

MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Assemblyman Craddock
Assemblyman DuBois
Assemblyman Jeffrey
Assemblyman May
Assemblyman Mello
Assemblyman Nicholas
Assemblyman Polish
Assemblyman Prengaman
Assemblyman Redelsperger

MEMBERS ABSENT: None

GUESTS PRESENT: Please refer to the guest list attached to the minutes of this meeting.

Vice Chairman Schofield called the meeting to order at 8:10 A.M.

Mr. Schofield indicated that the first bill on the agenda is AB 361 and Mr. Schofield indicated that before the committee started on AB 65, it will probably be at 9:00 A.M. for the people on the computer.

Mr. Schofield stated that the committee would now hear testimony on AB 361.

Mr. Robert Petroni, Attorney for the Clark County School District testified first. Mr. Petroni stated that AB 361 which the committee had before it, is at the request of the Clark County School District. It is backed as a priority item in their legislative package of the Board of Trustees of the Clark County School District.

In essence, getting to the meat of it, it repeals the Professional Practices Act in the State of Nevada. The Professional Practices is similar to a tenure law for certificated employees that work for school districts. The Professional Practices Act originally was enacted originally in 1967 by the Nevada Legislature and since then it has been amended several times. In 1971 the Nevada Legislature also through this committee adopted NRS 288 which is known as the Employee Labor Management Relations Act for local government employees and employers. That Act in 1975 was extensively amended to amend NRS 288.159 which sets out the mandatory subjects of bargaining. One of the mandatory subjects of bargaining under 288.150 is found in Paragraph 2 under (i) - discharge and disciplinary procedures. Therefore, it is mandated that if the employees or the employer wishes to negotiate a disciplinary or discharge procedure, they have to under NRS 288.

It is the Clark County School District's contention that in order for us to have meaningful negotiations on a discharge and dis-

1315

Date: April 1, 1981

Page: 2

disciplinary procedure we must have off the books first, NRS 391.311 to 391.3197, the Professional Practices Act. The reason for this is quite simple. We have found in negotiating with the teachers when you try to negotiate a different type of law or a different type procedure under 288 for disciplinary discharge they start with this act. They want more than what is in 391, so it is not meaningful negotiations. If it is repealed, both sides will have to sit down and meaningfully and in good faith negotiate a procedure that they can both live with. That is what we are asking for. There are many constraints in NRS 391 right now on discipline and discharge. For instance, you are limited to two days' suspension without pay or you terminate, there is no in between. We have found problems with this in the past. If we can negotiate something different, we might be able to come up with a different type of discipline procedure whereby many certificated employees would be protected from being terminated because there would be another type of discipline we could use, other than termination or non-re-employment. Therefore we think it is very necessary that this act be repealed.

Let me give you an example of what happens when you go through this Act, how long it takes and who suffers when you try to get rid of an incompetent teacher or certificated employee. The School District recently received a decision back from an arbitrator on a dismissal case. This teacher was an old time teacher and had been there about fifteen years, who was having problems in the classroom. We had to document this person for many, many months and evaluate before we could finally move to dismiss because the Professional Practices Act provides you must first admonish the person and give them a reasonable chance to improve. We do that in the district. We would help them along and put them in a special assistance program to help them. The decision that came back from the arbitrator after about a year of this process, was favorable to discharging this teacher, however, this is an excerpt from the arbitrator's decision. This is referring to the students in that teacher's class. Students in "X's" class were tested in math and reading in April, 1980. The mean at the school in reading was 80.35, while the mean for "X's" class was 66.08. Her children, during the time we were going through this procedure to try to dismiss her were 14 points below the mean. Then it goes on to say in math, the figures are 82.91 mean for the school in that grade and in her class 58.173. There was a difference there of almost 24 points, so the kids were suffering while we were trying to get rid of this teacher. That's not right. Therefore, we are asking that this Act be repealed and we negotiate a procedure with the administrators and teachers on how discipline discharge should be.

Mr. Schofield asked if there were any questions from the Committee.

Mr. DuBois asked what the odds that this particular teacher of that class simply being of a lower average?

Mr. Petroni stated that they weren't because that was checked out too and as a matter of fact it goes on to say the other second grade

class at the school achieved scores of 80.96 and 82 in reading and math, so what they did was that the students were of average in all the classes - they checked that out. This one teacher did not have that below average students to start with.

Mr. DuBois indicated that the other math class might have had the upper.

Mr. Petrono stated that it was not divided that way though. That was the argument they used but the evidence presented to the arbitrator showed that this was what he found in his findings. This was not the argument of the district, this was what he found in the evidence that was presented.

Mr. May indicated that that was one isolated case.

Mr. Petroni stated that it may not just be one isolated case. It takes time to find these cases. Once we find them though, it takes more time to move on them because you have to admonish, and you have to help them improve and all of that. What I am saying is if we had a simpler procedure - we may not end up with a simpler procedure if we negotiate it - but we at least want the chance to try it - to sit across the table and negotiate in good faith - give an take - something else besides money.

Mr. May asked how many instances have you actually had in the last four or five years.

Mr. Petroni stated that he could recall at least one other incident in the last three years.

Mr. May stated that there had been two incidents in three years then.

Mr. Petroni stated as well as he could recall. I don't handle those cases exclusively any more, my associate does, but we do have those type of cases.

Mr. Craddock questioned how long it would take to briefly outline the dismissal procedures.

Mr. Petroni stated it depended on what the grounds for dismissal is. I could give you an example of two cases, two different types of grounds if you want. I could talk to you now if you want to take the time of the committee or I could talk to you later.

Mr. Craddock indicated he did not want to take a lot of the committee's time but if we could get it through in a relatively short period of time he would like to.

Mr. Petroni indicated it may take a little while because it would depend on the type of case it is. For instance, if it is a case involving immorality or one of those, since we amended the law last session, you don't have to admonish the person first if you catch

him in an immoral act. You can go for immediate dismissal. Although right now - for incompetency, you would have to go through a procedure where you would first have to admonish them. That is under 391.312 or 313. The second step then is you give them a reasonable chance to improve - you help them improve - you show them where they are going wrong - in our district we even put them in what we call a special assistance program whereby they can have other master type teachers or other teachers help and administrators and everything to help them improve.

Mr. DuBois asked how long a period of time was given to them to help them improve.

Mr. Petroni stated that it says not exceeding three months - for the first admonition. If the teacher has been there longer, many years, of course we try to give them as much time as we feel they need in deference to all of their years of service. This teacher here we worked with for about a year and still the improvement did not show.

The third step then if there is not any improvement, the superintendent then issues a letter notice of dismissal or non-reemployment if they want to do it prior to the next contract year which is an April 1 date. That is another thing that bothers us. When we negotiate, we would like to move that to May 1 at least.

Mr. Petroni then stated that then they can ask for a hearing officer who is selected from a list of attorney hearing officers and that can either be binding or non-binding. If both parties agree it will be binding and if they don't it is advisory only and it goes back to the superintendent after he hears the case, and then the superintendent makes the final recommendation to the Board of School Trustees who then take final action. Or you can use the AAA arbitration and have it final and binding which this one was an AAA case, we agreed to bind.

Mr. Bob Cox representing the Washoe County School District and eight other school districts in the state. There are two others. I have one of them going through the other steps. I had a case in Douglas County this last summer - we went through five days of hearing. The transcript - one half the cost of the transcript was in excess of \$1,000 and that is all the district had to pay. The teacher had to pay the other half. The teacher was dismissed on the basis of a quite lengthy opinion by a hearing officer who was independently selected. That case has now been appealed to the District Court level which is here in Carson City. It has been indicated by the teacher's attorney that even though he may expect to lose at that point they will take the case on to the Supreme Court. I talked with the district when the case was being held and one of the problems here is because you have such an expense involved at a time when school districts' money sources are being cut out that sometimes they have to consider other alternatives, that is settling a case in some way or another and not proceeding even though they may feel the teacher needs to be dismissed. In this case, the district felt

that though settlement might be something that was advisable they felt the teacher was bad enough that they wanted to proceed and I can assure you that that case will go to the Supreme Court and will be down the line another couple of years before that is finally heard, so aside from all of the steps along the way in helping the teacher, the admonition process, the notification, the hearing, you can go on into the court process itself which is lengthy and expensive for a district.

Mr. Petroni stated that he had a case before the United States Supreme Court now and that he had one prior to this. They take you every step of the way that they can. They start challenging you right at the start on the evaluation itself through your policies and regulations. I have another case in the District Court, whereby prior to when the statute was amended, which we have tried to get amended several times, where it did not have to be an admonition for immorality, we caught a male teacher with two male children. There was testimony that he was molesting these children. The school board went through the process, voted to discharge this person. This person went to the District Court, the District Court reversed it and said at the time that we did this, the statute required you admonish for something like this first. In other words, you allow them to commit a sex act first before you can go ahead and fire them the second time they do it. I am in court on that now. Mr. Petroni stated that we were talking about \$100,000 in back pay now in that case too.

Mr. Jeffrey stated that the experience he had had over the years with this committee, that the school boards are very reluctant to negotiate.

Mr. Petroni stated that they were not reluctant. In fact we have some up with one.

Mr. Jeffrey stated that he was not specifically talking about Clark County, but was talking about school districts in general. He stated that as far as he was concerned in many cases and in many occupations I may not have a problem with this. These are career people and they are people that like any other type of human beings involved they may be fired for reasons that necessarily aren't good reasons. You are talking about career employees that are educated and have spent a number of years in that profession or at least, due to the fact that they are there, plan on making a career of teaching, and I am not at all supportive of this kind of legislation.

Mr. Petroni stated that that was very understandable. They would not necessarily be at the mercy of the school district. They could demand and negotiate some sort of procedure for that sort of process - a due process procedure. The Federal courts have come out with many decisions from the United States Supreme Court down lately protecting public employees and their employment.

Mr. Jeffrey stated that he was not talking about the same thing -

You have to go to court.

Mr. Petroni stated that he does under this act too. Under this act, like you say, you could try to arbitrarily do it and you could go through the procedure and finally the court says it was wrong. There is a protection. There would be a protection under the procedure to negotiate or if you try to dismiss them for unconstitutional reasons freedom of speech or something, there are several Supreme Court cases which disallow that, even without a Professional Practices Act or Tenure Act. So there are many safeguards.

Mr. Cox stated that perhaps he could speak to that since he did represent a number of districts. I know it is a common claim that is made -

Mr. Jeffrey stated that it was not a common claim because we have had to pass bills for such things as even allowing school personnel to have access to budget information that the general public has access to. It is not a claim, it is a real problem.

Mr. Cox stated that what he was really saying is that since I have to deal with that problem and have to go before the governor's representatives to see if binding factfinding should prevail, one of the common charges is made by districts or teachers associations against districts is that they do bargain in bad faith. I truly do not believe that to be the case. One of the proofs of the pudding is how the governor has granted binding factfinding. In those cases where bad faith bargaining has gone on, the governor does have an opportunity to grant binding factfinding. He has not done that. I can go back to both Governor List and Governor O'Callaghan did not find those things being granted on any kind of generalized basis. Likewise there is protection for employee organizations if they feel as if they are not bargained with in good faith under 288 they can go before the Employment Management Relations Board and I have been appointed to that board and served on that board as vice chairman for a year and a half, I know what the process is. I have heard cases on both sides and I believe there is a process to solve that problem, if it is a problem. I don't believe it to be a problem. One of the things I would like to say about this though, and I think Mr. Petroni has pointed out, when the employee has been given the power under 283 to negotiate and that is a tool that has been given to them, you ought to have some parity on the other side I suppose with school districts. I think that by having a negotiation bill on one side and a prescribed Professional Practices Act which is I think in anybody's estimation the most protective act of any one in this nation for teachers, you really don't place the parties in parity. There cannot be negotiation when you have that sort of situation. I am not for cutting out rights of protections for professionals, but I would defy anyone here to indicate to me in any professional group that is more protected in this state than the teachers. There are doctors, lawyers, CPAs all the way down the line. All the people who are educated, all people who have dedicated their life in one way or another to some sort of profession. The school districts are

not asking for this sort of bill in order to cut out rights of teachers. Under the constitution there are certain due process rights that are required. As a result, I think aside from any negotiation they have protections. It is certainly my feeling both by way of experience and having dealt with a number of dismissal cases, that teachers have the upper hand in this particular area and gentlemen the bottom line to me has to be the kids. Teachers should certainly be protected, but the kids are the ultimate beneficiaries of all of the educational process and if we have to go through a long drawn out process which is absolutely required right now, then we are not having the best education go on for our tax dollar. So what I think what we are both saying is we are not trying to cut out any rights of teachers to certain protections. They should receive protections. We have given certain testimony on other bills here where we wanted longer periods of time to look at teachers before we have to hire them on to a tenured basis whereby they would in essence receive \$1,000,000 over the tenure of their contract and in light of the difficulty in dismissing them that is exactly what they receive. We want longer periods of time to look at them. We cannot apparently get that through the legislature, therefore we would like to be able to sit down on a parity basis and negotiate with them and if we cannot reach agreement, we can go to a factfinder and a factfinder can make his recommendations and certainly protections are given under the Employment Management Relations Act. So I think what we are really talking about here when we talk about this bill, the bottom line, is students and protection of students.

I know that you asked how many cases go forward on this sort of thing. One of the men here that I expect was going to testify against this, Doug Byington, is a principal in the Washoe County School District, administrator. He went through a hearing of some thirteen days with Gerald Eaglesmith. The cost of that was substantial. The case is still on appeal. It is still going through the court process. The transcript alone cost \$6,000.00 in that particular case. Well if it costs that much to get rid of a teacher that I submit is as bad as Gerald Eaglesmith was, with what the hearing officer found, when you put it together, teachers - administrators are reluctant to go through that process. I am sure Mr. Byington when he gets up here, if you ask him about it, it is a grueling process to go through. You are cross examined, and it is not that you shouldn't have to support your position, it is that you should not have to go through such an extensive process to finally terminate a teacher and have a good educational program going on.

Mr. Cox stated that Mr. DuBois had asked the question of what happens on a normal basis when a teacher is allowed to continue in the classroom. Most dismissals go on the basis of incompetence, failure to perform their duty in a proper way. During the period of time before dismissal takes place, that teacher remains in the classroom and I suppose in all fairness that may well have to take place. No one should be convicted or removed from their position without having a fair hearing, but when the hearing process is so long and the people that are really suffering are the students in that classroom that is every dismissal case and if administrators are reluctant to step forward because the process is so difficult then it means that we do keep

people in our system just as an economic consideration that probably we should get rid of but the process we now have does not allow that.

Mr. Mello stated that Mr. Cox mentioned the fact that teachers presently have more security than CPAs, lawyers, engineers, professional people. The one thing that you failed to mention though is that the majority of those people in those fields make good money. Teachers are underpaid.

Mr. Petroni stated that he agreed with that.

Mr. Mello stated that maybe if we took some money away from some of the administrators and spread it around a little bit teachers wouldn't be so underpaid. Mr. Mello further stated that the problem we have with taking security away from teachers that are underpaid is when good teachers take the job they must be dedicated today or they wouldn't take the job. You talk about an attorney, a CPA an engineer, they all make \$60,000, \$80,000 to \$100,000. You take a teacher today that works 20 years and has 20 years of seniority and is making approximately \$20,000. If you want to take away the security, then there is something radically wrong with the system. When you talk about putting them on an equal par with other professions, then I think you can take that security away from them, but don't try to take two things away from them.

Mr. Cox stated that he guessed the response to that is that nobody is trying to take security away from them. Mr. Cox stated that he would go either way. Have some amendments to the Professional Practices Act that would really allow us to get rid of bad teachers or allow us to negotiate it, one or the other. I guess the real point is, I don't think any of us could sit up here and go through the negotiation process and say that the teachers are overpaid people. They are really not and I think there are many that are very dedicated, but I can tell you this, that the people that are the dedicated people that are the good teachers, are not afraid of the Professional Practices Act. They are not afraid of being dismissed. I think think what you find is that people, and I suppose that this is the philosophy of unions - I am not saying anything against unions - but what you tend to find is that everything wants to sink to the lowest common denominator. We are saying - I would rather and I am anticipating the negotiating process - sit down and say let's pay teachers that are performers on a work performance basis, pay them more money. Pay the people that are the better teachers more money.

Mr. Mello asked why we don't do that first?

Mr. Cox stated that the unions would not do that. They absolutely will not do that. When you start suggesting any kind of performance type contract, those are things that are absolutely rejected. I can say this, we would like to have more money, I suppose to pay the teachers and the money just isn't there, but what I am saying is that at the bottom of all this, sure you should pay more but the kids are at the bottom of all of this. We've got to give them a good education. If that process is hindered, you don't help it by saying

protect a group just to take care of those that are incompetent. I don't believe that to be the answer.

Mr. Mello stated that one of the answers might be in the hiring itself. He further stated that he did know that we hire teachers that are not really capable of teaching in the classroom. Now are they on a probationary period at this time?

Mr. Cox stated they are. The way the probationary period works is for a 6-1/2 month period, we have three evaluations that must take place before you must make a decision as to whether someone is going to be a lifetime employee of the district. I submit to you there is no public entity that really is required to put anybody in that particular category. A lot of people that are underpaid in this world but nobody has that much protection. I don't care whether they are professional or not. If we have to make that decision in 6-1/2 months I submit to you that anybody can get past 6-1/2 months generally speaking. That is not enough time to finally make that decision.

Mr. Cox stated that he guessed when he was talking about the number of administrators, an administrator having to take a school and evaluate all the teachers and make a decision not only each year as to probationary teachers, but as to tenure teachers, that is not just an easy process to go through. It takes time. You don't go into someone's classroom one time and make that decision. You have to go in there a number of times. During the process, likewise you are in the field and an administrator has a tough job because he is out there on the front line with those teachers and he wants to keep the people satisfied because he has to work for them and he doesn't want them on his neck. He wants to turn out a good product for the students and you just can't make that decision that soon. I don't believe you could make it wisely if it has to be made now under the legislative process but I don't think it can be made well.

Mr. Prengaman asked in the last five years in Washoe County how many cases have you had.

Mr. Cox asked if Mr. Prengaman was referring to cases that have actually ended up in the Washoe County District Court? He stated that he believed that two had gone to the District Court level. What I am suggesting to you is that there are a number that have not been taken merely because of the economic level. If it costs \$6,000.00 for a transcript, there are not many of those cases you can go forward with. That pays for half of a beginning teacher's salary for an entire year.

Mr. Prengaman asked where Mr. Cox found most of the problems. Are they with the new teachers or are they with the teachers that have been there for a while or is there no way to figure that out?

Mr. Cox stated that the questions asked are in the hiring process. You try to hire the very best of people at the outset. You get somebody that comes out of school and that has no experience the

major problem the beginning teacher has is classroom management and control and discipline. They are coming out of an environment where they have been academics and they come into a classroom - let's say fifth and sixth graders and that is a tough group to deal with. They have to really get along and have that management control, so I would say that that is the most central problem. I am not saying that we just have a whole raft of teachers down there that are bad because I think in the Washoe County School District as well as many of the other districts I represent there are a lot of very good teachers and highly professional people. I am saying though that there are as it is in the case in every group, there will be some people that will be substandard that you should get rid of for the sake of the students.

Mr. Prengaman asked Mr. Cox how he would change the evaluation system. Would he spread it out - instead of over six months say spread it out over a year.

Mr. Cox stated that his suggestion would be - and we have presented this testimony elsewhere - but my suggestion would be to lengthen the probationary period that we are talking about. Right now we in essence have a 6-1/2 month period to make that final decision. Now I submit to you that it is not in the best interests of the district or the teachers to have to make that decision within that period of time. If we had a three year probationary period to deal with, I think we would come up with something that would not adversely affect teachers because there could be due process provided. In the meantime, if we have a bad teacher then we could get rid of them. We don't have to have them around our neck for the rest of their natural life. If we had a three year probationary period and had some revision of the suspension area those would be the sort of things that we would want to negotiate. I don't want to get rid of the Professional Practices Act. I suspect if we negotiated this thing we would come up with something that has the same kind of form that this does. We would have to link to the probationary period so we can have a better look at those first, second and third year teachers so we can make a wise decision.

Mr. Craddock questioned the 6-1/2 month probationary period.

Mr. Cox stated that he would explain how it actually works right now. He stated that they actually have a right to go into a second year. At this time there is a probationary period of one year. There are three evaluations that are required prior to making that decision which has to be made by April 1. What you must do is you go through those three evaluations and then you must notify the teacher if the teacher is going to come back on a tenured basis or for a trial year. Now the idea between the trial year was to take those teachers that we were having some problems with and give them an opportunity to improve and likewise not to waste the district's money. Any time you hire a teacher there is a certain amount of training that has to go on and we would like to keep every teacher that comes on. We would like every teacher to be a success. That is not always the case. What we found however is that the trial year created a problem.

It certainly did in Washoe County School District because we thought we were using the process correctly. We could not make a decision about certain teachers within that 6-1/2 month period and so we placed certain teachers on probation and there were a total of about 50 teachers that were placed on the second trial year, which is like a second probationary year. Their claim through their association was that somehow they had been stigmatized by placing them in that trial year. Our intent was not to stigmatize them - our intent was to give them further opportunity to improve so that we wouldn't have to cut them off right at that point so what we found was that the trial year which was suggested and it came about really much by way of compromise to try it out, was something that really didn't work because the way they used the process, we turned around and said all right, we will go to the fourth evaluation and take a look at those fifty teachers and see in fact if there are any of those that we can put into the tenured basis, but we haven't had enough time thus far, we only have 6-1/2 months, so we went rather than to the April date, to the May evaluation and we were able to take 25 of the teachers out of that fifty. Out of that group of 25 that was remaining to go into the trial year, the teachers still complained about some six teachers. As a result of that, Marvin Picollo was then the superintendent of the Washoe County School District, we had two or three meetings with the association, their attorney, the association came before the board of trustees on two occasions, there were detailed explanations given on why these people - now we were not saying terminate them, we were saying give them another trial year. We want to have an opportunity to look at them further and of those six teachers I am informed that every one of those teachers will become tenured as of April of this year. That is my latest information at least. So we were not trying to stigmatize those teachers, we were really trying to give them the benefit of the doubt, yet we found that the law was really used as a sword against us when we were trying to use it in a way that we thought it was intended. What I am saying as to Mr. Prengaman's question, we need a longer period of time to make sure that this decision which is an all important decision is a correct one and we would like three years. Two years would be better, but three years is what we would like.

Mr. Jeffrey stated that perhaps they would like a five year probationary period for everybody.

Mr. Cox stated that the real point is that across this country, there is no state that has the protection for teachers that this does. Now I would suggest to you that if it is some way detrimental to teachers it is obviously the law here, but I can tell you the real detriment falls upon the children.

Mr. Craddock stated that they had an option for the second year.

Mr. Cox stated that that was correct.

Mr. Craddock stated that that two years has now become 6 or 6-1/2 months.

Mr. Cox stated that it is 6-1/2 months before you must make the first decision.

Mr. Craddock stated that they then had a year beyond that 6-1/2 months.

Mr. Cox stated you would have until April of the following year to finally make that decision, but as I am saying, in practice the way this is worked, is that the trial year has not worked. If we had a full second year probation that might be something else, but that is not what we have.

Mr. Craddock stated at the option of the administration you have a second year.

Mr. Cox stated that that was correct with the caveat that I have given to you that the associations have really raised hell about anybody that has been placed in the trial year even though you have that option.

I have given you in the number of meetings the amount of time and money that was expended just in those meetings. I am saying if that is the case and even one of them - I have a case out in Elko that went to Federal court this year, where there was a teacher that came to the end of that first year and she was dismissed and that ended up in a lawsuit. That is not supposed to happen under the law, but I can tell you it cost them a lot of money during the process. There is the administrator's time, the district attorney's time that represented them and after he got into the case he realized he was over his head, he brought me in on the case and that is not what was intended by this law, that sort of protection.

Mr. Craddock asked Mr. Cox if lawsuits were not supposed to result from law?

Mr. Cox stated that what he was saying is that when you set up a law and you come to the end of a term and you make a decision that a teacher should be dismissed and then that teacher protests that even though the law provides no means by which something can go to the courts and the teacher goes, anybody can file a lawsuit, Mr. Craddock and that is one of the problems I suppose we have to deal with, but what I am saying is that that suggests to me bad faith on the other side in dealing with the law, if associations take on that sort of process to press the rights which were obviously never intended and that happens in every case that goes forward. The case I gave in Douglas is one where it has already been indicated that though they think they will lose at the District Court level they are going to go to the Supreme Court and I can assure you in my own opinion that the reason for that is to try to force some sort of settlement out of the district so that that teacher can remain in that district and continue to teach. That district has made a decision though it may be expensive though they don't have the money, they are going to press forward because it is for the good of children.

Mr. Petroni stated that Mr. Craddock was right that you can't stop lawsuits because the probationary period first went into effect this year - last year. We did not rehire three probationary teachers and all three of them took us to court. The judge denied a preliminary injunction to reinstate them, and the case is still pending. Since then one of them has gone to work for another school district.

Mr. May stated that as he understood the thrust of this, you are saying let's repeal 391 and go back and negotiate, is that correct?

Mr. Cox stated that was correct.

Mr. May stated 391.316 requires negotiation. Mr. May asked if they did not have ability under that to negotiate every year.

Mr. Cox stated you do - you certainly do. The problem is when you establish something this good, nobody can negotiate anything this good. Nobody wants to negotiate. We have talked about negotiating this particular process with the Association of Washoe County. They don't want to negotiate it. Why should they negotiate something that nears perfection. So what I am saying is we are not in a parity - we can't sit down on the other side of the table and negotiate it.

Mr. Petroni stated that it is either that or they start with this as their base - their table and negotiate up from here.

Mr. May asked if this were not removed if Mr. Petroni in the back of his mind think they might come in with this?

Mr. Cox stated that sure they might do that but the process is one that if you can't agree to go before a factfinder. Factfinders make decisions on the basis of reasonableness of the position of the parties. You can bring in a whole series of state laws and dismissal processes and I think I can demonstrate it through testimony that this is an unreasonable act - the dismissal of a professional.

Mr. Cox stated that it is very difficult to dismiss a teacher. He stated that what happens is you go through the evaluation process and the teachers are evaluated. After evaluation, if reason for improvement is given, if you have some area where he or she can improve, you must give reasons or ways that improvement must take place - spend a good deal of time with the teacher before you ever get into the dismissal process. For instance, for that one, you have to admonish the teacher and say unless you improve in these specific areas, you are going to possibly be dismissed and then spend up to three months working with them, bringing in consultants by way of psychologists, people from other districts and letting them do class visitations. I am not saying a teacher should not be helped, but I am saying that a process is a very difficult one to go through. So teachers really receive very broad protections here.

Mr. Petroni asked if he could give the committee an example on the admonishment problem? Mr. Petroni referred to a case that he had before the State Supreme Court which was reversed held in that case the admonishment has to be for same or similar reason, so in other words you could have a professional certificated employee who one day refused to do a duty - an insubordinate act and you admonish him and give him a chance and he improves that. A couple of weeks later it could be a problem in the classroom. You can't go for dismissal even though you had a prior admonishment, because it was not for the same or similar reason. You have to admonish him for that. A couple of months down the road they could neglect their duty - something else - you would have to admonish them for that. You couldn't go back and dismiss until you had a similar reason for which you admonished again.

Mr. May asked about the screening process that they went through before a teaching position is offered in the State of Nevada. You indicated that Nevada probably has the best protection in this of all of the other states that have it, but you also indicated that \$12,000 is the average starting salary in the State of Nevada.

Mr. Cox stated that he did not know what the average is but it probably is around that level. This would be for 180 days of work which is 2/3rds the normal full year so you really have to extrapolate that to get what it would be equivalent to. It is a 7 hour day as opposed to the normal 8 hour day.

Mr. May asked if \$12,000 was the average starting salary?

Mr. Cox indicated he would say that was about right.

Mr. May asked if that was comparable to the surrounding states?

Mr. Cox stated it is comparable. What happens is one of the processes that you go through during negotiations if you go before a factfinder and they have to make decision on whether your salary offer is reasonable or not and make a recommendation, is that you bring in comparisons throughout the state as well as other comparable states and that is one of the processes that happens. So I would say that this state, and I don't know where we rank in terms of comparable salaries, but we certainly have comparable salaries to states of this size.

Mr. Cox stated that he has asked teachers many times why we don't get more support to get rid of bad teachers and oddly enough during a hearing one time I had a teacher that came up and testified and she was obviously not happy about testifying on behalf of the person for whom she was testifying and I finally asked her, why are you here testifying today. You are not really in support of this teacher and she had to finally admit that she wasn't and she said I am here because I think there but for the grace of God go I. That is a general statement, but I can tell you that pier pressure at least in my experience has not forced people out. We are not saying get

1328

rid of protections for teachers, we are not saying strip them so that we can get rid of them for any cause, we are just saying let's have some reasonable means. We talked about the selection process. Washoe and Clark have more teachers applying for positions than they have, but I can tell you some of these smaller counties which I represent really have a difficult time attracting people sometimes to come out to those counties, first of all because of the remoteness, so sometimes they have to take people that they are not really sure about, but they have to fill a position because they have an educational program to go forward on. They have got to have some means to get rid of those people that does not break them in the process.

Mr. May stated that having been in Elko County many times, he could not envision Elko County allowing unfit teachers remaining too long there.

Mr. Cox stated that he thought that was right but if it cost them a lot of money and they can't afford it -

Mr. Cox further stated that this was the first dismissal case that they have had him handle and the first one that I am aware of that they have had and they used the new law to get rid of a teacher - a gal that came in from New Jersey that created substantial problems in the school and her claim was and this is typical and this happens in every teacher dismissal case I have ever had - the claim by the teacher is that it is unfair because the administrator is treating them in a biased way. Her claim was sex discrimination. Now that happens in every case and that is a defense. Now that may be a lawyer's defense but that is what happens.

Mr. DuBois asked on the matter of probation and evaluation who makes the evaluation, the principal?

Mr. Cox stated the key administrator, the principal on the staff.

Mr. DuBois asked how many new teachers the school had each year to evaluate?

Mr. Cox stated it depends - for instance, last year there were 50 new teachers in the Washoe County School District, but aside from that requirement of evaluating those new teachers, there is a requirement under the law to evaluate the old teachers too, so, for instance an elementary school principal who has no vice principal to help him, has to evaluate his entire staff as well as the probationary teacher, so it is a substantial job as well. His only job is not just evaluation, it is carrying on the curriculum process, the overseeing of the school, putting together the budget, just the general administration of the school which is a substantial duty.

Mr. Cox stated that in some of the high schools they had six, some of the elementaries, maybe two. Remember that it requires four written evaluations for that probationary teacher, and four written

evaluations means a substantial number of visitations to the classroom.

Mr. DuBois indicated that he did not see why that would be so difficult if you have only four in a high school. It is critically important that evaluation be done properly. Being the principal has 6 months in which to do that I think it would be ample time to do that.

Mr. Cox stated that this would be to make a lifelong decision on a person and virtually insure their job for their lifetime. That seems like a critical decision in a very short period of time to me. It may be three written evaluations and going in and spending a lot of time and we have put a priority in that particular item. Some of our principals have said some of these things I am just going to have to shoot in the dark about. I am going to have to make a choice - I have just not had enough time.

Mr. Cox stated that he supposed though on the other hand when you are talking about private industry, when somebody has a problem, they don't have to go through an admonition process to finally dismiss the person. They don't have to go through a hearing officer and they don't have to go through the courts. I would say that is all fine. We could make the decision if we didn't have all the encumbrances that thereafter follow. One of the problems is even though they are on probation, if you get rid of them even during the probationary contract, you have to follow all of this procedure the same as though they were tenured. You can't just release them like you can in industry if they are not working out.

Mr. Petroni stated that on top of that Clark County had several hundred new hires last year and if you go into a teacher's classroom more than once or twice they start to accuse you of harassment.

Mr. Redelsperger asked how the teachers rated as far as the other states were concerned and on the national average.

Mr. Petroni stated that he did not have the answer.

Mr. Redelsperger stated that he has been reading that some of these scores are quite low and I wanted to know if that is a fact and if so we have heard a great deal about the teachers, but don't you feel that the administrators ought to take some responsibility in this?

Mr. Schofield stated that perhaps Mr. Neely might be able to answer the question.

Mr. Nelly of the Clark County School District stated that he did not have that with him. I would be happy to bring a copy over to you showing what the test results were in math. We were at the average or a little above the average.

Mr. Cox stated that Washoe County's is likewise.

Mr. Redelsperger asked if in comparison to several years ago, are they lower or higher?

Mr. Neely stated that they were lower years ago. We have a graph showing how they have come up over the past.

Mr. Redelsperger stated that they were coming in and repealing this whole 391. Have you ever considered coming in with some amendments to it, clarifying what deficiency is, or neglect of duty or inadequate performance to clarify these a little more thoroughly.

Mr. Nelly stated that they have been litigated and clarified in court decisions.

Mr. Cox stated that this is not the first attempt at this. We have tried amendments that are in the session right now to do something for this act. As I said earlier, I would be satisfied with the act if we could make some amendments to it to allow particularly for the probationary teachers, but lacking that, I would like to be able to sit down and negotiate that process.

Mr. Redelsperger stated that that might be a wiser direction.

Mr. Cox stated that they have tried that and perhaps it will even come before this committee.

Mr. Nicholas asked if it was not standard procedure in state government and I realize that there are variations between state government employees and teachers to also go through this. Is this a pretty common thing among agencies, teachers, statewide?

Mr. Cox stated that they have certain protections under the Civil Service Act. There is none that even comes close to this and that is what we are really saying. Protections are fine, but they go to excess and cost an extreme amount of money to go through the process.

Mr. Nicholas asked if a good administrator in the school system have the ability to use department heads and other personnel to assist him?

Mr. Cox stated that part of the problem is to put an administrator in the field one of the complaints I hear is that there are too many administrators. We don't have enough administrators to go around to carry out that process. The real responsibility still must remain in the field - the man that is out there and seeing the teacher on a day to day basis.

Mr. Petroni stated that as a matter of fact he could add to that. If we have a second trial year if the teacher or the certificated employee can ask for a different administrator to evaluate them that second trial year.

Mr. Nicholas stated that he had one final comment. He indicated he had heard references to Doug Byington who has been through as much of the mill as almost anyone, I will be very intrigued to hear why he is on the opponents side of this bill.

Mr. Schofield asked at the end of the year, how many of the new hires were dismissed?

Mr. Cox stated that he thought there were going to be in Washoe County this year four that are going to be dismissed.

Mr. Schofield asked Mr. Cox how many they had hired.

Mr. Cox stated somewhere around 50 to 60.

Mr. Petroni stated that he would have to get that figure for the committee.

Mr. Mello asked if that was the average or if that was just for this year.

Mr. Cox stated that last year he thought it was two or three?

He indicated that he could provide those statistics to the committee. We are not trying to - as we say, hopefully we screen out people that are bad. We just want the right to get rid of those that are really bad.

Mr. Mello stated that they had the right right now and you yield to the association - if you had ten years you wouldn't do anything. There are only certain ones that you are going after and you are going after them now. You mentioned a moment ago that you yield in the second year to the association. If we gave you five years you would yield to the association, you are admitting that.

Mr. Cox stated no, that he thought what they said was on the basis of reasonableness and sitting down and trying to work through the process, one of the charges of course that are made against districts is that they are not reasonable and I think on the contrary it is not a process of yielding, it is a process of making sure that you have the very best employees.

Mr. Mello asked if they were sure that they had the very best principals.

Mr. Cox stated that there is no doubt that there are principals in any district that may be sub-standard. I guess so that the record is clear, I think that in general both teachers and administrators are good employees on a general basis. What we are talking about is a process to get those people that are bad and this act covers both administrators and it covers the teachers as well and I know that in our district we have gone after and have relieved those people that have been bad administrators. It is the same process,

the evaluation process and making sure that those administrators that are bad administrators are out. That is just the other half of this Act, and we use that as well.

Assemblyman John Vergiels testified next. Mr. Vergiels stated that he was obviously against this bill. Last session a deal was supposed to have been made that Mr. Craddock had worked on for probably a period of three or four weeks, relative to the one plus one on tenure probation, etc. and this bill was put here, rightfully so, because the bills have been one that is comprehensive in nature which was put in Government Affairs. If it had been put in Education it would have been dispatched with and killed almost immediately because Mr. Craddock, and we talked about this in Education and I think that is the reason it was put here, was because we felt that it was said last session that the one plus one in terms of tenure for teachers and probation, that it was put to rest because we had zero on one side and three on the other. Mr. Craddock compromised with one year with a one year potential extension and that was the middle ground I believe. We decided that that was going to be it. We were not going to hassle this out in future sessions, that was going to be the end of it all and it was an administrative decision whether or not they wanted to go beyond the one year and extend it to the second year changing the evaluator etc. So it is my impression that you have a member of your committee who already negotiated this and settled it two years ago, and it is over. That is basically what I want to say. When I was chairman of Education, Mr. Craddock was put in charge of the subcommittee to settle this issue so you would not have it coming back every two years - a fight between administration and staff and I think Mr. Craddock can answer any questions because he was in all the negotiations with Mr. Petroni, Ms. Woodhouse and others to settle this thing.

Mr. Jeffrey moved for indefinite postponement of AB 361. The motion was seconded by Mr. Mello.

Mr. Redelsperger stated that he sure would like to take some more testimony. There are people that have come here to testify and I think we ought to hear them.

Mr. Nicholas stated that he especially wanted to hear Mr. Byington.

Mr. Jeffrey stated that if you go through these repealers you find that the mechanism is there to negotiate these things now. I can sit and listen to testimony on this as long as anybody but I really don't know what else can be said that would change my mind. I am ready to vote.

Mr. Schofield asked if there was any further discussion on the motion.

Mr. Craddock stated that he would like to hear some further comment if for no other reason than to update my own information on just why Mr. Byington sees fit to come out in the position that he does.

Mr. Mello stated that he would withdraw his second if the chair will rule that in a definite time certain we will vote on this.

Mr. Schofield asked Mr. Jeffrey if he would withdraw his motion if we set another fifteen minutes?

Mr. Jeffrey stated that he would go for fifteen minutes.

Mr. Schofield announced that Mr. Jeffrey had withdrawn his motion and that the committee would hear an additional fifteen minutes of testimony.

Mr. Doug Byington testified next. Mr. Byington stated that he is the vice chairman for the Nevada Association of School Administrators and I come before you with mixed emotions. You all know what mixed emotions are. We are opposed to this bill because we don't want to throw the baby out with the bathwater. There are problems in the bill, or in the Professional Practices Act, we understand that. I for one have been through it as Mr. Cox has alluded to earlier. It took a lot out of me and a lot out of my wife and my staff. We are opposed to it for several other reasons. One, there are a number of counties in the state that do not negotiate, therefore we feel that they would be put into the position of having to go into formal negotiations. They are still into meet and confer. The argument is that they could become part of board policy and regulation. Under NRS 288 board policies and regulations are not negotiable unless you make them negotiable. 391.311 specifically states that administrators are protected under this Act and this was something that we got in in 1979 because it was not clear that administrators were protected by the Act. There are two bills before this body this year, AB 55 and SB 367 which would eliminate administrators from the Professional Practices Act. They would not be allowed to bargain. It eliminates them from 288 as far as protection.

Mr. Petroni talked with me this morning briefly and he said we could negotiate or we could meet and confer. There is one county that presently negotiates. All other administrators work on a meet and confer basis and have a fairly good working with their administration. Those are the reasons very briefly and succinctly why we as administrators are opposed to this bill. We do not want to see counties forced into formal negotiations. We feel that there needs to be protection for all people involved. Dr. Perkins said at a hearing a few weeks ago that he would be happy to pay teachers \$40,000 a year if they had as much security as he did. We think superintendents need security also. I would be happy to try to respond to any questions. I know you are really pressed.

Mr. Craddock asked if Mr. Byington represented the Nevada Association of School Administrators. That is a combined group.

Mr. Byington stated that this is part of their legislative package.

1334

Mr. Byington stated that their board met this weekend and reviewed the bill and it was a unanimous vote that we would come and oppose this. We realize there are problems under 391.311. We would like to see some amendments as Mr. Cox has attested to this morning. We feel that there need to be changes. It should be a little easier to dismiss employees than it is. Do we kill the whole thing or do we affect the 15,000 or so people out there in the State of Nevada that are teachers by wiping this out entirely. Let's look at it and try to make some changes in it.

Mr. Craddock informed Mr. Byington that the point that he wanted to make was that Mr. Byington was here by unanimous vote of your board.

Mr. Byington stated yes.

Mr. Schofield stated that there were seven minutes left of the allotted 15 minutes and asked if anyone else would like to speak on this bill.

Ms. Joyce Woodhouse, President of the Nevada State Education Association testified next. Ms. Woodhouse's testimony is attached to the minutes of this meeting as EXHIBIT A.

Mr. Schofield stated that there were three minutes left for the testimony on AB 361.

Mr. Joe Fisher, Executive Director of the Nevada State Education Association. I would like to just point out one thing to the committee. I have worked for twenty five years with and for teachers throughout the country in a variety of states. The conditions that have existed which have brought Professional Practices Acts into existence is a fact which I think we have overlooked in this process. We have tended to focus on the teacher and when in fact such legislation was enacted in order to protect the right of children to learn, rising out of the 1950s when teachers were suspect and discharged for no reason at all, often times because parents, citizens disagreed with the way or the material that was being taught by the teacher, we denied children access to learn. Those kinds of laws were set up not to focus on the exception but to focus on the general so that we protect the right of the teacher to be free to teach children to be free. It is a very important process that I am shocked at our learned counsellors not recognizing that it is an essential that must be there and we have to deal then with the exception when those exceptions come and I believe that the law allows that. I would like some time, but I will do that individually with you, to talk about how the administrators have been using the compromise last year because in my judgment I agree with the two or three statements by Mr. Cox with regard to the law. Due process was eliminated in the law. It sure was for teachers and for no reason at all. And we have seen arbitrary and capricious action take place under this law this past year. The law is used as a sword against us he said, it has been for teachers. When all of the probationary teachers, almost all of them, in Washoe County were going to be placed on second year probationary period simply because they wanted an extra year to look, that was not the intent of the law. The intent of the law was those teachers that they were concerned

with who may need extra time should be placed on second year probation and the procedure allowed for that. The trial year has not worked. We are going to continue to work with the school boards however to see that it does.

Mr. DuBois asked how this one year probationary period compare with other states.

Mr. Fisher stated he did not really know the statistics and that he would be glad to get them for the committee on what kind of tenure laws exist in other states, but the important part about this law is that we keep saying it is a one year probationary period. I submit to you that it is a two year probationary period. The Board has the opportunity to place teachers in two years of probationary status. Some of the teachers that were placed on probationary status had taught six or seven years before they came to Washoe County this last year and then were just arbitrarily placed and even in some instances where their administrator said I recommend this teacher be placed on probationary status and the board arbitrarily and capriciously placed them in the second year, so we have a second year probationary period the way they are using the law right now.

Mr. Prengaman stated that Mr. Fisher made a statement that in Washoe all teachers were put on probation. Is that all new teachers - could you clarify that?

Mr. Fisher stated that the first time he came into contact with the case, we were alerted by our local association that out of close of 112 probationary teachers almost all of them were going to - had been notified that they were going to be placed on the second year of probationary period. The association said, what is this? The law - we agreed that you look through the review and the evaluation of the teachers, you would assume that out of 112 or so that year that there would be a minority of those whose experience was not good. In the hiring process we had not done as well as we wanted to do. But all of them - and as I say, that is arbitrary because their administrators had evaluated them through that period -

Mr. Schofield stated that he believed that Mr. Fisher had answered Mr. Prengaman's question.

Mr. Mello stated that he believed that the time was up.

Mr. Prengaman stated that it was his question. May I have the courtesy of having an answer.

Mr. Mello stated that the time certain is set.

Mr. Prengaman stated that he would like to have an answer.

Mr. Cox stated that he did not mean to impose on the committee's time but I do want the record to reflect that all of them were placed on probation. Fifty were placed on probation. We all agreed that we

we need more time to evaluate those fifty teachers. We took the extra period going into May. 25 of those 50 were eliminated and there was a final list of 25 that were put in the trial year.

Mr. Schofield stated that the record would show Mr. Cox' statement.

Mr. Schofield indicated that the chair would not could for a motion on AB 361.

Mr. Jeffrey moved for Indefinite Postponement of AB 361, which was seconded by Mr. Mello.

Mr. Schofield asked the secretary to call the role. The vote on AB 361 is attached to the minutes of this meeting. The tally of the vote on AB 361 was as follows: Yes - 9; No - 1; abstain 1.

Mr. Prengaman stated that obviously this was a question that has had a long and distinguished career in the legislature and many of you have been dealing with it for a while but some of us have not - this is my second term and my first time on Government Affairs and it is very uncomfortable for me to vote on this because we are just kind of summarily dismissing it. I am not comfortable with the bill but that is not to say that I would not be comfortable with some amendments if they were presented. I don't like the idea of a 15 minute time limit being set. I think it is our normal procedure that we listen to the witnesses and then in a lot of cases we don't even vote that day.

Mr. Schofield stated that the committee would very shortly have to go into session.

Mr. Prengaman stated that he understood that but that this was the first time that he had been on this committee this year. You said you had fifteen minutes and I am very uncomfortable with that.

Mr. Jeffrey stated that he guessed he felt the way he did because he has set here through this. This is the third time that I have been on this committee. This thing goes so far and I know the reluctance of various school districts and I can say that I don't believe the Clark County School District is necessarily one of them. There are a number that don't and to take away these protections without an assurance that negotiation can go on and even if they do go on, I am fairly comfortable with this chapter. The procedures are there if they are used properly and I can sit and listen to arguments I guess for another six hours but I would not feel a bit differently than I do now.

Attached to the minutes of this meeting is a copy of NRS 391.311 as EXHIBIT B.

This concluded the testimony on AB 361.

The committee then took a five minute recess.

1337

Chairman Dini after the recess stated that the committee would have a work session on AB 65.

Mr. Gary Cruz, Manager for the Legislative Counsel Bureau. Mr. Cruz stated that he had handed out a little two page summary of how we got up to where we are at. Mr. Cruz' summary is attached to the minutes of this meeting as EXHIBIT C.

Mr. Cruz stated that on February 23, 1978, the Legislative Auditor issued a report to the Legislative Commission and in that report he laid out a lot of problems in the data processing area and that is kind of elaborated on in the first page here and some of the problems - I would like to quote: "The present organizational of data processing operation in the State of Nevada is not consolidated in such manner as to obtain the following two objectives of Executive Branch Government and that is operational efficiency and economy of scale."

Mr. Cruz explained that the second page just shows what the organizational structure was at that time.

Mr. Cruz stated that when that was presented to the Legislative Commission, Mr. May expressed deep concern on the problems that we had addressed in this report and he was the prime sponsor in getting ACR 21 to study data processing further. As a result of that they formed a subcommittee of the commission consisting of Assemblyman Harmon, Banner, Bremner, Cavnar and Mello and as a result of that study you have your study on data processing by Nevada State Government which had some legislation which came out in the form of AB 65 and after that came out the governor's task force had some basic conclusions that were along the same lines, that the organizational structure had some problems and they had the same concerns and they are taking a little different approach and we have worked together on trying to iron out some of the differences in here that basically the report from the subcommittee that they are consolidated under the division under General Services, now the governor's office is recommending a separate department and I think both approaches are good. I think the concept of the consolidation is good, it is just a matter of which direction the legislature feels would be the most beneficial at this point and I think Glen can probably describe those changes from the Executive Branch.

Mr. Glen DuBois, Implementation Director for the Governor's Management Task Force testified next. Mr. DuBois stated that as Gary Cruz had indicated, the task force did come up with the same type of identification of problems that the subcommittee that would exist in the Data Processing Community today. As it relates to structure and the changes that we have made so far in AB 65, basically there are two changes. One, we are suggesting a departmental status as opposed to a division of general services and the second change is the current data processing commission would be disbanded and we would have an advisory committee for

1338

data processing formed that would have and would include a different membership. That membership would also include the legislative representation. Those are basically the two changes that we have looked at. What we are looking for primarily is to try and set some consistent standards across the board as we see a growth in data processing, the need for data processing among agencies. We have to be able to do this in some sort of coordinated and organized fashion, so we are suggesting that under either structure that has been proposed, that a planning function be established and that is what is before you on that paper I handed out earlier, that shows the potential additional costs for that operation. Mr. DuBois' handout is attached to the minutes of this meeting as EXHIBIT D.

Mr. DuBois stated that if you were to look on the next two pages, we show on the second page of that handout, the relationship of the proposed Department of Information Processing, that is now being changed to Informational Services for grammatical reasons. I guess gramatically we should make the change. That is the relationship that we see on that dotted line being a functional relationship to various agencies with regard to setting standards and evaluating applications and equipment selection. The third page in that set gives the you the internal organization structure of the proposed department. The key element under any structure here and I don't think I can emphasize it enough, is the planning and research function. This is what is not in existence now, this is perhaps some of the frustration that you and many other members of the assembly and the senate are concerned with because there is a lack of information. One of the primary benefits coming out of here aside from the establishment of consistent standards and procedural standards would be the development of alternative proposals or at least the ramifications of decisions by either agencies or by the central facilities. At this point in time you don't always have before you when you have to make a decision what the implications are going to be and that is the primary concern that we are trying to address under any structure.

Mr. Mello asked where they got the salary from.

Mr. DuBois stated that the salary is projected on a 15% fringe and we are going at a salary of what we figured a minimum of \$40,000 for a director level, with a 15% fringe benefit.

Mr. Mello asked if this was comparable to our other directors in the State.

Mr. DuBois stated that all of those salary impacts do contain a 15% fringe.

Mr. Dini asked if Mr. DuBois could explain the fiscal impact.

Mr. DuBois stated that back on March 3, 1981 we had been discussing and I had initially stated that we could form this

new division and the director without any additional fiscal impact. That was based on the fact that there were some current vacant positions that were budgeted in CDP and in the computer facility. That is not true, I was incorrect in that statement. What we are looking at here is a projected impact of in the first year of the biennium, \$124,000. As indicated you can see what makes up that amount. We feel that through the development of this function we are going to realize that same amount of money, and I know you have probably heard this at least in the money committees you hear this from everybody, that if you give us this function, we are going to save you some money. I do believe that if, for no other reason, than to determine what agency they are using, what productivity aids and to what extent. Our current perception now is that those productivity aids are not being fully utilized in the various agencies. That means that the personnel resources in the agencies can be utilized more effectively. It is our hope and our intention that through the utilization of additional productivity aids as you have listed on the front page of my handout, there are nine productivity aids, we will be able to provide the agencies with the same work that they are currently projecting for the biennium within the current budgetary constraints that they have. We would hope that through the utilization of these aids there would be a salary savings, obviously we can't transfer that to the central facility, but we think it is something that can be tracked and audited and we feel that this operation will very definitely pay for itself within the biennium, so we do see it as being a fiscal impact for the planning function.

Mr. Mello asked Mr. DuBois if he was saying that there was not going to be a saving somewhere along the way as far as other positions are concerned.

Mr. DuBois stated that he thought there would be savings.

Mr. Mello stated that what Mr. DuBois was saying then was that there would be savings.

Mr. DuBois stated very definitely and they think there are savings that can be verified.

Mr. DuBois stated that to put the dollar figures in perspective, the combined budgets for the facility and for central data processing at this point in time for the next biennium - for the first year of the biennium I believe, is \$5.8 million. In the first year our comparison here of \$124,000 really comes out to about 2% of that budget so we feel that this is not taking into the account the salary expenses in the various agencies. That would bring the total data processing cost based on fiscal year 1980 to \$8.2 and another figure is \$8.6 million dollars. When compared against those figures, this is about 1-1/2% of the total data processing expenses and we feel that that can be realized within that level of expenditure.

Assemblyman DuBois asked how the savings would come about, through greater productivity or the reduction or elimination of some programs?

1340

Mr. DuBois stated that frequently what happens is when there are savings that are identified, they are usually opportunity savings and people are re-allocated towards other projects. What we are suggesting is that we would be able to go through these productivity aids we would be able to hopefully freeze vacant positions as they become available in the various agencies. This is something that would be tracked through the governor's office and would be tracked through this proposed department, so we would hope to have some salary savings.

Mr. Dini asked if there were any questions.

Mr. Dini inquired if there was anyone else who wished to testify on the bill, either for or against it.

Mr. Joe Anderson, State Librarian of Nevada testified next. I would just simply like to tell you that the concept of this bill is excellent and I hope that as a matter of providing for further coordination and oversight of the information processing activity we will have improved management. The State Library is an information service agency also and we are moving more and more into working with the Central Data Processing Unit and we feel that this will provide us a developmental process which is otherwise not available to us. I want to this morning leave only one thought in addition to what may already be before you for your consideration and it has to do with the name of the department to be created. In the original bill the Department of Information and Processing was the name posed for this function. It is our feeling that this name is much more descriptive of that function than the Department of Informational Services. We feel that that is too broad a term and sounds as though it might encompass the primary functions of the State Library Agency and we are concerned that the name in the reprint of this bill would create confusion in the public mind.

We find that in our daily work in responding to research demands, information demands, that the names of state agencies are very important descriptors in the perception of the public as to what they do and do not do. We just wanted to ask you to consider the importance of the name of state agencies to be established and I realize in the bill drafting office there was a thought that this was grammatically incorrect. I would submit that grammar is certainly one thing that we should have respect for and as a librarian I do indeed respect that, but when you have a general and a systematic understanding among the public what a specific name means - it is accepted in public usage and I just wanted to ask your consideration to make sure that the name does not create confusion. I would anticipate the lack of efficiencies in terms of phone referral, public perception of which agency to call, state agency personnel time in trying to connect a requester or a caller with the right functional state agency as a matter of concern for the efficiency of the overall state operation.

Mr. Prengaman asked what the bill drafter objected to. Was it

1341

data processing services?

Mr. Anderson stated that he felt that the department of information processing was not gramatically correct. He felt that it was a verb modifying a noun. I think the term processing as process also can be considered a noun and so I have no difficulty with that and my understanding upon checking with CDP at the time we took notice of this was that they had no objection to this either. My concern was that a state agency should be carefully named where at all possible to identify as much as possible what it does or does not do as a descriptor of itself.

Mr. Prengaman asked if he would suggest another term such as Data Processing Services or something of that nature?

Mr. Anderson stated that since the original draft included the phrase Department of Information Processing, everyone that I would be working with and I am sure most of the public who know about computers and this is true all the way through our schools now, would quite clearly understand that this is a data processing type of operation. If it shows up in the directory as say Department of Information Services, that could be anything. Many of the state agencies actually have information departments within them one way or another.

Mr. Dini asked if anyone else wished to testify on AB 65.

Mr. Dini asked that the committee discuss the necessary amendments to AB 65. He further stated that we have a necessary amendment that has to go into this bill. We have an amendment to put the \$2,000 we appropriated under S.B. 3240 for the gaming control board. There is a conflict in this bill with that one. They have requested that we add in lines 40 and 50 on page 2 the gaming control board and also in Section 9 at the end of the bill. They have requested that we indicate that the gaming control board is not subject to Section 9.

Mr. Glen DuBois stated that primarily they had a whole series of housekeeping amendments where we are changing say the terminology of computer facility to division of facility management so I will not trouble you and take your time with those types of changes.

Mr. DuBois stated that they would be going over the first reprint of the Bill. He went over his amendments to AB 65, a copy of which is attached to the minutes of this meeting as EXHIBIT E.

Mr. DuBois stated that on page 2, line 10 under Section 6, he would like to delete the words "review standards and establish" and would like to insert "establish standards and determine."

Mr. DuBois stated that this would give a little more flexibility to the committee that the director may form where if we only go with two additional positions, additional help may be needed and we would

like to draw on the resources of the data processing community and other agencies which has been done to date with the Interim Processing Task Force.

Mr. DuBois stated that the advisory committee, which Mr. May has raised some questions on, is being made up of, he thought, three representatives from the department level, two representatives from the private sector, the director, and this is an amendment, as an ex officio member of the committee so that it would truly be advisory to him, and we would see these individuals as being responsible to determine (1) if the needs of agencies are truly being serviced by the direction and the policies being established by the director, and secondly the private sector representation would be technical people from the private sector who have had a great deal of experience in data processing operations over a broad spectrum of operations and they would say this policy is concurrent with general industry trends. That is another safeguard there. We do not see them as a policy making body.

Mr. May stated that he could see that they were not given a responsibility other than by direction using the word advisory in the creation of it.

Mr. DuBois stated that they did not add anything in there. The feeling was that it would serve just to identify that the policies are conforming to the needs of the agencies and the direction of industry, but we could certainly add that in.

Mr. DuBois indicated that Mr. May is correct when he stated that we did not add anything in there determining specifically what the duties and responsibilities of that committee should be.

Mr. DuBois stated that the committee's responsibilities would be to review and advise the director on the policies as he has advised for the state to insure that those policies do address the needs of agencies and are consistent with the direction of industry trends.

Mr. May stated that it would be sort of a buffer between the agency that is affected and the director, and the agencies that would be negotiating with the director, now they would have a third party to seek some direction from.

Mr. DuBois stated that was correct.

Mr. Dini asked if there were any comments from the committee.

Assemblyman DuBois asked if the committee felt that it was not getting its fair share of use, it would then go the advisory commission. He asked how that would be handled.

Mr. DuBois stated probably in two different manners. (1) if it was not receiving the services that it felt it was entitled to as a result of the established standards or policies in the state, then

it would talk to the advisory committee and the advisory committee would obviously discuss this and perhaps they would be advising the director. They would not be setting policy for the director. If the director did not change that policy to answer the needs of that agency, the agency would then have the responsibility to go directly to the governor and say that we are not receiving the services from this agency, as currently is the case. As we have indicated in here for any type of request to withdraw from the central facility which is sometimes the form that it takes, there would be a review by the director. If that approval were denied, then they would have the responsibility to go to the interim finance committee or to the assembly for concurrent resolution of they were to withdraw and either of these cases, what we would have now - what we would have then we don't have now - is the ramifications and alternative proposal being presented. Usually now the decision making body is only hearing the case as presented by the requesting agency and what they perceive the implications to be so we are trying to get a little more diversity there.

Mr. Cruz stated that in the original bill, AB 65, there was a policy statement that may be able to be used. It would have to be modified to some extent but it just spelled out when it would be a division that the advisory committee would advise the division with regard to services or equipment as the policy regulates, but it is not limited to such things as standards for systems, programming, selection location of data processing equipment in order to meet the data processing needs of state agencies at the least cost to the state. You may be able to bring that into line with what Glen (DuBois) is saying and perhaps bring the two together.

Mr. DuBois stated that what we are concerned with in the responsibilities of the committee would be not to load them up with too much minutia in the review and that is not to suggest what Gary's proposal is, but what we don't want to have happen is the same type of situation we had with the data processing commission now where they have not been able to identify and make decisions on the detail that is being presented to them because there is just too much detail for them to make a clear decision. So we are trying to give them general policy direction and identification of where problems might be existing and a form for agencies to voice their complaints and hopefully get the director to change policies if it is warranted. We are trying to find a balancing point where we can give them enough responsibility.

Mr. Dini stated that they wanted to adopt the policy in the original AB 65.

Mr. DuBois stated that he would like to suggest that the responsibilities for the advisory committee would be to review the state data processing policies as they relate to standards for systems and programming and the criteria for the selection, location and use of data processing equipment, in order that those policies would address the needs of the state agencies as well as be consistent with the industry trends.

Mr. Mello stated that "at the least cost to the state" should be added.

Mr. DuBois agreed.

Mr. Dini asked how that sounded.

Mr. May stated that it sounds fine except I think you are narrowing the oversight of that committee to a very technical area and unless they have extreme experience and background, it would be completely lost. I felt that your first recommendation was to act as sort of a liason or a buffer or an appeal process between the director and the agency. They might first bring their problems if they develop to this advisory committee and have them listen and make recommendations. I don't disagree with what was proposed, but I think you are in a very narrow area there.

Mr. Dini stated that it was the concept to have an advisory committee with no power really with the director reviewing its policies. If you give the power to direct the director, then you are getting away from the concept. By creating a department, I think you shift the responsibility from the direct policy making to an advisory capacity.

Mr. May stated that we had too many cooks in the kitchen before and we are trying to get rid of that situation where we now have somebody who can say no. By using a heavy hand it is going to cause some problems. Mr. May stated that he supposed that the last amendment presented would be fine.

Mr. Cruz asked if the appeal form that Mr. May is suggesting be already incorporated in the definition that we have defined for the responsibilities of the committee insuring that they meet the needs of the agencies and would advise the director.

Mr. Dini asked if they would go through the bill.

The committee then went through the amendments to AB 65, which are attached to the minutes of this meeting.

Mr. Mello moved that we accept AB 65 with the necessary amendments. The motion was seconded by Mr. DuBois. The motion carried unanimously.

The committee then discussed the portion of the bill which referred to the gaming control board.

Mr. DuBois stated that the feeling is that the gaming control board should be subject to the same responsibilities for conforming to statewide policy as other agencies, whether they withdraw from the use of the central facility or not.

Mr. Nicholas asked if there was a confidentiality problem at any time that might have to be addressed in this situation.

THIS PAGE IS MISSING FROM BOTH THE ORIGINAL
MINUTES AND THE MICROFICHE.

by Mr. Mello. The motion carried unanimously.

Mr. Dini asked if the subcommittee had discovered a security problem.

Mr. Mello stated that he did not know that they had a problem and that is why he was questioning it.

Mr. DuBois stated that he was not aware of anything ever surfacing.

Mr. Dini stated that all they had to do was not to put anything in Section 29 and they come under Section 9. Mr. Dini stated that they had to put them after line 50 and stated that the policy on page 3 was for withdrawal.

Mr. Mello stated that there may be problems with security and Mr. DuBois stated that they were currently looking at security problems that exist.

Assemblyman DuBois indicated that Mr. Bunker stated that this was one of the positive factors about this, both the security and the integrity of the system.

Mr. Dini indicated that he would give them the option to negotiate but not to put that part in Section 29. They should be like anybody else if they want to withdraw, they should have to apply to withdraw.

Mr. DuBois stated that the only thing that he wanted to suggest is that all agencies that do have data processing operations whether they are in conformatnce with or use the central facility or have their own computer that they conform to certain standards and are consistent with certain policies that we are setting statewide.

Mr. Nicholas stated that obviously not enough homework had been done by some of us including myself to really determine whether or not personnel who do have the need to have access to some of the information in gaming control will indeed have it despite that. I guess all I want to say is I am going to rely certainly on those more expert than I am to make the decision, but the one area where I would have an objection would be the access to information by those who do not have a need to know. I simply want to express that.

Mr. Dini referred to page 3, lines 43 to 45 which tightens up the law on this.

Mr. Prengaman moved that they be put in Section 9 and not in Section 29. The motion was seconded by Mr. Mello. The motion carried unanimously. Mr. Jeffrey was not present at the time of the vote.

The committee then discussed the name of the facility. Mr. Dini asked if the committee had any suggestions?

Assemblyman DuBois asked what the terminology in industry was currently

Mr. DuBois stated that the concern that the bill drafter has is with the word "processing" and its status as a verb. Industry still identifies that word as in some cases a noun and so they are still using information processing as being a term that would identify what was previously known as Management Informations Systems or Services, or Data Processing Services so there is no one term that I think would reflect the state of the art.

Mr. Schofield asked if there was any objection of Management Information Services.

Mr. DuBois stated that he did not believe there was any objection. That is the term that was used previously.

Assemblyman DuBois stated that it might imply that this department is going to become involved in management.

Mr. Cruz stated that Management Information Services is used in a great number of states and they certainly would have no objection to that. It is used for a similar function in many other states.

Mr. DuBois stated that it would probably answer Joe Anderson's concerns.

Mr. Anderson stated that he believed Washoe and Clark Counties both use that name for their computer operations in their respective counties.

Mr. Dini asked how the committee felt about that name, Management Information Services, and asked for a straw poll. The committee was in agreement.

Mr. Dini stated that he would entertain a motion to amend and refer to Ways and Means. Mr. May moved for the amendment and referral to Ways and Means, which was seconded by Mr. Mello. The motion carried unanimously. Mr. Jeffrey was not present at the time of the vote.

Mr. Mello stated that he would like to compliment everyone who had worked on remodeling this bill.

Mr. Dini stated that the record should show that an excellent job was done.

Mr. Dini mentioned BDR 19-1013^{*} to the committee and stated that if SB 340 goes this BDR had to go. Mr. Schofield moved for committee introduction of BDR 19-1013, which was seconded by Mr. Mello. The motion carried unanimously. Mr. Jeffrey was not present at the time of the vote.

The Committee then discussed BDR 21-1054^{**} which is a personnel bill from the State Personnel, for committee introduction. Mr. Craddock moved for committee introduction which was seconded by Mr. Schofield. The motion carried unanimously. Mr. Jeffrey was not present at the

time of the vote.

Mr. Dini stated that he had BDR 23-1618^{*} is the one we told the firemen we would introduce for them. Mr. Schofield moved for committee introduction of BDR 23-1618, which was seconded by Mr. Mello. The motion carried unanimously. Mr. Jeffrey was not present at the time of the vote.

Mr. Craddock stated that the Subcommittee on AB 366 was ready to move on that bill. Mr. Craddock stated that he wanted to make this a part of the record and that he was passing some materials around. Mr. Craddock's materials are attached to the minutes of this meeting as EXHIBIT F.

Mr. Mike Cool has submitted a memo with regard to AB 366, which is attached to the minutes of this meeting as EXHIBIT G.

Mr. Craddock moved for an amend and do pass on AB 366, which was seconded by Mr. Mello. The motion carried unanimously. Mr. Jeffrey was not present at the time of the meeting.

There being no further business to come before the meeting, the meeting adjourned at 10:46 A.M.

Respectfully submitted,

Barbara Gomez

Barbara Gomez
Assembly Attache

* AB 417

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

LEGISLATION ACTION

DATE April 1, 1981

SUBJECT AB361

MOTION

Do Pass _____ Amend _____ Indefinitely Postpone X Reconsider _____

Moved By _____ Seconded By _____

AMENDMENT

Moved By _____ Seconded By _____

AMENDMENT

Moved By _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
MR. CRADDOCK	✓					
MR. DuBOIS		X				
MR. JEFFREY	✓					
MR. MAY	✓					
MR. MELLO	✓					
MR. NICHOLAS	✓					
MR. POLISH	✓					
MR. PRENGAMAN	ABSTAIN					
MR. REDELSPERGER	✓					
MR. SCHOFIELD	✓					
MR. DINI	✓					
TALLY	9	1	1 ABSTAIN			

ORIGINAL MOTION: Passed _____ Defeat _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES DATED _____

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date ~~March~~ April 1, 1981

Please Print

<u>PLEASE PRINT YOUR NAME</u>	<u>PLEASE PRINT REPRESENTING:</u>	<u>I WISH TO SPEAK</u>		
		<u>FOR</u>	<u>AGAINST</u>	<u>BILL NO.</u>
Robert Petroni	Clark County School Dist.	✓		AB361
Joe Fisher	Nevada State Ed Assoc.			
Joyce Woodhouse	Nevada St Educ. Assoc		✓	AB361
ALBERT M. LINDEN	New Emp Gov Dept.			
Young Byington	Nev. Assn. of Sch. Adm.		✓	AB361
Glen L. Paks	Gov. Mem. Task Force	✓		AB65
GARY CREWS	HCB	✓		AB65
JOHN CIARDALLO	DMV	✓		AB65
G. L. HARDING	CDP			
Joseph J Anderson	State Librarian	✓		AB65

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date April 1, 1981

Page 2

<u>PLEASE PRINT YOUR NAME</u>	<u>PLEASE PRINT REPRESENTING:</u>	<u>I WISH TO SPEAK</u>		
		<u>FOR</u>	<u>AGAINST</u>	<u>BILL NO.</u>
<i>John Hawkins</i>	<i>Adv. School Boards Assoc.</i>			

TESTIMONY ON A.B. 361

Testimony presented by:

Joyce L. Woodhouse, President
NEVADA STATE EDUCATION ASSOCIATION

Presented to:

Assembly Government Affairs Committee

April 1, 1981

Mr. Chairman and members of the Committee. I am Joyce Woodhouse, President of the Nevada State Education Association and represent the 5800 teachers of the Association. I am here to state our complete and unequivocal opposition to A.B. 361. This bill, if passed, would completely destroy the Professional Practices Act by the repeal of NRS 391.311 to NRS 391.3197. It will plunge teachers and administrators into a state of chaos. We believe that, in the long run, the children of this state will suffer because of this bill.

At present the Professional Practices Act contains an orderly procedure to deal with dismissals of teachers and administrators. We would like to review for the record some of the provisions in the statute that would be lost under A.B. 361.

1. NRS 391.3125 provides that an objective evaluation policy shall be developed by the school board of trustees in consultation with teachers. We believe that the practitioners have a right to be involved in the process of developing such an instrument. We're going to be governed by it. Further, the section provides for counselors, librarians, and other certificated school support personnel to be evaluated on forms designed especially for their positions. Their jobs are different from the regular classroom teacher and should be evaluated appropriately.
2. NRS 391.313 deals with the admonition of an employee and is a section we have worked with you on in past sessions. Presently, a teacher being admonished is given notice of the problem and given time to correct that problem. The admonition is removed from the teacher's file after three years. We see no need for elimination of the provision.
3. NRS 391.314 provides for a two day suspension without pay. This is punishment enough. When a teacher is suspended, he/she is docked at the daily rate of pay. For someone like myself who is in the middle of the salary schedule, the cost is \$110 per day. To delete the present provision is to open wide the door for unlimited days and unlimited times of suspension. The financial burden on the teacher is astronomical.

4. The NSEA is astonished at the proposal to delete the probationary period. Last session a one-year probationary period with the possibility of two years was enacted. Prior to that time teachers enjoyed due process from the moment of hiring. We still embrace that philosophy, but the facts of life in the Legislature dictated a change. We did agree to the compromise--we will live with it.
5. It is true that NRS 288.150 lists "Discharge and Disciplinary Procedures" as an item in the scope of bargaining. However, not all county school districts bargain with their employees - in fact, five do not (Elko, Esmeralda, Nye, Eureka and Pershing). The removal of this section of law eliminates the possibility of an orderly procedure for them. It is also very possible for those districts who do bargain to not be able to reach agreement on this item. Then, where are they?

The Nevada State Education Association urges you to destroy A.B. 361 as it seeks to destroy the orderly processes of the Professional Practices Act. Let's leave the gains, losses, and compromises that we have all labored on over the years intact in NRS 391. This bill can only cause disruption and turmoil in the education community. Teacher morale is already at an all time low. It is not possible to generate an atmosphere conducive to learning if teachers are trying to teach students while in fear of losing their jobs. We teachers are in this profession because we care about kids.

Thank you.

jw/plb

211B

391.290 Payment of travel, living expenses of school administrators, teachers for attending conferences.

1. Whenever an educational conference is called by the superintendent of public instruction, the board of trustees of a school district whose school administrators and teachers are required to attend the educational conference shall, unless such school administrators or teachers are excused for cause by the superintendent of schools of the district from attendance:

(a) Pay the actual necessary transportation expenses of school administrators and teachers of the school district to and from the educational conference.

(b) Pay the actual necessary living expenses of school administrators and teachers of the school district while attending the educational conference.

2. Expenses shall be paid out of the school district fund and claims therefor shall not exceed the statutory rate fixed for state officers.

[351:32:1956]—(NRS A 1979, 1606)

DISMISSALS AND REFUSAL TO REEMPLOY

391.311 Definitions. As used in NRS 391.3115 to 391.3197, inclusive, unless the context otherwise requires:

1. "Administrator" means any employee who holds a certificate as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a certificated employee affected by NRS 391.311 to 391.3197, inclusive, is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means an act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265 or 207.260.

5. "Postprobationary employee" means a person who has:

(a) Taught under one probationary contract in a Nevada school district and is employed as a teacher for a second or subsequent year; or

(b) Worked as an administrator under one probationary contract in a Nevada school district and is employed as an administrator for a second or subsequent year.

6. "Probationary employee" means a person who is in the first contract year or a second trial year of employment as a teacher or administrator.

7. "Superintendent" means the superintendent of a school district or a person designated by the school board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a certificated employee the majority of whose working time is devoted to the rendering of direct educational service to students of a school district.

(Added to NRS by 1967, 968; A 1969, 271; 1971, 380; 1973, 790; 1979, 658, 1606, 1829)

391.3115 Applicability of NRS 391.311 to 391.3197, inclusive.

1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. A certificated employee who is employed in a position fully funded by a federal or private categorical grant or to replace another certificated employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a certificated employee and certificated employees who are employed on temporary contracts for 90 school days or less to replace certificated employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, for demotion, suspension or dismissal apply to them.

(Added to NRS by 1971, 380; A 1973, 791; 1979, 1607, 1830)

391.3116 Collective bargaining contract may supersede provisions of NRS 391.311 to 391.3197. The provisions of NRS 391.311 to 391.3197, inclusive, do not apply to a teacher, administrator, or other certificated employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

(Added to NRS by 1973, 790; A 1979, 1607, 1830)

391.312 Grounds for suspension, demotion, dismissal, refusal to reemploy teachers and administrators.

1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;

(k) Failure to comply with such reasonable requirements as a board may prescribe;

(l) Failure to show normal improvement and evidence of professional training and growth;

(m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;

(n) Any cause which constitutes grounds for the revocation of a teacher's state certificate;

(o) Willful neglect or failure to observe and carry out the requirements of this Title; or

(p) Dishonesty.

2. In determining whether the professional performance of a certificated employee is inadequate, consideration shall be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

(Added to NRS by 1967, 968; A 1973, 791)

391.3125 Evaluation of teachers, certificated school support personnel.

1. It is the intent of the legislature that a uniform system be developed for objective evaluation of teachers and certificated school support personnel in each school district.

2. Each board of school trustees, following consultation and involvement of elected representatives of teacher personnel or their designees, shall develop an objective evaluation policy which may include self, student, administrative or peer evaluation or any combination thereof. In like manner, counselors, librarians and other certificated school support personnel shall be evaluated on forms developed specifically for their respective specialties. A copy of the evaluation policy adopted by the board of trustees shall be filed with the department of education.

3. The probationary period must include a conference and a written evaluation for the probationary employee no later than:

(a) November 1;

(b) January 1;

(c) March 1; and

(d) May 1,

of the school year.

4. Each postprobationary teacher shall be evaluated at least once each year.

5. The evaluation of a probationary teacher or a postprobationary teacher shall, if necessary, include recommendations for improvements in teaching performance. A reasonable effort shall be made to assist the teacher to correct deficiencies noted in the evaluation. The teacher shall receive a copy of each evaluation not later than 15 days after the

evaluation. A copy of the evaluation and the teacher's response shall become a permanent attachment to the teacher's personnel file.
(Added to NRS by 1973, 790; A 1975, 614; 1979, 1607, 1830)

391.3127 Administrators: Evaluation; procedure for demotion.

1. Each board of school trustees, following consultation and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective evaluation policy which may include self, student, administrative or peer evaluation or any combination thereof. A copy of the evaluation policy adopted by the board of trustees must be filed with the department of education.

2. Each administrator must be evaluated in writing at least once a year.

3. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, he shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

(Added to NRS by 1973, 790; A 1975, 615; 1979, 1608, 1831)

391.313 Admonition of certificated employee: Duty of administrator; removal from records; when admonition not required.

1. Whenever an administrator charged with supervision of a certificated employee believes it is necessary to admonish a certificated employee for a reason that he believes may lead to demotion, dismissal or cause the employee not to be reemployed under the provisions of NRS 391.312, he shall:

(a) Bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to his demotion, dismissal or a refusal to reemploy him, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for potential demotion, dismissal or failure to reemploy; and

(b) Except as provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

An admonition issued to a certificated employee who, within the time granted for improvement, has met the standards set for him by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

2. A certificated employee may be subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section on grounds contained in paragraphs (b), (f), (g), (h) and (p) of subsection 1 of NRS 391.312.

(Added to NRS by 1967, 968; A 1969, 853; 1973, 792; 1977, 1379; 1979, 1831)

391.314 Suspension of certificated employee.

1. Whenever a superintendent has reason to believe that cause exists for the dismissal of a certificated employee and when he is of the opinion that the immediate suspension of the employee is necessary in the best interests of the children in the district, the superintendent may suspend the employee without notice and without a hearing. Notwithstanding the provisions of NRS 391.312, a superintendent may suspend a certificated employee who has been officially charged but not yet convicted of a felony or a crime involving moral turpitude or immorality. If the charge is dismissed or if the employee is found not guilty, he must be reinstated with back pay, plus interest, and normal seniority. The superintendent shall notify the employee in writing of the suspension.

2. Within 10 days after a suspension becomes effective, the superintendent shall begin proceedings pursuant to the provisions of NRS 391.312 to 391.3196, inclusive, to effect the employee's dismissal. The superintendent may recommend that an employee who has been charged with a felony or a crime involving immorality be dismissed for another ground set forth in NRS 391.312.

3. If sufficient grounds for dismissal do not exist, the employee shall be reinstated with full compensation, plus interest.

4. A certificated employee who furnishes to the school district a bond or other security which is acceptable to the board as a guarantee that he will repay any amounts paid to him as salary during a period of suspension may continue to receive his salary from the time his suspension is effective until the decision of the board or the report of the hearing officer, if the report is final and binding. An employee who receives salary pursuant to this section shall repay it if he is dismissed or not reemployed as a result of a decision of the board or a report of a hearing officer.

5. A certificated employee who is convicted of a crime which requires registration as a sex offender pursuant to NRS 207.151 or convicted of an act forbidden by NRS 200.508, 201.190, 201.265 or 207.260 forfeits all rights of employment from the date of his arrest.

6. A certificated employee who is convicted of any crime and who is sentenced to and serves any sentence of imprisonment forfeits all rights of employment from the date of his arrest or the date on which his employment terminated, whichever is later.

7. A certificated employee who is charged with a felony or a crime involving immorality or moral turpitude and who waives his right to a speedy trial while suspended may receive no more than 12 months of

back pay and seniority upon reinstatement if he is found not guilty or the charges are dismissed, unless proceedings have been begun to dismiss the employee upon one of the other grounds set forth in NRS 391.312.

8. A superintendent may discipline a certificated employee by suspending the employee for up to 2 days with loss of pay at any time after a due process hearing has been held. The grounds for suspension are the same as the grounds contained in NRS 391.312. The suspension provisions of this section may not be invoked more than once during the employee's contract year.

(Added to NRS by 1967, 969; A 1971, 380; 1973, 792; 1977, 1380; 1979, 1832)

391.315 Recommendations for demotion, dismissal or against reemployment.

1. A superintendent may recommend that a teacher be dismissed or not reemployed.

2. A superintendent may recommend that an administrator be demoted, dismissed or not reemployed.

3. The board may recommend that a superintendent be dismissed or not reemployed.

4. If the board recommends that a superintendent be demoted, dismissed or not reemployed, it may request the appointment of a hearing officer, depending upon the grounds for the recommendation.

(Added to NRS by 1967, 969; A 1973, 793; 1979, 1833)

391.3161 Hearing officers: Appointment; duties.

1. There is hereby created a list of hearing officers comprising not less than 50 Nevada resident attorneys at law, including retired judges. The state board of education shall make appointments to the list after nominations have been made by the State Bar of Nevada and the Nevada Trial Lawyers Association.

2. Each appointment to the list is for a term of 2 years or until resignation or removal for cause by the state board of education. Vacancies shall be filled in the same manner as original appointments.

3. Hearing officers may be selected from a list provided by the American Arbitration Association of arbitrators who are available upon request, if the employee and the superintendent have so agreed in writing at least 5 school days before the list is requested. Selection of a hearing officer through the services of the American Arbitration Association must be accomplished in the same manner as described in subsection 2 of NRS 288.200. The employee and the board shall each pay half of the costs of a hearing held before a hearing officer selected from a list provided by the American Arbitration Association.

4. A hearing officer shall conduct hearings in cases of demotion, dismissal or a refusal to reemploy based on grounds contained in subsection 1 of NRS 391.312.

(Added to NRS by 1973, 789; A 1979, 1608, 1833)

391.317 Notice of intent to recommend demotion, dismissal or refusal to reemploy.

1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, or dismiss or demote a probationary employee, the superintendent shall give written notice to the employee, by registered or certified mail, of his intention to make the recommendation.

2. The notice must:

(a) Inform the certificated employee of the grounds for the recommendation.

(b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer.

(c) Inform the employee that he may request appointment of a hearing officer from a list provided by the American Arbitration Association and that one will be appointed if the superintendent agrees in writing.

(d) Refer to chapter 391 of NRS.

(Added to NRS by 1967, 969; A 1973, 793; 1979, 1833)

391.318 Request for hearing: Action by superintendent.

1. If a request for a hearing is not made within the time allowed, the superintendent shall file his recommendation with the board. The board may, by resolution, act on the recommendation as it sees fit.

2. If a request for a hearing is made, the superintendent shall not file his recommendation with the board until a report of the hearing officer is filed with him.

(Added to NRS by 1967, 970; A 1973, 794; 1979, 1834)

391.3191 Submission of request for appointment of hearing officer; challenge of members of list of hearing officers before designation.

1. Each request for appointment of a person from the list of hearing officers to serve as a hearing officer shall be submitted to the superintendent of public instruction.

2. The certificated employee and the superintendent may each challenge not more than five members of the list of hearing officers, and the superintendent of public instruction shall not appoint any challenged person.

(Added to NRS by 1967, 970; A 1973, 794; 1979, 1609)

391.31915 Peremptory challenges of designated hearing officers.

1. Within 10 days after he receives a request for a hearing, the superintendent of public instruction shall designate seven attorneys from the list of hearing officers.

2. After designation of the attorneys, the certificated employee and superintendent shall challenge peremptorily one of the seven at a time, alternately, until only one remains, who shall serve as hearing officer for the hearing. The superintendent and certificated employee shall draw lots to determine first choice to exercise a challenge.

3. The state board shall prescribe procedures for exercising challenges to the hearing officer and set time limits in which the challenges may be exercised by the certificated employee and superintendent.

(Added to NRS by 1971, 380; A 1973, 794; 1979, 1609, 1834)

391.3192 Hearing procedures.

1. As soon as possible after the time of his designation, the hearing officer shall hold a hearing to determine whether the grounds for the recommendation are substantiated.

2. The superintendent of public instruction shall furnish the hearing officer with any assistance which is reasonably required to conduct the hearing, and the hearing officer may require witnesses to give testimony under oath and produce evidence relevant to the investigation.

3. The certificated employee and superintendent are entitled to be heard, to be represented by counsel and to call witnesses in their behalf.

4. The hearing officer is entitled to be reimbursed reasonable actual expenses and to receive a salary of not more than \$150 per day for actual time served.

5. If requested by the hearing officer, an official transcript shall be made.

6. The board and the certificated employee are equally responsible for the expense and salary of the hearing officer and the official transcript.

7. The state board of education shall develop a set of uniform standards and procedures to be used in such a hearing. The technical rules of evidence do not apply.

(Added to NRS by 1967, 970; A 1973, 794; 1979, 1610, 1834)

391.31925 Handicapped person entitled to services of interpreter at hearing. The certificated employee or a witness at a hearing under NRS 391.311 to 391.3196, inclusive, who is a handicapped person as defined in NRS 50.050, is entitled to the services of an interpreter at public expense, subject to the provisions of NRS 50.052 and 50.053. The interpreter must be appointed by the hearing officer.

(Added to NRS by 1979, 658)

391.3193 Written report of hearing: Contents; time limitations.

1. Except as provided in subsection 3, within 30 days from the time of the designation, the hearing officer shall complete the hearing and shall prepare and file a written report with the superintendent and the certificated employee involved not later than 15 days following the conclusion of the hearing.

2. The report shall contain an outline of the scope of the hearing findings of fact and conclusions of law, and recommend a course of action to be taken by the board. The report of the hearing officer is final and binding on the employee and the board if the employee and the superintendent have so agreed before the selection of the hearing officer was begun.

3. If it appears that the report cannot be prepared within 15 days, the certificated employee and the superintendent shall be so notified before the end of that period, and the hearing officer may take the time necessary not exceeding 30 days following the conclusion of the hearing to file the written report and recommendation.

4. The certificated employee and the superintendent or his designee may mutually agree to waive any of the time limits applicable to the hearing procedure.

(Added to NRS by 1967, 970; A 1971, 381; 1973, 795; 1979, 1610, 1835)

391.3194 Action by superintendent following receipt of hearing report; action by board; notice to certificated employee; judicial review.

1. Within 5 days after the superintendent receives the report of the hearing officer he shall either withdraw the recommendation to demote, dismiss or not reemploy the certificated employee or file his recommendation with the board.

2. Within 15 days after the receipt of the recommendation of the superintendent, the board shall either accept or reject the hearing officer's recommendation and notify the certificated employee in writing of its decision.

3. The board may, prior to making a decision, refer the report back to the hearing officer for further evidence and recommendations. The hearing officer shall have 15 days to complete the report and file it with the board and mail a copy to the superintendent and certificated employee.

4. The certificated employee may appeal the decision to a district court within the time limits and in the manner provided by law for appeals of administrative decisions of state agencies. If the report of the hearing officer is final and binding, the employee or the board may request judicial review of the report pursuant to NRS 38.145 or 38.155.

(Added to NRS by 1967, 971; A 1971, 381; 1973, 795; 1979, 1611, 1835)

391.3196 Reemployment of postprobationary employees: Procedure.

1. On or before April 1 of each year, the board of trustees shall notify postprobationary employees in their employ, in writing, by certified mail or by delivery of the employee's contract, concerning their reemployment for the ensuing year. If the board, or the person designated by it, fails to notify a postprobationary employee who has been employed by a school district of his status for the ensuing year, the employee shall be deemed to be reemployed for the ensuing year under the same terms and conditions under which he is employed for the current year.

2. This section does not apply to any certificated employee who has been recommended to be demoted, dismissed or not reemployed if such proceedings have commenced and no final decision has been made by

the board. A certificated employee may be demoted or dismissed for grounds set forth in NRS 391.312 after he has been notified that he is to be reemployed for the ensuing year.

3. Any certificated employee who is reemployed pursuant to subsection 1 shall by April 10 notify the board of trustees in writing of his acceptance of employment. Failure on the part of the employee to notify the board of acceptance within the specified time limit is conclusive evidence of the employee's rejection of the contract.

4. If the certificated employees are represented by a recognized employee organization and negotiation has been commenced pursuant to NRS 288.180, then the provisions of subsections 1, 2 and 3 do not apply except for nonreemployment, demotion or dismissal procedures and before April 10 of each year the employees shall notify the board in writing, on forms provided by the board, of their intention to accept reemployment. Any agreement negotiated by the recognized employee organization and the board becomes a part of the contract of employment between the board and the employee. The board of trustees shall mail contracts, by certified mail with return receipts requested, to each employee to be reemployed at his last-known address or shall deliver the contract in person to each employee, obtaining a receipt therefor. Failure on the part of the employee to notify the board of acceptance within 10 days after receipt of the contract is conclusive evidence of the employee's rejection of the contract.

(Added to NRS by 1967, 971; A 1971, 10; 1973, 796; 1979, 1611, 1836)

391.3197 Probationary employees.

1. A probationary employee is employed on an annual basis and has no right to employment after a probationary contract year.

2. If a probationary employee first began his employment after June 30, 1979, the board of trustees shall notify him in writing on or before April 1 of the school year whether he is to be reemployed for the next school year. The employee shall advise the school board in writing on or before April 10 of his acceptance of reemployment. Failure to advise the school board of acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who has received a notice of reemployment from the school district is entitled to be a postprobationary employee in the ensuing year of employment.

4. A school district which has not given notice of reemployment to a probationary employee may offer the employee a contract for a trial year. An employee who receives an offer of a contract for a trial year may request that his performance during the trial year be evaluated by a person selected by him and his first evaluator.

5. If a probationary employee is notified that he will not be reemployed for the ensuing school year, his employment ends on the last day of the school year specified in his contract. The notice that he will not be reemployed must include a statement of the reasons for that decision.

gum etc

ASSEMBLY BILL 65

On February 23, 1978, a legislative audit report on the Data Processing Commission was presented to the Legislative Commission. That audit report addressed:

- Organizational structure of the Computer Facility and the Data Processing Commission.
- Coordination and communication between the Computer Facility and user agencies.
- Operating standards and procedures.
- Billing system
- Administrative and security controls.

The report made 26 recommendations relating to the Data Processing Commission and Computer Facility.

The following statement is from that report:

"The present organizational structure of data processing operations in the State of Nevada is not consolidated in such a manner as to obtain the following two objectives of the Executive Branch of Government:

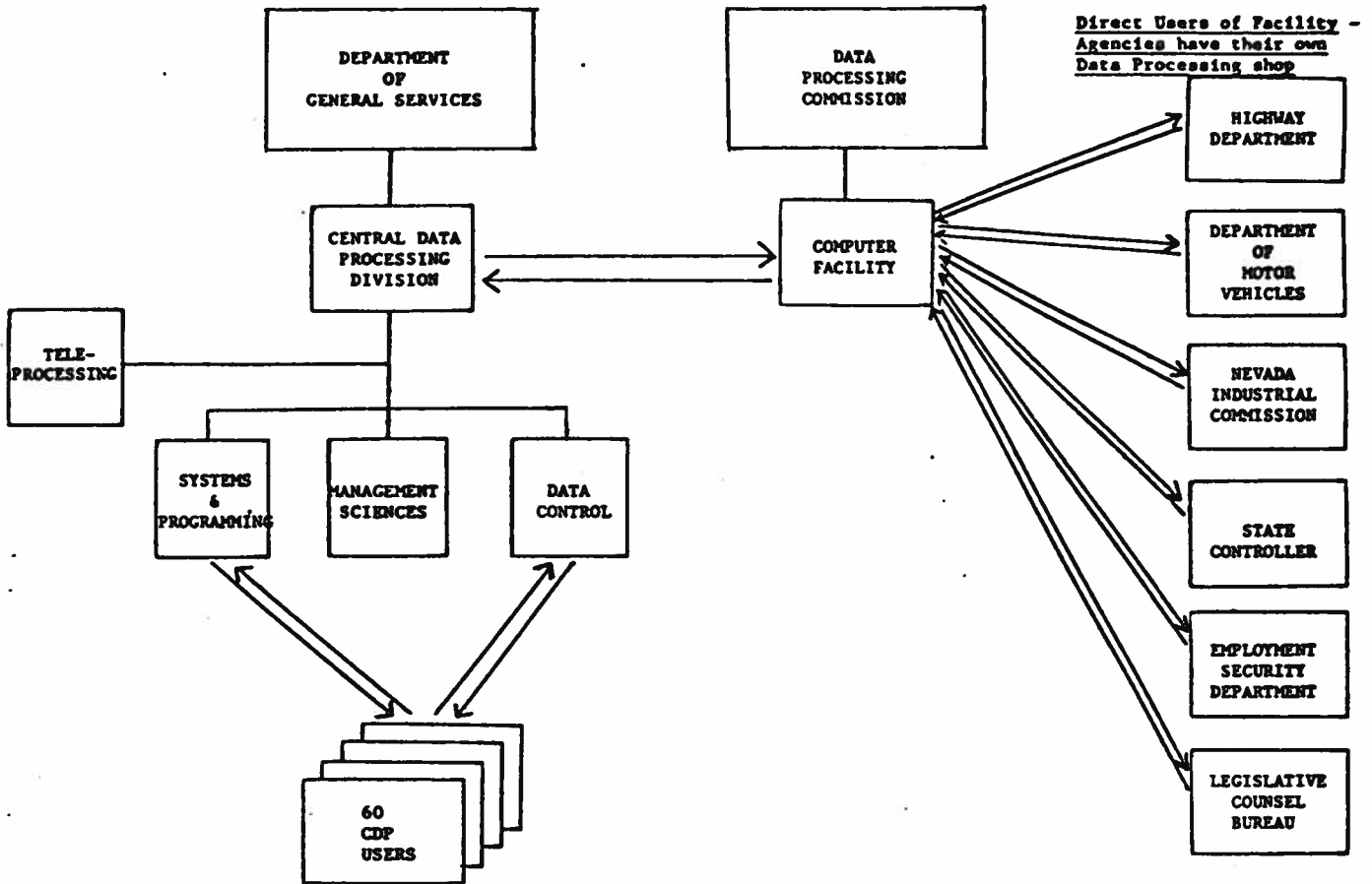
1. Operational Efficiency
2. Economy of Scale"

The report further stated:

"Because of the need for coordination and communication, it is imperative that these two agencies operate under the same philosophy. To achieve this, it is necessary to place the agencies under one administrator."

The following organizational chart, taken from the legislative audit report, shows the fractionation of data processing in Nevada.

ASSEMBLY BILL 65
(Continued)



As a result of the many problems and the magnitude of the problems identified in that audit report and another audit report on the Central Data Processing Division of the Department of General Services, Assemblyman May sponsored ACR 21 which called for the study of data processing in the State of Nevada.

Upon weighing the results of that study, the subcommittee assigned to ACR 21, consisting of Assemblymen Harmon, Banner, Bremner, Cavnar, and Mello, recommended that the Computer Facility be combined as one division under the Department of General Services. Subsequent to that study, the Governor's task force completed a report that came to the same basic conclusion, that being that there were definite problems with the organizational structure of data processing in Nevada. The Governor's Office is now recommending that the Central Data Processing Division and the Computer Facility be combined as a new department, rather than a division within General Services.

Both approaches, division or department, should greatly reduce the problems now plaguing data processing in Nevada.

24.8

GOVERNOR'S MANAGEMENT TASK FORCE

P. O. Box 1057
Carson City, Nevada 89701
(702) 885-5618

DATE: March 31, 1981
TO: Members, Assembly Government Affairs Committee
FROM: Glenn DuBois, Implementation Director *GD*
SUBJECT: Additional Data Processing Costs

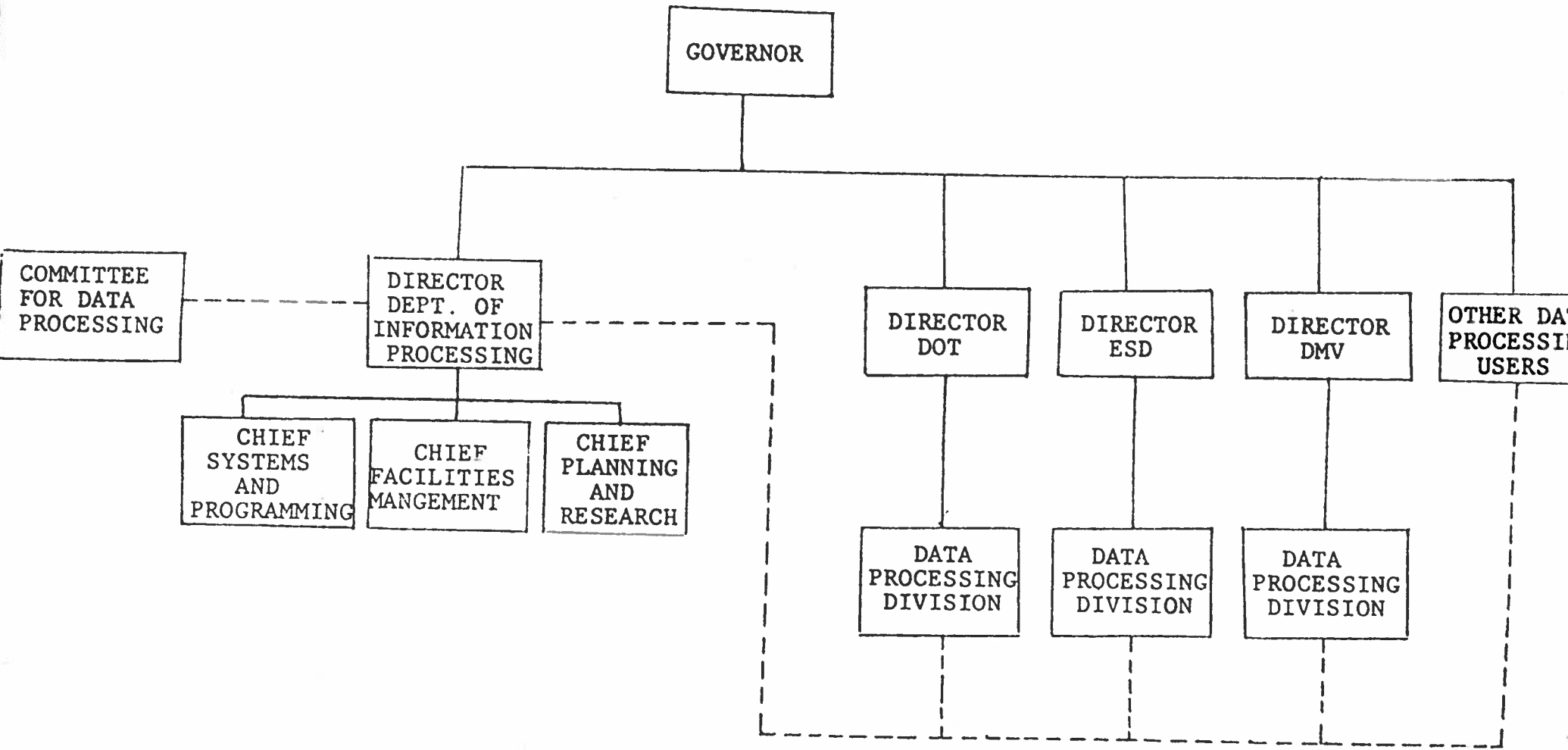
The following are projected costs for the proposed Department of Informational Services. It is anticipated that these costs will be absorbed through the application of productivity aids which are currently not being fully utilized.

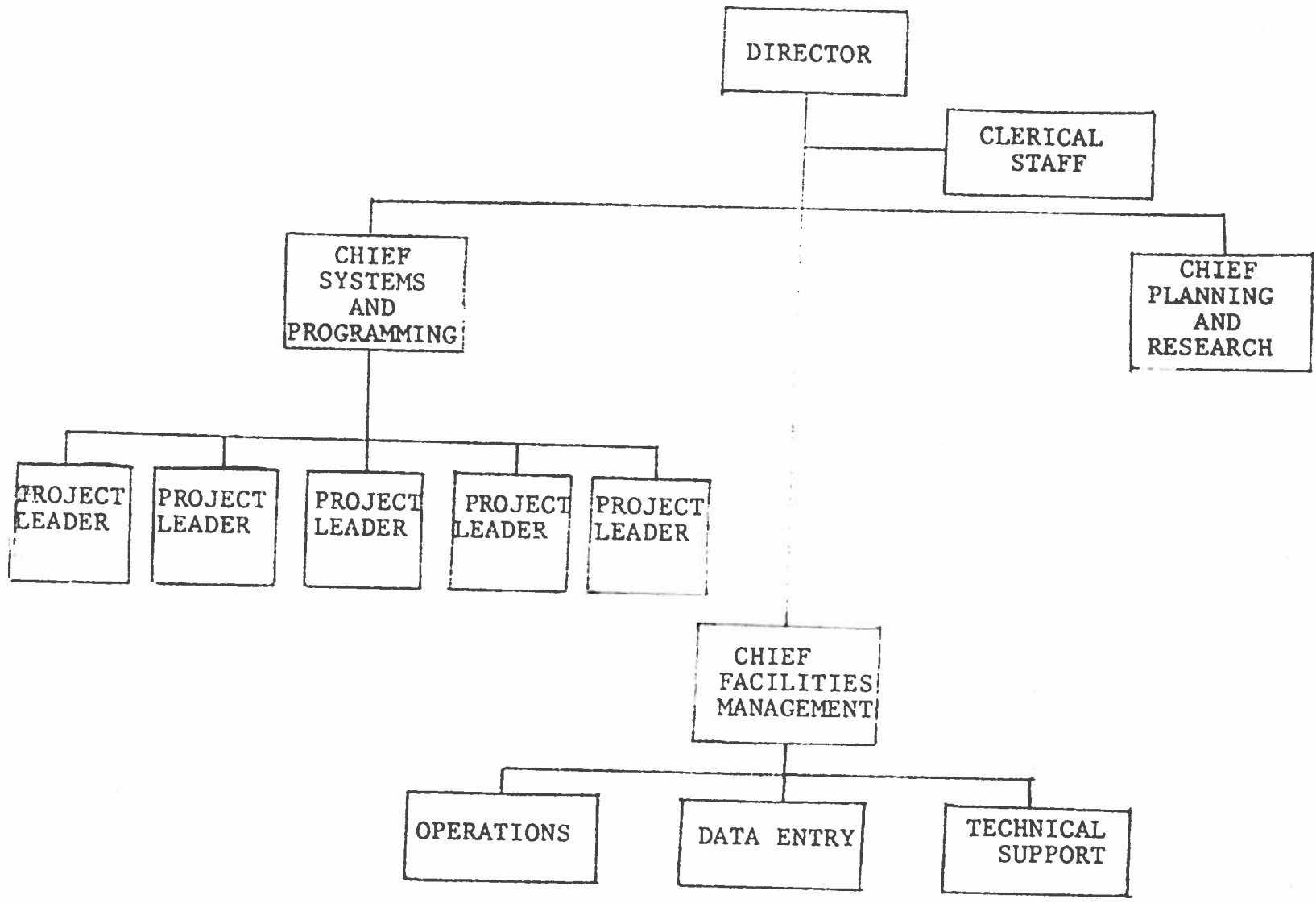
	<u>1981-82</u>	<u>1982-83</u>
Salaries including fringe		
Manager	\$46,000	\$ 50,140
2 - planners (38-15)	73,196	
3 - planners (38-15)		119,675
office space, phone, etc.	3,000	3,300
office equipment	1,500	
	-----	-----
TOTAL	\$123,696	\$173,115

These are the productivity aids not being fully utilized by agencies:

- 1) Structured design and programs
- 2) Standardized program modules
- 3) TSO
- 4) Walkthroughs
- 5) Team concept
- 6) Librarian technique
- 7) Program libraries (Panvalet)
- 8) Optimizer use
- 9) Computerized documentation capability


GDuB





GOVERNOR'S MANAGEMENT TASK FORCE

P. O. Box 1057
Carson City, Nevada 89701
(702) 885-5618

DATE: April 2, 1981
TO: Joe Dini, Chairman Government Affairs Committee
FROM: Glenn DuBois, Governor's Management Task Force 
SUBJECT: AB65 - Reworded Amendment

The Committee for Data Processing shall review and advise the director regarding:

The policy for data processing of the state agencies and elected state officers as that policy relates to such items as standards for systems and programming and criteria for the selection, location, and use of data processing equipment in order that the data processing needs of state agencies and officers be met at the least cost to the state and be consistent with industry trends.

GD

George H. Davis Ex. E

AMENDMENT TO AB 65
FIRST REPRINT

Amend sec. 5, page 1, line 12 by deleting "planning" and inserting "programming."

Amend sec. 6, page 2, line 10 by deleting "review standards and establish" and inserting "establish standards and determine."

Amend sec. 9, page 3 by deleting lines 3, 4 and 5 and inserting "make a presentation to, including justification of the proposed action, and obtain approval from the director. If the director denies the application the agency or officer must:"

Amend sec. 11, page 3, line 35 by deleting "and the" and inserting "and criteria for."

Amend sec. 11, page 3, line 43 by deleting "and use of the computer facility" and inserting "of the division of facility management,"

Amend sec. 12, page 4, line 11 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 12, page 4, line 2 by deleting "intragovernmental" and inserting "internal."

Amend sec. 12, page 4, line 12 by deleting "facility" and inserting "service."

Amend sec. 16, page 4, line 49 by deleting ":" and inserting ", as an ex-office member;"

Amend sec. 17, page 5, line 36 by deleting "and use of the computer facility" and inserting "of the division of facility management."

Amend sec. 19, page 6, line 11 by inserting after the word "review" the following: "and advise as to compliance or non-compliance."

Amend sec. 19, page 6, by deleting lines 14, 15 and 16 and inserting "\$50,000 or more."

Amend sec. 20, page 6, line 21 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 20, page 6, line 22 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 20, page 6, line 24 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 21, page 6, line 38 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 22, page 66; line 49 by deleting "intragovernmental" and inserting "internal."

Amend sec. 25, page 7, line 20 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 25, page 7, line 25 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 26, page 7, line 34 by deleting "computer facility" and inserting "division of facility management."

Amend sec. 26, page 7, line 37 by deleting "computer facility" and inserting "division of facility management."

Amend page 8 by changing "Sec. 9" to "Sec. 29."

Amend sec. 29, page 8, line 10 by deleting "section 3" and inserting "section 9."

AB 366

Proposed amendment to NRS 268.586, section 1(b)

On page 3, lines 6-9 of AB 366, [Describe, both in general terms and by accurate metes and bounds description, the territory proposed to be annexed] Provide a [redacted] description that accurately describes the map or plat of the territory proposed to be annexed.

By inserting the words "[redacted] description that accurately describes the map or plat of the territory" in lieu of "general terms" and deleting "metes and bounds description" the political subdivision has the flexibility to describe the territory to be annexed by that method which best suits the property;

examples:

1) if the property to be annexed has already been subdivided, it could be described by "lots and blocks" such as lot 38, block 10 of the Lewis Homes Sahara subdivision.

2) if the property to be annexed has not been subdivided, and it is a rectangular shape, the description could be based on a "system of rectangular surveys" such as "that portion of the Northwest Quarter (NW1/4) of Section 31, Township 20 South.

3) if the property to be annexed has not been subdivided, and it is a non-rectangular shape, a "metes and bounds" description would be required to give accurate distances, bearings and degrees.

4) if the property allows a more general description, streets and directions could be utilized such as "an area bounded by Kaylin Drive to the West and Burton Way to the South, 1/2 block to the easterly direction, with a lot depth of 80 feet."

SUBJECT: Deletion of metes and bounds description as part of annexation requirements prior to a public hearing.

REFERENCE: NRS 268.578 and NRS 268.586, under Title 21, Cities and Towns

BACKGROUND:

Current statute requires any city, proposing to extend services to a territory to be annexed, to file with the city clerk of said city a metes and bounds description of the territory in addition to maps and description(s) of proposed services as listed under Section 1, NRS 268.578 and Section 2, NRS 268.586. The metes and bounds description is a detailed listing of surveyed coordinates which currently must be published in a newspaper 20 days prior to the public hearing on the proposed annexation. This format for describing a territory is both expensive to publicize due to the length of the coordinate listings and difficult to understand for the general public.

In addition, many people requesting annexation for the reason of extension of services are delayed in response to their request due to the requirement for the metes and bounds description and the survey time involved.

CONCLUSION:

The deletion of the requirement for a metes and bounds description prior to the public hearing on a proposed annexation will save the public both time and expense. The replacement of a metes and bounds description by a legal description of the territory to be annexed based on a system of rectangular surveys would be less expensive, timelier, and easier understood; the southwest corner of section 8 bounded by Parkway on the north and Jones on the west in lieu of actual coordinates.

If after a public hearing and governing board approval, a territory is recommended for annexation, NRS 268.596 calls for an actual metes and bounds description to complete the legal recording of an annexed territory. The provision for the metes and bounds description after final approval, and not before, will eliminate the possibility of an unnecessary expense if the requested annexation is not approved.

RECOMMENDATION:

Amend Section 1, NRS 268.578 to delete the requirement for "A metes and bounds description of the territory proposed to be annexed."

Amend Section 2, NRS 268.586 to "Provide a legal description of the territory proposed to be annexed based on a system of rectangular surveys."

12/15/30

28
12/15/30

Prok...
12/15/30

Section 1. NRS 268.578 is hereby amended to read as follows:

268.578 Any city exercising authority under NRS 268.570 to 268.608, inclusive, shall make plans for the extension of services to the territory proposed to be annexed and shall, at least 20 days prior to the public hearing provided for in NRS 268.590, prepare and file with the city clerk of such city a report setting forth such plans to provide services to such territory. The report shall include:

[1. A metes and bounds description of the territory proposed to be annexed.]

[2.] 1. An accurate map or plat of such territory, prepared under the supervision of a competent surveyor or engineer.

[3.] 2. A map or maps of the city and the adjacent territory to show the following information:

(a) The present and proposed boundaries of the annexing city.

(b) The present streets and sewer interceptors and outfalls and, if the annexing city operates its own water system or furnishes other utility services, the present major trunk waterlines and other utility lines.

(c) The proposed extensions of the present streets, sewer interceptors and outfalls, major trunk water mains and utility lines, as the case may be, as required in subsection [5] 4.

(d) The present and proposed general land use pattern in the territory proposed to be annexed.

[4.] 3. A statement showing that the territory proposed to be annexed meets the requirements of NRS 268.580.

[5.] 4. A statement setting forth the plans of the annexing city for extending into the territory proposed to be annexed each major municipal service performed within the annexing city at the time of annexation. Specifically, such plans:

(a) Shall provide for extending police protection, fire protection, street maintenance and garbage collection to the territory proposed to be annexed on the effective date of such annexation, on substantially the same basis and in the same manner as such services were provided by the annexing city to the property owners and residents within the remainder of the city immediately prior to the effective date of the annexation.

(b) Shall provide for the extension of streets, sewer interceptors and outfalls and other major municipal services into the territory proposed to be annexed so that when such streets and utility services are so extended, property owners and residents in the territory proposed to be annexed will be able to secure such services, according to the policies in effect in the annexing city for furnishing such services to individual lots or subdivisions.

(c) May provide that the extension of streets, sewer interceptors and outfalls and other major municipal services shall be done at the expenses of the property owners in the territory proposed to be annexed, if it is the policy of the annexing city, at the time of such annexation, to furnish such services to individual lots or subdivisions at the expense of the property owners, either by means of special assessment districts or the requirement of the dedication of essential rights of way and the installation of offsite improvements as a prerequisite to the approval of subdivision plats or to the issuance of any building permit, rezoning, zone variance or special use permit. In such event, such plans shall designate which services, or portions thereof, shall be extended at the expenses of the annexing city and which services, or portions thereof, shall be extended at the expense of the property owners. Services extended at the property owners' cost shall be distributed and allocated to each parcel of property based on current costs, including both improvement costs and projected service costs, and shall be a part of the annexation plan prepared by the municipality.

(d) Shall, if the extension of any streets, sewer interceptors and outfalls or other major municipal services into the territory proposed to be annexed is to be done at the expense of the annexing city, set forth a proposed timetable for the construction of such extensions as soon as possible following the effective date of the annexation. In any event, the plans shall call for contracts to be let and construction to begin within 24 months following the effective date of the annexation.

(e) Shall set forth the method under which the annexing city plans to finance the extension of any services into the territory proposed to be annexed which is to be done at the expense of the annexing city.

Section 2. NRS 268.586 is hereby amended to read as follows:

268.586 1. The notice of public hearing shall

(a) Fix the date, hour and place of the public hearing.

(b) [Describe, both in general terms and by accurate metes and bounds description, the territory proposed to be annexed.] Provide a legal description of the territory proposed to be annexed based on a system of rectangular surveys.

(c) State that the report required in NRS 268.578 will be available at the office of the city clerk of the annexing city at least 20 days prior to the date of the public hearing.

(d) Contain a list of the names and addresses of all record owners of real property within the territory proposed to be annexed.

(e) Provide that any record owner of real property within the territory proposed to be annexed may:

(1) Appear and be heard at such public hearing and may file with the city clerk of the annexing city a written protest to such annexation at any time within 15 days after the conclusion of such public hearing; or

(2) Appear and be heard at such public hearing or may file with the city clerk of the annexing city a written protest to such annexation at any time within 15 days after the conclusion of such public hearing.

(f) Contain a statement to the effect that unless a majority of the property owners in the territory proposed to be annexed protest such annexation, either verbally at the public hearing or in writing within 15 days after the conclusion of such public hearing, the governing body shall have authority to adopt an ordinance extending the corporate limits of the annexing city to include all, or any part, of the territory described in the notice.

2. The notice shall be given by publication in a newspaper of general circulation in the territory proposed to be annexed, or, if there is none, in a newspaper of general circulation published in the county. If no such newspapers are published, a copy of the notice shall be posted at the front door of the city hall or the county courthouse and in at least two conspicuous places in the territory proposed to be annexed for not less than 20 days prior to the public hearing. The first publication of such notice shall be at least 20 days prior to the date set for the public hearing, and three publications in a newspaper published once a week or oftener are sufficient, but the first and last publication shall be at least 6 days apart. The period of notice commences upon the first day of publication and terminates either upon the day of the third publication or at the end of the 20th day, including therein the first day, whichever period is longer. At the time of the first publication the city clerk of the annexing city shall send a copy of the notice by certified mail, return receipt requested, to each record owner of real property within the territory proposed to be annexed.

EXAMPLE METES AND BOUNDS DESCRIPTION

Being that portion of the Northwest Quarter (NW 1/4) of Section 31, Township 20 South, Range 61 East, M.D.M., City of Las Vegas, Clark County, Nevada, described as follows:

COMMENCING at the Southwest Corner of the Northwest Quarter (NW 1/4) of said Section 31; thence North $0^{\circ}16'07''$ West, along the westerly line thereof, 996.84 feet; thence departing said west line North $89^{\circ}43'53''$ East, 50.00 feet to a point on the east right-of-way line of Decatur Boulevard, said point also being the TRUE POINT OF BEGINNING; thence North $0^{\circ}16'07''$ West, along said east right-of-way line of Decatur Boulevard, 232.23 feet; thence tangent to the last named bearing curving to the right along a curve having a radius of 50.00 feet, through a central angle of $90^{\circ}37'36''$ an arc length of 79.09 feet to a point of reverse curvature on the South Line of Meadows Lane as shown by a plat of "The Meadows" on file in the Clark County Recorder's Office as page 56 of Book 18 of plats; thence tangent to a bearing of South $89^{\circ}38'31''$ East, curving to the left along said South Line of Meadows Lane along a curve having a radius of 1490.56 feet through a central angle of $11^{\circ}45'35''$ an arc length of 305.93 feet; Thence North $78^{\circ}35'54''$ East, 34.96 feet; thence North $00^{\circ}45'48''$ West, 5.09 feet; thence South $89^{\circ}38'31''$ East, 51.01 feet; thence South $00^{\circ}45'48''$ East, 107.84 feet; thence North $89^{\circ}32'59''$ West, 25.51 feet; thence South $00^{\circ}45'48''$ East, 319.22 feet; thence North $89^{\circ}32'59''$ West, 218.13 feet; thence North $00^{\circ}16'07''$ West, 100.00 feet; thence North $89^{\circ}32'59''$ West, 200.00 feet to the TRUE POINT OF BEGINNING.

EXHIBIT "A"