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Committee in Session at 8:37 A.M. on Wednesday, May 9, 1979.

Senator Keith Ashworth in the Chair.

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

ABSENT: Senator Rick Blakemore

GUESTS: Mr. Carl Shaff, Executive Director, Nevada State School Boards Association
Mr. Marvin Kohl, Superintendent, Washoe School District
Mr. Douglas Byington, Principal, O'Brien Middle School Reno, Nevada
Mr. Robert Petroni, Attorney for Clark County School District
Ms. Joyce Woodhouse, Nevada State School Boards Association
Mr. Wendell K. Newman, Nevada State Educational Association
Ms. Linda Terry, Carson City School Board
Mr. Orvis Reil, Nevada Retired Teachers Association
Ms. Peggy Westall, Assemblyman, District No. 31
Mr. Kenneth Johns, University of Nevada
Mr. Ted Sanders, State Department of Education

Chairman Ashworth opened the hearing on A.B. 519.

Chairman Ashworth stated this is a continuation of the hearing of May 8th.

Mr. Carl Shaff, Executive Director, Nevada State School Boards Association, testimony of May 8th pointed out the fact that the trustees association would like to see a two year true probationary period instituted for beginning teachers. He stated the amendments they proposed would become effective on July 1, 1979, it would not effect the teachers who are presently under contract. He stated the reason for this was that sometimes it is difficult for an administrator to make a true case and document it. He stated especially in the small districts the costs can get quite exorbitant. He said they are asking, at the end of any contract, that there be a non-renewal where you do not have to renew your contract, nor go through another hearing process. He stated they are trying to improve instruction; it would also include administrative personnel of the school district, which is not in the law at the present time, on a probationary status. The State School Board strongly recommends consideration to this probationary status, all 17 counties have voted, he said, and it was more than a majority who are in favor of it.

Mr. Marvin Kohl, Superintendent, Washoe School District, stated the training of personnel and administrators to carry out dismissals including documentation is not an easy task; presenting evidence before the hearing officer or hearing panel becomes a hearing for testing the efficiency of the administrator as it does concerning the inefficiency of the teacher. He stated it is very difficult to get a principal that does not have training in the area of law to not leave a big loophole along the way. He said it is hard to get an administrator to shift from a position where he is trying to help a new teacher over to a point where he makes the judgment that this teacher has to be dismissed. He stated they give the new teacher the first three or four months of the first year to "get their feet under them".

Senator Clifton Young entered the meeting at 8:47 A.M.

Senator Neal reminded him that the person coming in as a new teacher already has the credentials qualifying them for that particular job. Mr. Kohl stated the new teachers coming from training colleges are prepared to step in and do the job and he feels the University of Nevada does a good job in training them. He further stated he did not feel any university could do a good job in training with the short time they have to do it in. He stated most people are discharged from most professions because of their inability to get along with people than they are because they do not have subject matter capability. Senator Neal questioned if they had policy or standards they followed. Mr. Kohl stated they do, but it takes a while to determine whether a teacher, or administrator, is good or not. He stated he does not feel an administration should have the right to dismiss someone because he did not like something they did, that there should be a tremendous amount of support and help. He stated they feel if the administrator has the right of dismissal he will help the new teacher to succeed, otherwise it would be a reflection on his decision in hiring the person. Senator Kosinski stated he thought that administrators were there for hiring and firing, that was their job. Mr. Kohl stated usually the new teacher, after administrative consultations, will voluntarily terminate his employment. Senator Neal asked if they require structuralized program where the new teacher has to develop her own lesson plans. Mr. Kohl stated they have some broad guidelines, the teacher comes to them already trained, they are encouraged to develop their own lessons and approaches. He stated they have a minimum of structure. Senator Neal questioned if the purchase of textbooks was a centralized operation, to which Mr. Kohl stated, "yes, it is," the teachers in the school have been involved in the selection of textbooks.

Mr. Douglas Byington, Principal, O'Brien Middle School, Reno, Nevada, stated his job is documenting dismissal of a teacher, along with his other duties. He stated their job is to assist a teacher into being successful, everything is documented and it gets to the point where you do not feel supportive to the teacher. He stated the district spends considerable time in training their teachers. He further stated it is very difficult to adjust from the supportive role to one of dismissal. He further stated that some counselling sessions have lead to voluntary resignations. Senator Neal asked regarding lesson plans, if he required the teacher to submit to him

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goals and objectives. Mr. Byington stated that he did, when they start in September he asks these teachers to line out their performance objectives for the entire school year, what they want to accomplish. He stated, in order to document their performance, it is necessary to sit in the classroom.

Mr. Robert Petroni, Attorney for Clark County School District, stated he has been involved with the act since the beginning. He stated he has been an attorney for the school district for 14 years in the State of Nevada. He stated they have only been able to dismiss six or eight teachers because of court actions taking so long a period of time for processing. He stated most states have a probationary period where in the first year of a three year contract, you can be told at the end of the year that you are not going to be rehired, that is all there is to it, no hearing is involved. He stated the Supreme Court upholds this verdict. He said this system would get rid of the inadequate teachers who are teaching our children, our students. This amendment would only apply to those hired after June 30, 1979, so it would affect no one presently employed in this state. He stated they hire approximately 4600 new teachers a year, that takes care of everybody they are losing, plus the new students and the growth. Ms. Woodhouse stated Carson City hired 53 new teachers in the past year. Mr. Petroni stated the teachers say it raises a stigma not to be rehired. He asked whether we are here to protect the teacher, the administrator or the students. He asked if they would rather go through a dismissal and have that in their file, or just have a statement in their file that their contract was not renewed. He stated they have various court cases pending now, with people charging harassment, violation of constitutional rights because they are documenting the case. Senator Neal asked him if he considered teachers to be non-professionals. Mr. Petroni stated he considered them to be professionals, that they should know when they have a problem and should not be teaching children; they should be able to know when to leave the profession. He stated tenure laws have become a haven for the "incompetent". He stated if there were a true probationary period they should really work hard the first two years because they may not have a contract for the other years. He said if you admonish, in writing, either a teacher or administrator, they file a grievance against the principal that they are being harassed. He stated the amendments are not yet ready, but should be ready shortly. The amendments, he said, are basically that the probationary employee is hired on an annual basis for two years; if the administrator is not re-hired he is given the chance to go back to a teaching position. He stated they would like the opportunity to try and make it work but they need the law to work with. He stated there are some changes, on Line 33, Page 4 the "2" days should be changed to "10" days. He said on Page 8, starting with Line 20 there will be new language, and that there will be technical changes throughout the bill, if the decision is for the probationary period, such as, there would have to be a new definition on Page 1, Line 21, where it says "probationary teacher" would mean "complete 2 consecutive contract years and is employed for the third year". (Exhibit "A") Amendment for A.B. 519.

Chairman Ashworth asked him for some testimony on the 10 days without pay. Mr. Petroni stated that presently the law provides that you can suspend an employee for the two days without pay, after a hearing before the superintendent or his designee, that provision had been placed in the statute as an attempt to have an in between ground between termination, there is no source for discipline for a certificate employee. He said you can only use the 2 days without pay once a year. Chairman Ashworth stated you could put it up to 10 days, to which Mr. Petroni stated you could strike Line 35 starting with the suspension provision on Page 4, but it would still be limited to 2 days maximum at one time. Chairman Ashworth said it could perhaps be changed to "up to five times in one year" instead of the "once". Senator Neal questioned whether there was anything in the law at the present time that a teacher, on an extended absence period without notification could be terminated. Mr. Petroni stated there was no provision for that type of action. He stated they would like a provision that they be served by certified mail, with 20 days to respond and if not, publish in the newspaper for one day and if no answer within 20 days following that, they would be deemed terminated.

Ms. Joyce Woodhouse, Nevada State School Boards Association, stated she would go through the argumentation that they prepared on the amendments that Mr. Petroni suggested. She stated Mr. Wendell Newman would follow up with other information. She said they wish to go on record again as to their opposition to deletion of the due process hearing for probationary teachers, and the increase in suspension without pay. She presented her prepared testimony, Exhibit "B". She stated the teacher does not have the right to face their accuser, and that is what they are so opposed to. Chairman Ashworth stated that summarily firing was just a case of not renewing their contract at the end of the year. She stated that with it this way, they do not have an opportunity to respond. Ms. Woodhouse stated a teacher is deducted pay, based upon their average daily salary; she said the whole concept of increasing the number of days is abhorrent. She stated her daily rate of pay was about \$90 per day, if she were suspended for the two days, to her \$180 out of her paycheck in one month hurts a lot, and she feels when a teacher is hit with the two day suspension they do wake up. She stated a ten day suspension would deal the blow of \$900 that could completely "wipe you out in a whole month". She states the action of increasing the number of suspension days is extremely punitive. In conclusion, she stated, she urges the passage of A.B. 519 as in the first reprint. Senator Neal asked if she shared the concerns of the administrators that there should be a quicker means by which they could "get at" a teacher for non-performance. She cited her own personal case where she had a good educational background with six weeks of student teaching, three weeks in September and three weeks in February in two different schools, walked into a first grade classroom in Las Vegas without the faintest idea what she was doing. Her administrator, she said, did not help her even after telling him she was in trouble. She said she went to the other two first grade teachers and they helped her out all that year. She felt she could have been fired at any time during that year and at that time they did have probationary periods. She stated that would have been harmful, because now, after 13 years

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of experience in the first grade she is a very good teacher, but that first year, she said, she was really bad. Senator Young stated this was perhaps a self-appraisal. She stated they had a check-off system and she was checked off as competent, but she did not feel competent. Senator Young stated that was only her own appraisal and had perhaps felt inadequate. Prepared statement, Exhibit "C".

Mr. Wendell K. Newman, Nevada State Educational Association, stated their organization does provide legal counsel for the employees of the organization and those who request it. He stated they have worked with representatives of employers and compromised and agreed to a number of changes, positions that they wanted to incorporate into the new statute as well as for them. He stated he would like to see A.B. 519 passed as it is now printed, without the other amendments being brought into it. He stated that the point has been made that you just cannot get rid of a bad teacher, there have been cases where his organization has participated in where documentation has taken place, has been done properly, gone through the administrative procedures, and has come out with the person being dismissed. He further stated that every case where a teacher is dismissed, or not reemployed for the ensuing year does not necessarily result in going to court; therefore, it does reduce the cost, and it is not always the high figures mentioned in previous testimony. He stated a case, well documented, can result in the termination of the teacher, not only the probationary teacher, but a teacher who is post-probationary, one who has been in the district for several years. Senator Young questioned on the 2 day dispute, if it were advisable that there be only one vote during the year. Mr. Newman said he thought the two day suspension would be adequate. He stated admonitions are required and are placed in their files and those admonitions can remain in the file for a period of three years, at the present time. Senator Neal asked if the teachers, as an organization, get together with the school district to try to formulate guidelines of which those objectives and evaluations could take place. He stated when dealing with professional people and you ask professionals to follow certain rules, and you ask them to perform, if you have some type of standards by which you could judge the professional person in the classroom then this would eliminate a lot of the problems with dismissal. He stated the administrators are saying they have no way of judging the good or the bad teacher, that they have to sit in the classroom and write down or document behavior.

Mr. Newman stated that currently, in the law, it does provide that each board of trustees following consultation and involvement of elected representatives of teacher personnel, or their designee shall develop an objective evaluation policy which may include self, student, administrative or peer evaluation, or any combination thereof. He stated, to his knowledge, it is not being done well enough, there is not enough consultation with teachers, or representatives of teachers in terms of what the evaluation process should embody, it does not clearly spell out what the standards might be. Senator Neal asked what Ms. Woodhouse does when she meets her students for the first time in September, whether she sets goals and objectives for herself. Ms. Woodhouse stated they have a series of curriculum guides covering each subject area and set forth

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priority objectives for that year. She stated they evaluate during the year to see if the objectives are being met. The priority objectives are gone over with the principal, she stated.

Mr. Newman stated they have a technical amendment on Page 7, to take the language out that should not be in there. Chairman Ashworth stated none of the amendments have been seen by the committee, and when they are ready they can be reviewed then. He stated he would like Mr. Newman, Ms. Woodhouse and Mr. Petroni to go over the amendments together. Senator Faiss asked Ms. Woodhouse if she would consider a one year probation period, to which she responded, no they would not consider it.

Senator Kosinski asked Mr. Newman and Ms. Woodhouse if either of them believed a problem exists, to which Mr. Newman responded in the affirmative. Senator Kosinski questioned if this were a problem with inadequate or incompetent teachers, to which Mr. Newman said he thought there were. Senator Kosinski stated there was a negative position to almost everything, he was concerned about "ratting" on administrators, that they may not be competent and not know how to fire an incompetent teacher. He further stated Mr. Newman should come up with something he felt "comfortable" with, and offer some other alternatives; workable ones. Mr. Newman responded that as a professional organization they have made attempts in the past to deal with employing processes. Senator Young questioned what pre-teaching meant, and if they were paid while in the pre-teaching aspect. Mr. Newman stated that a certificate is required to do student teaching, a period of time in the classroom. He stated what they are considering, at the present time, would simply be an extension for a longer period of time before they actually get into the teaching profession. Chairman Ashworth asked if they would become a member of his organization of pre-teachers. Mr. Newman said that had not been decided as yet.

Ms. Linda Terry, Carson City School Board, stated they have given one teacher a notice of a non-renewal and they have been informed the teacher is going to take them to court. She stated this teacher is a first year teacher, she had been evaluated, there had been masters teachers trying to help, but to no avail, so they gave non-renewal. Senator Young asked if there had been a hearing before a hearing officer. Ms. Terry stated there had not but there will be one. She stated they need a probationary period. She said their organization in Carson City is involved in it. Mr. Newman stated there were some technical procedural problems in the way in the manner in which she was dismissed, which the attorney found. Ms. Terry stated she felt they should not have to go through court for these type of dismissals. She feels they should have to go through the evaluation process, eliminating the court processes.

Chairman Ashworth closed the hearing on A.B. 519.

Chairman Ashworth stated that S.B. 441, Senator Kosinski wanted to do some work on a problem.

Chairman Ashworth opened the hearing on S.B. 378, stating that Mr. Reil has some amendments to present (Exhibit "D").

Mr. Orvis E. Reil, Nevada Retired Teachers Association, presented a letter dated April 18, 1979, (Exhibit "E"). He stated that following the hearing on the original draft, from lack of understanding on his part, he submitted a source of information on which S.B. 378 originally developed. He said later he presented a brief summary with modification of the bill. He said he is now presenting amendments (Exhibit "D"), which is brief. He stated this amended law will give the authority to come up with procedure; the rules and regulations they propose to establish will be based on existing laws that govern these facilities. He stated after they have been developed regular hearing procedures will have to be held on policy and procedure, which has to be then filed with the Secretary of State. Chairman Ashworth questioned that he was saying that the Department of Health and Division of Health will develop appropriate regulations pertaining to the intent and purposes as pertain to receivership of the facility. Mr. Reil stated the main problem is when they close a facility what happens to those patients. He said he has never heard of a facility being taken into receivership. Chairman Ashworth stated if a person has mental harm because of the way the facility is run, it could be taken over.

S.B. 378 (Exhibit "F")

Senator Neal moved to Adopt the Amendment to S.B. 378.

Senator Faiss seconded the motion.

Discussion: Senator Kosinski stated that there is a division of aging services and a state division of health and a Bureau of Health and Welfare Facilities you have medicare and medical programs, who are all responsible for these areas. He stated he did not see a need for S.B. 378. Chairman Ashworth said he could see financial impact in this bill. Senator Young agreed that there could be tremendous financial impact.

Motion: no action.

Yeas - - 3

Nays - - Senator Kosinski, Senator Young.

Absent - Senator Blakemore

Chairman Ashworth stated that S.B. 527 is regarding the Hillside Cemetery relocation, includes the five conditions that were requested. The committee requested the presence of Assemblyman Peggy Westall. (Exhibit "G") presented for inclusion in the minutes.

Chairman Ashworth stated A.B. 90 extends public school attendance requirements. He said there had been a recommendation to change the language on Page 1, Line 5 to "the pupil's teacher or principal will make reasonable effort to meet with the". Senator Kosinski stated to change it to "must provide the parents". Chairman Ashworth said that was the same thing, nothing changed.

A.B. 90 (Exhibit "H")

Senator Kosinski moved to Amend and Do Pass.

Senator Young seconded.

Motion carried.

Yeas - - 5

Nays - - 0

Absent - Senator Blakemore.

A.B. 281 (Exhibit "I")

Senator Neal moved to Amend and Do Pass.

Senator Young seconded.

Discussion: Senator Kosinski stated on Line 10, Page 2 there should be a period after "inspection"

Motion carried.

Yeas - - 5

Nays - - 0

Absent - Senator Blakemore.

A.B. 529 (Exhibit "J")

Senator Neal moved to Do Pass and Rerefer to Finance Committee.

Senator Faiss seconded.

Discussion: Chairman Ashworth stated this bill has to go to Finance - it extends provision for the handicapped persons.

Motion carried.

Yeas - - 5

Nays - - 0

Absent - Senator Blakemore.

Senator Kosinski questioned A.B. 684 if it is good policy to be creating a separate alcohol and drug abuse program in these various different agencies, as there is a state bureau that is supposed to be handling it which extends resources in this area. He questioned whether the proceeds are extended for purposes of drug and alcohol abuse and whether the money should be referred back to the bureau.

Chairman Ashworth stated this is the fifth bill on alcohol and drug abuse to take money from fines to put into the alcohol and drug abuse programs. He stated alcohol and drugs are a social problem and should be addressed to the general fund or to the department and normally this source of money has gone into the school fund of the area in which it was generated.

A.B. 684 (Exhibit "K")

Senator Young moved to Indefinitely Postpone A.B. 684.

Senator Neal seconded.

Discussion: Senator Kosinski asked what the agency would do with the funds, to which Chairman Ashworth stated they would buy film to show the bad aspects of alcohol and drugs.

Motion carried.

Yeas - - 4

Nays - - Senator Faiss

Absent - Senator Blakemore.

S.B. 527 (Exhibit "L")

Senator Faiss moved to Do Pass S.B. 527.

Seconded by Senator Young.

Discussion: Chairman Asworth asked Assemblyman Peggy Westall if she agreed to pass S.B. 527, to which she responded in the affirmative.

Motion carried.

Yeas - - 5

Nays - - 0

Absent - Senator Blakemore.

Chairman Ashworth stated on S.B. 441 that there was not sufficient testimony to establish the rights of patients of residents of health care facilities. Senator Kosinski was going to do some work on the problem. Senator Kosinski stated he has reviewed the federal regulations, they are not as specific as the provisions contained in the bill. He stated he had a problem with Section 3, and parts of Section 1; for purposes of disposition he suggests amending Line 23, Page 1, inserting "reasonable" after "To", to read: "To reasonable privacy"; on Page 2, delete lines 25 through 36 and to delete Section 3 of the bill. He stated a little more work needs to be done and believes it would serve some public policy value to put in the patients bill of rights.

S.B. 441 (Exhibit "M")

Senator Neal moved to Amend and Do Pass S.B. 441,

Seconded by Senator Faiss.

(Committee Minutes)

Discussion: Senator Young questioned why Senator Kosinski wanted to strike out Lines 25 through 36 on Page 2, to which Senator Kosinski stated he did not know the legal implications that every resident or patient has the "duty" to perform those particular, or satisfy those particular requirements. Senator Young stated if we pass the first part he would like to see some rights put into the bill. He further stated he agreed with Senator Kosinski on Section 3 that it should be deleted.

S.B. 441 - Senator Young amended the motion to leave Lines 25 through 36 in the bill, on Line 30, Page 2 it should read: To "be" considerate.

Senator Kosinski seconded the motion.

Discussion: Chairman Ashworth asked if Senator Neal and Senator Faiss accepted the amendment to the motion, to which they answered in the affirmative.

Motion carried.

Yeas - - 5

Nays - - 0

Absent - Senator Blakemore.

Chairman Ashworth stated the motion was carried, take out Section 3 in its entirety, change Page 2, Line 30 to "To be", and will amend and Do Pass the bill.

Chairman Ashworth opened the hearing on A.B. 388.

Ms. Joyce Woodhouse, Nevada State School Boards Association, stated A.B. 388 is the result of the study committee on teaching as a profession as authorized by the 1977 session of the Legislature. The committee came up with a recommendation for improvement for those persons in it, she stated. She said her study committee believes that A.B.388 is a positive way to upgrade the teaching profession and they are concerned about the quality of the persons in the teaching profession. She stated they are trying to address setting up a commission that will review recertification as well as the certification procedures in service programs and the other type of programs allowed in the state for certification requirements. She stated her committee felt the commission, as set forth in A.B. 388, is a more concise and consistent way to deal with this kind of recommendation. She stated it is a compromise in the second reprint. She said that presently no one group can control the commission and they feel that is a positive way to handle the issue because they are going to be dealing with "what is best". Senator Neal questioned if this would be a duplication of the State Board of Education, to which she responded, "no, it is not". Ms. Woodhouse urged the committee support of A.B. 388, stating they endorse the concept of the bill as a positive way to improve the educational system.

Chairman Ashworth asked if this bill would have to go to Finance, to which Ms. Woodhouse stated, it would have to go through Finance. Senator Young questioned Page 2, Lines 7, 8, 16 stating it seemed to him that these were overlapping the board of education. Ms. Woodhouse stated that all the board would do is on Page 2, Line 10. She stated the regulations deal with certification requirements. She said this bill would provide more information by which to make decisions, her committee felt this bill would provide a more concise direction as to how they are going. Chairman Ashworth questioned taking Page 2, Lines 16 and 17 out. Ms. Woodhouse stated she had no problems with taking that out. Senator Kosinski questioned Page 3, Line 20 as to who it referred to. Ms. Woodhouse stated that it applied to a teacher.

Mr. Ted Sanders, State Department of Education said the State Board has taken no position relative to A.B. 388 and directed him to point out to the Legislature, and various committees as they consider the bill, that if the bill were enacted that it would have a fiscal impact which is included in the bill, it provides travel and per diem support to the commission. He stated they have, in the past, had problems with major revision of the certification requirements. He stated that subsection 6 would, when a teacher or administrator approaches the department and presents their transcripts and requests certification, occasionally there is a difference of opinion as to whether any particular course under a title taken at an institution meets a particular requirement of the State Board of Education, does not meet the expectations the teacher contends that it does, those issues would be presented to him and potentially to the State Board. This bill would propose that those matters, that are basically interpretation, would go to the entire 11 member hearing panel for determination.

Chairman Ashworth asked if Page 2, Lines 16 and 17 were needed and Mr. Sanders stated that he agreed with Ms. Woodhouse that the bill could function very effectively without it. Mr. Sanders stated the State Board of Education has the authority to accomplish A.B. 388 without legislation. Ms. Woodhouse stated they have serious problems with the area of certification and it has not been dealt with and that is the reason for A.B. 388, Senator Neal suggested giving the bill a do pass and rerefer it to Finance Committee. Senator Young felt the passage of this bill would be a terrible precedent to set. Chairman Ashworth stated no action would be taken on A.B. 388 today.

There being no further testimony the hearing was closed on A.B. 388.

The meeting adjourned at 10:57 A.M.

Respectfully submitted,

Jean Van Nuys
Jean Van Nuys

Approved:

Chairman
Senator Keith Ashworth

Section 10, page 4, delete first paragraph of 391.3197 and insert:

1. "Probationary certificated employees are employed only on an annual basis during the first 2 consecutive contract years and have no expectancy of continued employment after each consecutive contract year. On or before April 1, of each school year, the board of trustees or its designee shall notify probationary certificated employees in writing of their reemployment for the next school year. The probationary employee shall by April 10, notify the board or its designated representative in writing of acceptance of reemployment. Failure to do so within the time specified shall be conclusive evidence of rejection of the contract".
 - (a) "If the board, or person designated by it, notified the probationary employee in writing that the employee is not to be reemployed for the coming school year, the employee's employment with the board shall terminate at the end of the present school year as designated in the employee's contract".
 - (b) "In the event a probationary administrator is notified of nonreemployment for the coming school year, the administrator shall have the right to accept a contract to teach for the coming school year. The administrator shall make this decision in writing on or before April 10, or the failure to notify the board or its designee in writing within the specified time limit shall be conclusive evidence of the employee's rejection of the offer to accept a teaching position".

2. The provisions contained in paragraph 4 above apply only to those certificated employees who commence in their position after June 30, 1979.

SENATE HUMAN RESOURCES AND FACILITIES COMMITTEE

May 8, 1979

A.B. 519

Chairman Ashworth and members of the committee: I am Joyce Woodhouse, representing the Nevada State Education Association.

The NSEA desires to place on the record, again, our adamant opposition to deletion of the due process hearing for probationary teachers and an increase in days of suspension without pay. This attitude is a prime example of "back door" legislation. You will remember that last session the NSEA and legislators were successful in putting into statute the right to a due process hearing for all certificated school district employees. In the process of gaining that right, the NSEA made several compromises and, in addition, gave up on some of our goals. We did so because we believe in and are committed to the age-old and time-honored American tradition of "innocence until proven guilty."

As I hear school boards and administrators talk, the intent is to take away that due process hearing for probationary teachers, giving the school district the right to summarily fire a teacher. We are unequivocally opposed to that concept. We are committed to the right of anyone being able to hear the charges placed against him/her with the corresponding right to answer that accuser. We are all human beings, administrators too, and are subject to error and prejudice.

As you know, the probationary period for teachers in Nevada is three years long. Teachers spend at least four years in college to earn that degree to teach. If school districts have the right to summarily fire, a teacher cannot go to the neighboring school district or another state to get a teaching position. You will have, in essence, wiped out four years of time, money, study, and effort.

The statute sets forth a very explicit hearing and dismissal procedure. Granted there are some problems in it, but these two amendments do not address them. We have addressed some of them in the first reprint to A.B. 519. The procedure clearly sets up the mechanics for writing up admonitions in case of wrongdoing, a chance to improve, moving for dismissal if improvement is not achieved, then a hearing. We have no quarrel when an administrator documents the grounds for dismissal, presents his/her case, the teacher is heard, and a third party rules.

The second aspect of increasing the number of days a teachers can be suspended without pay is equally abhorrent. A teacher is deducted pay based upon his/her daily rate of pay. Let me tell you how hard this would hit me if I received such a suspension. Since my daily rate of pay of approximately \$90, a suspension of two days as is in the law would cost me \$180--that hurts. A ten day suspension would deal a blow of \$900. That wipes out almost a whole month's salary! There is no way that I could

survive. This action is extremely punitive.

In conclusion, I urge your passage of A.B. 519 as seen in the first reprint. It contains compromises on both sides and improvements in the current statute. Let us not pass such legislation as cuts in due process and increases in loss in pay--such action is regressive and totally unfair to those persons who teach Nevada's children.

Thank you.

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As you know, the probationary period for teachers in Nevada is three years long. Teachers spend at least four years in college to earn that degree to teach. If school districts have the right to summarily fire, a teacher cannot go to the neighboring school district or another state to get a teaching position. You will have, in essence, wiped out four years of time, money, study, and effort.

The statute sets forth a very explicit hearing and dismissal procedure. Granted there are some problems in it, but these two amendments do not address them. We have addressed some of them in the first reprint to A.B. 519. The procedure clearly sets up the mechanics for writing up admonitions in case of wrongdoing, a chance to improve, moving for dismissal if improvement is not achieved, then a hearing. We have no quarrel when an administrator documents the grounds for dismissal, presents his/her case, the teacher is heard, and a third party rules.

The second aspect of increasing the number of days a teachers can be suspended without pay is equally abhorrent. A teacher is deducted pay based upon his/her daily rate of pay. Let me tell you how hard this would hit me if I received such a suspension. Since my daily rate of pay of approximately \$90, a suspension of two days as is in the law would cost me \$180--that hurts. A ten day suspension would deal a blow of \$900. That wipes out almost a whole month's salary! There is no way that I could

survive. This action is extremely punitive.

In conclusion, I urge your passage of A.B. 519 as seen in the first reprint. It contains compromises on both sides and improvements in the current statute. Let us not pass such legislation as cuts in due process and increases in loss in pay--such action is regressive and totally unfair to those persons who teach Nevada's children.

Thank you.

AMENDMENTS TO S.B. 378

Amended Bill should read as follows:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 3, inclusive, of this act.

Sec. 2. *As used in sections 2 to 3, inclusive, of this act, "facility" means a group care facility, intermediate care facility or a skilled nursing facility.*

Sec. 3. 1. *When the director of the department of human resources finds that there may be a situation, physical condition or practice, method or operation being carried on in a facility which presents or will present a danger of death or serious physical or mental harm to residents of the facility, he may apply to the district court of the judicial district in which the facility is situated for the appointment of a receiver for the facility.*

2. *The court in which an application for appointment of a receiver is filed shall hold a hearing not later than 10 days after the date on which the application is filed, after giving notice to the owner of the facility at least 5 days before the hearing and causing the notice to be posted in a conspicuous place inside the facility at least 3 days before the hearing.*

3. *The division of health under the department of human resources shall develop appropriate regulations conforming to the intent and purpose as it pertains to receivership of a facility.*



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April 18, 1979

Senator Keith Ashworth, Chairman
and Members
Senate Standing Committee on
Human Resources and Facilities
Legislative Building
Carson City, Nevada 89701

Dear Senator Ashworth:

Per your request to briefly summarize the voluminous material that was requested by you concerning S.B. 378, receivership of nursing homes, I will try to be as brief as possible.

S.B. 378 was conceived in draft development by the State's Nursing Home Ombudsman based upon receivership laws of nursing homes in the states of Kansas and Connecticut. Nevada needs this legislation which is a remedy in the context of nursing homes which would allow the takeover of a nursing home that is grossly deficient or in substantial violation of law. The sanction of receivership brings about the long term upgrading of facilities and helps improve quality of care and quality of life for residents.

Knowledge to date was that New York, Minnesota, Wisconsin, Connecticut, Kansas and New Jersey have state law regarding the context of receivership of nursing homes.

It is my opinion that S.B. 378 does not in any way lend itself toward the abuse or interference in the operation of nursing homes, and I also believe that the intent and purpose of S.B. 378 could only be utilized when facts support gross negligence on the part of a nursing home operation as it relates to the overall care of nursing home residents.

I believe that it is obviously and certainly impractical considering the traumatic results if the only choice left the State at the present time would be the outright closure of a facility for gross misconduct. The enormous entanglement and traumatic affect of relocating nursing home

Frank M. Hughes
President NRAA

J. Leonard Johnson
President AARP

Cyril F. Brickfield
Executive Director

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1175

Senator Keith Ashworth
April 18, 1979
Page 2

patients alone outweighs any sound reasoning as to why S.B. 378 should not be enacted into law in this state.

Your total consideration and efforts, as well as that of your committee members, on behalf of S.B. 378 are most appreciated.

Sincerely,



Orvis E. Reil, Chairman
AARP/NRTA Nevada Joint State
Legislative Committee

S. B. 378

SENATE BILL NO. 378—SENATOR JACOBSEN

MARCH 26, 1979

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for appointment of receivers for certain health and care facilities to protect lives, health and safety of residents. (BDR 40-1468)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to health and care facilities; providing for the appointment of receivers for certain health and care facilities to protect the lives, health or safety of the residents; providing the powers and duties of a receiver; 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. Chapter 449 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this act.
3 SEC. 2. *As used in sections 2 to 10, inclusive, of this act, "facility"*
4 *means a group care facility, intermediate care facility or a skilled nurs-*
5 *ing facility.*
6 SEC. 3. 1. *When the director of the department of human resources*
7 *finds that there may be a situation, physical condition or practice,*
8 *method or operation being carried on in a facility which presents or*
9 *will present a danger of death or serious physical or mental harm to*
10 *residents of the facility, he may apply to the district court of the judicial*
11 *district in which the facility is situated for the appointment of a receiver*
12 *for the facility.*
13 2. *The court in which an application for appointment of a receiver*
14 *is filed shall hold a hearing not later than 10 days after the date on*
15 *which the application is filed, after giving notice to the owner of the*
16 *facility at least 5 days before the hearing and causing the notice to be*
17 *posted in a conspicuous place inside the facility at least 3 days before*
18 *the hearing.*
19 3. *If the danger of death or serious physical or mental harm to*
20 *residents is found by the director to be imminent, he may so state to the*
21 *court in an affidavit accompanying his application or by testimony, and*
22 *if the court finds that there is a reasonable likelihood that an emergency*
23 *exists which must be remedied immediately to ensure that the lives,*
24 *health and safety of the residents are preserved, the court may appoint*

UNIVERSITY OF NEVADA . RENO

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MAY 8 1979



Joseph N. Crowley
President

May 7, 1979


To Whom It May Concern:

If the University of Nevada undertakes the relocation of the Hillside Cemetary, the project will be completed in the following manner:

1. The relocation will take place within the boundaries of the Hillside Cemetary.
2. The relocated cemetary will be fenced.
3. Any headstones or grave markers which are moved will be placed in the relocated portion of the cemetary.
4. Perpetual care of the relocated cemetary will be provided by the University.
5. A memorial plaque will be displayed in the relocated cemetary indicating the historical significance of the Hillside Cemetary.

I am pleased to provide the above assurances and to inform interested parties that these assurances are supported by the Chairman and Vice-Chairman of the University Board of Regents.

Sincerely,


Joseph N. Crowley

dd

NEVADA MINING ASSOCIATION, INC.

SUITE 602 • ONE EAST FIRST STREET

RENO, NEVADA 89505

ROBERT E. WARREN
Executive Secretary
W. HOWARD WINN
Consultant

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May 3, 1979

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M E M O R A N D U M

To: Keith Ashworth, Senator
Nevada State Legislature

From: W. Howard Winn, Consultant
Nevada Mining Association

The April 30, 1979 hearing held by the Assembly Committee on Environment and Public Resources relating to Assembly Bill 572 may have failed to get into the record an important matter regarding the subject matter of the bill.

It was pointed out by the Mining Association that the bill contains two parts which have different purposes. Section 10 (and as mentioned in other sections) is the enabling legislation for non-point source control. Other sections (1, 3, 5, and 9) contain changes designed specifically to protect states rights regarding the water pollution control authority that has been left with the state by the federal law. This included sanctity of water rights, right to designate uses of water, right to determine control of non-point sources, and the important right to control stream flow.

It was not pointed out that the wording of the suggested changes to the present law are specifically chosen to give legislative direction to the state agencies which regulate water pollution control. The changes were designed to insure that the regulating agencies exercise the full spectrum of rights left to the state and take full advantage of them. The result is expected to be full protection of the present designated beneficial uses and the right to develop for beneficial use whatever water there is left in the state to be used.

Senator Keith Ashworth

5-3-79

-2-

The changes suggested in S.B. 572 should be made for the reasons indicated whether we provide for non-point source control or not. The need for enabling legislation for non-point source control may be questioned by some. It would be difficult for anyone to question that we need a clearer declaration of legislative intent regarding water pollution control to insure that the state's remaining rights concerning this matter are protected by the state administrative agencies and anyone else concerned.

It would be unfortunate if the entire bill were rejected because of objections to non-point source control for the wrong reason. We believe that those objecting to the bill will be the greatest recipient of benefits from it.

WHW:mhr

cc: Committee on Environment
and Public Resources
Louis Bergevin, Assemblyman

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

A. B. 90

ASSEMBLY BILL NO. 90—ASSEMBLYMEN
MALONE AND HORN

JANUARY 17, 1979

Referred to Committee on Education

SUMMARY—Extends public school attendance requirements. (BDR 34-2)
FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to public schools; extending attendance requirements to include certain children enrolled before the age for compulsory enrollment; removing the requirement that a child who has attained the age for compulsory enrollment be placed in the first grade; requiring a meeting with parents of pupil before he may be retained in same grade for succeeding school year; providing penalties; 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. Chapter 392 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *Before any pupil enrolled in a public school may be retained in the*
4 *same grade rather than promoted to the next higher grade for the suc-*
5 *ceeding school year, the pupil's teacher or principal must meet with his*
6 *parents or guardian to discuss the reasons and circumstances.*
7 SEC. 2. NRS 392.040 is hereby amended to read as follows:
8 392.040 1. Except as otherwise provided by law, each parent,
9 guardian, or other person in the State of Nevada having control or
10 charge of any child between the ages of 7 and 17 years shall [be
11 required to] send such child to a public school during all the time such
12 public school is in session in the school district in which such child
13 resides.
14 2. Any child who will arrive at the age of 6 years by September 30
15 [shall] *must be admitted to a regular school program, and may be admit-*
16 *ted to the first grade, at the beginning of the school year, and his enroll-*
17 *ment shall be counted for apportionment purposes. If a child will not*
18 *arrive at the age of 6 years by September 30, the child shall not be*
19 *admitted to the first grade until the beginning of the school year follow-*
20 *ing his 6th birthday.*

1 3. *Whenever a child who has arrived at the age of 6 years but not*
2 *at the age of 7 years is enrolled in a public school, each parent, guardian*
3 *or other person in the State of Nevada having control or charge of such*
4 *child shall send the child to the public school during all the time such*
5 *school is in session. This requirement for attendance does not apply to*
6 *any child under the age of 7 years who has not yet been enrolled or has*
7 *been formally withdrawn from enrollment in public school.*

8 SEC. 3. NRS 392.160 is hereby amended to read as follows:
9 392.160 1. Any peace officer, the attendance officer, or any other
10 school officer shall, during school hours, arrest without warrant: **[any]**
11 (a) *Any child between the ages of 7 and 17 years; and*
12 (b) *Any child who has arrived at the age of 6 years but not at the*
13 *age of 7 years and is enrolled in a public school,*
14 *who has been reported to him by the teacher, superintendent of schools*
15 *or other school officer as an absentee from instruction upon which he is*
16 *lawfully required to attend.*
17 2. During school hours, the arresting officer shall forthwith deliver
18 the child arrested to the teacher. After school hours, he shall deliver the
19 child to the parent, guardian or other person having control or charge
20 of the child.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 281

 ASSEMBLY BILL NO. 281—COMMITTEE ON
TRANSPORTATION

FEBRUARY 6, 1979

Referred to Committee on Transportation

SUMMARY—Revises laws regulating motor vehicle dealers. (BDR 43-333)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to air pollution; providing for the regulation of authorized inspection stations and the grounds for suspension or revocation of licenses of inspection stations; 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 445.632 is hereby amended to read as follows:
2 445.632 1. The department of motor vehicles shall adopt regula-
3 tions which:
4 (a) Prescribe requirements for licensing authorized stations and fleet
5 stations;
6 (b) Prescribe the manner in which the stations inspect motor vehicles
7 and issue evidence of compliance;
8 (c) *Prescribe the diagnostic equipment necessary to perform the*
9 *required inspection;*
10 (d) Provide for any fee, bond or insurance which is necessary to carry
11 out the provisions of NRS 445.610 to 445.670, inclusive; and
12 **[(d)]** (e) Provide for the issuance of a pamphlet for distribution to
13 owners of motor vehicles. The pamphlet shall contain information
14 explaining the reasons for and the methods of the inspections.
15 2. The department shall issue a copy of the regulations to each
16 authorized station and to each fleet station.
17 SEC. 2. NRS 445.634 is hereby amended to read as follows;
18 445.634 1. The department of motor vehicles shall establish pro-
19 cedures for inspecting the authorized stations and the fleet stations and
20 may require a station to submit any material or document which is used
21 by the station in its inspection program.
22 2. The department may suspend or revoke the license of a station if:

— 2 —

1 (a) The station is not complying with the provisions of NRS 445.610
2 to 445.670, inclusive. **[; or]**

3 (b) The owner of the station refuses to furnish the department with
4 the requested material or document.

5 (c) *The station has issued a fraudulent certificate of compliance*
6 *whether intentionally or negligently. A "fraudulent certificate" includes,*
7 *but is not limited to:*

8 (1) *A back-dated certificate;*

9 (2) *A post-dated certificate; and*

10 (3) *A certificate issued without any physical inspection at or prior*
11 *to the time of certification.*

12 (d) *The approved inspector does not follow the prescribed test pro-*
13 *cedure.*

14 SEC. 3. NRS 484.644 is hereby amended to read as follows:

15 484.644 **[No]** *A person shall not operate or leave standing on any*
16 *highway any motor vehicle which is required by state or federal law to*
17 *be equipped with a motor vehicle pollution control device unless such*
18 *device is correctly installed and in operating condition. [No] A person*
19 *shall not disconnect, alter or modify any such required device. The pro-*
20 *visions of this section [shall] do not apply to [an] :*

21 1. *An alteration or modification found by the state environmental*
22 *commission not to reduce the effectiveness of any required motor vehicle*
23 *pollution control device [.] ; or*

24 2. *Any vehicle that has been granted a waiver or exemption from*
25 *the regulations for the control of motor vehicle emissions.*

A. B. 529**ASSEMBLY BILL NO. 529—COMMITTEE ON EDUCATION**

MARCH 12, 1979

Referred to Committee on Education

SUMMARY—Extends provisions for special education of handicapped persons. (BDR 34-686)**FISCAL NOTE:** Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Executive Budget.**EXPLANATION**—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to handicapped persons; extending the provisions for special education outside of the state to persons having other types of handicaps; 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 395.001 is hereby amended to read as follows:
 2 395.001 As used in this chapter, unless the context otherwise
 3 requires, the words and terms defined in NRS [395.003 to 395.009,
 4 inclusive,] *395.004 and 395.008* have the meanings ascribed to them in
 5 those sections.
- 6 SEC. 2. NRS 395.020 is hereby amended to read as follows:
 7 395.020 A handicapped person is eligible to receive the benefits
 8 provided by this chapter if:
 9 1. He is a resident of the State of Nevada;
 10 2. He is under 21 years of age, but where the enrollment period for
 11 the school year is [prior to] *before* his 21st birthday, he remains eligible
 12 to complete that school year irrespective of his age;
 13 3. *The state department of education has prescribed minimum*
 14 *standards for the special education of persons with such a handicap; and*
 15 4. A special education [program] for his particular handicap and
 16 grade or level of education is not available within his school district. [;
 17 but where he is enrolled in a program under this chapter on July 1, 1977,
 18 he remains eligible to complete that program irrespective of the forma-
 19 tion after that date of an appropriate special education program within
 20 his school district.]
- 21 SEC. 3. NRS 395.003, 395.006, 395.007 and 395.009 are hereby
 22 repealed.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 684

ASSEMBLY BILL NO. 684—COMMITTEE ON JUDICIARY

APRIL 2, 1979

Referred to Committee on Judiciary

SUMMARY—Provides for disposition of vehicles forfeited for use in illegal transportation of controlled substances. (BDR 40-1512)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to controlled substances; providing for the disposition of forfeited property, including vehicles, and the proceeds of sale thereof; 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 453.306 is hereby amended to read as follows:
2 453.306 1. Property subject to forfeiture under the provisions of
3 NRS 453.011 to 453.551, inclusive, may be seized by the division or
4 other law enforcement agency upon process issued by any magistrate
5 having jurisdiction over the property.
6 2. Seizure without process may be made if:
7 (a) The seizure is incident to an arrest or a search under a search
8 warrant or an inspection under an administrative inspection warrant;
9 (b) The property subject to seizure has been the subject of a prior
10 judgment in favor of the state in a criminal injunction or forfeiture pro-
11 ceeding based upon the provisions of NRS 453.011 to 453.551, inclu-
12 sive;
13 (c) The division or other law enforcement agency has probable cause
14 to believe that the property is directly or indirectly dangerous to health
15 or safety; or
16 (d) The division or other law enforcement agency has probable cause
17 to believe that the property was used or is intended to be used in viola-
18 tion of the provisions of NRS 453.011 to 453.551, inclusive.
19 3. In the event of seizure pursuant to subsection 2, proceedings
20 under subsection 4 ~~[shall]~~ *must* be instituted promptly and ~~[shall]~~ have
21 priority over other civil proceedings.
22 4. Property taken or detained under this section and NRS 453.301
23 ~~[shall not be]~~ *is not* subject to replevin, but is deemed to be in the

- 1 custody of the division or other agency, as the case may be, subject only
2 to the orders and decrees of the court having jurisdiction over the for-
3 feiture proceedings. When property is seized under the provisions of
4 NRS 453.011 to 453.551, inclusive, the division or other agency
5 may:
- 6 (a) Place the property under seal;
 - 7 (b) Remove the property to a place designated by the agency seizing
8 the property; or
 - 9 (c) Remove it to an appropriate location for disposition in accord-
10 ance with law.
- 11 5. When property is forfeited under the provisions of NRS 453.011
12 to 453.551, inclusive, the appropriate law enforcement agency may:
- 13 (a) Retain it for official use;
 - 14 (b) Sell that which is not required to be destroyed by law and which
15 is not harmful to the public;
 - 16 (c) Remove it for disposition in accordance with the law.
- 17 6. The proceeds from the sale of any property under the provisions
18 of subsection 5 [shall] *must* be used for payment of all proper expenses
19 of the proceedings for forfeiture and sale, including expenses of seizure,
20 maintenance of custody, advertising and court costs. Any balance remain-
21 ing [shall] *must* be deposited in the [state permanent school fund.]
22 *general fund of the state, county or city whose officers made the seizure,*
23 *for the exclusive use of its law enforcement agencies for purposes of the*
24 *prevention of drug abuse or the enforcement of laws governing controlled*
25 *substances, or both.*

S. B. 527

SENATE BILL NO. 527—SENATOR WILSON

APRIL 26, 1979

Referred to Committee on Human Resources and Facilities

SUMMARY—Relaxes restrictions on power of larger cities to order disinterment of human remains in certain cemeteries and reinterment of the remains in other burial places. (BDR 40-1998)

**FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.**

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

AN ACT relating to cemeteries; relaxing restrictions upon the power of larger cities to order disinterment and removal of human remains from cemeteries in certain circumstances and reinterment of the remains in other burial places; repealing a special act concerning the Hillside Cemetery in the City of Reno; 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.** Chapter 451 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *As used in NRS 451.070 to 451.340, inclusive, "cemetery authority"*
4 *means any natural person, partnership, association, corporation or public*
5 *entity, including the University of Nevada or any cemetery district, own-*
6 *ing or leasing the land or other property of a cemetery or operating a*
7 *cemetery as a business in this state.*
8 **SEC. 2.** NRS 451.070 is hereby amended to read as follows:
9 451.070 The governing body of any incorporated city, having a
10 population of 50,000 or more as determined by the last preceding
11 national census of the Bureau of the Census of the United States Depart-
12 ment of Commerce, may order the disinterment and removal of all human
13 remains interred in all or any part of any cemetery situated within its
14 limits, [where the right of interment in such cemetery has been limited
15 by a city ordinance for a period of 35 years or more to the filling of
16 plots and lots therein containing human remains with additional human
17 remains until such plots and lots are filled and all spaces occupied,]
18 whenever the governing body, by ordinance, declares that the further
19 maintenance of all or any part of the cemetery as a burial place for
20 the human dead [threatens or endangers] *is not in accordance with the*

Original bill is 3 pages long.
Contact the Research Library for
a copy of the complete bill.

SENATE BILL NO. 441—SENATOR FAISS

APRIL 9, 1979

Referred to Committee on Human Resources and Facilities

SUMMARY—Establishes certain rights for patients or residents of health and care facilities. (BDR 40-1970)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to health and care facilities; establishing certain rights and duties of patients or residents of those facilities; establishing certain rights of patients of practitioners of the healing arts; 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. Chapter 449 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:

3 1. *Every patient or resident of a health and care facility who is not*
4 *protected by a federal regulation imposing a higher standard has the right:*

5 (a) *To be informed, at the time of admission and at other times upon*
6 *request, of the regulations and policies of the facility, the services pro-*
7 *vided and the basic charges.*

8 (b) *To examine and receive a copy of the bill for the charges of the*
9 *facility regardless of the source of payment.*

10 (c) *To manage or by written power of attorney to delegate the respon-*
11 *sibility for managing his personal financial affairs.*

12 (b) *To retain a reasonable amount of personal clothing and personal*
13 *possessions.*

14 (e) *To receive and send correspondence unopened.*

15 (f) *To be treated with consideration and respect, including the right to*
16 *privacy for visits unless his physician has directed otherwise with appro-*
17 *priate documentation in the medical record.*

18 (g) *To be informed of his medical condition and the name of his attend-*
19 *ing physician.*

20 (h) *To participate actively in decisions regarding his medical care,*
21 *including the right to refuse treatment and to be informed of the medical*
22 *consequences. A refusal must be in writing.*

23 (i) *To privacy in medical care and treatment and to be informed of*

1 the reason for the presence of any person who is not directly involved
2 in the care or treatment.

3 (j) To have his personal and medical records treated as confidential
4 and the right to refuse or approve the release of the records to any
5 person outside the facility except as required by law or by a contract
6 providing for payment by a third party.

7 (k) To expect a reasonable response to his reasonable personal requests
8 or grievances without fear of reprisal.

9 (l) To be free from requirements to perform services for the facility
10 which are not included in the plan for his care as therapeutic activities.

11 (m) To be free from mental and physical abuse, and free, except in
12 emergencies, from physical or chemical restraints unless his physician
13 has given written authorization with appropriate documentation in the
14 medical record.

15 (n) To participate in activities of social, religious and community
16 groups if he chooses to do so, unless his physician has directed other-
17 wise with appropriate documentation in the medical record.

18 (o) To be informed in advance of plans for his transfer or discharge
19 and of the reasons therefor.

20 (p) To leave the health and care facility against the advice of the
21 physician.

22 (q) To exercise each of the rights enumerated in this subsection with-
23 out regard to his sex, his cultural, economic, educational or religious
24 background, or the source of payment for his medical services or care.

25 2. Every patient or resident of a health and care facility has the
26 duty, within the limits of his knowledge or capacity:

27 (a) To provide an accurate medical history of his own condition to
28 the physician.

29 (b) To follow a course of treatment which has been agreed upon.

30 (c) To be considerate of the personnel of the facility and to cooperate
31 with them.

32 (d) To be considerate of other patients or residents of the facility,
33 especially with respect to smoking and noise.

34 (e) To provide accurate financial information, so that appropriate
35 billings may be made to the person responsible for payment for the
36 services and the facility may be reimbursed.

37 3. Upon admitting any person for treatment or care, the owner or
38 chief administrator of a health and care facility shall provide the person
39 or his legal representative with a written statement reciting, in substance,
40 each of the rights and duties enumerated in this section.

41 SEC. 2. NRS 449.037 is hereby amended to read as follows:

42 449.037 1. The state board of health shall adopt:

43 (a) Licensing standards for each class of health and care facility
44 covered by NRS 449.001 to 449.240, inclusive, and section 1 of this act,
45 after considering any recommendations the health facilities advisory
46 council may make.

47 (b) [Rules and regulations] Regulations governing the licensing of
48 [such] those institutions, after considering any recommendations the
49 health facilities advisory council may make.

50 (c) [Such other rules and] Other regulations as it deems necessary

1 or convenient to carry out the provisions of NRS 449.001 to 449.240,
2 inclusive [.] , and section 1 of this act.

3 2. The state board of health shall require that the practices and
4 policies of each health and care facility must provide adequately for
5 the protection of the health, safety, physical, moral and mental well-
6 being of each [individual] person accommodated in the facility [.] , and
7 must encompass as nearly as may be all of the rights enumerated in sec-
8 tion 1 of this act.

9 SEC. 3. Chapter 629 of NRS is hereby amended by adding thereto
10 a new section which shall read as follows:

11 1. Every person receiving care or treatment by a practitioner of a
12 healing art licensed in this state has the right:

13 (a) To considerate and respectful care.

14 (b) To know the name of the practitioner who has the primary
15 responsibility for coordinating the care and treatment, the name of any
16 other practitioner who will be providing medical services, and the pro-
17 fessional relationship of the latter with the one who has the primary
18 responsibility.

19 (c) To receive information, in terms which can be understood, from
20 the attending practitioner concerning the nature of the person's illness,
21 the course of treatment and the prospects for his recovery.

22 (d) To know the cost of the treatment, and to examine and receive
23 an explanation of the bill, regardless of the source of payment.

24 (e) To receive as much information about any proposed treatment
25 or procedure as may be needed in order to give informed consent or to
26 refuse any course of treatment. Except in emergencies, this information
27 must include a description of the procedure or treatment, the medically
28 significant risks involved, any alternate courses of treatment, the risks
29 involved in each alternative and in nontreatment, and to know the
30 name of the person who will carry out the selected procedure or treat-
31 ment.

32 (f) To participate actively in decisions regarding medical care, includ-
33 ing the right to refuse treatment and to be informed of the medical
34 consequences. A refusal must be in writing.

35 (g) To privacy in medical care and treatment, and to be informed
36 of the reason for the presence of any person not directly involved in the
37 care or treatment.

38 (h) To confidential handling of all communications and records per-
39 taining to the medical services provided to him. Written permission
40 must be provided before medical records are made available to persons
41 not directly connected with his case.

42 (i) To leave the hospital, clinic or other place of treatment against
43 the advice of the practitioner.

44 (j) To be informed by the practitioner of any continuing health care
45 requirements following discharge from a hospital, clinic or other place
46 of treatment.

47 (k) To receive reasonable responses to his reasonable requests for
48 services.

49 (l) To be notified if the practitioner plans to engage in any human

1 experimentation affecting his care or treatment, and to refuse participa-
2 tion in those research projects.

3 (m) To exercise each of the rights enumerated in this subsection
4 without regard to his sex, his cultural, economic, educational or religious
5 background, or the source of payment for his medical services.

6 2. Before engaging in any treatment or care of the person, the
7 practitioner of a healing art shall provide the person or his legal repre-
8 sentative with a written statement containing, in substance, each of
9 the rights enumerated in subsection 1.