but questioned the verbage as it may have legal ramifications. Senator Neal questioned the language on Page 2, Lines 17 and 18, as to arresting a child. Chairman Ashworth suggested replacing the word "arresting" with "truant" before the word "officer." Mr. Malone felt that would be a good amendment.

Senator Neal questioned what a child is missing at 6 years old that they will not miss at 7 years. Ms. Woodhouse stated that the child at issue is also the child whose parents will not let a teacher retain the child so he/she gets further behind in their work.

Chairman Ashworth questioned if Ms. Woodhouse agreed with replacing the words "arresting" and "arrested" in Lines 17 and 18 with the word "truant." Ms. Woodhouse said that she had no problem with the proposed amendment and expressed her support of the concept of A.B. 90. Ms. Woodhouse suggested eliminating the words. Chairman Ashworth suggested substituting the word "arresting" with the word "peace" and eliminating the word "arrested." Senator Young expressed concern at changing the law without good reason and wished to leave it as it is. The committee concurred.

There being no further testimony, the hearings were closed on A.B. 90.

Chairman Ashworth opened the hearing on A.B. 281.

Mr. John Ciardella, Chief, Motor Vehicle Registration Division, Department of Motor Vehicles, stated that A.B. 281 deals with certain provisions of the emission control sections of the law. He said that A.B. 281 does not provide for any expansion or any

advancement of the emission control program; it only provides that the Department establish the necessary diagnostic equipment to perform the required inspection. He stated that Page 2 solidifies the certificate of compliance issuance and control for the Department. He said the certificate would have to be issued at the time the actual inspection was made; also, it requires that the inspector follow the six step procedure adopted by the Division of Environmental Protection for the inspection of a car. Finally, Mr. Ciardella stated that Lines 24 and 25 clarify the language in the law as to a waiver.

Senator Kosinski questioned if the verbage on Page 2, paragraph (c), subparagraph (3), addressed the problem of not issuing a certificate until quite a bit of time after the inspection of the vehicle. He suggested amending Line 10 to insert the words "within 24 hours" after the word "inspection." Mr. Ciardella stated that they would have no problem with that.

Mr. Daryl E. Capurro, Executive Director, Nevada Franchised Auto Dealers Association, stated that they had worked with Mr. Ciardella on A.B. 281 and spoke in support of the bill. As to the problem on Page 2, Line 10, Mr. Capurro suggested putting a period after the word "inspection" which he felt would eliminate Senator Kosinski's concern. Mr. Ciardella stated that he believed that would be the easiest way to solve the problem.

Chairman Ashworth closed the hearing on A.B. 281.

The hearing was opened on A.B. 684.

Mr. Larry Ketzenberger, Las Vegas Metropolitan Police Department, introduced Mr. Michael de la Torre, Director, Department of Law Enforcement Assistance. Mr. Ketzenberger stated that A.B. 684 was introduced at the request of law enforcement to change the funds derived from the sale of vehicles seized under the law for the sale of narcotics from the state permanent school fund and transfer them to the local law enforcement agency or the state law enforcement agency. Chairman Ashworth questioned a constitutional prohibition on this matter. He stated an opinion from Legal Counsel would be necessary before processing this bill. Senator Kosinski stated that it was possible, if this is not a penalty or a fine, that this would be constitutional. Chairman Ashworth stated that this would be a departure from the standard practice.

Senator Young questioned the amount of money in question. Mr. de la Torre stated that over the last ten years, on a statewide basis, the average has been less than \$1,000 per year. He stated that traditionally, local school districts had turned to the Department of Education for information as to drug abuse; however, it is now the practice to receive this information from local law enforcement agencies. He said that this would be the purpose of having the money go to these agencies for assistance in

purchasing films or things of this nature.

Senator Neal questioned how this statute would apply should the divisions be working with a federal agency. Mr. Ketzenberger stated that the federal agency would take precedence in the seizure of the vehicle.

Senator Kosinski questioned if there were any cases where a plane was seized by the state or local governments. Mr. Ketzenberger stated that he was aware of attempts to seize aircraft but was unaware of the success; he said they have no aircraft in his Department that was realized from a seizure. Senator Kosinski questioned if this would be covered under A.B. 684. Mr. Ketzenberger stated that it would. Mr. de la Torre stated that the State has confiscated an airplane but no disposition has been made as it is still under consideration by the courts.

Senator Kosinski questioned if there was language that requires the departments to satisfy outstanding encumbrances. Mr. Ketzenberger stated that there was under NRS Chapter 453.

Chairman Ashworth closed the hearing on A.B. 684 pending further testimony from Mr. Frank Daykin, Legal Counsel, Legislative Counsel Bureau.

The hearing was opened on A.B. 529.

Mr. Ted Sanders, Superintendent of Public Instruction, introduced Mr. Frank South, Director of Special Education, Department of Education. Mr. Sanders spoke in support of A.B. 529 and submitted Exhibit "B" to the committee.

Chairman Ashworth questioned if the bill should be referred to the Senate Finance Committee. Mr. Sanders stated that there is not funding contingent upon the passage of A.B. 529 but the additional monies have been requested in the original budget request. He said that they had alerted the Finance Committee of this bill and had presumed it would eventually come before them. Chairman Ashworth stated that it would be his recommendation to re-refer A.B. 529 to Senate Finance as it does have impact upon the budget.

Senator Neal questioned if the Department is required under federal law to have this type of provision. Mr. Sanders stated that they are not required directly but the law says the capability to place a child in a residential care facility outside the state must be available. Mr. Sanders stated that the law requires a free and appropriate education must be provided to a child; there are children in the state where appropriate educational programs in the districts or some other state agency are not available to them.

Chairman Ashworth recessed the hearing on A.B. 529 for testimony from Mr. Frank Daykin on A.B. 684.

Chairman Ashworth questioned if the funds derived from the sale of seized vehicles, discussed in previous testimony, could be constitutionally given to local alcohol and drug abuse programs. Mr. Frank Daykin, Legal Counsel, Legislative Counsel Bureau, stated that it would be constitutional. Mr. Daykin stated that this was because the pledge to the state permanent school fund is for fines for the violations of the penal laws of the state and does not embrace forfeitures. Chairman Ashworth questioned if in the absence of this bill, the funds would go to the state permanent school fund. Mr. Daykin stated that they would by virtue of the statutes.

Chairman Ashworth reopened the hearing on A.B. 529.

Senator Kosinski questioned why the definitions have been removed. Mr. Sanders stated that this would now make the definitions consistent with the other section of the law dealing with handicapping conditions. This would allow any children who do not have appropriate programs available under any of the definitions contained in NRS Chapter 388 to be placed out-of-state. Senator Kosinski questioned if this would permit the Department to establish the definitions by regulation as there are no definitions contained in Chapter 388. Mr. South stated that categories are identified in Chapter 388 and definitions are established by regulation. Senator Kosinski questioned the fiscal impact by permitting the Department to define these conditions. Mr. Sanders stated that the fiscal impact is existent because districts must provide programs to meet the needs of children in these categories. He stated that A.B. 529 encompasses children with more severe handicapping conditions as they must be placed out-of-state.

Ms. Susan Haase, Nevada Association for Retarded Citizens, spoke in support of A.B. 529 because it is not possible for every student in Nevada to receive the needed education in the home town. She stated that she hoped this type of legislation would not be necessary in the future.

Chairman Ashworth closed the hearing on A.B. 529.

Chairman Ashworth presented BDR 40-2093 which pertains to making various changes in the law relating to Gerovital H3 to the committee and stated that it would require the unanimous consensus of the committee for introduction as it has been received after the deadline. Senator Young stated that he may not support the measure in committee but would agree to a committee introduction. The committee unanimously concurred; Senator Blakemore being absent and Chairman Ashworth stated that he would check with him prior to introducing the measure on the floor. Should Senator Blakemore agree, Chairman Ashworth set the hearing for May 11, 1979 on the issue.

Chairman Ashworth opened the hearing on A.B. 519. He requested that the portions of the bill be eliminated in which there is

full agreement so the committee could concentrate on those portions still in question.

Mr. Robert Petroni, Clark County School District, stated that A.B. 519 was originally introduced by the teachers' association; S.B. 334 was by the trustees and administrators. He said that there had been a subcommittee of teachers, administrators and representatives of the school boards working on A.B. 519. He said that agreement had been reached on everything in the bill except for two matters: First, Page 4, Line 33, which provides for a 2-day suspension concept; the board of Clark County supports a 10-day suspension concept and the teachers' association wishes to leave it at 2 days. Secondly, Page 8, beginning at Line 20, which provides for a probationary period; Clark County is seeking a probationary period of 2 years whereby both teachers and administrators would be employed for 1 year contracts only. He stated that on or before April 1 of each year, those people they did not wish to reemploy would be informed of the fact and "that would be the end of it." He said that if they are dismissed during the period of their contract, they would have all the rights under the law for a due process hearing including review by the court system. The administrators wish to keep the law as it is as do the teachers, Mr. Petroni stated. Mr. Petroni stated that he had requested proposed amendments for A.B. 519 but they had not as yet been received; they would provide for a 10-day suspension and also, administrators and teachers would have a 2-year probationary period for the first 2 years of employment.

Senator Young questioned who would be affected by these provisions. Mr. Petroni stated that it would be all certificated employees. Senator Young questioned if an agreement could be reached for one; either teachers or administrators. Mr. Petroni stated that they feel it should rightfully apply to both.

Mr. Robert McQueen, President of the Washoe County School Board, stated that school trustees are largely in favor of A.B. 519. He stated that they are in support of the amendment stating that there would be a 2-year probationary period. Chairman Ashworth questioned why there should be 2 years for a probationary period. Mr. McQueen stated that a 1 year period in a large system may in effect only give the teacher or administrator one semester for review; he did not feel that was adequate time. Mr. McQueen stated that 2 years is actually 1-1/2 years in effect. He said that the present law gives the new-hire "instant tenure" which he feels is unfair.

Senator Neal stated that under present law, the boards have the authority to terminate employees. Mr. McQueen stated that a first-year teacher has the same rights as a teacher who has been in the system for many years. He stated that he believed it is too arduous a task with which to confront school boards.

Senator Young questioned if there is a difference in time for

Date: May 8, 1979

Page: 7

evaluation of teachers versus administrators. Mr. McQueen stated that this may be possible as an administrator has "come up through the ranks" and a great deal is known about the individual. He said that their main concern is with the teachers. Senator Young questioned the terminology in Section 16, Lines 20 and 21, as to probation in the existing law. Mr. McQueen stated that it is really meaningless because the only distinction is that new teachers must be evaluated twice a year.

Ms. Helen Cannon, Clark County Board of School Trustees and an officer with the Nevada State School Board Association, stated that the issue is not "getting rid of teachers in 2 years" but also availability of time for the teacher to improve. She said that with a greater length of time for the probationary period, they have more chance for improvement. She stated that dismissal costs are also very expensive. She said that the issue was not the dismissal of teachers; rather, a good educational opportunity for children.

Ms. Elizabeth Lenz, Vice President of the Washoe County School Board, stated that if this proposed legislation only affects a very few teachers, many children are affected which could deprive them of the education they deserve. She also noted the high costs of dismissal and stated that the cost to the taxpayer is tremendous even though the cost is shared by the employee. She said that the objection they have to the dismissal procedures is that they are complicated and require a great deal of time and effort. She said that administrators must build a court case and stated her belief that no administrator is equipped to build such a case; they are not hired for that purpose. Senator Neal stated that they are trained to administer standards and if there is a violation of the standards, therein lies the case for dismissal. Ms. Lenz stated that administrators must follow the law and it is a difficult procedure for a layperson to follow. She stated that the request for the amendment is simply to give the opportunity for the boards to dismiss the few teachers that do not live up to expectations. She said that if the opportunity to "build good new teachers" is available, the boards will not have to "put up with their mistakes" for such a long period of time.

Senator Kosinski questioned why administrators could not be expected to build court cases. Ms. Lenz stated that she did not feel it should be their primary job. Senator Kosinski stated that he is not convinced that it is that difficult to dismiss teachers. Ms. Lenz stated that the number of teachers dismissed is indicative of the difficulty.

Dr. Claude Perkins, Superintendent, Clark County School District, stated that the teachers in the State of Nevada have more protection than any group of public employees in the State. He said he felt the situation is simply a public entity requesting that a "true" probationary period be established for new employees. He said that he felt this was a normal provision given to any employee sector.

He said that he believed the primary purpose is to educate children. He noted that there are three cases now in Clark County, one of which is going to court because of his refusal to rehire. He said that under the present system, time must be granted for improvement; however, due to the nature of the act committed, he questioned improvement. Senator Young questioned the nature of the act. Dr. Perkins stated that it was a moral issue. Dr. Perkins questioned the need for the amount of protection afforded teachers. He stated that the requested amendment is legitimate and "long overdue."

Chairman Ashworth questioned if a teacher elevated to the position of administrator, would the probationary period begin again. Dr. Perkins stated that it would under the amendment.

Senator Neal questioned if the issue was elimination of the hearing process or procedure for the new teacher. Dr. Perkins stated that they are still required to confer with the teacher and offer assistance if necessary; however, at the end of the contract year, they could choose not to renew the contract. He said that this is, in essence, a deselection process and feels this is a necessary ability for school boards.

Mr. Robert Cox, representing the Washoe County School District as well as six other districts, stated that the issue has appeared to be administration versus teachers. He said that was not the issue; rather, having the best teachers teaching the children. He said that should the amendment be adopted, it would be allowing the school boards an opportunity to make a mistake and rectify the mistake. He stated that the 1-year compromise would not be acceptable as it would not allow enough time to adequately evaluate a teacher as well as give them an opportunity to improve. He requested the committee's favorable consideration to this amendment.

Chairman Ashworth recessed the hearing on A.B. 519 until Wednesday, May 9, 1979. The meeting adjourned at 10:27 am.

Respectfully submitted,



Roni Ronemus
Committee Secretary

Approved:



Chairman
Senator Keith Ashworth

SENATE HUMAN RESOURCES AND FACILITIES COMMITTEE

A.B. 90

May 8, 1979

Chairman Ashworth and members of the Committee: I am Joyce Woodhouse, representing the Nevada State Education Association. Since A.B. 90 deals with first graders, I must add an additional credential--and that is that I have been a first grade teacher in Clark County for the past thirteen years.

The NSEA strongly supports A.B. 90 through representative action of our Delegate Assembly last May. As a first grade teacher, I urge your adoption of this measure. This bill takes care of a problem in our truancy law. Presently, a first grader enrolled in school but not yet 7 years old is not governed by that law. Once the child reaches 7 years of age, he/she is required to be in school.

I believe that the instruction and experiences in first grade are so necessary that the student must be in school at all times excepting illness and emergencies. It has been my experience to have at least one child a year in my room who is continually absent without a valid excuse. Usually the cause is parental apathy. When I have requested that the truant officer check on the situation and get the child to school, I have been told that under NRS 392 that 6 year old is not covered. A.B. 90 would remedy the problem.

Within this past week I have spoken with two elementary school principals who have indicated that the problem is increasing. In A.B. 90 we are only dealing with the 6 year old who is enrolled in school. The child who is absent 30-40 days is certainly having his education seriously jeopardized. Even more frustrating, the situation is compounded in these circumstances since homework is never completed, but that parent expects his/her child to be promoted to the second grade.

In conclusion, I would like to add that I supported adoption of this legislation before former Senator Dick Bryan's study committee on Pupil Achievement. A.B. 90 was reported out by this committee.

Thank you for your time. First grade teachers, especially, urge your "do pass" on A.B. 90.

NEVADA DEPARTMENT OF EDUCATION

Testimony of the
Superintendent of Public Instruction
to the
SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES

A.B. 529 - Extends the provisions for special education
of handicapped persons

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. THE STATE BOARD
OF EDUCATION SUPPORTS THE PASSAGE OF A.B. 529.

THE BILL, IF ENACTED, WOULD AMEND THE PROVISIONS OF
NRS 395, "EDUCATION OF HANDICAPPED PERSONS" TO ASSURE AN APPROPRIATE
EDUCATIONAL OPPORTUNITY TO STUDENTS WHO ARE DEAF, BLIND OR MUTE
OUTSIDE THEIR DISTRICT WHEN THESE SERVICES ARE NOT AVAILABLE IN THE
DISTRICT. IN SUCH CASES SERVICES ARE SOUGHT IN OTHER LOCAL SCHOOL
DISTRICTS OR AGENCIES WITHIN THE STATE. IF THE NEEDS OF THE CHILD
CANNOT BE MET WITHIN THE STATE, THEN NRS 395 ENABLES THE STUDENT TO
BE PLACED IN A RESIDENTIAL FACILITY OUTSIDE THE STATE.

IN ADDITION TO STUDENTS WHO ARE DEAF, BLIND, OR MUTE, THERE
ARE OTHER STUDENTS WITHIN THE STATE WHOSE NEEDS ARE SO UNIQUE THAT
THEY CANNOT BE MET WITHIN A LOCAL DISTRICT OR WITHIN THE STATE.
PARENTS OF THESE STUDENTS HAVE APPEALED TO DISTRICTS AND TO THE
DEPARTMENT OF EDUCATION TO BE AFFORDED THE SAME OPPORTUNITY FOR AN
APPROPRIATE EDUCATION THAT THE DEAF, BLIND, AND MUTE HAVE RECEIVED.
IN RESPONSE TO AN INQUIRY, THE ATTORNEY GENERAL HAS STATED THAT IT
MAY BE UNCONSTITUTIONAL TO DENY SOME HANDICAPPED CHILDREN BENEFITS

A.B. 529 - page 2.

5-8-79

AND SERVICES THAT OTHER HANDICAPPED CHILDREN RECEIVE, SIMPLY ON THE BASIS OF A DIFFERENT SET OF HANDICAPS.

IF YOU ENACT A.B. 529, THEN THE PROVISIONS OF NRS 395 WOULD BE EXTENDED TO ALL STUDENTS REGARDLESS OF THEIR HANDICAP. CURRENTLY, PROVISIONS ARE MADE TO ALLOW SOME 48 DEAF, BLIND, OR MUTE STUDENTS TO BE PLACED IN RESIDENTIAL CARE FACILITIES OUTSIDE THE STATE. OUR BUDGET REQUEST WOULD ALLOW UP TO AN ADDITIONAL 26 STUDENTS THE FIRST YEAR AND 38 STUDENTS IN THE SECOND YEAR OF THE BIENNIUM. THESE ADDITIONAL STUDENTS HAVE MULTIPLE HANDICAPS OR ARE SERIOUSLY EMOTIONALLY DISTURBED, AND THEIR NEEDS ARE NOT NOW BEING MET.

AGAIN, MR. CHAIRMAN, WE WOULD ASK THAT THE COMMITTEE GIVE FAVORABLE CONSIDERATION TO THIS BILL.