

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

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 7, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 8:05 a.m., Tuesday, April 7, 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

GUEST LEGISLATORS:

Assemblyman Janson Stewart

STAFF MEMBERS PRESENT:

Connie S. Richards, Committee Secretary

ASSEMBLY BILL NUMBER 148

Mr. Kent Clifford, Commander, Intelligence Bureau, Metropolitan Police Department, Las Vegas spoke in support of Assembly Bill No. 148. He said he worked as an undercover narcotics agent for several years with the Las Vegas Metropolitan Police Department. He said head shops condone the use of illegal drugs especially to the youth of the country. He said narcotics agents actually purchased drugs over the counter in those head shops. He said the bill would aid the department in narcotics investigation, but in no way will it stem the narcotic trafficking within communities.

Assemblyman Janson Stewart spoke in support of Senate Bill No. 148. His testimony is Exhibit C.

Senator Faiss asked how many head shops are located in the Las Vegas area.

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Assemblyman Stewart said there are two in the city and 5 in the county.

Senator Bilbray asked whether the bill would stand up in the courts.

Assemblyman Stewart replied that the bill is modeled after the model act which has already been in several district court cases and five or six federal courts which have all upheld the act. It is now on appeal in five district court of appeals.

Mr. Robert Linderman, American Civil Liberties Union of Nevada spoke in opposition to the bill. He said the ACLU has no problem with the intent of the bill but that it raises questions as to the constitutionality of the bill itself. He said the criteria for the determination of a person's guilt should not be based on whether or not that person has had prior convictions because that violates an individual's right to due process. He said the possession of paraphernalia does not prove a person's violation of laws governing controlled substance. He said an individual may possess drug paraphernalia for any number of reasons including that of making a political statement.

Mr. John Barriage spoke in opposition to Assembly Bill No. 148. He suggested the ordinance used in the City of Sparks be adopted statewide. He said the ordinance provides that the public display of paraphernalia be banned for minors. He said he opposed Assembly Bill No. 148 for three reasons. 1) if the bill is ruled unconstitutional, the law could be effectively destroyed; assuming the severability clause in the NRS, the legislature still has the responsibility to guarantee that its laws are constitutional. He said "It's not a good idea to have the courts making laws for the State of Nevada." 2) Many things could be interpreted as paraphernalia. He cited one example of a hat clip being sold in a department store that could also have the use of a roach clip. 3) Felony status for the selling of paraphernalia to minors places a considerable burden on the correctional and court system.

Mr. Barriage said the Sparks ordinance has been standing for some time without question as to its constitutionality. It is not left open to interpretation as it has been effective in the removal of paraphernalia from the eyes of youth. There

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are no burdens placed on correctional institutions or the court system due to the Sparks ordinance.

In conclusion, Mr. Barriage said the Sparks ordinance has been cost effective and enforceable. He suggested a similar ordinance be adopted as state law.

Senator Getto pointed out that the use of controlled substances is illegal for adults as well as minors.

Mr. Barriage replied that the public display of paraphernalia probably influences adults very little; if they are going to use controlled substances, whether paraphernalia is accessible to them or not will have little effect.

Mr. Chuck Neely, Representative, Clark County School District spoke in support of Assembly Bill No. 148. He asked the committee to pass the bill.

SENATE BILL NUMBER 327 (EXHIBIT D)

Mr. Ted Sanders presented the subcommittee report to the committee for review by the committee members. (See Exhibit E).

Ms. Ruth Aberasturi, Eagle Valley Childrens Home spoke in support of Senate Bill No. 327.

Senator Getto moved to accept the proposed amendments of the subcommittee and "Amend and Do Pass" Senate Bill No. 327 and Re-refer to the Senate Committee on Finance.

Senator Blakemore seconded the motion.

The motion carried.

SENATE BILL NUMBER 475

Senator Getto spoke in support of Senate Bill No. 475. He said it is difficult to place pre-veterinary students in colleges. He said it is difficult to get veterinarians to practice in small rural areas with farm and ranch animals. There are only three veterinary schools in the west: California, Washington, and Colorado. Since the passage of a bill in 1973, University of Nevada has contracted with the Colorado veterinary school of medicine. The cost at that school has increased

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greatly, while some schools in the nation provide the same education for smaller fees. He said those students of veterinary medicine should be able to attend those schools under the WICHE program without being bound to the University of Colorado.

Mr. Dale Bohmont, Dean, College of Agriculture, University of Nevada, Reno spoke in support of Senate Bill No. 475. He said it is often necessary to place veterinary students outside of the region due to the costs involved with the other schools. He said the cost of veterinary education at Kansas is approximately \$9,000, Ohio \$10,000, and Colorado \$14,000 a year. He said the school should have the flexibility to place students outside of the region.

Ms. Pamela Bugge, Deputy Attorney General, civil division said the WICHE commissioners are her clients and that she had not yet had a chance to speak with them concerning Senate Bill No. 475. She said her opinion of the matter is that the contract between Colorado and Nevada should be supported, but the 20 year provision for that contract is excessive. She said she did not feel that Senate Bill No. 475 is in direct conflict with the statutes. She asked the committee to allow her to consult with Dr. Don W. Driggs, Western Interstate Commission for Higher Education and return a report to the committee.

SENATE BILL NUMBER 412 (EXHIBIT F)

Senator Kosinski moved to "Amend and Do Pass" Senate Bill Number 412 and re-refer to the Senate Committee on Human Resources and Facilities.

Senator Faiss seconded the motion.

The motion carried unanimously.

SENATE BILL NUMBER 331 (EXHIBIT G)

Senator Bilbray moved to "Amend and Do Pass" Senate Bill Number 331 and Re-refer to the Senate Committee on Finance.

Senator Faiss seconded the motion.

The motion carried. (Senator Getto voted "No".)

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SENATE BILL NUMBER 453 (EXHIBIT H)

Senator Blakemore moved to "Amend and Do Pass"
Senate Bill Number 453.


Senator Kosinski seconded the motion.

The motion carried unanimously.

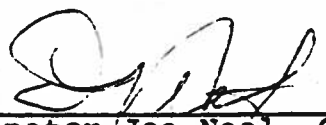
The Chairman determined to hold Senate Bill No. 475 and
Senate Bill No. 148 over until Thursday, April 9 for
additional hearings.

There being no further business, the meeting adjourned at
9:50 a.m.

Respectfully submitted:


Connie S. Richards, Committee Secretary

APPROVED BY:


Senator Joe Neal, Chairman

DATE: 4-13-81

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Human Resources and Facilities, Room 323.
Day Tuesday, Date April 7, Time 8:00 a.m.

S. B. No. 327--Provides for state financing and administration of special education for severely handicapped pupils. Subcommittee Report.

S. B. No. 475--Broadens authority of Western Interstate Commission for Higher Education to contract with schools outside region.

A. B. No. 148--Prohibits manufacture, sale, delivery or advertisement of drug paraphernalia.

The Head Shop Message

Mitchell S. Rosenthal, M.D.

President, Phoenix House Foundation

*Testimony before the Select Committee on Narcotics Abuse and Control,
U.S. House of Representatives, November 1, 1979.*

Gentlemen, I am Dr. Mitchell S. Rosenthal, a child psychiatrist and the president of Phoenix House Foundation. As you may know, Phoenix House is the nation's largest residential program for the treatment of drug abuse. We have treated nearly 15,000 young drug abusers in the past dozen years. We were among the first to point out the growth of the "head shop" industry and the danger we believe it constitutes—a danger not only to our youngsters but to all of our society.

I'm grateful for the opportunity to share our reasoning with you. And I think it's important to start with an understanding that head shops exist for just one reason: to provide a distribution network for literature, equipment and materials that facilitate or enhance the use of illicit drugs.

Now, I recognize that public attitudes toward illicit drugs are ambivalent. Some drugs are considered more illicit than others, and a great many Americans are now convinced that there's nothing wrong with the use of what they call "recreational drugs"—marihuana, hashish, and even cocaine.

As you well know, both the law and law enforcement policies reflect this ambivalence. And I understand its basis. After all, a sizable portion of the American population smokes marihuana. Many of these smokers, maybe most of them, suffer no obvious adverse effects. But let me assure you, gentlemen—in case you have any doubts—that marihuana is a high-risk habit for youngsters. We keep learning more and more about its physical effects: what it does to the brain, the immune system, the lungs, and the reproductive system. And the physical dangers of marihuana use are far less threatening to our children than the psychological dangers.

In think it's vitally important, if we are to understand the threat of head shops, that we recognize first the real peril that drugs pose to our young. And we've got to start with marihuana, as they do.

For years we have been able to avoid facing up to this reality by looking at selected samples of marihuana-using young adults who have been able to work or study with no apparent ill effects. But

we cannot hope to deal with the problem by focusing on the best outcomes. We must look at the worst and see that few adolescent users can avoid the penalties of regular use. We must recognize the drug, as one young Phoenix resident has described it, as "stupid making."

And I am not talking now about the possibility of irreversible brain damage. I'm talking about the reality of nearly irreversible immaturity, about intellectual loss, about the failure of young marihuana users to grow and learn and develop as they should.

We know how regular use of marihuana affects attention span, concentration, and memory. We have evidence today of short-term memory loss so great that youngsters can even forget their own birth date. We have seen the decline in intellectual performance of heavy users and even regular users. But even these effects are not nearly so significant as the psychological changes that are the result of steady marihuana use for many if not most school-age children. Smoking pot in adolescence prolongs adolescence. It inhibits maturity. Young users psychologically regress toward infantilism.

During a time when youngsters must begin developing adult means of dealing with their own needs and with the needs of others, they become increasingly self-absorbed. While they should be acquiring the discipline that allows them to defer pleasure, they return to an almost infantile expectation of immediate gratification. At the very time when they most need to consider long-term goals, they are operating in a time-frame of days or hours.

To grow, to develop, to achieve adulthood, adolescents must cope with the emotional storms and squalls of the troubled teen-age period. If they turn to marihuana or to alcohol or to other drugs to relieve the anxieties of the moment, then they establish a pattern of escaping rather than dealing with reality. They do not cope and they do not learn how to cope. They blow away their troubles in a cloud of smoke, and they blow away their

chance of becoming mature and responsible adults.

But awareness of intellectual or psychological loss is rare on the part of the victims. Marihuana use is self-reinforcing. Youngsters do not know, and cannot tell, how much perception they have sacrificed—how much mental acuity they have lost. They are not aware of regression. They are not conscious of their sustained immaturity. Ask them, and they will tell you that "it's cool." Indeed, I believe that a great many young people see marihuana as the easy way to mature—today's way, the "with it" way.

You gentlemen have seen the numbers—the dramatic rise in marihuana use reported by HEW and NIDA during the past few years. You know the number of high school seniors using pot increased by nearly one third—from 16 to 25 percent—between 1975 and 1978. You've seen the statewide studies in Maine and Maryland showing that one high school senior in six is getting high pretty much on a daily basis. In New York State, one quarter of a million school children started using marihuana last year. And the age of initial use keeps dropping each year. Nearly one third of all New York's seventh and eighth graders have already tried the drug.

And today, fewer and fewer youngsters stop at pot. If being high relieves anxieties, makes socialization easier, and is a pleasurable experience, then getting even higher becomes a goal in itself. And we can see how youngsters today are pursuing the more powerful, the more effective or more exotic high.

Last year, in New York State, not only did one quarter of a million youngsters first try pot, but 118,000 also had their first taste of cocaine, and more than 125,000 begun using PCP or angel dust. Among students in both private and parochial schools last year, more than 30 percent were using at least two different drugs.

There is no question in my mind that the great increase in adolescent drug abuse can be blamed in large measure on the proliferation of head shops. And so can the nature of that abuse—the sophistication kids have about how and what to smoke or sniff or swallow. There is no accidental parallel to the spread of drug use and the movement of head shops from downtown areas to new suburban shopping centers. It is not simple coincidence that growth in youthful abuse has been matched by growth of a more than \$600 million a year paraphernalia industry.

Certainly more casual public attitudes have played a role. Of course, decriminalization has

helped create a climate. But I doubt anything has been a more potent factor in the proliferation of adolescent drug use than the existence of little learning centers for drug abusers all over the country.

What can they get there? They can get the latest word on highs from industry publications, magazines like *High Times*. They can find out what to smoke and how much to pay for it. And I imagine this kind of consumer reporting is responsible for creating the marihuana market we have today and the prevalence of more high-grade, potent pot. Confiscated samples of cannabis now have 20 times as much THC as samples confiscated in 1973, and THC is marihuana's principal psychoactive ingredient.

Kids get hold of more than just rolling paper and roach clips at head shops. They can buy all kinds of devices to hide their stash of hash or get the most out of their marihuana, like bongos that can deliver a concentrated blast of smoke. They can even get one dandy number that fastens to the dashboard and allows two teen-agers to share a joint while driving down the road. And I shudder to think of how many lives that device has cost, for we have fairly solid evidence now that 16 percent of all highway fatalities can be attributed to marihuana.

But if you imagine head shops restrict themselves to pot paraphernalia alone, you're sadly mistaken. There's a whole range of products for the cool cocaine user: testing kits, scales, razors, and a variety of decorative miniature spoons for snorting. There's even a kit that will help you convert street cocaine to "free base" cocaine that can be smoked instead of snorted and produces a more intense and pleasurable, and possibly fatal, high.

But with all the gimmicks and gadgets and literature, including home gardening guides for kids who want to raise their own psychedelic mushrooms, you'd imagine head shops would stop short of selling drugs themselves. And you'd be wrong. They do sell drugs. They sell inhalants under trade names like Rush, Bullet, and Locker Room. What they contain is butyl nitrite, a vasodilator. It expands blood vessels and sends a rush of blood through the veins, producing a high lasting from three to five minutes. It's potentially physically harmful, and it's legal just about everywhere, because butyl isn't technically a drug. It's sold as a room deodorizer, and the FDA has no more control over butyl nitrite than over airplane glue or cleaning fluid.

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Now, I'm sure that head shop customers include large numbers of adults. But if you imagine these stores are off-limits to kids, you're in for a big disappointment. I've seen youngsters in just about every one of the more than twenty head shops I've visited. Phoenix House is only one of the local agencies that has sent out children as young as twelve and thirteen to make purchases at these emporiums. And I have yet to hear of anyone being turned down.

But what I have heard, and frequently, is how youngsters are approached in or near these shops by dealers. They want to know if the kids are interested in something a little more potent and a little less legal than the imitation marihuana, the mock pot, that head shops stock.

Finally, gentlemen, let me touch on the most lethal commodity that head shops deliver. It's a message, a message that youngsters all over America are getting and believing. It says, "Getting high is okay." It is sanctioned by publishers, businessmen, and the free enterprise system. The getting-high business holds a rightful place besides the pharmacy, the book store, and the supermarket in our shopping centers and malls.

We can spend additional millions on drug prevention and education. We can mount public service advertising campaigns on TV until anti-drug announcements outnumber cat food commercials. And there's no way we can combat the head shop message: "Drugs are all right"—"Getting high is normal." That is what our kids are seeing, and hearing, and believing.

Gentlemen, I am not presumptuous enough to suggest solutions. I recognize the issue may not be quite so clear-cut from your point of view. But we cannot forever have it both ways.

I do not believe our society can extend the privilege of smoking marihuana at minimal criminal risk without having kids smoke. I do not believe we can glamorize drug use as we have without giving it an almost irresistible allure.

I do not believe we can guarantee press freedom to publications that proselytize for drugs without influencing millions of youngsters.

I do not believe we can permit head shops to enjoy the benefits of fair trade and free enterprise without creating a nexus for drug abuse in every community.

I do not believe we can permit all this, condone all this, sanction all this, and then tell our children—with a straight face—that they shouldn't use drugs.

Proposal For The Control Of Drug Paraphernalia

I see the paraphernalia industry as a multimillion-dollar business that facilitates and glamorizes drug use. It preys on the drug fantasies, real and imagined, of our youth. I see the paraphernalia industry as one which panders to youth, one which sends messages to them that run counter to everything else that we have taught them about drugs. The unrestricted, blatant sale of all types of drug paraphernalia is confusing to our youth. They must contend with the paradox that the devices to administer the controlled substances are legal but the controlled substances are not. Frankly, as an adult, as a parent, I have no explanation.

The paraphernalia industry, by its very existence, by selling a variety of implements designed for use with controlled substances, is condoning—even advocating—the use of illegal controlled substances which have been deemed by the Department of Health, Education, and Welfare (HEW) to be harmful to the user.

For example, the paraphernalia industry's bread and butter are the devices used with marihuana. Yet we know that marihuana is not safe. Dr. William Pollin, Director of the National Institute on Drug Abuse (HEW), has recently testified before this committee that marihuana use does impair learning, memory, and intellectual performance, and driving and other motor skills. We know that our young people especially suffer from the physiological effects of marihuana. But we allow the paraphernalia industry to thrive and flourish. In short, the paraphernalia industry fans the fire of the growing drug abuse problem. The need for restriction on the availability of the merchandise is clear. There are between 15,000 and 30,000 "head shops" nationwide, in addition to the many stores selling paraphernalia as part of their stocks and the myriad of tables and booths we see set up on our city streets.

The Drug Enforcement Administration has lim-

Peter B. Bensinger

Administrator
Drug Enforcement Administration

*Excerpts from testimony before
the Select Committee on Narcotics Abuse
and Control, U.S. House of Representatives,
November 1, 1979.*

ited resources to target against major suppliers of illegal substances both domestically and internationally. I believe that remedies at the state and local level are far more appropriate than those at the federal level, not because of the dollar value of the merchandise in question but because it is really up to the local community—the citizens of a given area—to decide what kind of environment they want to have. I think that is what it boils down to. The residents of the District of Columbia, Los Angeles, Chicago, New York, or a community of any size anywhere, must decide whether they want to subject their young people to the enticement of drug paraphernalia stores which sell commodities with only one clear use—the abuse of substances we know to be harmful and unsafe for human consumption.

At the request of the President, DEA drafted a proposed Model Drug Paraphernalia Act, complete with a prefatory note and comment on each section. (I have attached that package to my formal statement.) This proposed Model Act will be delivered to the National Conference of Commissioners on Uniform State Laws. I believe that the Federal Government's proposed Model Act is a very much needed and appropriate response.

Early state laws aimed at controlling drug paraphernalia were very ineffective. They dealt with the problem on a piecemeal basis, and were so vaguely worded they could not withstand constitutional attack. In contrast, the proposed Model Act is both clear and comprehensive. It contains a detailed definition of "drug paraphernalia." It includes descriptions of the most common forms. It even lists the kinds of evidence a court should consider to determine if an object is paraphernalia.

This proposed Model Act makes the possession of paraphernalia, when accompanied by an intent to use it with illicit drugs, a crime. Manufacturing and delivering paraphernalia under circumstances

which clearly indicate it will be used with illicit drugs is also made a crime. The delivery of paraphernalia to a child by an adult is made a special offense. And the publication of commercial advertisements promoting the sale of paraphernalia is made unlawful.

Innocent citizens with no intent to violate the drug laws have nothing to fear from this proposed act, but drug devotees and merchants with guilty knowledge will be penalized. Paraphernalia dealers will be especially hard hit. For years they have studied the statutes, determined to violate the spirit if not the letter of this country's drug laws. They have dared to come perilously close to the line separating legal from illegal conduct just to fill their pockets with extra dollars. For these merchants, the proposed Model Act contains a civil forfeiture section, which provides for the seizure and condemnation of their inventories. The civil forfeiture of drug paraphernalia will, by itself, have a major impact on this parasitic industry.

If we are serious about reducing the availability of illegal drugs, then our efforts should not simply remain with the drug-producing countries overseas or focus on the illegal drug distributors of the product itself. We must also recognize the need for preventive education. Furthermore, we must control devices designed primarily for use with illegal drugs.

Whatever the mechanism, we need to reinforce the message that the drug paraphernalia industry should be controlled. Congress should be commended for holding a hearing and calling national attention to a very serious problem. The paraphernalia industry flies in the face of a national drug policy calling for curtailment of illegal substances. DEA stands ready to assist the Congress and the nation in whatever manner may be required.

S. B. 327

SENATE BILL NO. 327—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

MARCH 2, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for state financing and administration of special
education for severely handicapped pupils. (BDR 34-1472)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 education for handicapped persons; providing for state financ-
ing and administration of special education units containing severely handi-
capped pupils; 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 395 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
- 3 1. *The state shall provide all special education services and facilities*
4 *for any special education program unit, as defined in NRS 387.1211:*
5 (a) *Which contains pupils with mental or physical handicaps, or both,*
6 *so severe as to require facilities substantially more costly than facilities*
7 *required for other types of special education program units; and*
8 (b) *Whose actual cost exceeds the district's basic support guarantee per*
9 *pupil multiplied by the count of pupils in the unit, plus the basic support*
10 *guarantee for a special education program unit, by 50 percent or more,*
11 *and for which the board of trustees of the school district in which the unit*
12 *is located requests that the state assume responsibility.*
- 13 2. *The board of trustees shall submit its request to the superintendent*
14 *of public instruction in accordance with regulations prescribed by the*
15 *state board of education. A request is effective for 1 school year.*
- 16 3. *The superintendent of public instruction shall review each request*
17 *to determine whether the special education program unit qualifies for full*
18 *state financing and administration under the provisions of this section. If*
19 *the unit qualifies, the superintendent of public instruction shall make the*
20 *necessary arrangements, by contract or otherwise, for special education*
21 *services and facilities for the unit.*
- 22 4. *The state board of education shall adopt regulations to carry out*
23 *the provisions of this section.*

EXHIBIT E

April 6, 1981

MEMORANDUM

TO: Senate Human Resources and Facilities Committee

FROM: Sub-Committee on S.B. 327

SUBJECT: Proposal for Amending S.B. 327

It is our recommendation that S.B. 327 be amended as follows:

"Chapter 433 of Nevada Revised Statutes is hereby amended by adding thereto a new section which shall read as follows:

433.365 Division Operated Special Instructional Programs
The division shall provide all special education services and facilities for handicapped minors as described in 388.510.

Chapter 388 of Nevada Revised Statutes is hereby amended by adding thereto a new section which shall read as follows:

388.510 Eligibility for Division of Mental Hygiene and Mental Retardation Special Instructional Programs

1. *A handicapped minor shall be provided education and related services in a division of mental hygiene and mental retardation special instructional program if:*
 - a. *he is so severely handicapped that instruction is secondary to custodial care;*
or
 - b. *his medical condition is so unstable that he requires long-term residential services in a health and care facility as defined in NRS 449.007.*

2. *The determination of eligibility shall be made on an individual basis in a manner consistent with the prescribed minimum standards issued pursuant to 388.520."*

TS/vad

S. B. 412

 SENATE BILL NO. 412—COMMITTEE ON HUMAN
 RESOURCES AND FACILITIES

MARCH 16, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Makes various changes to provisions on
 planning for health care. (BDR 40-789)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 planning for health care; conforming certain statutes to federal law; revising certain provisions on appointments to and composition of the state health coordinating council; prohibiting members from voting if certain relationships exist; expanding the council's duties; authorizing the department of human resources to impose fees on applicants for approval of certain projects; 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 439A of NRS is hereby amended by adding
 2 thereto the provisions set forth as sections 2 to 14, inclusive, of this act.
 3 SEC. 2. "Council" means the state health coordinating council.
 4 SEC. 3. "Department" means the department of human resources.
 5 SEC. 4. "Director" means the director of the department.
 6 SEC. 5. "Direct provider of health services" means:
 7 1. Any person, including a physician, physician's assistant, dentist,
 8 nurse, podiatrist or optometrist, who holds a license issued by an agency
 9 of this state to provide health services and whose primary activity is pro-
 10 viding those services.
 11 2. Any person whose primary occupation is the administration of a
 12 health facility or a health maintenance organization.
 13 SEC. 6. "Federal Act" means 42 U.S.C. §§ 300k to 300t, inclusive.
 14 SEC. 7. "Health facility" means a facility in which health services are
 15 provided. The term includes a:
 16 1. Facility for rehabilitation of inpatients;
 17 2. Facility for treatment of end-stage renal disease;
 18 3. Freestanding unit for hemodialysis;
 19 4. Home health agency;
 20 5. Hospital;

- 1 6. *Institution for treatment of tuberculosis;*
- 2 7. *Intermediate care facility;*
- 3 8. *Psychiatric hospital;*
- 4 9. *Skilled nursing facility; or*
- 5 10. *Surgical center for ambulatory patients.*

6 SEC. 8. "Health maintenance organization" has the meaning ascribed
7 to it in subsection 7 of NRS 695C.030.

8 SEC. 9. "Health services" means the care and observation of patients,
9 the diagnosis of human diseases, the treatment and rehabilitation of
10 patients, or related services. The term includes treatment of patients for
11 alcohol or drug abuse and services related to mental health.

12 SEC. 10. "Health systems agency" means an organization in this state
13 which has been designated as a health systems agency by the Federal
14 Government.

15 SEC. 11. "Office of health planning and resources" means an office of
16 health planning and resources established within the department.

17 SEC. 12. For the purposes of NRS 439A.030, a person shall be
18 deemed to be a provider of health services if he:

19 1. *Is engaged in issuing policies of individual or group health insur-*
20 *ance or hospital or medical service benefits.*

21 2. *Has a fiduciary interest, other than as a member of the governing*
22 *body, in any entity which engages in:*

23 (a) *Research into, instruction in or provision of health services; or*

24 (b) *Production or supply of drugs or medical equipment;*

25 3. *Receives (directly or through his spouse) more than one-fifth of*
26 *his gross annual income from any one or a combination of the following:*

27 (a) *Research into, instruction in or provision of health services;*

28 (b) *An entity engaged in research into, instruction in or provision of*
29 *health services;*

30 (c) *Production or supply of drugs or other articles for use in research*
31 *into, instruction in or provision of health services; or*

32 (d) *An entity engaged in the production or supply of drugs or medical*
33 *equipment;*

34 *is a member of the immediate family of a person described in subsections*
35 *1, 2 or 3.*

36 SEC. 13. *If a health systems agency or the council has commenced a*
37 *hearing to consider an application for approval of a project or to consider*
38 *withdrawing such an approval, the director and his staff shall not com-*
39 *municate on the matter with the applicant, any person who acts in his*
40 *behalf, or any person who is in opposition until the agency or council has*
41 *reached its decision.*

42 SEC. 14. 1. *A member of the council shall not vote on any matter*
43 *affecting an applicant if, within the previous 12 months, the member:*

44 (a) *Has been employed by or served as a fiduciary for the applicant;*

45 (b) *Has served on the applicant's medical staff;*

46 (c) *Has had a financial interest, as defined in subsection 4 of NRS*
47 *281.431, in the applicant;*

48 (d) *Has been a creditor of the applicant; or*

49 (e) *Has been a contractor or consultant for the applicant.*

1 2. *The member shall make a written disclosure to the council of such*
2 *a relationship or interest before the council takes any action on the mat-*
3 *ter, and the council shall make a public disclosure of the relationship or*
4 *interest at each meeting in which the matter is to be considered.*

5 SEC. 15. NRS 439A.010 is hereby amended to read as follows:

6 439A.010 As used in this chapter [:

7 1. "Council" means the state health coordinating council.

8 2. "Department" means the department of human resources.

9 3. "Federal Act" means 42 U.S.C. §§ 300k to 300t, inclusive.

10 4. "Health services" means services related to clinical treatment,
11 such as diagnosis, rehabilitation, treatment of alcohol or drug abuse, serv-
12 ices related to mental health, and the care of renal disease in its final
13 stage.

14 5. "Health systems agency" means an organization in this state which
15 has been designated as a health systems agency by the Federal Govern-
16 ment.], *unless the context otherwise requires, the words and terms*
17 *defined in sections 2 to 11, inclusive, of this act, have the meanings*
18 *ascribed to them in those sections.*

19 SEC. 16. NRS 439A.030 is hereby amended to read as follows:

20 439A.030 1. The council consists of at least 16 representatives
21 appointed by the governor from the respective health systems agencies.

22 2. Each health systems agency is entitled to the same number of rep-
23 resentatives, no fewer than two, on the council. Of the representatives of
24 each health systems agency, not less than 50 nor more than 60 percent
25 [shall] *must* be persons who are [consumers of health care] *recipients*
26 *of health services* and not providers of health [care. In addition, the]
27 *services.*

28 3. *The governor may appoint such an additional number of persons*
29 *to serve on the council as he deems appropriate, except [:] that:*

30 (a) *The number of additional persons appointed to the council may*
31 *not exceed 40 percent of the total membership of the council; [and]*

32 (b) *If areas exist which have a shortage of health services, the addi-*
33 *tional persons must include one or more representatives of the residents in*
34 *those areas; and*

35 (c) *A majority of the additional persons appointed by the governor*
36 *[shall be consumers of health care] must be recipients of health services*
37 *who are not also providers of health [care. Not less than one-third] serv-*
38 *ices.*

39 4. *At least one-half of the providers of health [care] services who*
40 *are members of the council [shall] must be direct providers of health*
41 *[care. If two] services.*

42 5. *If one or more hospitals or other health care facilities of the Vet-*
43 *erans' Administration are located in the state, the council shall, in addi-*
44 *tion to the appointed members, include as [an ex officio] a nonvoting*
45 *member a person whom the Chief Medical Director of the Veterans'*
46 *Administration designates as a representative of such a facility or facili-*
47 *ties.*

48 [2.] 6. The council shall select a chairman from among its mem-
49 bers.

1 **[3.]** 7. The council shall **[conduct all business meetings in public**
2 **and shall]** meet at least once in each calendar quarter of a year.

3 SEC. 17. NRS 439A.040 is hereby amended to read as follows:

4 439A.040 1. **[After the initial terms, the term of office for each**
5 **member of the council is 3 years.]** A member of the council may not
6 serve more than two consecutive terms.

7 2. **[The governor may appoint a replacement to fill a vacancy for the**
8 **remainder of a term.**

9 **3.]** Upon the expiration of the term of a representative of a health
10 systems agency on the council or the occurrence of a vacancy in his office,
11 the agency shall submit to the governor at least two nominees and the
12 governor shall appoint one of those nominees as the representative's suc-
13 cessor or replacement. No person may be appointed to alternate member-
14 ship on the council.

15 **[4.]** 3. Members of the council are not entitled to compensation but
16 are entitled to reimbursement for any actual and necessary expenses
17 incurred in connection with their duties as members of the council, at the
18 rate prescribed by law for state officers and employees.

19 SEC. 18. NRS 439A.060 is hereby amended to read as follows:

20 439A.060 The council shall:

21 1. Prepare a state health plan, **[and periodically]** review it at least
22 triennially and make any necessary revisions. The council shall conduct a
23 public hearing on any proposed state health plan before approving it.

24 2. **[Coordinate the plans of the health systems agencies and annually**
25 **review and comment on these plans and the agencies' budgets.**

26 3. Review applications for federal grants for which provision is made
27 in the Federal Act and regulations adopted pursuant thereto.

28 **4.]** After consultation with the health systems agencies and the direc-
29 tor or office of health planning and resources, establish a uniform format
30 for health plans of the health systems agencies.

31 3. At least triennially, review the health plans of the health systems
32 agencies and require such revisions to those plans as may be necessary to
33 make them consistent with the state health plan.

34 4. Annually review the agencies' budgets and their annual plans for
35 achieving the goals stated in their health plans.

36 5. Whenever review or recommendation is required as a condition of
37 receiving benefits under the Federal Act, conformably review and rec-
38 ommend approval or disapproval of applications for federal grants and
39 any plans which must be submitted with those applications.

40 6. Advise the department concerning state health planning functions.

41 SEC. 19. NRS 439A.081 is hereby amended to read as follows:

42 439A.081 1. The department shall act as the state health planning
43 and development agency for the purposes of the Federal Act. As that
44 state agency, the department: **[shall:]**

45 (a) **[Carry]** Shall carry out the state administrative program and per-
46 form the state health planning and development functions prescribed in
47 the Federal Act; **[and]**

48 (b) **[Consult]** Shall consult with and assist the council **[,**
49 **and may]** ; and

1 (c) May accept and disburse money granted by the Federal Govern-
2 ment pursuant to the Federal Act.

3 2. The director [of the department] may establish within the depart-
4 ment an office of health planning and resources, consisting of employees
5 in the classified service, which shall:

6 (a) Perform health planning functions and develop health resources for
7 the state.

8 (b) Carry out the functions of the department as the state agency under
9 the Federal Act.

10 3. The department may:

11 (a) Adopt such regulations as are necessary to carry out the provisions
12 of this chapter.

13 (b) *By regulation, fix fees to be collected from applicants seeking*
14 *approval of proposed health facilities or services. The amounts of any*
15 *such fees must be based upon the department's costs of examining and*
16 *acting upon the applications.*

17 (c) Require providers of health [care] services doing business in the
18 state to make statistical and other reports appropriate to the performance
19 of its duties under this chapter. [The information required to be included
20 in the reports must be mutually agreed upon by the office of health plan-
21 ing and resources, the health systems agencies and representatives of the
22 providers of health care who are affected.]

23 SEC. 20. NRS 439A.100 is hereby amended to read as follows:

24 439A.100 1. *No person may undertake any project described in sub-*
25 *section 2 without first applying for and obtaining the written approval of*
26 *the director or his office of health planning and resources. The health divi-*
27 *sion of the department of human resources shall not issue a new license or*
28 *alter an existing license for [changes in the number of beds or types of*
29 *services offered by a hospital, ambulatory surgical care center, skilled*
30 *nursing facility, intermediate care facility or home health agency without*
31 *an approval in writing from] any project described in subsection 2 unless*
32 *the director [of the department or its] or his office of health planning and*
33 *resources [.] has issued such an approval.*

34 2. The [situations in] projects for which this approval is required
35 [include:

36 (a) The construction, development or other establishment of a new
37 health care facility or health maintenance organization;

38 (b) , unless exempted pursuant to regulations of the department,
39 are as follows:

40 (a) Any proposed expenditure within a 12-month period by or on
41 behalf of a health [care] facility or health maintenance organization in
42 excess of \$150,000, or such an amount as the department may specify
43 [in regulations adopted pursuant to this chapter,] by regulation, which
44 under generally accepted accounting principles consistently applied is a
45 capital expenditure;

46 [(c)] (b) A proposed change in the number of existing beds in a
47 [hospital, skilled nursing facility, intermediate care facility, end-stage
48 renal disease treatment facility or health maintenance organization]
49 health facility through the addition or removal of ten or more beds or a
50 number of beds equal to 10 percent of the licensed capacity of that

1 facility or organization, whichever is less, or the relocation from one
2 physical facility to another *or from one category of service (medical,*
3 *surgical, obstetrical or psychiatric) to another* of ten or more beds or a
4 number of beds equal to 10 percent of the licensed capacity of that
5 facility, whichever is less, over a period of 2 years; [and

6 (d) The offering of health services which are described in the stand-
7 ard categories of medical or surgical, obstetrics, pediatrics, neonatal
8 intensive care, critical care, psychiatric, tuberculosis, mentally retarded,
9 children's orthopedics, rehabilitation, skilled nursing facility, skilled nurs-
10 ing facility combined with an intermediate care facility, intermediate care
11 facility for mental retardation, special treatment facility, outpatient and
12 clinic services, emergency room services, prevention and detection, phys-
13 ical medicine, vocational and disability services, outpatient surgery, diag-
14 nostic radiology, nuclear medicine, ultra sound, laboratory services,
15 pharmacy, social services, home health agency, drug rehabilitation, alco-
16 hol rehabilitation, free-standing health screening centers, free-standing
17 mental health centers, free-standing family planning clinics, dentistry,
18 ambulance service, renal dialysis, cardiac catheterization, burn center,
19 neurosurgery, open heart surgery, organ transplant, therapeutic radia-
20 tion, organ bank, blood bank, hemophilia services, which were.]

21 (c) *The proposed addition of any health service to be offered in or*
22 *through a health facility if the service:*

23 (1) *Was not offered on a regular basis in or through [a health care]*
24 *the facility [, home health agency or health maintenance organization] 12*
25 *months before the time [such] the additional services would be offered [.*
26 *If any health care facility, home health agency or health maintenance*
27 *organization is currently providing one or more services within a standard*
28 *category of services, the addition to that existing service within that stand-*
29 *ard category does not constitute a change of service requiring an approval,*
30 *except that any] ; and*

31 (2) *Would entail an operating expenditure in excess of \$150,000, or*
32 *such an amount as the department may specify by regulation, which under*
33 *generally accepted accounting principles applied is a capital expenditure;*
34 *[, must be reviewed. The services within each standard category of serv-*
35 *ice may be further defined in regulations adopted pursuant to this chap-*
36 *ter.]*

37 (d) *The proposed acquisition of any medical equipment which would*
38 *cost more than \$150,000, or such an amount as the department may spec-*
39 *ify by regulation, and which would be owned by or located at a health*
40 *facility;*

41 (e) *The proposed acquisition of any medical equipment which would*
42 *cost more than \$150,000, or such an amount as the department may*
43 *specify by regulation, which would not be owned by or located at a*
44 *health facility, if the owner does not, within a period specified by regula-*
45 *tion of the department, notify it of his intention to purchase the equip-*
46 *ment; and*

47 (f) *The acquisition of an existing health facility if the purchaser does*
48 *not, within a period specified by a regulation of the department, notify it*
49 *of his intention to acquire the facility.*

1 3. Upon [receipt of] *receiving* an application for [the] approval,
2 the director or office shall consider any recommendation of a health sys-
3 tems agency. A decision to approve or disapprove the application must
4 generally be based on the need for services, utilizing criteria, established
5 by the department by regulation, which are consistent with the purposes
6 set forth in NRS 439A.020 and with the goals and priorities of the
7 health plans developed pursuant to the Federal Act.

8 4. *The department may, by regulation:*

9 (a) *Require additional approval for a proposed change to a project*
10 *which has previously been approved.*

11 (b) *Exempt certain kinds of projects from the requirement for approval*
12 *if no approval is required under the Federal Act.*

13 SEC. 21. NRS 432A.190 is hereby amended to read as follows:

14 432A.190 The bureau may deny an application for a license or may
15 suspend or revoke any license issued under the provisions of this chapter
16 upon any of the following grounds:

17 1. Violation by the applicant or the licensee of any of the provisions
18 of this chapter or of any other law of this state or of the standards and
19 other regulations adopted thereunder.

20 2. Aiding, abetting or permitting the commission of any illegal act.

21 3. Conduct inimical to the public health, morals, welfare and safety
22 of the people of the State of Nevada in the maintenance and operation of
23 the premises for which a license is issued.

24 4. Conduct or practice detrimental to the health or safety of the
25 occupants or employees of the facility.

26 [5. Failure of the applicant to obtain written approval from the
27 director of the department or its office of health planning and resources,
28 as required by NRS 439A.100, or as provided in any regulation adopted
29 pursuant to this chapter.]

30 SEC. 22. NRS 353.335 is hereby amended to read as follows:

31 353.335 1. Except as provided in subsections 3 and 4, a state agency
32 may accept any gift or grant of property or services from any source only
33 if it is included in an act of the legislature authorizing expenditures of
34 nonappropriated money or, when it is not so included, if it is approved
35 as provided in subsection 2.

36 2. If:

37 (a) Any proposed gift or grant is necessary for the protection or
38 preservation of life or property, the governor shall take reasonable and
39 proper action to accept it and shall report the action, and his reasons for
40 determining that immediate action was necessary, to the interim finance
41 committee at its first meeting after the action is taken. Action by the gov-
42 ernor pursuant to this paragraph constitutes acceptance of the gift or
43 grant, and other provisions of this chapter requiring approval before
44 acceptance do not apply.

45 (b) The governor determines that any proposed gift or grant would
46 be forfeited if the state failed to accept it before the expiration of the
47 time period prescribed in paragraph (c), he may declare that the pro-
48 posed acceptance requires expeditious action by the interim finance com-
49 mittee. Whenever the governor so declares, the interim finance committee
50 has 15 days after the proposal is submitted to its secretary within which

1 to approve or deny the acceptance. Any proposed acceptance which is
2 not denied within the 15-day period is approved.

3 (c) The proposed acceptance of any gift or grant which does not qual-
4 ify under paragraph (a) or (b) must be submitted to the interim finance
5 committee. The interim finance committee has 45 days after the proposal
6 is submitted to its secretary within which to approve or deny the accept-
7 ance. Any proposed acceptance which is not denied within the 45-day
8 period is approved.

9 3. In acting upon a proposed gift or grant, the interim finance com-
10 mittee shall consider, among other things:

11 (a) The need for the facility or service to be provided or improved;

12 (b) Any present or future commitment required of the state;

13 (c) The extent of the program proposed; and

14 (d) The condition of the national economy, and any related fiscal or
15 monetary policies.

16 4. A state agency may accept:

17 (a) Gifts not exceeding \$10,000 each in value; and

18 (b) Government grants not exceeding \$50,000 each in value,

19 if the gifts or grants are used for purposes which do not involve the hir-
20 governor or, if the governor delegates this power of approval to the chief
21 of the budget division of the department of administration, the specific
22 approval of the chief.

23 5. This section does not apply to [the] :

24 (a) The Nevada industrial commission [or the] ;

25 (b) The University of Nevada System [.] ; or

26 (c) The department of human resources while acting as the state health
27 planning and development agency pursuant to paragraph (c) of subsec-
28 tion 1 of NRS 439A.081.

S. B. 331

SENATE BILL NO. 331—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

MARCH 2, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for special financial assistance to school districts providing instruction for children in detention homes. (BDR 34-1471)

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 public schools; providing that school districts which provide instruction for children detained in detention homes are entitled to special financial assistance; 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 387 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 *Any school district which provides instruction for children detained in*
4 *a detention home, as provided in NRS 388.550 to 388.570, inclusive, is*
5 *entitled to special financial assistance for the children so served. The spe-*
6 *cial assistance is in addition to the basic support for children in that cate-*
7 *gory provided by NRS 387.1233. The amount of the special assistance*
8 *per pupil is the difference between the basic support guarantee per pupil*
9 *for the district and the actual cost per pupil of providing instruction in the*
10 *detention home, as determined by the superintendent of public instruction.*
11 *The state board of education shall adopt regulations to carry out the pur-*
12 *poses of this section.*

S. B. 453

SENATE BILL NO. 453—COMMITTEE ON JUDICIARY

MARCH 25, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Authorizes certain investment of surplus in trust fund for child welfare on behalf of child. (BDR 38-1328)

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 the trust fund for child welfare; authorizing the investment of surplus money on behalf of the child; 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 422.253 is hereby amended to read as follows:
2 422.253 1. The [child welfare] trust fund *for child welfare* is hereby
3 created. All survivor benefits or other awards payable to children receiv-
4 ing child welfare services [shall] *must* be deposited in the state treasury
5 for credit to the fund.
6 2. The [public assistance] trust fund *for public assistance* is hereby
7 created. Retirement and other benefit grants to any adult recipient of pub-
8 lic assistance in a nursing home or group care facility, except facilities of
9 the mental hygiene and mental retardation division of the department,
10 [shall] *must* be deposited in the state treasury for credit to the fund if
11 the adult receiving care has been adjudicated incompetent in the admin-
12 istration of his personal finances.
13 3. The welfare division shall:
14 (a) Keep a separate account for each [individual receiving funds.]
15 *person who receives money.*
16 (b) Deduct from the account any welfare services to the [individual]
17 *person that are provided by public [funds.] money.* Any surplus remain-
18 ing may be expended for extraordinary items deemed beneficial to the
19 [individual.] *person.*
20 (c) Remit any surplus balance to the named [individual] *person* when
21 the welfare division is no longer legally responsible for that [individual.]
22 *person.*
23 4. *The welfare division may establish an interest-bearing account in*
24 *the name of the child in any bank qualified to receive deposits of public*

1 *money and deposit in that account any surplus money in excess of \$1,000*
2 *belonging to the child in the trust fund for child welfare.*
3 5. Court-ordered and other support payments to children receiving
4 child welfare services [shall not be] *are not* considered as a benefit or
5 an award for the purpose of this section, but [shall] *must* be held in
6 trust in the [child welfare] trust fund [.] *for child welfare.*