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Testimony given April 2, 2003 on AB341

Good morning Mr. Chair and members of the Committee. For the record my name is Scott MacKenzie, I am Executive Director of the State of Nevada Employees Association/ AFSCME Local 4041.

Three main points:

1. Since 1996 Nevada State Employees have been not been granted 11 amendment immunity waver in federal court. Most State Employees are unaware that 11 amendment immunity has not been waved by the state of Nevada when they are hired.

Government should set the example for private sector employers. All casino workers in the state of Nevada have federal laws to protect them. As do all other private sector employees in the state of Nevada. Private sector companies are motivated by profits, while state government is motivated by providing service to the public. Yet the state of Nevada is has not seen fit to follow federal laws in all cases as seen by the Hibbs case (Family medical leave act) and also Robert Robinson Case (Americans with Disabilities act).

2. NRS 284.345 Adoption by reference of federal law and Nevada regulations. Currently we have the federal laws under Nevada regulations. If we truly honor these current regulations than there should be no issue with accepting 11th amendment immunity waver. However, Hibbs and Robinson may disagree that we do in fact in all cases honor these regulations.

NAC can be changed without legislative oversight. Why would we want agencies to be able to change what already exists under Federal Law. Is that wise?

3. The legislature could create these protections. California in many cases has gone beyond some federal laws. We could follow their example. Or we could accept the current federal laws and not reinvent the wheel. A.B. 341 does this; it allows the standard set by federal law to apply to Nevada State workers and give the current Nevada regulations integrity.

What is the purpose of NRS 284.345 and the corresponding regulations if the state of Nevada does not honor these regulations by waving 11th amendment immunity. Is this something to make us believe we have rights we do not have. This is confusing to say the least. It is time Nevada State workers are treated fairly. It is time the state of Nevada act honorably and does the right thing.

If not, we should notify prospective employees on employment applications "Warning- Nevada has not waved 11th amendment immunity when it comes to federal protections for state employees.

We ask for your support for AB341. We want to thank John Osguara and Barbara Buckley for coming forward with the legislation and offering some parody to State Employees.