

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 18, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 8:07 a.m., Wednesday, March 18, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman
Senator James N. Kosinski, Vice Chairman
Senator Richard E. Blakemore
Senator Wilbur Faiss
Senator Virgil M. Getto
Senator James H. Bilbray

STAFF MEMBERS PRESENT:

Connie S. Richards, Committee Secretary

SENATE BILL NUMBER 395 (EXHIBIT C)

Mr. Doug Byington, Nevada Association of School Administrators spoke in support of payment of unused sick leave, both for the administration as well as for teachers. He said studies show that the payment for unused sick leave results in fewer absences and abuses of sick leave. He spoke in opposition to the change under section 1, subsection 6, lines 9 and 10. He said schools should be allowed the flexibility to pay teachers as they would any substitute when the teacher is required to forfeit his or her preparation period to substitute for a teacher who is absent. Mr. Byington referred to section 2, subsection 6; he said the association supports a two year probationary period with a trial third year. He added that the association supports the date changes under section 8.

Mr. Bob Petroni, Clark County School District said Senate Bill No. 395 was drafted at the request of Clark County School District. He said under NRS 288.150, the negotiations act for public employees, includes provisions for

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mandatory bargaining for sick leave, vacation leave, other paid and non paid leave of absence. He said for this reason, provisions regarding same should not be in the personnel regulations or the law pertaining to school districts but rather should be contained in the negotiations act.

Mr. Petroni said the school district would like to have section 5 entirely excluded from the bill. Regarding the change on page 2, lines 9 and 10, Mr. Petroni said teachers should not be paid twice for the same hour that they are required to be at school even if they are acting as a substitute for another teacher during that hour. He asked that the probationary period for new teachers be a flat three year period.

The Chairman asked Mr. Petroni what an administrator could determine a teacher in a second or third year that he could not see during the teacher's first year of employment.

Mr. Petroni responded that the teacher may teach a different grade level than that taught the previous year. He said the administrator should be able to determine whether that teacher is capable of teaching all grade levels that he or she is certified to teach, and a three year probationary period allows that administrator to review the teacher for a longer period and to see him or her in different situations.

Mr. Petroni spoke in support of (g) under section 3, subsection 1 and the removal of the provision for the removal of admonitions received by a teacher before the end of a three year period. He said the addition of (d) under subsection 2, section 6 provides that subordination may be cause for immediate dismissal rather than an admonition to be filed in the teacher's record.

The Chairman said this seems rather harsh in view of the fact that teachers are professional people.

Mr. Petroni said it may be harsh, but is for the protection of the students as they are the ones who suffer.

The Chairman said such provisions only serve to increase

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the level of fear the individual has for his or her job. He said there should be some give and take within the provisions.

Mr. Petroni said the give and take falls in with the fact that any teacher being dismissed has the right to due process which includes a hearing.

Mr. Petroni referred to section 7, subsection 8. He said the period for suspension should be extended, as a period of 2 days is often not harsh enough, while dismissal is too harsh in many cases.

Mr. Robert Cox, representative, Washoe County School District spoke in support of payment for unused sick leave to be an optional item, to be set by regulation at the discretion of the district.

Mr. Cox said he could see no reason for the removal of subsection 6, section 1 of the bill. He said sick leave days are a negotiable item, though subsection 6 places a cap on the number of days that may be accumulated. Mr. Cox said districts have the right under the law (NRS 288.150) to direct and assign employees to a particular task which could include the direction for a teacher to act as a substitute. He added that additional language stating, "only when the district cannot secure a substitute at the time" may be added to the bill under section 1, subsection 6.

Mr. Cox noted that last year in Washoe County, there were 105 probationary teachers that came into the employ of the district; of those 105, there was a total of 25 that became probationary employees. Of those 25, there were 6 that the Washoe County Teachers Association contested. He said the date for the district to decide whether a teacher should be placed on tenured status or a second probationary year should be changed to May so that the district has the extra time to look at that teacher's performance. He supported the provision for a flat three year probationary period. He said teachers are stigmatized when they are selectively chosen to go on a second year probationary period and a flat three years for all teachers would eliminate the chance that any teacher be stigmatized by the probationary period.

Mr. Cox supported the removal of admonitions from a teacher's

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record before the end of a three year period.

Senator Kosinski asked Mr. Cox how many admonitions were issued in Washoe County School District during the last school year.

Mr. Cox said he did not know for sure, but guessed there were probably between 6 and 12 admonitions issued during the last school year in the Washoe County School District in which there are approximately 1700 school teachers and 120 administrators.

Senator Blakemore asked what is the most frequent reason for the issuance of an admonition.

Mr. Cox said the primary reason is for the failure to perform one's duty, but there are about a dozen such reasons for admonition.

Mr. Cox suggested under section 7, subsection 8, the period of time for a maximum suspension be set at 20 days rather than leaving it open-ended. He said 2 days is not long enough in many cases, while dismissal of the teacher may be too harsh.

Senator Kosinski pointed out that 20 days is over 10 percent of the total school year.

Mr. Cox explained that in most cases only a portion of that 20 days would be used for any one offense and a 20 day suspension would have to be a fairly serious offense. He added that the person being suspended must first go through the hearing process at which time the seriousness or the validity of the offense may be determined and a suspension term set.

Senator Kosinski asked how Mr. Cox felt about a maximum suspension time of five days.

Mr. Cox said he thought five days is certainly better than two days, but would hope for a longer maximum suspension time. He voiced opposition to the lengthening of the trial period to four years. He supported the flat three year period.

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Ms. Joyce Woodhouse, President, Nevada State Education Association presented testimony in opposition to Senate Bill No. 395. This testimony is Exhibit D.

Mr. Wendell Newman, Representative, Department of Education said the department is taking no position on the bill but does have some concerns. He said the department could see no reason for the removal of section 4, subsection 2 of Senate Bill No. 395. He added that in some cases this is a negotiable item. He said the deletion of lines 25 through 30 is basically the same kind of unnecessary change.

Ms. Shirley Holst, Member, Clark County School District Board of Trustees presented testimony in support of Senate Bill No. 395. This Testimony is Exhibit E.

Ms. Pat Schank, Representative, Clark County School District said she attended public schools in Nevada and has taught in them as well. She suggested upgrading the quality of education in Nevada. She noted the fact that teachers are not well paid and many teachers who are aggressive and good teachers are forced to seek other employment to make an adequate living. Ms. Schank said the best teacher she ever had during her years of public schooling in Nevada was a government teacher who now drives a truck in order to make enough money to live on. She suggested paying teachers a greater salary in order to keep good teachers on as staff members. She also suggested training and evaluating teachers skills as teachers begin teaching. She said administrators' hands should not be tied in disciplining and dismissing teachers who do not meet the qualifications necessary to be a good teacher. Ms. Schank observed that the teachers she had spoken with indicated to her that they like the evaluation process as well as the probationary period because they strengthen their positions as teachers by showing them their weaknesses within the field so they may strive for improvement.

Mr. Petroni, Clark County School District submitted suggested language for a bill draft to amend NRS 386.310 (Exhibit F).

Senator Blakemore moved to draft the request.

Senator Kosinski seconded the motion.

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The motion carried unanimously.

SENATE BILL NUMBER 86 (EXHIBIT G)


Senator Kosinski moved to . "Do Pass as Amended" Senate Bill No. 86.

Senator Blakemore seconded the motion.


The motion carried unanimously.

There being no further business, the meeting adjourned at 10:28.

Respectfully Submitted:


Connie S. Richards, Committee Secretary

APPROVED BY:


Senator Neal, Chairman

DATE: 3-30-81

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Human Resources and Facilities, EXHIBIT A
Room 323
Day Wednesday, Date March 18, Time 8:00 a.m.

S. B. No. 395--Revises provisions governing certification and employment of personnel of school districts.

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES

DATE: March 18, 1981

EXHIBIT B

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME	ORGANIZATION & ADDRESS	TELEPHONE
Richard Brown	Nev. Assoc School Adm	883-6925
Wong Byington	Nev. Assoc School Adm	
Joyce Woodhouse	Nevada State Education Assoc	882-5574
John Hawkins	Nev. School Board Assoc	
Mervell H. Newman	Nev. Dept of EA.	885-5700
Shirley Hallst	Clark County School Trustee	451-3242
Pat Schank	Clark County School District	878-3964
Bob Maples	Washoe County School Dist	322-7041
Dick Wright	" " " "	
MAURINE PETER	" " " "	322-7041
CHUCK NEELY	CLARK COUNTY SCHOOL DIST	
Robt Petroni	" " " "	
C. Robert Cox	Washoe County School District	827-2000
REV. J. J. O'S	Douglas County School Dist.	782-7177

S. B. 395

**SENATE BILL NO. 395—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES**

MARCH 10, 1981

Referred to Committee on Human Resources and Facilities

**SUMMARY—Revises provisions governing certification and employment of
personnel of school districts. (BDR 34-1031)**

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

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

AN ACT relating to education; amending provisions governing the certification and employment of personnel of school districts; extending the time required for probation; changing the date for notification of reemployment; repealing the requirement for development of an evaluation policy; revising provisions relating to compensation, sick leave, suspensions and admonitions; adding to grounds for suspension or dismissal; making the revocation of a certificate mandatory for all grounds specified in statute; and providing other matters properly relating thereto.

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

- 1 **SECTION 1. NRS 391.180 is hereby amended to read as follows:**
2 **391.180 1. As used in this section, "employee" means a certificated**
3 **or noncertificated employee of a school district in this state.**
4 **2. A school month in any public school in this state consists of 4**
5 **weeks of 5 days each.**
6 **3. Nothing contained in this section prohibits the payment of employ-**
7 **ees' compensation in 12 equal monthly payments for 9 or more months'**
8 **work.**
9 **4. The per diem deduction from the salary of an employee because of**
10 **absence from service for reasons other than those specified in this section**
11 **is that proportion of the yearly salary which is determined by the ratio**
12 **between the duration of the absence and the total number of contracted**
13 **work days in the year.**
14 **5. Boards of trustees shall either prescribe by regulation or negotiate**
15 **pursuant to the Local Government Employee-Management Relations**
16 **Act, with respect to sick leave, accumulation of sick leave, [payment for**
17 **unused sick leave,] sabbatical leave, personal leave, professional leave,**
18 **military leave and such other leave as they determine to be necessary or**
19 **desirable for employees. If any subject specified in this subsection is**

1 included in a negotiated agreement, the terms of the agreement [shall]
2 govern in case of a conflict with regulations prescribed by the board.

3 6. [The salary of any employee unavoidably absent because of per-
4 sonal illness or accident, or because of serious illness, accident or death
5 in the family, may be paid up to the number of days of sick leave accumu-
6 lated by the individual employee. An employee shall not be credited with
7 more than 15 days of sick leave in any 1 school year. Accumulated sick
8 leave up to a maximum of 30 days may be transferred from one school
9 district to another.] *An employee may not be paid more than once for
10 any period of time included in the regular school day.*

11 7. Subject to the provisions of subsection 8:

12 (a) When an intermission of less than 6 days is ordered by the board
13 of trustees for any good reason, no deduction of salary [shall] *may* be
14 made therefor.

15 (b) When on account of sickness, epidemic or other emergency in the
16 community, a longer intermission is ordered by the board of trustees or
17 by a duly constituted board of health and [such] *the* intermission or
18 closing does not exceed 30 days at any one time, there [shall] *must* be
19 no deduction or discontinuance of salaries.

20 8. If the board of trustees orders an extension of the number of days
21 of school to compensate for the days lost as the result of an intermission
22 because of those reasons contained in paragraph (b) of subsection 7, an
23 employee may be required to render his services to the school district
24 during [such] *the* compensatory extension period. If the salary of the
25 employee was continued during the period of intermission as provided in
26 subsection 7, the employee is not entitled to additional compensation for
27 services rendered during the compensatory extension period.

28 SEC. 2. NRS 391.311 is hereby amended to read as follows:

29 391.311 As used in NRS 391.3115 to 391.3197, inclusive, unless the
30 context otherwise requires:

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

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

36 3. "Demotion" means demotion of an administrator to a position of
37 lesser rank, responsibility or pay and does not include transfer or reassign-
38 ment for purposes of an administrative reorganization.

39 4. "Immorality" means an act forbidden by NRS 200.366, 200.368,
40 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201-
41 265 or 207.260.

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

43 (a) Taught under [one probationary contract] *three consecutive pro-*
44 *bationary contracts* in a Nevada school district and is employed as a
45 teacher for a [second] *fourth* or subsequent year; or

46 (b) Worked as an administrator under [one probationary contract]
47 *three consecutive probationary contracts* in a Nevada school district and
48 is employed as an administrator for a [second] *fourth* or subsequent
49 year.

1 6. "Probationary employee" means a person who is in the first [con-
2 tract year or a second] *three consecutive contract years or a fourth* trial
3 year of employment as a teacher or administrator.

4 7. "Superintendent" means the superintendent of a school district or
5 a person designated by the school board or superintendent to act as super-
6 intendent during the absence of the superintendent.

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

10 SEC. 3. NRS 391.312 is hereby amended to read as follows:

11 391.312 1. A teacher may be suspended, dismissed or not reem-
12 ployed and an administrator may be demoted, suspended, dismissed or
13 not reemployed for the following reasons:

- 14 (a) Inefficiency;
- 15 (b) Immorality;
- 16 (c) Unprofessional conduct;
- 17 (d) Insubordination;
- 18 (e) Neglect of duty;
- 19 (f) Physical or mental incapacity;
- 20 (g) A justifiable decrease in the number of positions due to decreased
21 enrollment or district reorganization;
- 22 (h) Conviction of a felony or of a crime involving moral turpitude;
- 23 (i) Inadequate performance;
- 24 (j) Evident unfitness for service;
- 25 (k) Failure to comply with such reasonable requirements as a board
26 may prescribe;

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

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

33 (n) Any cause which constitutes grounds for the revocation of a teach-
34 er's state certificate;

35 (o) Willful neglect or failure to observe and carry out the require-
36 ments of this Title; [or]

37 (p) Dishonesty [.] ; or

38 (q) *Absence without approved leave for a period of 5 days or longer.*

39 2. In determining whether the professional performance of a certifi-
40 cated employee is inadequate, consideration [shall] *must* be given to the
41 regular and special evaluation reports prepared in accordance with the
42 policy of the employing school district and to any written standards of
43 performance which may have been adopted by the board.

44 SEC. 4. NRS 391.3125 is hereby amended to read as follows:

45 391.3125 1. It is the intent of the legislature that a uniform system
46 be developed for objective evaluation of teachers and certificated school
47 support personnel in each school district.

48 2. [Each board of school trustees, following consultation and
49 involvement of elected representatives of teacher personnel or their des-
50 ignees, shall develop an objective evaluation policy which may include

1 self, student, administrative or peer evaluation or any combination
2 thereof. In like manner, counselors, librarians and other certificated
3 school support personnel shall be evaluated on forms developed specifi-
4 cally for their respective specialties. A copy of the evaluation policy
5 adopted by the board of trustees shall be filed with the department of
6 education.

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

- 9 (a) November 1;
10 (b) January 1;
11 (c) March 1; and
12 (d) May 1,

13 of the school year.

14 [4.] 3. Each postprobationary teacher [shall] *must* be evaluated at
15 least once each year.

16 [5.] 4. The evaluation of a probationary teacher or a postproba-
17 tionary teacher [shall,] *must*, if necessary, include recommendations for
18 improvements in teaching performance. A reasonable effort [shall] *must*
19 be made to assist the teacher to correct deficiencies noted in the evalua-
20 tion. The teacher [shall] *must* receive a copy of each evaluation not later
21 than 15 days after the evaluation. A copy of the evaluation and the teach-
22 er's response [shall] *must* become a permanent attachment to the teach-
23 er's personnel file.

24 SEC. 5. NRS 391.3127 is hereby amended to read as follows:

25 391.3127 1. [Each board of school trustees, following consultation
26 and involvement of elected representatives of administrative personnel or
27 their designated representatives, shall develop an objective evaluation
28 policy which may include self, student, administrative or peer evaluation
29 or any combination thereof. A copy of the evaluation policy adopted by
30 the board of trustees must be filed with the department of education.

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

33 [3.] 2. Before a superintendent transfers or assigns an administrator
34 to another administrative position as part of an administrative reorganiza-
35 tion, if the transfer or reassignment is to a position of lower rank, respon-
36 sibility or pay, he [shall] *must* give written notice of the proposed transfer
37 or assignment to the administrator at least 30 days before the date on
38 which it is to be effective. The administrator may appeal the decision of
39 the superintendent to the board by requesting a hearing in writing to the
40 president of the board within 5 days after receiving the notice from the
41 superintendent. The board shall hear the matter within 10 days after
42 the president receives the request, and shall render its decision within 5
43 days after the hearing. The decision of the board is final.

44 SEC. 6. NRS 391.313 is hereby amended to read as follows:

45 391.313 1. Whenever an administrator charged with supervision of a
46 certificated employee believes it is necessary to admonish [a certificated]
47 that employee for a reason that he believes may lead to demotion, dismis-
48 sal or cause the employee not to be reemployed under the provisions of
49 NRS 391.312, he shall:

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

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

8 An admonition issued to a certificated employee who, within the time
9 granted for improvement, has met the standards set for him by the admin-
10 istrator who issued the admonition must be removed from the records of
11 the employee together with all notations and indications of its having been
12 issued. [The admonition must be removed from the records of the
13 employee not later than 3 years after it is issued.]

14 2. A certificated employee may be subject to immediate dismissal or
15 a refusal to reemploy according to the procedures provided in NRS
16 391.311 to 391.3197, inclusive, without the admonition required by this
17 section on grounds contained in paragraphs (b), (d), (f), (g), (h) and
18 (p) of subsection 1 of NRS 391.312.

19 SEC. 7. NRS 391.314 is hereby amended to read as follows:

20 391.314 1. Whenever a superintendent has reason to believe that
21 cause exists for the dismissal of a certificated employee and when he is of
22 the opinion that the immediate suspension of the employee is necessary
23 in the best interests of the children in the district, the superintendent may
24 suspend the employee without notice and without a hearing. Notwith-
25 standing the provisions of NRS 391.312, a superintendent may suspend
26 a certificated employee who has been officially charged but not yet con-
27 victed of a felony or a crime involving moral turpitude or immorality. If
28 the charge is dismissed or if the employee is found not guilty, he must be
29 reinstated with back pay, plus interest, and normal seniority. The super-
30 intendent shall notify the employee in writing of the suspension.

31 2. Within 10 days after a suspension becomes effective, the superin-
32 tendent shall begin proceedings pursuant to the provisions of NRS 391.-
33 312 to 391.3196, inclusive, to effect the employee's dismissal. The
34 superintendent may recommend that an employee who has been charged
35 with a felony or a crime involving immorality be dismissed for another
36 ground set forth in NRS 391.312.

37 3. If sufficient grounds for dismissal do not exist, the employee
38 [shall] *must* be reinstated with full compensation, plus interest.

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

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

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

5 7. A certificated employee who is charged with a felony or a crime
 6 involving immorality or moral turpitude and who waives his right to a
 7 speedy trial while suspended may receive no more than 12 months of
 8 back pay and seniority upon reinstatement if he is found not guilty or the
 9 charges are dismissed, unless proceedings have been begun to dismiss the
 10 employee upon one of the other grounds set forth in NRS 391.312.

11 8. A superintendent may discipline a certificated employee by sus-
 12 pending the employee [for up to 2 days] with loss of pay at any time after
 13 a due process hearing has been held. The grounds for suspension are the
 14 same as the grounds contained in NRS 391.312. [The suspension provi-
 15 sions of this section may not be invoked more than once during the
 16 employee's contract year.]

17 SEC. 8. NRS 391.3196 is hereby amended to read as follows:

18 391.3196 1. On or before [April] May 1 of each year, the board of
 19 trustees shall notify postprobationary employees in their employ, in
 20 writing, by certified mail or by delivery of the employee's contract, in-
 21 concerning their reemployment for the ensuing year. If the board, or the per-
 22 son designated by it, fails to notify a postprobationary employee who
 23 has been employed by a school district of his status for the ensuing year,
 24 the employee shall be deemed to be reemployed for the ensuing year
 25 under the same terms and conditions under which he is employed for the
 26 current year.

27 2. This section does not apply to any certificated employee who has
 28 been recommended to be demoted, dismissed or not reemployed if such
 29 proceedings have commenced and no final decision has been made by
 30 the board. A certificated employee may be demoted or dismissed for
 31 grounds set forth in NRS 391.312 after he has been notified that he is to
 32 be reemployed for the ensuing year.

33 3. Any certificated employee who is reemployed pursuant to subsec-
 34 tion 1 shall by [April] May 10 notify the board of trustees in writing of
 35 his acceptance of employment. Failure on the part of the employee to
 36 notify the board of acceptance within the specified time limit is conclusive
 37 evidence of the employee's rejection of the contract.

38 4. If the certificated employees are represented by a recognized
 39 employee organization and negotiation has been commenced pursuant to
 40 NRS 288.180, then the provisions of subsections 1, 2 and 3 do not apply
 41 except for nonreemployment, demotion or dismissal procedures and
 42 before [April] May 10 of each year the employees shall notify the board
 43 in writing, on forms provided by the board, of their intention to accept
 44 reemployment. Any agreement negotiated by the recognized employee
 45 organization and the board becomes a part of the contract of employment
 46 between the board and the employee. The board of trustees shall mail
 47 contracts, by certified mail with return receipts requested, to each
 48 employee to be reemployed at his last-known address or shall deliver the
 49 contract in person to each employee, obtaining a receipt therefor. Failure
 50 on the part of the employee to notify the board of acceptance within 10

1 days after receipt of the contract is conclusive evidence of the employee's
2 rejection of the contract.

3 SEC. 9. NRS 391.3197 is hereby amended to read as follows:

4 391.3197 1. A probationary employee is [employed on an annual
5 basis and] *on probation annually for the first 3 consecutive years of*
6 *employment, if his services are satisfactory, or he may be dismissed at any*
7 *time after a hearing as provided in subsection 8. He has no right to*
8 *employment after a probationary contract year.*

9 2. If a probationary employee first began his employment after June
10 30, [1979,] 1981, the board of trustees shall notify him in writing on or
11 before [April] May 1 of [the school year] *each of the school years of*
12 *the probationary period* whether he is to be reemployed for the next
13 school year. The employee shall advise the school board in writing on or
14 before [April] May 10 of his acceptance of reemployment. Failure to
15 advise the school board of acceptance of reemployment constitutes
16 rejection of the contract.

17 3. A probationary employee who has received a notice of reemploy-
18 ment from the school district *in his third consecutive year of employment*
19 is entitled to be a postprobationary employee in the ensuing year of
20 employment.

21 4. A school district which has not given notice of reemployment to
22 a probationary employee *in his third consecutive year of employment* may
23 offer the employee a contract for a trial year. An employee who receives
24 an offer of a contract for a trial year may request that his performance
25 during the trial year be evaluated by a person selected by him and his
26 first evaluator.

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

31 6. If a probationary employee who is an administrator is not reem-
32 ployed in that capacity, he may accept a contract as a teacher for the
33 ensuing school year in writing on or before [April] May 10. If he fails to
34 accept the contract as a teacher, he shall be deemed to have rejected the
35 offer of a contract as a teacher.

36 7. Any postprobationary employee of a Nevada school district who
37 is employed by another school district shall serve the probationary period
38 required by this section.

39 8. Before dismissal, the probationary employee is entitled to a due
40 process hearing before a hearing officer as set out in NRS 391.311 to
41 391.3196, inclusive.

42 SEC. 10. NRS 391.320 is hereby amended to read as follows:

43 391.320 [1. The state board of education may suspend or revoke
44 the certificate of any teacher for any cause specified by law.

45 2.] The superintendent of public instruction may suspend, for a
46 period not to exceed 1 year, after 10 days' notice and a hearing, the cer-
47 tificate of any teacher for any of the causes for which a certificate [may]
48 *must be revoked by the state board.*

49 SEC. 11. NRS 391.330 is hereby amended to read as follows:

- 1 391.330 The state board of education [may] shall suspend or revoke
2 any state certificate of any teacher or administrator, after notice and an
3 opportunity for hearing before the state board, for:
- 4 1. Immoral or unprofessional conduct.
 - 5 2. Evident unfitness for service.
 - 6 3. Physical or mental incapacity which renders [such] the teacher or
7 administrator unfit for service.
 - 8 4. Conviction of a felony or crime involving moral turpitude.
 - 9 5. Conviction of a sex offense under NRS 200.366, 200.368, 201.-
10 190, 201.220, 201.230 or 207.260 in which a student enrolled in a school
11 of a Nevada public school district was the victim.
 - 12 6. Knowingly advocating the overthrow of the Federal Government
13 or of the State of Nevada by force, violence or unlawful means.
 - 14 7. Persistent defiance of or refusal to obey the regulations of the state
15 board of education, or the regulations of the superintendent of public
16 instruction, defining and governing the duties of teachers and administra-
17 tors.
 - 18 8. *Any other cause specified by law.*

EXHIBIT D

TESTIMONY ON S.B. 395

Presented by:

Joyce L. Woodhouse, President
NEVADA STATE EDUCATION ASSOCIATION

Presented to:

Senate Human Resources Committee

March 18, 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 all of S.B. 395. This bill destroys the very essence of the Professional Practices Act.

I would like to point out some of the reasons why we so emphatically oppose this measure:

1. During the 1977 and 1979 legislative sessions we worked with you to provide a means for teachers to receive payment for unused sick leave, a benefit enjoyed by all other public employees in the state. We provided only one thing - that the school trustees could prescribe by regulation or negotiate such a benefit. We all realize that in the case of school districts, there is only one pot of money. In the cases where districts have provided the benefit, it is a very small one. S.B. 395 takes away that benefit. You need to know that not all counties bargain collectively. Also, when you do bargain, you do not necessarily reach an agreement. Therefore, it is possible that the benefit will not appear in the contracts.
2. At present, we teachers can be credited with only 15 days of sick leave. This bill deletes the provision and makes no reference to any other alternative. We submit that employees do have certain needs while on the job: one, unquestionably, is to have sick leave provided in cases of personal or family illness, accident, or death.
3. The NSEA is absolutely appalled at the proposal to provide for a three year probationary period. Then, to make matters worse, the proposal is to provide for a trial fourth year. 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

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a change. We did agree to the compromise that set up the one year - we will live with that. But, a three year probationary period is too much. If an administrator believes a teacher is not what he wants, then he must document and move for dismissal.

4. We oppose the addition of "(q) absence without approved leave for a period of 5 days or longer" to the list of items for which teachers may be dismissed, suspended, or not reemployed. I submit that if an employee is being charged with such an issue, it can reasonably be handled under the items already listed in NRS 391.312.
5. Once again, this bill takes away a provision given in an earlier legislative session - that of allowing the trustees and the teachers' association to develop an objective evaluation policy. We believe very strongly that the practitioners have a right to be involved in this process - they're going to be governed by it. Also removed is the provision that librarians, counselors, and other support personnel be evaluated on forms especially designed for their positions. Their jobs are different and should be evaluated on an appropriate form.
6. We have worked with you over the years on the admonition section of this statute. We adamantly oppose removing the provision that an admonition be removed after three years in the file. It is reprehensible that 10-15 years later a teacher should be haunted by having one mistake still sitting there glaring at him/her. We feel that three years is a long enough time period for the administration to see if the teacher is going to "do it again."
7. On line 17, page 5, a letter "d" is added to the list of items for which a teacher can be immediately dismissed without even

EXHIBIT D

an admonition. "d" relates to insubordination. I believe, again, that the punishment being leveled at the teacher is excessive.

8. There are not enough words to tell you how dismayed I am about the change where the suspension time period of two days is being eliminated. When a teacher is suspended, she/he is docked according to his/her daily rate of pay. With an unlimited number of days, and an unlimited number of times, the financial burden on the teacher is astronomical. For example, my daily rate of pay is \$111. Imagine where I'd be with a 2, 10, 20, or 30 day suspension. I submit that if an administrator must resort to this type of punishment, he/she had best decide if they have a case for dismissal.
9. The date changes on page 6 of the bill place an undue hardship upon the teacher. We really need to know our status for the following year in April, not May. Teachers need to plan ahead. If a principal does his/her job, he/she knows how his/her teachers are doing.
10. We oppose the proposal to infringe upon powers of the State Board of Education in revoking certificates. Finally, to add to the list of items for which a teacher's certificate can be revoked, "any other cause" is absolutely unnecessary.

In conclusion, the Nevada State Education Association urges you to destroy this bill as it intends to destroy the Professional Practices Act. Let's leave the gains, losses, and compromises that we have all worked on over the years intact in NRS 391. There is nothing "good" in S.B. 395.

One final word: If S.B. 395 passes, it will cause serious problems for teacher morale. It is not possible to generate an atmosphere conducive to learning if teachers are "walking on eggs" and in fear of their jobs. The provisions of S.B. 395 in the areas of unlimited suspensions, admonitions forever in your file, and three year probationary periods will cause that to happen.

Thank you.

MR. CHAIRMAN (SENATOR JOE NEAL)

MY NAME IS SHIRLEY HOLST AND I AM A MEMBER OF THE CLARK COUNTY SCHOOL DISTRICT BOARD OF SCHOOL TRUSTEES.

I WANT TO THANK YOU FOR THE OPPORTUNITY TO SPEAK TO YOU AND YOUR COMMITTEE THIS MORNING.

I WOULD LIKE TO MAKE SOME GENERAL COMMENTS REGARDING S.B. ³⁹⁵~~391~~, WHICH IS A PROPOSAL TO AMEND CERTAIN SECTIONS OF 391. I WOULD REQUEST THAT IF YOU HAVE ANY SPECIFIC QUESTIONS REGARDING THE PROPOSAL BEFORE YOU AND THE PROFESSIONAL PRACTICES ACT, BE DIRECTED TO THE CLARK COUNTY SCHOOL DISTRICT ADMINISTRATORS.

NRS 391 IS AN ANTIQUATED PIECE OF LEGISLATION. IT WAS A LAW LONG BEFORE NRS 288/ THE EMPLOYEE MANAGEMENT RELATIONS ACT WAS ADOPTED IN 1969. THIS ACT AS YOU KNOW GAVE TEACHERS THE RIGHT TO NEGOTIATE WITH THEIR PUBLIC EMPLOYER. IN ADDITION, NRS 391 IS THE ONLY PIECE OF LEGISLATION THAT CREATES A SPECIFIC FORM OR PROCEDURE FOR TEACHERS AND OTHER CERTIFICATED EMPLOYEES WHO ARE EMPLOYED BY LOCAL SCHOOL DISTRICTS REGARDING PROCEDURES TO BE FOLLOWED WHEN DISCIPLINARY ACTIONS ARE TAKEN. TO MY KNOWLEDGE, NO OTHER PUBLIC EMPLOYEE^S- COUNTY/CITY/STATE HAVE A STATUTORY PROCEDURE SIMILAR TO THE ONE^S THAT TEACHERS HAVE. IN THE ADVENT OF NEGOTIATIONS AND NEGOTIATED AGREEMENTS, THE TEACHERS NOT ONLY HAVE THE PROTECTION

EXHIBIT E

OF THE PROFESSIONAL PRACTICES ACT BUT CAN ALSO AIR THEIR GRIEVANCES THROUGH ARBITRATION, TO THE EMPLOYEE MANAGEMENT RELATIONS BOARD AND THE COURTS. THERE ARE OTHER FEDERAL AND STATE AGENCIES - EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, OFFICE OF CIVIL RIGHTS, AND THE NEVADA EQUAL RIGHTS COMMISSION - WHICH TEACHERS MAY PURSUE AS AVENUES OF REDRESS.

THE CURRENT PROCEDURE SPELLED OUT IN NRS 391 IS A TIME CONSUMING ONE. I AM TOLD BY SCHOOL DISTRICT ADMINISTRATORS THAT DISPLINARY ACTION, DEPENDING ON THE NATURE, COULD TAKE FROM 5 MONTHS TO 18 MONTHS TO COMPLETE. THE CURRENT SUSPENSION PROCEDURE AND I AM REFERRING TO THE TWO-DAYS ALLOWABLE BY NRS 391 IS .IN MCST CASES NOT SUFFICIENT DISCIPLINE. NRS 391.314 , THE ONLY OTHER ALTERNATIVE AVAIBLE TO THE DISTRICT IS TERMINATION. AS A RESULT, THE DISTRICT ADMINISTRATORS ARE FACED WITH TWO EXTREMES. I WOULD ENCOURAGE YOU TO CONSIDER REMOVING THAT TWO-DAY SUSPENSION AND TO ALLOW THE SUPERINTENDENT OF THE VARIOUS SCHOOL DISTRICTS TO DETERMINE THE LENGTH OF A SUSPENSION IN ACCORDANCE WITH THE SERIOUSNESS OF THE INCIDENT OR OCCURANCE WHICH PRECIPITATED THE NEED FOR THE SUSPENSION IN THE FIRST PLACE.

OUR OVERALL CONCERN IS TO MAKE CERTIFICATED EMPLOYEES ACCOUNTABLE AND IN ORDER TO DO THIS, SCHOOL DISTRICTS MUST HAVE SUFFICIENT AMOUNT OF TIME TO EVALUATE THEIR EMPLOYEES.

THE CURRENT PROBATIONARY PERIOD OF ONE YEAR IS NOT SUFFICIENT AND DISTRICT ADMINISTRATORS ARE FORCED TO MAKE DECISIONS TO CONTINUE OR DISCONTINUE EMPLOYMENT IN A ONE-YEAR PERIOD. IT APPEARS TO ME THAT A LONGER PROBATIONARY PERIOD WOULD BE IN THE BEST INTEREST OF THE EMPLOYEE. THE CURRENT LANGUAGE OF NRS 391.3197 CALLS FOR A ONE-YEAR PROBATIONARY PERIOD AND IF PERFORMANCE IS NOT SATISFACTORY, HIS OR HER CONTRACT MAY NOT BE RENEWED. THE SCHOOL DISTRICT HAS RECEIVED ARBITRATION DECISIONS THAT REQUIRE ~~THE SCHOOL DISTRICT~~ TO COMPLETE ALL OF THE REQUIREMENTS SPELLED ^{OUT} IN THE PROFESSIONAL PRACTICES ACT INCLUDING ADMONITION, TIME TO IMPROVE, AND A HEARING BEFORE A HEARING OFFICER. NRS 288 ALLOWS THE EMPLOYEE TO NEGOTIATE A DISCIPLINE AND DISCHARGE PROCEDURE. IT APPEARS TO BE WHAT THE LEGISLATORS HAD IN MIND WHEN THE MANDATORY SUBJECT ^S OF BARGAINING WERE INCLUDED IN THE STATUTES. MY QUESTION IS WHY WOULD THE EMPLOYEE ORGANIZATION NEGOTIATE A PROCEDURE FOR DISCIPLINE AND DISCHARGE WHEN THEY ALREADY HAVE THE PROTECTION OF THE PROFESSIONAL PRACTICES ACT?

AGAIN, LET ME REITERATE MY MAJOR CONCERNS: CERTIFICATED EMPLOYEES MUST BE HELD ACCOUNTABLE REGARDING THEIR JOB PERFORMANCE. WHEN AN EMPLOYEE IS NOT PERFORMING IN A SATISFACTORY MANNER, SCHOOL DISTRICTS NEED THE FLEXIBILITY TO REACT QUICKLY IN REMOVING THAT TEACHER FROM THE CLASSROOM.

THE PROFESSIONAL PRACTICES ACT NEEDS TO BE STREAMLINED AND IT NEEDS TO BE STREAMLINED IN SUCH A MANNER TO ALLOW SCHOOL DISTRICTS GREATER FLEXIBILITY

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IN DEALING WITH UNSATISFACTORY TEACHERS. A UNSATISFACTORY TEACHER PERMITTED TO CONTINUE WORKING BECAUSE OF THE RESTRICTIONS PLACED ON A PUBLIC EMPLOYER CURRENTLY EXISTING IN NRS 391 CASTS A NEGATIVE EFFECT ON THE TEACHING PROFESSION AND HAS SERIOUS IMPLICATIONS FOR THE STUDENTS THEY TEACH.

IF YOU HAVE ANY QUESTIONS, I WILL TRY TO ANSWER THEM.

Delete all in parenthesis and add underlined

NRS 386.310 Officers of the board of trustees; organization.

1. (On the date fixed by its rules for the first meeting in January following a general election.) T(t)he board of trustees shall meet and organize by:
 - (a) Electing one of its members as president.
 - (b) Electing one of its members as clerk, or by selecting some other qualified person as clerk.
 - (c) Electing additional officers as may be deemed necessary.
 - (d) The board of school trustees shall establish terms of office for its officers.
2. A record of the organization of the board of trustees must be entered in the minutes, together with the amount of salary to be paid to the clerk.
3. Immediately after the organization of the board of trustees, the clerk shall file the names of the president, the clerk and the members of the board of trustees with the department and the county auditor of the county whose boundaries are conterminous with the boundaries of the county school district.

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 86

**SENATE BILL NO. 86—SENATORS JACOBSEN,
GETTO AND NEAL**

JANUARY 27, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for regulation of transport and disposal of radioactive, chemical and other hazardous materials. (BDR 40-6)

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

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

AN ACT relating to radioactive, chemical and other hazardous materials; providing for the regulation of their transport and disposal; clarifying the respective power to adopt regulations respecting nuclear affairs of the state board of health and the health division of the department of human resources; requiring legislative approval of certain contracts and licenses respecting areas for the disposal of radioactive waste; providing penalties; and providing other matters properly relating thereto.

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

- 1 **SECTION 1.** Chapter 459 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this act.
3 **SEC. 2.** 1. *A shipper or producer of radioactive waste, or a broker*
4 *who receives such waste from another person for the purpose of disposal,*
5 *shall not dispose of the waste in this state until he obtains a license from*
6 *the health division to use the disposal area. The health division shall order*
7 *a shipment of such waste from an unlicensed shipper or broker to be*
8 *returned to him, except for a package which has leaked or spilled its*
9 *contents, unless the package has been securely repackaged for return.*
10 2. *The health division shall issue a license to use a disposal area to a*
11 *shipper or broker who demonstrates to the satisfaction of the division*
12 *that he will package and label the waste he transports or causes to be*
13 *transported to the disposal area in conformity with the regulations of the*
14 *state board of health. The director of the department of human resources*
15 *may designate third parties to inspect and make recommendations con-*
16 *cerning such shippers and brokers.*
17 3. *A shipper or broker violates this section if he transports or causes*
18 *to be transported to a disposal area any such waste:*

1 (a) Which is not packaged or labeled in conformity with regulations
2 of the state board of health;

3 (b) Which is not accompanied by a bill of lading or other shipping
4 document prescribed by that board; or

5 (c) Which leaks or spills from its package, unless, by way of affirmative
6 defense, the shipper or broker proves that the carrier of the waste was
7 responsible for the leak or spill,

8 and if licensed by the health division, he may be assessed an administra-
9 tive penalty by the health division of not more than \$500, or if not
10 licensed, he is guilty of a misdemeanor.

11 4. Each container of such waste which is not properly packaged or
12 labeled, or leaks or spills its contents, constitutes a separate violation, but
13 the total amount of the penalty or fine for any one shipment must not
14 exceed \$10,000. The health division in assessing an administrative pen-
15 alty, or the court in imposing a fine for a misdemeanor violation, shall
16 consider the substantiality of the violation and the injury or risk of injury
17 to persons or property in this state.

18 5. The health division, or the board pursuant to NRS 459.100, may
19 suspend or revoke a license to use a disposal area if it finds that the licen-
20 see has violated any provision of this chapter. If a license has been
21 revoked or suspended, it may be reinstated only if the licensee demon-
22 strates to the health division that he will comply with the provisions of
23 this chapter in all future shipments of waste.

24 SEC. 3. 1. A person who is employed at an area used for the disposal
25 of radioactive waste and removes from the disposal area any of that
26 waste, or removes from the disposal area for his own personal use any
27 machinery or equipment belonging to the operator of the area and used
28 within the area where the waste is buried, shall be punished by imprison-
29 ment in the county jail for not more than 1 year, or by a fine of not more
30 than \$10,000, or by both fine and imprisonment.

31 2. If a person who violates this section is employed by the operator
32 of the disposal area, the operator may be assessed an administrative pen-
33 alty of not more than \$10,000, in addition to any other penalty provided
34 by law.

35 SEC. 4. 1. Inspectors and peace officers of the motor carrier division
36 of the department of motor vehicles, the public service commission of
37 Nevada and the Nevada highway patrol shall enforce those provisions of
38 sections 2 and 15 of this act which govern the transport and handling
39 of radioactive waste as they affect the safety of drivers or vehicles, the
40 leakage or spill of radioactive waste from its package or the emission of
41 ionizing radiation in an unsafe amount as established by the regulations
42 of the state board of health.

43 2. The inspector or peace officer may:

44 (a) Impound a vehicle with unsafe equipment; or

45 (b) Detain a vehicle, if any such waste has leaked or spilled from its
46 package or if he has detected the emission of ionizing radiation in an
47 unsafe amount, and order the driver of the vehicle to park it in a safe
48 place, as determined by an officer designated by the health division of the
49 department of human resources, pending remedial action by that division.

1 3. After a vehicle has been so detained, an officer designated by the
2 health division of the department of human resources may order:

3 (a) The vehicle to be impounded;

4 (b) The leaked or spilled waste to be cleaned up;

5 (c) The contents of any unsafe or leaking package to be repackaged; or

6 (d) Any other appropriate precaution or remedy,

7 at the expense of the shipper or broker, carrier or other person who is
8 responsible as determined by the health division of the department of
9 human resources.

10 SEC. 5. No state agency may:

11 1. Contract with any person for that person to operate an area for
12 the disposal of radioactive waste on lands owned by the state;

13 2. Extend the period of an existing contract for such an opera-
14 tion; or

15 3. Add any land to an area governed by an existing contract for
16 such an operation,
17 without first obtaining the approval of the legislature.

18 SEC. 6. The state board of health and health division shall not issue
19 or extend the period of effectiveness of licenses for the operation of
20 areas for the disposal of radioactive waste pursuant to this chapter with-
21 out first obtaining the approval of the legislature.

22 SEC. 7. All administrative penalties assessed by the health division
23 and penal fines imposed in the name of a county for violations of the
24 provisions of NRS 459.010 to 459.160, inclusive, and sections 2 to 8,
25 inclusive, of this act or any regulation or order adopted or issued under
26 them, must be deposited in the trust fund for the care of sites for the
27 disposal of radioactive waste.

28 SEC. 8. 1. There is hereby created in the state treasury a trust fund
29 for the care of sites for the disposal of radioactive waste. The director
30 of the department of human resources is responsible for the administra-
31 tion of the trust fund. All money held by the state treasurer or received
32 by the director for that purpose must be deposited in the trust fund.

33 2. The money in the trust fund must be invested as other state funds
34 are invested. All interest earned on the deposit or investment of the
35 money in the trust fund must be credited to the trust fund.

36 3. The director may expend the annual income from the trust fund
37 for the purpose for which the trust fund is created, and any income of
38 the fund which is unexpended at the end of any year must be added to
39 the principal of the fund. The principal of the fund may be expended
40 if approved by the legislature when in regular session or by the interim
41 finance committee when the legislature is not in session. Claims against
42 the fund must be paid as other claims against the state are paid.

43 SEC. 9. NRS 459.030 is hereby amended to read as follows:

44 459.030 For the protection of public health and safety, the health
45 division shall:

46 1. Develop and conduct programs for the evaluation of hazards asso-
47 ciated with the use of sources of ionizing radiation.

48 2. Develop programs and formulate, [adopt and promulgate rules
49 and regulations,] with due regard for compatibility with federal programs,
50 [for:] regulations for adoption by the state board of health regarding:

1 (a) Licensing and regulation of byproduct materials, source materials,
2 special nuclear materials and other radioactive materials [.] , *including*
3 *radioactive waste.*

4 (b) Control of other sources of ionizing radiation.

5 3. [Formulate, adopt and promulgate] *Adopt* such [additional rules
6 and] regulations as may be necessary to administer the provisions of
7 NRS 459.010 to 459.160, inclusive.

8 4. Collect and disseminate information relating to control of sources
9 of ionizing radiation, including:

10 (a) Maintenance of a file of all license applications, issuances, denials,
11 amendments, transfers, renewals, modifications, suspensions and revoca-
12 tions.

13 (b) Maintenance of a file of registrants possessing sources of ionizing
14 radiation which require registration under the provisions of NRS 459.010
15 to 459.160, inclusive, such file to include a record of any administrative
16 or judicial action pertaining to such registrants.

17 (c) Maintenance of a file of all [rules and] regulations, pending or
18 promulgated, relating to the regulation of sources of ionizing radiation,
19 and any proceedings pertaining to [such rules and] *the* regulations.

20 SEC. 10. NRS 459.040 is hereby amended to read as follows:

21 459.040 1. The state board of health shall [provide by rule or regu-
22 lation] , *with due regard for compatibility with federal programs, adopt*
23 *regulations* for:

24 (a) General or specific licensing of persons to receive, possess or trans-
25 fer radioactive materials, or devices or equipment utilizing such materials.
26 Every such [rule or] regulation shall provide for amendment, suspension
27 or revocation of licenses.

28 (b) Licensing and regulation of byproduct materials, source materials,
29 special nuclear materials and other radioactive materials [.] , *including*
30 *radioactive waste.*

31 (c) Control of other sources of ionizing radiation.

32 2. The health division of the department of human resources may
33 require:

34 (a) Registration and inspection of sources of ionizing radiation which
35 do not require specific licensing.

36 (b) Compliance with specific standards to be promulgated by the state
37 board of health.

38 3. The state board of health may exempt certain sources of ionizing
39 radiation, or kinds of uses or users of such sources, from the licensing or
40 registration requirements set forth in this section if the board makes a
41 finding that the exemption of such sources of ionizing radiation, or kinds
42 of uses or users of such sources, will not constitute a significant risk to
43 the health and safety of the public.

44 4. [Rules and regulations] *Regulations* promulgated pursuant to
45 NRS 459.010 to 459.160, inclusive, may provide for recognition of such
46 other state or federal licenses as the state board of health may consider
47 desirable, subject to such registration requirements as the state board of
48 health may prescribe.

49 SEC. 11. NRS 459.045 is hereby amended to read as follows:

1 459.045 The state board of health [may] shall establish by regula-
2 tion:

3 1. License fees and any other fees for the [use] operation of state-
4 owned [disposal] areas in an amount sufficient to defray all costs of
5 monitoring, securing or otherwise regulating the storage or disposal of
6 radioactive materials and chemical wastes. The person who contracts
7 with the state for the [use] operation of such an area is responsible for
8 the payment of these fees.

9 2. Procedures for the collection of interest on delinquent fees and
10 other accounts for the [use] operation of disposal areas.

11 3. Penalties of no more than \$3,000 per day for each separate failure
12 to comply with [a license or agreement or \$25,000 for any 30-day period
13 for all such failures.] an agreement, license, regulation or statute govern-
14 ing the operation of a disposal area.

15 4. License fees and other fees for the use of such an area to store or
16 dispose of radioactive materials, which are chargeable against shippers or
17 brokers in amounts sufficient to defray the costs to the state of inspecting,
18 monitoring, securing or otherwise regulating their use of the area. In
19 addition, the board may establish by regulation a fee chargeable against
20 shippers and brokers for revenue for the State of Nevada. Before estab-
21 lishing a fee for revenue, the board must consider the amounts of the fees
22 for licensing and disposal which are chargeable against the users of such
23 areas in other states, in order that a shipper or broker be neither encour-
24 aged nor discouraged from disposing of such waste in this state, and that
25 he base his decision about where to dispose of the waste primarily on the
26 cost of transportation to the areas which are available for disposal. The
27 regulations adopted pursuant to this subsection may include a method for
28 the collection of fees from the users of an area, and each of the fees may
29 be a percentage of the fee paid by a user to the operator of the area. The
30 board shall report to the legislature at the end of January of odd-
31 numbered years the amounts of revenue paid to the state for the use of
32 such areas in the preceding biennium.

33 SEC. 12. NRS 408.125 is hereby amended to read as follows:

34 408.125 The board may:

35 1. Adopt such rules, bylaws, motions and resolutions, not inconsis-
36 tent with this chapter, as may be necessary to govern the administration,
37 activities and proceedings of the department.

38 2. On behalf of the State of Nevada, enter into agreements with any
39 adjoining state, or any proper agency of such state, for the construction,
40 reconstruction, improvement, operation and maintenance by any party to
41 such agreement, in such manner and by such means as may be provided in
42 the agreement, of bridges over interstate waters, and may enter into like
43 agreements with respect to construction, reconstruction, improvement,
44 operation and maintenance of highways within the State of Nevada or
45 such adjoining state, when such highways are at or near the common
46 boundary of the states.

47 3. Authorize the department to join associations of highway offi-
48 cials of other states and other organizations which have been heretofore
49 or may hereafter be established, having as their purpose the interchange

1 of information, establishment of standards and policies relating to high-
2 way construction, reconstruction, improvement, maintenance and admin-
3 istration.

4 4. *Designate by regulation alternative routes for the transport of*
5 *radioactive, chemical or other hazardous materials over the highways or*
6 *county roads of this state, in lieu of the preferred highways for such*
7 *transport designated by the United States Department of Transportation,*
8 *or approve alternative routes set forth in a proposed county or city ordi-*
9 *nance if the regulation or ordinance does not conflict with the standards*
10 *for alternative routes established by the United States Department of*
11 *Transportation.*

12 SEC. 13. NRS 484.773 is hereby amended to read as follows:

13 484.773 The department of motor vehicles shall adopt reasonable
14 regulations providing for:

15 1. Minimum binder requirements to secure loads on vehicles against
16 dangerous displacement and governing the loading and securement of
17 loads for transportation over public highways by vehicles [.] , *except*
18 *loads containing radioactive waste.*

19 2. Safety chains and cables for combinations of vehicles.

20 SEC. 14. NRS 484.779 is hereby amended to read as follows:

21 484.779 1. Except as provided in subsection 3, a local authority may
22 adopt, by ordinance, regulations with respect to highways under its juris-
23 diction within the reasonable exercise of the police power:

24 (a) Regulating or prohibiting processions or assemblages on the high-
25 ways.

26 (b) Designating particular highways as one-way highways and requir-
27 ing that all vehicles thereon be moved in one specific direction.

28 (c) Designating any highway as a through highway, requiring that all
29 vehicles stop before entering or crossing the highway, or designating any
30 intersection as a stop or a yield intersection and requiring all vehicles to
31 stop or yield at one or more entrances to the intersection.

32 (d) Designating truck routes.

33 (e) Regulating the operation of bicycles and requiring the registration
34 and licensing thereof.

35 (f) Adopting such other traffic regulations as are specifically author-
36 ized by this chapter.

37 2. An ordinance relating to traffic control enacted under this section
38 is not effective until official traffic-control devices giving notice of such
39 local traffic regulations are posted upon or at the entrances to the highway
40 or part thereof affected as may be most appropriate.

41 3. An ordinance enacted under this section is not effective with
42 respect to [highways] :

43 (a) *Highways constructed and maintained by the department of trans-*
44 *portation under the authority granted by chapter 408 of NRS; or*

45 (b) *Alternative routes for the transport of radioactive, chemical or other*
46 *hazardous materials which are governed by regulations of the United*
47 *States Department of Transportation,*

48 *until the ordinance has been approved by the board of directors of the*
49 *department of transportation.*

1 SEC. 15. Chapter 706 of NRS is hereby amended by adding thereto
2 a new section which shall read as follows:

3 1. No common, contract or private motor carrier of property may
4 transport radioactive waste upon the highways of this state unless he
5 obtains from the commission a permit specifically allowing him to trans-
6 port radioactive waste. An interstate common or contract carrier must
7 register with the commission the certificate issued to him by the Inter-
8 state Commerce Commission when he applies for such a permit.

9 2. The commission shall issue a permit to a carrier allowing him to
10 transport radioactive waste if the carrier:

11 (a) Registers his certificate issued by the Interstate Commerce Commis-
12 sion and complies with the regulations of the public service commission
13 respecting the registration of interstate carriers; or

14 (b) Demonstrates to the satisfaction of the public service commission
15 that he complies and will continue to comply with all laws and regulations
16 of this state and the Federal Government respecting the handling and
17 transport of radioactive waste and the safety of drivers and vehicles.

18 3. A carrier of radioactive waste shall reject any package containing
19 such waste which is tendered to him for transport in this state if the pack-
20 age is leaking or spilling its contents, or does not bear a shipping label or
21 is not accompanied by a bill of lading or other shipping document in a
22 form prescribed by the regulations of the state board of health. A carrier
23 who accepts such waste for transport in this state is liable for any pack-
24 age in his custody which leaks or spills its contents, does not bear the
25 required shipping label or is not accompanied by the required shipping
26 documents, unless, in the case of a leak or spill of such waste and by way
27 of affirmative defense, the carrier proves that he did not and could not
28 know of the leak when he accepted the package for transport.

29 4. A carrier of radioactive waste shall notify the commission not less
30 than 4 nor more than 48 hours before he begins to transport the waste in
31 this state.

32 5. A carrier need not obtain the permit required by this section if he
33 has been exempted from licensing by the health division of the department
34 of human resources because he transports only radioactive waste the pos-
35 session of which has been exempted from licensure pursuant to the regula-
36 tions of the state board of health.

37 6. The commission may revoke a certificate issued pursuant to this
38 chapter, and shall revoke a permit to transport radioactive waste issued
39 pursuant to this section, or in the case of a carrier whose certificate is
40 issued by the Interstate Commerce Commission it may file a complaint
41 with that commission, if it finds that, while transporting radioactive waste,
42 the carrier has failed to comply with any laws or regulations of this state
43 or the Federal Government respecting the handling or transport of radio-
44 active waste and the safety of drivers or vehicles.

45 SEC. 16. NRS 356.087 is hereby amended to read as follows:

46 356.087 1. Except as provided in subsections 2 and 3, all interest
47 paid on money belonging to the State of Nevada must be deposited in the
48 state general fund.

49 2. At the end of each quarter of each fiscal year, the state treasurer
50 shall:

1 (a) Compute the proportion of total deposits of state money pursu
2 ant to the provisions of this chapter which were attributable during the
3 quarter to the state highway fund, the motor vehicle fund and the taxi-
4 cab authority fund created by NRS 408.235, NRS 482.180 and NRS
5 706.8825, respectively;

6 (b) Apply such proportion to the total amount of interest paid dur-
7 ing that quarter to the state treasurer on deposits of state money; and

8 (c) Credit to the state highway fund and the taxicab authority fund
9 an amount equal to the amount arrived at by the computation in para-
10 graph (b).

11 3. The proportionate shares of the interest earned and received by:

- 12 (a) The dairy commission fund;
- 13 (b) The legislators' retirement fund;
- 14 (c) The public employees' retirement fund;
- 15 (d) The state permanent school fund;
- 16 (e) The silicosis and disabled pension fund;
- 17 (f) The wildlife account; [and]
- 18 (g) *The trust fund for the care of sites for the disposal of radioactive*

19 *waste; and*
20 (h) The Colorado River resources fund, the Colorado River research
21 and development fund, the Eldorado Valley development fund, the
22 Fort Mohave Valley development fund and any other special revenue
23 fund, capital projects construction fund, trust fund, enterprise fund or
24 agency fund for which the division of Colorado River resources of the
25 department of energy is responsible,
26 must be accounted for as separate income and assets of those respective
27 funds and account.

28 SEC. 17. Section 4 of chapter 374, Statutes of Nevada 1961, at page
29 757, as amended by chapter 43, Statutes of Nevada 1977, at page 112, is
30 hereby amended to read as follows:

31 Sec. 4. 1. The director of the department of human resources
32 may enter into agreements relating to any of the lands described in
33 section 2 of this act for the purpose of providing areas to dispose of
34 low-level radioactive and hazardous chemical waste materials by
35 burial, and for related purposes [.] , *but such an agreement con-*
36 *cerning the disposal of radioactive waste may be entered into or*
37 *extended only after obtaining the approval of the legislature.*

38 2. No such agreement may extend for more than 99 years.

39 3. All lands used as provided in subsection 1 shall be closed to
40 the public, in a manner which the director of the department of
41 human resources shall prescribe, during the term of the lease or
42 agreement and thereafter until all danger to public health arising
43 from such use no longer exists.

44 4. Regulations adopted by the state board of health for the con-
45 trol of disposal sites *immediately* become part of each agreement
46 entered into [or renewed after the adoption of the regulations.]
47 *pursuant to subsection 1.*

48 SEC. 18. This act shall become effective upon passage and approval.