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NEVADA DISABILITY ADVOCACY & LAW CENTER

Nevada's Federally-Mandated Protection and Advocacy System for Individuals with Disabilities

STATEMENT BY LYNNE P. BIGLEY, ESQ.
OF
NEVADA DISABILITY ADVOCACY & LAW CENTER
TO THE
ASSEMBLY COMMITTEE ON JUDICIARY
REGARDING ASSEMBLY BILL NO. 341

April 2, 2003

This statement is submitted on behalf of Nevada Disability Advocacy & Law Center (NDALC), Nevada's federally mandated, governor designated protection and advocacy system for individuals with disabilities. See the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. §10801 et seq); the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (42 U.S.C. §6041 et seq); and the Protection and Advocacy for Individual Rights Program of the Rehabilitation Act of 1973 (29 U.S.C. §794e).

In the case *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356 (2001), the United States Supreme Court ruled that a state is immune from suit under Title I of the Americans With Disabilities Act initiated by a disabled employee who was discriminated against in employment unless the state waives its sovereign immunity under the Eleventh Amendment to the Constitution. A state's immunity extends not only whether it may be sued but also to where it may be sued. *Id.* at 241. In order for a state to waive its sovereign immunity, it must make a clear and unequivocal statement that it wishes to do so. *Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 238-40 (1985).

Assembly Bill 341 presents this committee the opportunity to allow a disabled state employee who has been discriminated in employment to redress wrongs in federal court under Title I of the Americans With Disabilities Act. Assembly Bill 341 presents this committee the opportunity to make a clear and unequivocal statement that disabled state employees should have the same protections against discrimination as employees in the private sector. The bill does not provide any more protections to a disabled state employee than a disabled employee in the private sector. Rather, the bill makes the clear and unequivocal statement that discrimination against disabled employees is wrong no matter who the employer is. Assembly Bill 341, if passed, establishes equality under law for all disabled employees.

ASSEMBLY JUDICIARY
DATE: 4/2/03 ROOM: 338 EXHIBIT K
SUBMITTED BY: Lynne Bigley

✓ MAIN OFFICE

6039 Eldora Avenue, Suite C, Box 3, Las Vegas, NV 89146

702/ 257-8150 (Telephone) 257-8160 (TTY)

888/ 349-3843 (Toll Free) 257-8170 (Fax)

ndalc@earthlink.net (Email) www.ndalc.org (Website)

NORTHERN OFFICE

1201 Terminal Way, Suite 219, Reno, NV 89502

775/ 333-7878 (Telephone) 788-7824 (TTY)

800/ 992-5715 (Toll Free) 788-7825 (Fax)

reno@ndalc.org (Email) www.ndalc.org (Website)