

Summary Bulletin
of
Reports of the Legislative Commission
to the 68th Session of the
Nevada Legislature



*Legislative Counsel
Bureau*

*Bulletin No.
95-12*

January 1995

SUMMARY BULLETIN 1995

INTRODUCTION

This bulletin summarizes 16 study reports which were completed in 1994 for consideration by the 1995 Nevada Legislature. The *Summary Bulletin* serves two primary purposes: (1) it provides a brief outline of the work of each interim committee or subcommittee, so that legislators and interested parties may become familiar with the various studies, issues, and resulting recommendations; and (2) it is a reference tool to facilitate and encourage the use and understanding of the individual reports it summarizes.

Interim studies included in this bulletin were mandated by one of three methods: (1) by a concurrent or joint resolution adopted by both the Senate and the Assembly; (2) by a law appearing in the *Statutes of Nevada* or *Nevada Revised Statutes* (NRS); and (3) by a special act of the Legislature.

Of the 16 study reports in this publication, 12 were directed by concurrent or joint resolutions approved during the 1993 Legislative Session. The studies conducted by the Committee on Health Care and the Committee on Public Lands were authorized by laws appearing in NRS. The studies concerning Financing for Construction, Maintenance and Repair of Highways, and the Use, Allocation and Management of Water, were initiated by special acts of the Legislature.

For each study, an abstract and summary of the recommendations is provided. Some committee summaries are more detailed than others, depending upon the nature of the study. The resolution or statutory provisions which mandated the studies are included for each study. In addition, committee members and staff are listed to assist legislators and others in identifying those who may help in their understanding of issues or recommendations.

The *Summary Bulletin* is a guide to the contents of the regular study reports. For additional information regarding a particular study, interested parties should refer to the bulletin cited on the initial page of each section. These publications may be obtained from the Legislative Counsel Bureau's Publications Office and are identified by bulletin number.

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BULLETIN 95-1

**LAWS GOVERNING TAXATION GENERALLY AND
THE CREATION OF TAXING DISTRICTS**

A.C.R. 47 - 1993 SESSION

Members

Assemblyman Val Z. Garner, Chairman

Senator Matthew Q. Callister

Senator Suzanne (Sue) Lowden

Senator Leonard V. Nevin

Senator Ann O'Connell

Assemblyman Pete Ernaut

Assemblyman Ken L. Haller

Assemblyman Joan A. Lambert

Assemblyman Robert (Bob) E. Price

and

Bruce Brooks, Finance Director, Nevada League of Cities

Robert S. Hadfield, Executive Director, Nevada Association of Counties

Bruce Nystrom, Gardnerville Ranchos General Improvement District

Jim Weishaupt, Manager, Walker River Irrigation District

Principal Staff

**Ted A. Zuend, Deputy Fiscal Analyst
(687-6821)**

Assembly Concurrent Resolution No. 47—Committee on Taxation

FILE NUMBER 175

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study on the laws governing taxation generally and the creation of taxing districts.

WHEREAS, There is an ever present need to ensure a stable source of revenue for this state; and

WHEREAS, Progress requires a periodic review of Nevada's tax statutes to determine whether the current state of affairs is adequately and equitably treated in statute; and

WHEREAS, The creation of taxing districts has increased significantly in an effort to finance special interests; and

WHEREAS, There has been a lack of consistency in the criteria used when creating these districts; and

WHEREAS, Because taxing districts may compete for property tax revenue, it is desirable to provide criteria for existing and new districts for the Nevada Legislature in an effort to determine whether there is a need for a proposed taxing district; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study to review the existing laws governing taxation in this state generally, review the existing laws governing the creation of taxing districts and establish criteria to be used for the creation of these districts; and be it further

RESOLVED, That, as to taxation in this state generally, the study should include:

1. A review of all exemptions to existing taxes, the legal source of those exemptions, the justification for retaining each of those exemptions and the effect of the exemptions on Nevada's tax policy and revenue base;

2. Consideration of the desirability of adopting a statutory mechanism for the periodic review of existing exemptions; and

3. A review of the manner in which the gaming industry is taxed in this state, considering particularly the absence of gaming tax on activities such as family-oriented entertainment and theme parks which are offered by gaming licensees;

and be it further

RESOLVED, That, as to taxing districts, the study should include:

1. The conditions to be used to determine the need for the district;

2. The election procedure used for the formation of the district;

3. The amount of assessed valuation allowed the district for the purposes of bonding, the types of bonds authorized and the manner in which those bonds may be approved;

4. The manner by which the district is governed;

5. The statutory authority under which the district is created and may be created to allow for uniformity;

6. The manner by which the district may be expanded;

7. The manner by which the district should be dissolved;

8. The duration of the district;
 9. The conditions under which a district formed for capital facilities is allowed to include expenditures for normal operation and maintenance; and
 10. Any other conditions which are necessary to provide an evaluation for the appropriateness and need for the district;
- and be it further

RESOLVED, That this study be conducted by a subcommittee consisting of nine members appointed by the Legislative Commission, to be composed of:

1. Two Senators who are members of the Senate Standing Committee on Taxation;
 2. Three Assemblymen who are members of the Assembly Standing Committee on Taxation;
 3. One Senator who is a member of the Senate Standing Committee on Government Affairs;
 4. One Assemblyman who is a member of the Assembly Standing Committee on Government Affairs; and
 5. One additional Senator and one additional Assemblyman;
- and be it further

RESOLVED, That the Legislative Commission shall appoint at least four members to serve on an advisory committee including representatives of the Nevada Association of Counties, the Nevada League of Cities and two rural districts, one of which must be an irrigation district; and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 68th session of the Nevada Legislature.

ABSTRACT

LAWS GOVERNING TAXATION GENERALLY AND THE CREATION OF TAXING DISTRICTS (A.C.R. 47)

The 67th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 47 (File No. 175, *Statutes of Nevada 1993*) which directed the Legislative Commission to conduct an interim study on the laws governing taxation generally and the creation of taxing districts.

A subcommittee of nine members appointed by the commission held six meetings: two in Las Vegas, two in Reno, one in Elko and one in Carson City. At these meetings the subcommittee received and reviewed information regarding the creation of taxing districts and other issues related to taxation. The subcommittee also conducted a survey of local governments and private organizations on issues relating to the fiscal effects of taxing districts. To avoid overlap with other interim studies of taxation issues, the A.C.R. 47 subcommittee limited its study to three areas specifically addressed in the resolution: taxing districts, tax exemptions and the taxation of nongaming activities conducted by gaming licensees.

The subcommittee made a total of 22 recommendations: seven related to debt and "pay-as-you-go" financing proposals of taxing districts and other governments; seven related to the creation, operation and dissolution of taxing districts; and eight related to tax exemptions. Because the phenomenon of gaming licensees establishing theme parks and providing increasing amounts of family-oriented entertainment is relatively new and the success or failure of such a strategy has not been determined, the subcommittee decided to make no recommendations regarding the taxation of these activities.

SUMMARY OF RECOMMENDATIONS

LAWS GOVERNING TAXATION GENERALLY AND THE CREATION OF TAXING DISTRICTS (A.C.R. 47)

This summary represents the recommendations of the subcommittee to study the laws governing taxation generally and the creation of taxing districts.

I. RECOMMENDATIONS RELATED TO DEBT AND "PAY-AS-YOU-GO" FINANCING PROPOSALS BY TAXING DISTRICTS AND OTHER GOVERNMENTS

The subcommittee was generally satisfied that changes made by the 1993 Legislature through S.B. 557 (Chapter 637, *Statutes of Nevada 1993*) would ensure that debt issues and "pay-as-you-go" proposals would be managed properly. The subcommittee, largely based on testimony from bond counsel, identified several areas for legislation that would assist both taxpayers and general obligation bond commissions.

The subcommittee, therefore, recommends:

1. That Chapter 361 of the NRS be amended to require a school district that issue bonds that unintentionally forces the combined tax rate in the county above the statutory limit to transfer money to other local governments in the county, as needed, to reduce the combined tax rate to conform to the statutory requirements.
2. That NRS 350.0051 be amended to clarify the degree to which the General Obligation Bond Commission (GOBC) of a county is to analyze whether a project under its review meets a public need.
3. That NRS 350.020 be amended to extend the time period from 30 to 60 days within which voters may petition for an election concerning the issuance of a general obligation bond secured by pledged revenue and to make the advertising required for the issuance of general obligation bond secured by pledged revenue the same as that required for bond issues for flood control provided in NRS 543.690(4).
4. That Chapter 350 of the NRS be amended to disallow the issuance of general obligation debt by any government to the extent that such

issuance will result in the total debt obligation carried by the property owners in an area to exceed 50 percent of the assessed valuation in that area.

5. That NRS 387.3285 and 387.3287 or other applicable statutes be amended to preclude the use of revenues from these taxes for the payment of interest on debt unless such use was specifically authorized when the tax was approved by the voters and to provide the same reporting for school districts as those required for local governments pursuant to Subsection 6 of NRS 354.59817.
6. That all applicable statutes be amended to require that securities issued by any government are subject to the provisions of Chapter 350 of the NRS.
7. That Chapter 350 of the NRS be amended to allow debt to be issued with a negotiated rate only after no acceptable bids have been received through competitive bidding.

II. RECOMMENDATIONS RELATED TO THE CREATION, OPERATION AND DISSOLUTION OF TAXING DISTRICTS

The subcommittee, through a survey of taxing districts and private organizations, identified three recommendations that would benefit taxpayers. These recommendations would ensure that districts are only created with their approval and that additional information would be provided to them and other interested parties at the time a district is proposed and on a periodic basis after a district has been created.

The subcommittee, therefore, recommends:

8. That the applicable statutes be amended to require that a taxing or assessment district pursuant to Chapters 244A, 269, 271, 309, 318, 379, 474, 541, 543 and 555 of NRS and NRS 450.550 to 450.700 may only be formed if approved by a majority of the voters within the boundaries of the proposed taxing district or if signed approval is granted by a majority of affected property owners.
9. That Chapter 308 of the NRS and any other applicable statutes be amended to provide for a 10-year review and report to the county commission or city council, where applicable, and the Legislature by any

taxing district established after this legislation is approved similar to that provided in NRS 244.33516 for transportation districts.

10. That NRS 308.030 and any other applicable statutes be amended to require an economic feasibility report that includes staffing and facilities plans, the fiscal effects on other governments and 1 and 5 year projections of the proposed district's finances before the creation of a taxing district.

Through its survey, the subcommittee identified one set of obsolete statutes that provide for the creation of a taxing district. The subcommittee, therefore, recommends:

11. That the provisions allowing for the creation of multi-county districts for the provision of facilities for public schools enacted pursuant to Chapter 789, *Statutes of Nevada 1989* be repealed.

From various information provided to it, the subcommittee determined that future single or limited purpose districts should be funded from fees or assessments rather than property taxes. The subcommittee also decided that residents of any taxing district should contribute some minimum amount to its support. Please note that the subcommittee instructed Legislative Counsel to prepare only skeleton drafts of these two recommendations because the proposals raise related issues that the subcommittee did not have time to consider in sufficient detail. The subcommittee further instructed the Fiscal Analysis Division to prepare information on the possible effects of these recommendations for use by the 1995 Legislature.

The subcommittee, therefore, recommends:

12. That Chapter 318 of the NRS and other applicable statutes be amended to require that future single or limited purpose districts be funded solely from user fees or special assessments.
13. That Chapter 318 of the NRS and any other applicable statutes be amended to require that a taxing district raise at least 25 percent of its budget from property taxes, user fees or other direct assessments on residents of the district before being eligible to receive supplemental city/county relief tax or motor vehicle privilege tax revenue.

The subcommittee also discovered that because of a lack of statutory guidance, a minor conflict exists between a statute and a regulation pertaining to sewerage hook-ups. The subcommittee, therefore, recommends:

14. That NRS 444.650 be amended to require that regulations adopted by the State Board of Health regarding the disposal of sewage not conflict with other applicable statutes such as NRS 318.170 which requires a sewerage hook-up when a service line is within 400 feet of the dwelling place.

III. PROPOSALS RELATED TO TAX EXEMPTIONS

The subcommittee conducted a thorough review of tax exemptions and found particular problems with the sales tax exemptions for food, newspapers and charities, with the property tax exemption for charities and with open space assessment in historic districts. The subcommittee also discovered potential constitutional problems with the sales tax exemption for certain aircraft and components of aircraft and the home office credit against the insurance premium tax for certain insurers. The subcommittee also concluded that a mechanism for the periodic review of exemptions should be established.

The subcommittee, therefore, recommends:

15. That a statute or resolution be enacted to clarify the legislative intent regarding the tax exemption for food for home consumption and direct the Department of Taxation to review and revise, as needed, their regulations regarding the taxation of food prepared for immediate consumption under Chapters 372 (Chapter 397, *Statutes of Nevada 1955*) and 374 of the NRS to recognize the changing nature of the sales of such food.
16. That Chapters 372 and 374 of the NRS be amended to define charitable and eleemosynary organizations for purposes of the sales tax exemptions in NRS 372.325 (Section 50 of Chapter 397, *Statutes of Nevada 1955*) and NRS 374.330 to include only organizations eligible for tax exemption under *Internal Revenue Code 501 (c) (3)*, to provide for a 2-year grace period for all currently qualified organizations to qualify for the exemption and to require the Department of Taxation to review and reissue such exemption certificates every 5 years thereafter.
17. That NRS 372.315 (Section 61 of Chapter 397, *Statutes of Nevada 1955*) and NRS 374.320 be amended to further limit the exemption for

newspapers by establishing content-neutral requirements that the publication be intended for general circulation, that it be of interest to the general public and that its contents change significantly from issue to issue.

18. That the sales tax exemption for aircraft and major components for Nevada-based carriers in NRS 372.317 (Section 61.5 of Chapter 397, *Statutes of Nevada 1955*) and NRS 374.322 be repealed.
19. That NRS 361.140 be amended to clarify the types of "charitable" corporations eligible for the property tax exemption to include only organizations eligible for tax exemption under *Internal Revenue Code* 501 (c) (3) and to provide for a 2-year grace period for all currently qualified organizations to reapply to the county assessor for exemption.
20. That NRS 361A.050 be amended to eliminate "sites designated as historic" from the definition of open-space use and NRS 361.229 be amended to exclude "sites designated as historic" from adjustment of actual age of improvements in computation of depreciation.
21. That the joint rules of the Senate and Assembly be amended to provide for the review of tax exemptions provided by law.
22. That NRS 680B.050 be amended to eliminate the 50 percent insurance premium tax credit that is available to insurers which own and occupy a home office in Nevada and NRS 680B.027 be amended to reduce the rate of tax levied by an amount necessary to make the change "revenue-neutral" for the industry as a whole.

BULLETIN 95-2

**FINANCING, CONSTRUCTION AND MAINTENANCE
OF HIGHWAYS AND ROADS IN NEVADA**

A.B. 378 - 1993 SESSION

Members

Assemblyman Rick Bennett, Chairman
Senator Leonard V. Nevin
Senator William R. O'Donnell
Senator Dean A. Rhoads
Assemblyman C.W. Tom Collins, Jr.
Assemblyman Lynn Hettrick
Assemblyman John B. (Jack) Regan

Principal Staff

Ted A. Zuend, Deputy Fiscal Analyst
(687-6821)

Assembly Bill No. 378—Assemblymen Humke, Dini, Hettrick, Marvel, Regan, Tiffany, Gregory, Ernaut, Chowning, Collins, McGaughey, Schneider, Carpenter, Petrak, Toomin, Heller, Augustine, Neighbors, Arberry, Spitler, Lambert, Gibbons, Smith, Porter, Garner, Perkins, Giunchigliani, Haller, Bennett, Segerblom, Wendell Williams, Price, de Braga, Myrna Williams and Bonaventura

CHAPTER 586

AN ACT relating to transportation; directing the legislative commission to conduct an interim study concerning the financing of the construction, maintenance and repair of highways and roads in this state; providing an appropriation; and providing other matters properly relating thereto.

WHEREAS, The present tax and funding structure for highways in the State of Nevada has been eroded because of more fuel-efficient vehicles and the instability of available federal money; and

WHEREAS, The department of transportation has reported a significant shortfall in its ability to meet its long-term plan for the construction and maintenance of highways and roads in this state; and

WHEREAS, The need for the repair and maintenance of these highways and roads has been escalated because of the growth of population, the expansion of businesses and the increase in the use of our highways for interstate travel; and

WHEREAS, The present tax and fee structure for funding highway construction, maintenance and repair lacks stability and has become inadequate in addressing this critical component of the state's infrastructure; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. The legislative commission shall appoint a committee to conduct an interim study concerning the financing of the construction, maintenance and repair of highways and roads in this state.

2. The committee must consist of:

(a) Four members of the Senate, with two members appointed from the standing committee on transportation and two members appointed from the standing committee on taxation; and

(b) Four members of the Assembly, with two members appointed from the standing committee on transportation and two members appointed from the standing committee on taxation.

Sec. 2. 1. The committee may appoint an advisory committee consisting of members of the general public as necessary to carry out the study. The committee shall not appoint any person to the advisory committee who has:

(a) A substantial financial interest in, or whose employment involves, the construction, maintenance or repair of highways or roads in this state; or

(b) A substantial financial interest in, or connection to, any business or industry involving transportation on the highways of this state which, because of its substantial use of these highways or the weight of its vehicles, may be

subject to pay substantially more than the general public in fees and taxes imposed to finance the construction, maintenance or repair of these highways.

2. The members of the advisory committee serve without salary, but are entitled, for attendance at a meeting of the committee created pursuant to this section or section 1 of this act, to payment from the legislative fund for the per diem allowances and travel expenses provided to state officers and employees generally.

Sec. 3. 1. The study must be completed on or before September 1, 1994.

2. The legislative commission shall report the results of the study and any recommended legislation to the 68th session of the Nevada legislature.

Sec. 4. 1. There is hereby appropriated from the state highway fund to the legislative fund the sum of \$15,000, which may be used only to carry out the provisions of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1995, and reverts to the state highway fund as soon as all payments of the money committed have been made.

Sec. 5. This act becomes effective upon passage and approval.

③

ABSTRACT

FINANCING, CONSTRUCTION AND MAINTENANCE OF HIGHWAYS AND ROADS IN NEVADA (A.B. 378)

The 67th Session of the Nevada Legislature adopted Assembly Bill No. 378 (Chapter 586, *Statutes of Nevada 1993*) which directed the Legislative Commission to conduct an interim study concerning the financing of the construction, maintenance and repair of highways and roads in this state. A committee of eight members appointed by the commission held six meetings: two in Las Vegas, one in Reno, one in Elko and two in Carson City. At these meetings the committee received and reviewed information from the Nevada Department of Transportation (NDOT), the Nevada Department of Motor Vehicles and Public Safety (DMV & PS), the Nevada Motor Transport Association (NMTA) and many other highway users and interested parties. The issues addressed included, among others, the outlook for highway revenues and the needs for highway funding, the collection of fuel taxes and registration fees, the feasibility of imposing and collecting a weight-distance tax and the equity for users of the existing tax and fee revenue system for highways.

The NDOT adheres to a three-point philosophy regarding the construction, maintenance and operation of the state's highways. The department believes that the costs of the highway system should be borne by the users of that system, that the fees and taxes assigned to the users should be in proportion to their cost responsibility and that revenue from such fees and taxes be dedicated as much as possible to the construction and maintenance of Nevada's highways. The committee is generally supportive of this philosophy, and its recommendations are reflective of that support.

The committee has made a total of 12 recommendations to be forwarded to the 1995 Legislative Session. Eleven of these recommendations involve the preparation of bill drafts for the consideration of statutory changes that will affect the financing of the state's highways.

SUMMARY OF RECOMMENDATIONS

FINANCING, CONSTRUCTION AND MAINTENANCE OF HIGHWAYS AND ROADS IN NEVADA (A.B. 378)

This summary represents the recommendations reached by the committee to study the financing of the construction, maintenance and repair of highways and roads in this state.

1. The most controversial issue considered by the committee is whether or not the state should reimpose a weight-distance tax on heavy vehicles.

The NDOT strongly believes that this is the only means to fairly assign cost responsibility among highway users and to ensure an adequate revenue base for highways funding in the future. Equally strongly, the NMTA opposes the tax and maintains that it would be difficult to enforce and that other means to address the inequities in the highway tax and fee system could be instituted. The department, however, points out that the state effectively enforced a weight-distance tax as recently as 1989. The association, in rebuttal, notes that states have been moving away from the tax and that certain studies have placed evasion at as much as 30 percent.

Most of the committee agrees that the tax, if properly enforced, would provide a mechanism to assign the proper cost responsibility to the various highway users. Most members also expressed reservations concerning the potential evasion problems associated with the imposition of such a tax and the possibility that costs of enforcement of the tax could be much greater than those under the current tax and fee structure. The committee, without recommending that the tax be imposed, supported sending the proposal on for a thorough review by the 1995 Legislature.

The committee, therefore, recommends:

That A.B. 760 of the 1993 session, which imposes a weight-distance tax of from 3.8 to 8.2 cents per mile depending on the declared gross weight of the vehicle for all vehicles in excess of 26,000 lbs, be redrafted for consideration by the 1995 Legislature.

2. After receiving considerable information on the subject from a variety of sources, the committee determined that moving the point of collection of the

tax on diesel fuel to the "terminal rack level" (first wholesale point within state) could increase highway fund revenues by as much as \$4 million per year and simplify the collection of the tax. The committee, therefore, recommends:

That Chapter 366 of the NRS be amended to move the point of collection for the diesel fuel tax to the "terminal rack level" and to change the provisions regarding the "float" on the taxes collected and the allocation of the two percent collection fee to ensure that the fuel dealers are not financially harmed by the change.

3. Gasoline taxes are currently collected by the Department of Taxation, because the department allocates administrative costs based on the amount of the taxes collected, rather than the actual costs of collecting the taxes, gasoline tax revenues effectively subsidize the general fund by about \$900,000 per year. Consolidating the collection of taxes into a single agency at a single level should also result in increased administrative efficiencies and a lesser compliance burden on taxpayers. The committee, therefore, recommends:

That Chapters 365 and 373 of the NRS be amended to transfer the collection of the gasoline tax from the Department of Taxation to the Department of Motor Vehicles and Public Safety and to change the collection point of the tax to the "terminal rack level" to be consistent with Recommendation No. 2.

4. The DMV & PS, unlike other state agencies, is subject to a funding limit for most of its operations based on the amount of tax and fee revenues it collects. The existing limit of 22 percent applies only to revenues collected for the highway fund and excludes other revenues collected such as privilege taxes for local governments and sales taxes and car rental fees for the state general fund. The limit is somewhat arbitrary because it does not consider the conditions during a particular biennium. For example, during a period when highway taxes or fees are increased substantially, it may be easier to get within the limit because costs, such as employee salaries, may not be going up accordingly. During other budgetary periods, costs may be rising even though fees and taxes are not being increased, and the department may have problems developing a budget within the limit.

Some highway users and taxpayer representatives support repeal of the limit because they believe it may also act as a floor on expenditures. It is felt that the DMV & PS budget may not receive the scrutiny it would otherwise get without the limit. In some cases, supporters of repeal believe the limit may trigger fee or tax increases which are approved only to ensure that DMV & PS remains within that limit.

The committee generally agrees that the 22 percent cap is arbitrary and that the DMV & PS budget should be funded based on its needs during a particular biennium. The committee, therefore, recommends:

That the 22 percent limit on the collection costs of motor vehicle taxes and fees imposed on the DMV & PS by subsection 4 of NRS 408.235 be repealed.

5. *Nevada Revised Statutes* 481.145 provides that \$6 for each vehicle registered in the state be allocated to a highway patrol special account for the support of some troopers. The allocation, which is applied equally to all registrations even those that pay pro-rated fees, has usually resulted in more revenue than necessary to fund the supplementary positions. The excess funds have often been applied to other purposes. Testimony on the issue indicated that there is no compelling reason to fund the positions this way and that in the upcoming biennium total revenue from the \$6 allocation will be inadequate to continue to fund the same number of positions.

Abolishment of the account will result in a one-time gain of roughly \$2.75 million for the highway fund. The committee believes that the account should be eliminated and, therefore, recommends:

That NRS 481.145, which allocates \$6 for each vehicle registered in Nevada to a highway fund special account to fund additional troopers, be repealed to allow for those positions to be funded through the regular appropriations process and that the remaining balance in the special account become unearmarked in the highway fund.

6. Assembly Bill No. 323 of the 1993 Session was originally approved by the Assembly at the urging of the car rental industry. The bill at that time imposed a new fee on the short-term lease of a passenger vehicle and dedicated the state revenue to the highway fund. The measure was amended in the Senate and the revenue was redirected to the state general fund. The committee believes that the fee, which raises about \$5.5 million

per year for the state, more properly belongs in the highway fund. The committee, therefore, recommends:

That NRS 482.313 be amended to change the distribution of the state fee on the short-term lease of passenger vehicles from the general fund to the highway fund.

7. *Nevada Revised Statutes* 366.197 contains a fictitious conversion formula for liquefied petroleum gas (LPG) that reduces the taxable volume of the product by almost 71 percent and, consequently, the effective tax rate to 6.7 cents per gallon. The committee believes that the statutory rate of tax should be the true rate and that the conversion formula should be eliminated. The committee, therefore, recommends:

That NRS 366.197 be amended to delete the reference to LPG in the conversion formula and that NRS 366.190 be amended to set the rate of tax for LPG at 6.7 cents per gallon.

8. Outdated provisions relating to the establishment of toll roads in Nevada were repealed by the 1989 Legislature. The committee believes, however, that the use of tolls is a viable option for financing the construction and maintenance of roads and bridges in the state and that this option should not be precluded because of the lack of enabling legislation. The committee, therefore, recommends:

That Legislation authorizing the establishment of toll roads and toll bridges in Nevada be enacted.

9. The committee recognized that the existing tax and fee schedule in Nevada places a disproportionately greater financial burden per mile on heavy vehicles when their annual miles traveled are low. Many of these vehicles are intrastate carriers. The imposition of a weight-distance tax, which the committee recognizes may pose both practical and political problems, is one way to address this problem. Another possible approach, as suggested by the NMTA, is to establish a three-tier registration schedule with fees reduced for lower mileage vehicles.

Colorado has recently enacted such a scheme, and the committee feels that a similar alternative to assist low-mileage carriers should be considered if a weight-distance tax is not established in Nevada. The committee, therefore, recommends:

That a bill to amend Chapter 482 of the NRS to establish a tiered registration fee schedule for heavy vehicles grouped on the basis of the miles a vehicle travels be drafted for consideration by the 1995 Legislature.

10. The NDOT has been conducting highway studies for more than a decade to determine the cost responsibility of various categories of highway users. The NMTA, however, has not been convinced that the Nevada studies accurately reflect the cost responsibility of those groups. Because such "outside" studies have been satisfactorily completed in other states, the committee believes that a single study by an outside party will either confirm the work done by NDOT or suggest improvements to the NDOT methodology and, thereby, satisfy the highway users. The committee, therefore, recommends:

That a statute be enacted to require the NDOT to contract for a highway cost responsibility study to be conducted by an outside consultant and completed prior to the start of the 1997 Legislative Session.

11. Current law provides that the board of directors of NDOT may establish fees for permits for oversize vehicles. The amount of the fee however, is limited to the actual costs associated with issuing the permit. The U.S. Department of Transportation has been urging states to adopt fees for such permits that accurately reflect the costs of the damage done to the highways by such superloads. The committee believes that this is a reasonable policy to adopt. The committee, therefore, recommends:

That subsection 2 of NRS 484.743 be amended to remove the limit based on the costs of issuing oversize vehicle permits to allow the state transportation board to establish a fee schedule for such permits to reflect the damage done to highways by these vehicles.

12. The Nevada highway system, unlike those of many states, is almost totally funded from user fees in the form of fuel taxes and registration fees. The committee believes that no action should be undertaken that may result in the reduction of revenue available for the construction and maintenance of highways in Nevada. The committee, therefore, recommends:

That the Governor not propose and the Legislature not approve any additional exemptions or exclusions from state fuel taxes.

BULLETIN 95-3

PUBLIC ELEMENTARY AND SECONDARY EDUCATION

S.C.R. 52 - 1993 SESSION

Members

**Senator Raymond D. Rawson, Chairman
Assemblyman Wendell P. Williams, Vice Chairman
Senator Thomas J. Hickey
Assemblyman David E. Humke**

and

**Eugene T. Paslov, Superintendent of Public Instruction
Frank D. Meyers, College of Education, University of Nevada, Las Vegas
Dale G. Andersen, College of Education, University of Nevada, Reno
Rick Millsap, Nevada State Education Association**

Principal Staff

**H. Pepper Sturm, Principal Research Analyst
(687-6825)**

Senate Concurrent Resolution No. 52—Committee on Legislative
Affairs and Operations

FILE NUMBER 166

SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study to examine the structure and financing of public elementary and secondary education in Nevada.

WHEREAS, The structure of the system of public elementary and secondary education in Nevada was designed at the turn of the century and may not meet the needs of the residents of this state as they participate in today's global economy; and

WHEREAS, Many national, state and local proposals to reform elementary and secondary education take a piecemeal approach rather than examining broad-based structural reform; and

WHEREAS, The existing educational structure and any proposed changes to that structure are linked to school financing frameworks; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the structure and financing of public elementary and secondary education in Nevada; and be it further

RESOLVED, That the study include a review of the present system of elementary and secondary education, as well as proposed reforms of that system locally and nationally; and be it further

RESOLVED, That the committee consist of:

1. Four members of the Nevada Legislature, appointed by the Legislative Commission, from whom the Legislative Commission shall appoint the chairman of the committee;

2. The Superintendent of Public Instruction; and

3. The Dean of the College of Education for the University of Nevada, Reno, or his designee;

and be it further

RESOLVED, That the results of the study and any recommended legislation be submitted to the 68th session of the Nevada Legislature.

ABSTRACT

PUBLIC ELEMENTARY AND SECONDARY EDUCATION (S.C.R. 52)

The 67th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 52 (File 166, *Statutes of Nevada 1993*, page 3109) which directed the Legislative Commission to study public elementary and secondary education in this State.

The Legislative Commission appointed a subcommittee consisting of four legislators along with the State Superintendent of Public Instruction, both Deans of the University of Nevada's two Colleges of Education, and the President of the State Teachers Association. A total of four meetings were held in Carson City and Las Vegas. The subcommittee was charged with examining the structure and financing of public elementary and secondary education, along with current education reform efforts.

The subcommittee received presentations and testimony concerning educational governance, finance matters and reform issues. The members adopted 35 of the 75 recommendations reviewed. Major items adopted include proposals to:

1. Revise school district accounting procedures;
2. Alter funding for special education;
3. Establish funding of programs for certain gifted and talented pupils;
4. Increase school safety requirements;
5. Improve school accountability reports;
6. Provide for the establishment of charter schools;
7. Coordinate teacher training with school reform proposals;
8. Encourage school-linked human services at certain elementary schools; and
9. Provide for the accreditation of elementary and middle schools.

Detailed descriptions and related discussion of each recommendation may be found in the subcommittee's final report, *Legislative Counsel Bureau Bulletin No. 95-3*.

SUMMARY OF RECOMMENDATIONS

PUBLIC ELEMENTARY AND SECONDARY EDUCATION (S.C.R. 52)

RECOMMENDATIONS CONCERNING FISCAL ISSUES

1. Require, within statute, that all donated equipment or funds raised by outside groups (such as Parent Teacher Association fund-raisers, booster contributions, business partnership donations, and so on) for expenditure or use directly benefiting students be accounted for by the school district as a condition of acceptance.
2. Require, by statute, that the State Department of Education include in its calculations of expenditures per pupil, all categorical funds expended by the various districts. Further, require that the Department make a report concerning per pupil expenditures each year, on or before December 1, to the Director of the Department of Administration and the Director of the Legislative Counsel Bureau.
3. Amend statutes to require school districts to reserve for expenditure in the succeeding year collections of the tax on net proceeds of minerals. Under current practice, districts must expend the money in the year it is received.
4. Adopt a resolution, to be transmitted to the Budget Division in the Department of Administration, recommending that school district ending fund balances, or projections of such balances, be excluded from consideration as a revenue source in the State's budget process.
5. Amend statutes to provide a fiscal incentive within the Nevada Plan to encourage schools to prevent dropouts. Such an incentive would increase the apportionment of state money to school districts whose percentage of pupils dropping out of high school is small. Basic support would be increased by an additional .5 percent if the percentage of pupil dropping out is 2 percent less than the previous year; or, if the percentage of those dropping out is less than 5 percent overall, basic support must increase by 1 percent.

6. Require, within statute, that the State Department of Education allocate money among the various school districts to fund non-traditional programs leading to a high school diploma (adult diploma programs, alternative education programs) by means of multiplying 20 percent of the statewide average basic support per pupil, times the average daily attendance per class.
7. Establish, within statute, a state program for funding local instructional programs for summer school or the intersession instruction for certain pupils. Eligible students include those with disabilities, pupils whose families have low incomes, those who are academically at risk, those who are not proficient in English.
8. Amend statutes to enhance funding for special education by:
 - Increasing the amount per special education unit to equal the average salary and fringe benefits of a special education teacher;
 - Adjusting the number of special education units based upon projected changes in the total number of pupils enrolled statewide in special education compared to the previous year; and
 - Expanding the definition of a program unit to include psychologists, counselors, nurses, occupational and physical therapists, and instructional aides (as a proportionate share of the cost of a teacher). To qualify, each of these individual's services must be dedicated exclusively to special education students.
9. Require, by statute, [and amend NRS 388.440(1)] that the State Board of Education adopt regulations establishing criteria to identify the exceptionally gifted and talented pupil (a pupil whose educational performance would be adversely impacted in the regular school program), and that each district is required to provide services to pupils so identified. Further, require that a unit-type funding be established, separate and in addition to special education unit funding, for services provided to these pupils.
10. Include in the subcommittee's final report a statement urging funding for bilingual programs and English as a second language (ESL) programs in Nevada's public schools.

11. Adopt a resolution urging that the State Superintendent of Public Instruction examine the proposal to extend hours of class time in public schools, extend the school year, expand the number of hours certain school facilities remain open (science lab, library, computer room, and gym, for example); and provide subject-specific educational opportunities to certain teachers.
12. Include in the subcommittee's final report a statement urging funding for computers and staff development for computers in Nevada's public schools.
13. Include in the subcommittee's final report a statement urging that the legislature examine the proposal to require that a fixed percentage of any one-time windfalls in the local school support tax revenues be provided to school districts for capital construction needs. Further, require that a letter to this effect be transmitted to the Chairmen of the Senate Committee on Finance, Senate Committee on Human Resources and Facilities, Assembly Committee on Education, and Assembly Committee on Ways and Means.

EDUCATION POLICY AND GOVERNANCE ISSUES

14. Include in the subcommittee's final report a statement recognizing the need for quality data and other information for policymakers with regard to Nevada's system of public education. Encourage the State Department of Education to request appropriate funding levels to support the research and evaluation needs of state and local policymakers.
15. Require, by statute, that school districts provide a school-by-school measurement of school violence incidents, and further make a report of such incidents available to parents. Further, require that school districts improve data collection and reporting for dropout statistics (reporting dropouts and drop-ins on a regular basis); report class size by grade by school; special education certifications and decertifications; attendance levels (class cuts); material and book shortages; number and age of computers; and average teacher salary by school.
16. Adopt a resolution to be transmitted to the Department of Human Resources urging Nevada's full participation in the national "Kids Count"

survey. This survey provides statistical information for the 50 states concerning selected aspects of child health and welfare matters.

17. Require, by statute, the accreditation of all public elementary and secondary schools in Nevada using the "dual system" utilized by other states. Such a system combines state and regional accreditation processes and standards. The State Board of Education would adopt regulations specifying State accreditation requirements in addition to those specified by the regional accreditation body.
18. Require, by statute, that Nevada adopt a program for charter schools, based upon a system used in Minnesota. Initially, the program limited the number of charter schools to eight statewide. Charter schools are not organized by state or local school boards, but by individuals or groups.

Under Minnesota law, a school board may sponsor one or more licensed teachers to operate a charter school. It can be proposed as a new school, an existing school converted to a charter school, or a school within an existing school. A letter of intent is generated by the teachers to the prospective sponsor. The letter must include a program description addressing one or more of the six purposes described in the charter school law: 1) to improve individual learning; 2) to increase learning opportunities for students; 3) to use different and innovative teaching methods; 4) to create different and innovative forms of measuring learning outcomes; 5) to establish new forms of accountability for schools; and 6) to create new professional opportunities for teachers. The letter must also include accountability provisions, a plan for administering the school, target student population, fiscal procedures and other policies and procedures.

Charter schools are legal entities, organized as either cooperative or non-profit corporations. Such schools are not restrained by statutes and rules that govern school boards and school districts; they need only comply with those rules that apply to charter schools. Failure to meet achievement goals, or any other violation of the law results in termination of the contract. Charters must be renewed after their initial terms (up to 3 years) are over. The law specifies governance by a board of directors elected by the parents of students in the school. Transportation is provided by the district for students residing within its borders, and for transport of students outside the district from its border to the charter school.

19. Include in the subcommittee's final report a statement urging faster implementation of Nevada's school site-based management law (Chapter 664, *Statutes of Nevada 1993*). Further, encourage school districts to include parents and community members in decision making at the local site level and at all other levels.
20. Adopt a resolution directed to the boards of trustees for each school district expressing the importance of parental involvement for increasing a pupil's success in school, and setting a statewide goal of increasing parental involvement in Nevada's public schools.
21. Adopt a resolution urging the United States Congress and the Federal Government to fully fund all Federal education mandates.

ISSUES RELATING TO PUPILS AND STAFF

22. Require, by statute, that the State Department of Education and the Division of Child and Family Services jointly study the continuum of educational services available to violent and disruptive pupils in Nevada. Further, these agencies must report to the 1997 Legislature concerning the existing structure within each school district and the State and any recommendations.
23. Include in the subcommittee's final report a statement urging the adoption of the following strategies to address school safety:
 - Urge law enforcement to provide police reports to principal on a timely basis concerning incidents off school grounds committed by school pupils if the Juvenile Master is of the opinion that the school administrator should be so notified.
 - Establish the maximum size (student population) of schools.
 - Urge larger school districts to provide alternative schools for violent pupils based upon the Colorado districts--streamlined program, no band, no athletics, smaller facility.
24. Require, by statute, the revision of Nevada's expulsion/suspension rules for violent/disruptive students to provide clear definitions and behavioral requirements for school districts to follow, using the Akron, Ohio, School

District policy as a model and allowing for due process in such proceedings.

25. Provide, by statute, an incentive grant program, administered by the State Department of Education, for the implementation of school-linked services in certain high risk elementary schools. This term refers to the practice of providing social, health and other support services at the school site or in school-linked locations.
26. Adopt a resolution urging school districts to change the present school breakfast-lunch program to focus upon a healthy, low-fat, low-sugar, high-fiber diet.
27. Repeal NRS 385.190. This section of law requires the Superintendent of Public Instruction to plan and conduct teachers' conferences and school administrators' conferences throughout the state. The law specifies a time limit of 5 days per conference, and caps the total expenditure for all conferences at \$8,400 per biennium. Further, add a statement in the report that it is the subcommittee's intent that the conferences described in the repealed section would be matters better left to the education community.
28. Adopt a resolution urging the University Colleges of Education to train students regarding methods for dealing with parents.
29. Require, by statute, that teachers possess adequate knowledge concerning the instruction of persons with disabilities in a regular classroom and concerning laws relating to such children. The Commission on Professional Standards is required to specify required courses of study to meet this requirement.
30. Require, by statute, that the State Board of Education create a program to encourage school districts to establish Professional Development Schools--such a program provides teachers with access to the best available research information and allows them to act in collegial manner. The program also encourages teachers to do research in their own classrooms.
31. Require, by statute, the implementation of policy recommendations for linking teacher education to school reform. These recommendations are as follows:

- a. The State Legislature should adopt statutory provisions declaring it to be the State's intent that institutions of higher education and the public schools shall collaborate in the preparation of teachers so that all new teachers shall be prepared to support and enhance school restructuring.
- b. The State Legislature should clearly designate the party or parties responsible for directing the "simultaneous renewal" of teacher education and school restructuring. The Legislature should define the roles and responsibilities of each party and provide the structure to guide the working relationships of the various entities, i.e., the State Department of Education, the University and Community College System of Nevada, the local school districts and the individual institutions of higher education.
- c. The Commission on Professional Standards should set standards for the basic-skill levels, teaching performance and knowledge base expected of all candidates receiving a State teaching license and indicate how it will assess or confirm these requirements.
- d. Through standards, the State should indicate its expectation for critical conditions and programs to undergird all teacher education programs. Emphasis should be on the collaborative efforts expected from institutions of higher education and the local school districts and those conditions that are absolutely essential to the preparation of teachers in meeting State licensing standards.
- e. The State should see the beginning teacher's induction period as an integral part of the teacher preparation sequence. The State should express its expectation that the same collaborative effort involving arts and sciences faculty, pedagogical experts and school district personnel begun in the early stages of the teacher preparation program be continued through at least the first year of teaching.
- f. As part of a comprehensive teacher education program, the State should require recertification programs related to individual teacher needs and advancement of school and district needs and objectives.
- g. The State should adopt funding mechanisms for establishing the components of a comprehensive teacher education and school renewal program. In doing so, State funding practices should be

recognized as being a powerful vehicle for retarding or stimulating institutional change.

- h. The State should adopt a plan for evaluating the effectiveness of the teacher education system by which teachers are prepared to serve the schools of the State. This means a periodic review of the legislative structure, the validity and contribution of the standards set, the relationship of the teacher education system to other staff development efforts and the adequacy and use of the resources invested.

Further, encourage collaborative councils, such as the "Washoe K-16 Council," as a mechanism for implementing systemic educational review and reform.

- 32. Include in the subcommittee's final report a statement urging the Legislature to provide sufficient funds for at least one counselor in each public elementary school in Nevada.
- 33. Appropriate funds (\$2,252,781 for each year of the 1995-1997 biennium) for the enhancement of occupational education in grades 9 to 12. The money is to be used to establish classes in grades 9 and 10 on occupations in general, and to improve occupational classes for pupils in grades 10, 11, and 12. The money shall be distributed to the districts according to a formula using a base allocation and proportional enrollment.
- 34. Require, by statute, (and provide a one-time appropriation of \$1,376,340 for fiscal year 1996), that the State Board of Education adopt regulations to establish a course of study relating to home and occupational skills. The course would be offered in the seventh and/or eighth grade, and would instruct students in skills relating to making decisions, solving problems, and management and leadership. Students would learn to apply these skills in all areas of daily living.
- 35. Adopt a resolution to be transmitted to the Nevada members of the National Federation of Independent Businesses, the Nevada Resort Association, the Nevada Restaurant Association, and the Chambers of Commerce for each incorporated city in Nevada, urging employers to develop policies that will actively encourage and assist their workers to obtain a high school diploma or certificate of high school equivalency.

BULLETIN 95-4

USE, ALLOCATION AND MANAGEMENT OF WATER

S.B. 327 - 1993 Session

Members

Senator Mark A. James, Chairman
Assemblyman Joseph E. Dini, Jr., Vice Chairman
Senator Ernest E. Adler
Senator Dean A. Rhoads
Assemblyman Val Z. Garner
Assemblyman Joan A. Lambert

Principal Staff

Brian L. Davie, Senior Research Analyst
(687-6825)

Senate Bill No. 327—Senators James, Smith, O'Connell, Adler, Brown, Callister, Coffin, Glomb, Hickey, Jacobsen, Lowden, McGinness, Neal, Nevin, O'Donnell, Raggio, Rawson, Rhoads, Shaffer, Titus and Townsend

CHAPTER 655

AN ACT relating to water; creating a legislative committee to study the use, allocation and management of water in this state; providing for its organization, powers and duties; and providing other matters properly relating thereto.

WHEREAS, The waters of the State of Nevada are among its most precious and vital resources; and

WHEREAS, The State of Nevada is the most arid state in the country and has relatively few supplies of surface water and ground water, a condition which is periodically exacerbated by drought conditions in Nevada and in the Rocky Mountains which supply the headwaters of the Colorado River; and

WHEREAS, Adequate, long-term supplies of water are essential to maintaining stable economic growth and the development of rural and urban areas of this state; and

WHEREAS, The conservative and prudent use of supplies of water is necessary to promote adequate, long-term supplies and to protect the environment of this state; and

WHEREAS, The rapid growth in the population and the economy of this state within the last 20 years has placed growing demands on the limited water supplies and has resulted in an increasing number of projects for the reallocation of water resources from areas of supply to areas of demand; and

WHEREAS, The residents of this state are vitally interested in the decisions made relating to the allocation of Nevada's scarce water resources; and

WHEREAS, The growing need for new water supplies has made it imperative that the State of Nevada effectively seek additional allocations of water from the Colorado River and other potential sources of water outside of the state in the western United States; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. The legislative committee to study water, consisting of six members, is hereby created.

2. The following persons shall serve as members of the committee:

(a) Three members of the senate of the 67th session of the Nevada legislature, appointed by the majority leader of the senate; and

(b) Three members of the assembly of the 67th session of the Nevada legislature, appointed by the speaker of the assembly.

3. The members of the committee shall select the chairman and vice chairman of the committee from among their members.

4. Any member of the committee who does not return to the legislature may continue to serve until the completion of the committee's report.

5. Any vacancy on the committee must be filled by the authority entitled to appoint the member whose position is vacant.

6. Except during a special session of the legislature, members of the committee are entitled to receive the compensation provided for a majority of the members of the legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the committee or is otherwise engaged in the business of the committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207.

7. The director of the legislative counsel bureau shall provide the necessary professional staff and a secretary for the committee.

Sec. 2. The legislative committee to study water shall study the use, allocation and management of water in this state, including, but not limited to:

1. The laws of this state related to the method by which the public's interest in the allocation and management of water resources is carried out and protected;

2. The laws of this state governing conservation in the use, allocation and management of water resources;

3. An examination of the fees charged by the state engineer and of the method used to determine the amount of money necessary to support the activities of the division of water resources of the state department of conservation and natural resources;

4. An examination of the structure, authorities, relationships, funding and activities of the state and local agencies that are required to allocate and protect existing water resources, secure new water supplies, distribute water and adopt long-term plans to meet the present and probable future demands for water in this state;

5. The advisability of creating a state commission on water resources for the purpose of combining the division of water planning of the state department of conservation and natural resources, the division of water resources of the state department of conservation and natural resources, including the state engineer, and the Colorado River commission into an integrated state agency with appropriate regional representation; and

6. An examination of any other issues related to the use, conservation, allocation and management of water resources that may affect the economy or the environment of this state.

Sec. 3. All agencies of the state and the political subdivisions of the state involved in the use, allocation and management of water shall cooperate with the legislative committee to study water and furnish to the committee all information and material which the committee requests to conduct its study and prepare its report.

Sec. 4. The legislative committee to study water shall submit to the legislative commission a report of its findings and recommendation for legislation before the commencement of the 68th session of the Nevada legislature.

Sec. 5. This act expires by limitation on January 1, 1995.

ABSTRACT

USE, ALLOCATION AND MANAGEMENT OF WATER (S.B. 327)

The 67th Session of the Nevada Legislature adopted Senate Bill 327 (Chapter 655, *Statutes of Nevada 1993*, pages 2862 and 2863). The bill created the Legislative Committee to Study Water and directed the committee to study the use, allocation and management of water in Nevada. Senate Bill 327 specified that the committee consist of six members, to include three senators appointed by the Majority Leader of the Senate and three members of the Assembly appointed by the Speaker of the Assembly.

The water study committee held six meetings around the State to evaluate both regional and statewide water issues in Nevada. The committee's first meeting in Las Vegas focused on southern Nevada issues, and the second meeting held in the Reno/Sparks area dealt with issues relating to the northwestern area of the State. The third hearing in Yerington focused on the Walker River Basin, while the fourth meeting in Elko dealt with rural water issues to include mine dewatering and the federal acquisition of water rights in the State. The fifth meeting in Las Vegas covered a variety of issues, including water importation projects and a groundwater replenishment district. The final, work session meeting was held in Carson City.

All of the meetings were well-attended, the committee heard extensive testimony, and dozens of recommendations on water issues throughout the State were presented to the committee. Two subcommittees were created to deal with particularly complex issues relating to: (1) water rights titling; and (2) staffing and funding the Office of the State Engineer.

The committee adopted 30 recommendations pertaining to the State Engineer's Office and procedures, the creation of a groundwater replenishment district in the Las Vegas Valley, water planning and conservation, water transfer issues, federal actions affecting the State's water law, changes to Nevada's irrigation law, and the State's safe drinking water program. Background information on water issues and discussion of the recommendations are contained in the committee's final report.

SUMMARY OF RECOMMENDATIONS
USE, ALLOCATION AND MANAGEMENT OF WATER
(S.B. 327)

The following is a list of the recommendations adopted by the Legislative Committee to Study the Use, Allocation and Management of Water.

I. STATE ENGINEER'S OFFICE AND PROCEDURES

A. Water Rights Titling

1. Adopt legislation to amend subsection 2 of NRS 533.385 to delete the language that requires the assignment of an application or permit to appropriate water to be filed for record in the Office of the State Engineer for such an assignment to be binding. The legislation is not to change the first portion of subsection 2 of NRS 533.385 that allows any application or permit to be assigned subject to the conditions of the permit.
2. Require by statute that all transfers of water rights must be recorded at the County Recorder's Office in the county or counties of the place of use of the water, as well as the county wherein the point of diversion lies, regardless of the number of counties affected. (Note: The same "race-notice" system which applies to real property transactions would apply to this recording notice procedure for water rights transfers.)
3. Adopt a new provision in the statutes that would require all persons transferring or changing water rights to submit to the Office of the State Engineer abstracts of title and copies of conveyance documents for the State Engineer's purposes on a form to be established by that office, to facilitate action on and notice of change applications and transfers of water rights and to provide adequate assurance that the State Engineer is dealing with the true owner of the applicable water rights. (Note: In conjunction with Recommendation No. 2, require that an abstract of the transaction be submitted to the Office of the State Engineer on a form to include all pertinent information together with a filing fee.)

4. In reference to the ownership and conveyance of water rights, clarify that:
 - a. Water right applications, permits and certificates go with the land if the deed is silent on the subject.
 - b. Within 30 days after the final judgment is rendered in a case involving adjudicated water rights, the clerk of the court is required to deliver a certified copy of the judgment to the State Engineer and file it with the county recorder in the counties where the water is diverted and used.
 - c. An exception is made for stock ownership in ditch companies, so it would not be included in provisions that require water rights to be conveyed or reserved by deed in substantially the same manner as an estate or interest in lands.
 - d. The real property transfer tax applies to conveyances of water rights that are recorded at the county recorders' offices.
 - e. Certified copies of documents from the county recorder are not to be required by the State Engineer.
 - f. The new provisions relating to conveyances and reservations of water rights are not retroactive.
5. Adopt a requirement for the county recorder to promptly transmit a certified copy of a water rights deed to the irrigation district if the place of use of the water is wholly or partly within the boundaries of an irrigation district.
6. Provide for the establishment of a geographic information system (GIS) applicable to abstracts of title to complete the mapping work on the Truckee River decreed rights; and place other water systems statewide on such a GIS in an expedited fashion.

B. Staffing and Funding

7. Recommend that the Senate Committee on Finance and the Assembly Committee on Ways and Means consider for approval the funding of seven additional positions and certain one-shot appropriations for the Division of Water Resources to help deal with the backlog of water rights applications and improve the service capabilities of the Office of the State Engineer.

C. Definition of Subsisting Right

8. For purposes of NRS 533.492, define in statute a "subsisting right" to water livestock as an "existing right."

D. Speculation

9. Adopt statutory language to require that the State Engineer find, before granting a water rights permit, that the person has the financial means and the reasonable expectation of applying the water to beneficial use with reasonable diligence.

E. "Mother-In-Law Quarters"

10. Amend the applicable provisions in Chapter 534 of NRS to allow for the use of water from domestic wells in "mother-in-law quarters" or other similarly restricted types of additional units to a single-family dwelling. For example, change the definition of "domestic use" in NRS 534.013 to "domestic purposes" and expand the definition to include uses, buildings or facilities that are incidental and secondary to and which do not operate independent of the single-family dwelling use, or language to that effect. Allow the State Engineer to determine other uses, buildings or facilities that may be incidental and secondary to a single-family dwelling use.

F. Technical Changes

11. Amend the law in NRS 533.285, 533.290 and 534.040 to change the term "tax" to "assessment" so that the language more accurately reflects the nature of these charges.

12. Amend NRS 533.010 and NRS 534.014 to broaden the definition of person and make them consistent. Define "person" in these chapters to include "the State of Nevada, any political subdivision of this State or another state, any agency of this State, of another state or of the United States, or any Indian tribe, group of tribes or organized segment of a tribe," or language to that effect.

II. GROUNDWATER REPLENISHMENT DISTRICT

13. Adopt legislation to allow for the establishment of a groundwater replenishment district (GRD) in Clark County to provide a funding and

administrative mechanism for the protection and recharge of the depleted groundwater basin in the Las Vegas Valley. Include citizen representation on the governing board of the GRD, or include provision for an advisory or citizens committee of members who have domestic wells. Amend Chapter 534 of NRS to permit in-lieu groundwater banking in areas that have established a GRD. (See outline entitled "Legislation For Establishing A Groundwater Replenishment District".)

III. WATER PLANNING

14. Recommend that the Senate Committee on Finance and Assembly Committee on Ways and Means consider, for approval, funding for a sufficient number of positions in the Division of Water Planning to allow the Division to adequately put together a state water plan; and adopt statutory language to require the Division to coordinate with all local governments on watershed planning to develop a statewide, coordinated water plan and to ensure that local governments coordinate with the State on the development of the plan.

15. Establish requirements in State law to protect identified water needs for current and future development in the rural areas, within the State water plan, to preclude interbasin transfers from adversely affecting local communities and their related economies and lifestyles.

IV. CONSERVATION AND CONSERVATION CREDIT SYSTEMS

16. Add requirements to the water conservation laws in Chapter 540 of NRS for suppliers of water, who were required to adopt a water conservation plan by July 1992, to report their progress and update the plan on a 4-year basis. Allow 90 days for review of the update report by the Division of Water Planning and require the next revision to be adopted by July 1996.

17. Establish in statute a conservation credit system to encourage users to conserve or store water. Allow a person to apply to the State Engineer for a conservation credit, place the burden on the applicant to prove that he has implemented some recognized method of water salvaging or conservation technology and that actual water usage has been reduced based upon past usage to qualify for a credit, and provide discretion to the State Engineer to decide if an application qualifies for a conservation credit.

V. PUBLIC INTEREST CRITERIA

18. The committee makes no specific recommendation on public interest criteria because other recommendations adopted by the committee, such as those relating to speculation, conservation and water transfers, effectively deal with the primary public interest concerns identified in the State's water laws through the committee's study.

VI. WATER TRANSFER ISSUES

19. Include in the policy statement for the state water plan, to be adopted by the Legislature, general criteria for the approval of water transfer applications and related determinations that pertain to the movement of water from one basin to another. The general criteria should include evidence that (1) the project is fair and equitable to the area of origin; (2) the project is environmentally sound; and (3) the project is an appropriate, long-term solution which will not unduly limit future development and growth of the area of origin.

20. Amend Subsection 1 of NRS 533.438 to provide for an annual inflation adjustment to the tax rate on the transfer of water by the county of origin.

VII. FEDERAL ACTIONS

21. Submit a comment letter from the committee to the Bureau of Land Management before July 28, 1994, to express the committee's concerns about the water rights provision in the Rangeland Reform '94 proposal, and include a draft federal regulation that would incorporate Nevada's three-way system.

22. Draft a bill for the 1995 Session to amend the State's water law to provide for use of the "three-way system" in reference to the acquisition of water rights on public lands for purposes of livestock watering.

23. Adopt a joint resolution that urges the Federal Government to recognize and respect the primacy of State water laws.

VIII. IRRIGATION LAWS

24. Amend the State's irrigation district law in NRS 539.705 to eliminate the 40 acre and single ownership rules in reference to the procedure for transferring to other lands the storage rights and benefits of the irrigation district on lands that previously were stripped of such rights due to the failure to pay taxes and assessments. Add language to this provision to establish criteria for the board of directors of an irrigation district to consider when it exercises its discretion to grant or refuse a petition on such a transfer. The criteria is to include the effect of the proposed change on the cost of water in the district, the district's efficiency, existing water rights and the public interest.

IX. SAFE DRINKING WATER PROGRAM

25. Recommend that the Senate Committee on Finance and Assembly Committee on Ways and Means consider, for approval, three additional staff positions in the Bureau of Health Protection Services of the State Health Division to allow the State to maintain primacy and furnish technical assistance to water suppliers under the Safe Drinking Water Program. [Positions would be for (1) lead and copper rule implementation; (2) implementation of new, anticipated regulations on arsenic, radon, sulphate and groundwater disinfection; and (3) provision of technical assistance and issuance of monitoring waivers.]

26. Recommend that the Senate Committee on Finance and Assembly Committee on Ways and Means consider, for approval, funding for two staff positions (a chemist and a laboratory assistant) and additional analytical laboratory equipment (approximately \$913,000) for the Bureau of Laboratory Services of the State Health Division to conduct and efficiently report the analyses required for water systems under the Safe Drinking Water Program.

27. Provide incentives for existing non-viable water systems to consolidate or otherwise restructure, including satellite operations (in which a large, well managed utility agrees to manage or operate a small utility). Amend NRS 349.980 *et seq.*, pertaining to grants for capital improvements to publicly owned water systems, to allow the use of this program in providing a financial incentive for a private water system to consolidate.

28. Amend NRS 445.397 to authorize the State Board of Health to grant to the Nevada Training Coalition the proceeds of any administrative penalty imposed on a willful violator of a drinking water statute or regulation.

29. Urge the Senate and Assembly Committees on Natural Resources and LCB staff to monitor Congressional action on the reauthorization bill for the Safe Drinking Water Act to determine if amendments may be necessary to Nevada's laws in the 1995 Session. For example, amendments could be required under the grant program of NRS 349.980 to allow for matching funds from that source for federal money which may be authorized from state revolving loan funds under the reauthorization bill.

X. WALKER RIVER BASIN

30. Adopt a resolution to Nevada's congressional delegation urging action by the Congress to approve the Nevada/California interstate compact relating to the Walker River.

31. Adopt a resolution to Nevada's congressional delegation urging action by the Congress to investigate the importation of water from outside the State to help save the lakes in western Nevada, such as Pyramid Lake and Walker Lake.

BULLETIN 95-5

**DISCLOSURE OF INFORMATION IN
REAL ESTATE TRANSACTIONS**

A.C.R. 75 - 1993 SESSION

Members

Assemblyman William A. Petrak, Chairman
Senator Raymond C. Shaffer, Vice Chairman
Senator William R. O'Donnell
Assemblyman John C. Carpenter
Assemblyman Michael A. Schneider
Assemblywoman Gene Wines Segerblom

Principal Staff

Denice L. Miller, Senior Research Analyst
(687-6825)

Assembly Concurrent Resolution No. 75—Committee on
Elections and Procedures

FILE NUMBER 178

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the laws relating to the disclosure of information in real estate transactions.

WHEREAS, There is general public concern regarding the disclosure of information in real estate transactions, particularly with regard to planning and zoning matters and future transportation routes; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the laws relating to the disclosure of information in real estate transactions; and be it further

RESOLVED, That the committee appointed by the Legislative Commission to conduct the study shall:

1. Review and evaluate the current laws of this state concerning the disclosure of information in real estate transactions;
 2. Review and evaluate the implementation of any laws concerning the disclosure of information in real estate transactions passed by the 67th session of the Legislature; and
 3. Analyze the effectiveness of those laws in requiring that information concerning the planned or proposed routes of streets and highways be disclosed to a purchaser of real estate;
- and be it further

RESOLVED, That the Legislative Commission report the results of the study and recommended legislation to the 68th session of the Nevada Legislature.

③

ABSTRACT

DISCLOSURE OF INFORMATION IN REAL ESTATE TRANSACTIONS (A.C.R. 75)

The 67th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 75 (File No. 178, *Statutes of Nevada 1993*, pages 3122-3123), which directed the Legislative Commission to conduct an interim study of the disclosure of information in real estate transactions. The study was to include a review of current laws relating to disclosure of information and an evaluation of the effectiveness of those laws in requiring that proposed routes of streets or highways be disclosed to a purchaser of real estate.

The Legislative Commission appointed a subcommittee of six legislators to examine the issues and compile recommendations addressing problems related to real estate disclosure.

The subcommittee held three public hearings in Las Vegas. Much of the testimony concerned mandatory property condition disclosure, which was proposed by several members of the public and by representatives of governmental agencies and the real estate industry.

At the subcommittee's fourth and final meeting, a work session in Carson City, legislators adopted 12 recommendations, addressing modifications to existing disclosure law, real estate professional licensing, and mandatory property condition disclosure.

Detailed descriptions of these recommendations and related testimony may be found in the subcommittee's final report.

SUMMARY OF RECOMMENDATIONS

DISCLOSURE OF INFORMATION IN REAL ESTATE TRANSACTIONS (A.C.R. 75)

EDUCATIONAL AND LICENSING REQUIREMENTS FOR REAL ESTATE PROFESSIONALS

1. Require the Real Estate Division to include in its regulations concerning courses of real estate instruction for an original real estate salesman's license the requirement that such courses contain a section concerning disclosure of information in real estate transactions, including where information subject to disclosure may be found.

ADDITIONS OR CHANGES TO EXISTING DISCLOSURE REQUIREMENTS

2. Amend *Nevada Revised Statutes* (NRS) 40.565 to specify that, in any sale of real property:
 - a. The fact that the property is or has been the site of any death, not only homicide and suicide, is not material to the transaction; and
 - b. The agent of the buyer is not liable to the buyer for failure to disclose any fact described in that section.
3. Require the landlord of a mobile home park to provide to a prospective tenant, at the time of application for residency or, if no application is made, before the tenant signs an initial rental agreement, a separate written document that provides, for the lot which is proposed to be rented, a history of rental increases and the total rental charges for the past 5 years, or from the date the lot was available for rental, whichever is less.
4. a. Amend NRS 113.070 to include among that information that certain sellers are required to disclose to purchasers:
 - (1) The contents of the master plan for the area in which the residence is located; and

- (2) Notice of any services, utilities, roads, or improvements affecting the residence that are to remain privately owned and maintained. This notice must indicate whether the purchaser, a homeowners' association, or other entity will be responsible for that ownership or maintenance; and
- b. Require the Real Estate Division to establish, by regulation, what information contained in a master plan must be disclosed pursuant to this recommendation.

MANDATORY REAL PROPERTY CONDITION DISCLOSURE

- 5. Require the completion of a real property condition disclosure form by the seller of real property containing at least one but not more than four dwelling units. Further require the seller or his agent to serve* the buyer or his agent with the form before the close of escrow or other transfer of the residence.
- 6. If a previously unknown defect** or worsening of a defect is discovered before the close of escrow or other transfer of the residence, and after service of the real property condition disclosure form, require the seller or his agent to inform the buyer or his agent of the defect, orally or in writing, as soon as practicable after discovery of the defect, or before the close of escrow or other transfer of the residence, whichever is sooner.

Exemptions

- 7. Provide that the following are exempt from the real property disclosure requirement:
 - a. Sales by entities referred to in paragraph (a) of subsection 2 of NRS 645.240;
 - b. Transfers pursuant to court orders (for example, divorce cases, foreclosure sales, and bankruptcies);
 - c. First sale of a residence that has never been occupied, if the residence is constructed by a licensed contractor;
 - d. Transfers between co-owners, spouses, or persons related within the third degree of consanguinity; and

- e. Transfers by a person who takes temporary possession or control of or title to real property solely to facilitate the sale of the property by a seller who relocates to another county, state, or country.

Development of the Disclosure Form

- 8. Require the Real Estate Division to develop, by regulation, the real property condition disclosure form. Stipulate that the form must:
 - a. Evaluate, at a minimum, conditions related to electrical, heating and cooling, plumbing, and sewer systems;
 - b. Allow the seller to indicate, for each condition described on the form, whether the condition is defective,** not defective, or unknown; and
 - c. Include, among other provisions, statements to the effect that:
 - (1) The disclosures set forth on the form are made by the seller and not by any agent; and
 - (2) The seller, the seller's agent, and the agent of a buyer or potential buyer are authorized to disclose the form and its contents to a buyer or potential buyer.

Limitations on Liability

- 9. Provide that the seller is not liable for failure to identify, and thus disclose, defects** of which he is unaware.
- 10. a. Provide that the real property condition disclosure form is not an express or implied warranty, but rather a good faith disclosure of the condition of the real property. Further stipulate that the seller is not responsible for an error or omission in the disclosure form if the error or omission was based upon information provided by the state or its political subdivisions or by a licensed engineer, contractor, land surveyor, or pesticide applicator, other than the seller; and
- b. Provide that the form must include a statement setting forth the limitations in section a. of this recommendation.

Rights of the Buyer

11. Provide that the buyer may waive, in writing, his right to receive a real property condition disclosure form or other disclosure.
12. a. Provide that a buyer who is not served* with the real property condition disclosure form before the close of escrow or other transfer of the residence has the right to rescind the sales contract prior to the close of escrow or other transfer of the residence. A waiver of the right of rescision, if the buyer chooses to waive, must be exercised in writing; and
 - b. (1) Provide that the buyer has the right of rescision of the sales contract if, before the close of escrow or other transfer of the residence, he is informed by the seller or his agent of a defect** that was not revealed in the sales contract; and
 - (2) Stipulate that the right of rescision must be exercised in writing and served* to the seller, or in the case of an escrow, to escrow no later than 3 working days, not counting the day of service, after the buyer or his authorized representative has been informed of the defect; and
 - c. Provide that if:
 - (1) A buyer is served* with a real property condition disclosure form before close of escrow or other transfer of the residence, and
 - (2) A defect** is indicated on the form that was not revealed in the sales contract,then the buyer may maintain an action at law against the seller for actual damages for the repair or replacement of the defect; and
 - d. (1) Stipulate that if:
 - (a.) Escrow closes or the residence is otherwise transferred without the buyer's having been informed of all defects** of which the seller is aware; and

(b.) There is a defect of which the seller is aware that has not been revealed in the sales contract or otherwise disclosed,

then the buyer may maintain an action at law against the seller for treble damages in addition to attorney fees and court costs; and

(2) Further provide that the buyer must commence the right of action no later than 1 year from the date of discovery of the defect, but the cause of action shall be deemed to accrue no later than 1 year after the close of escrow or transfer of the residence.

* *For the purposes of these recommendations, "service" is complete upon personal delivery of the form to the buyer or his authorized agent or 3 days after mailing the form to the buyer or his agent, to the last known address of either, postage prepaid.*

** *For the purposes of these recommendations, "defect" means a condition that materially affects the value or use of the residence in an adverse manner.*

BULLETIN 95-6

CRIMINAL JUSTICE SYSTEM IN NEVADA

A.C.R. 76 - 1993 SESSION

Members

Senator Ernest E. Adler, Chairman
Assemblyman Wendell P. Williams, Vice Chairman
Senator Lawrence E. Jacobsen
Senator Mark A. James
Assemblyman Morse Arberry, Jr.
Assemblyman Richard D. Perkins
Assemblyman Scott Scherer
Assemblywoman Stephanie S. Smith

Principal Staff

Dennis Neilander, Senior Research Analyst
(687-6825)

Assembly Concurrent Resolution No. 76—Assemblymen Wendell Williams, Petrak, Hettrick, Bonaventura, Perkins, Carpenter, Bennett, Augustine, Collins, Arberry, Porter, Gibbons, Freeman, Smith, Bache, Toomin. Chowning, Schneider, Spitler, de Braga, Price, Haller, Anderson, Ernaut and Kenny

FILE NUMBER 179

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the criminal justice system in Nevada.

WHEREAS, During the past decade, there has been an overwhelming growth in the rate of incarceration in Nevada's jails and prisons; and

WHEREAS, Because of this growth which has caused serious crowding of our prisons and jails, there has been a negative impact on available money for other services including the maintenance of a sound infrastructure, business growth, education and the general welfare of Nevada's future economy;

WHEREAS, Nevada's outlook for prosperity in the future will be directly affected if the rate of incarceration continues to increase; and

WHEREAS, The criminal justice system of Nevada has become inundated with criminal cases which poses a problem to the entire judicial system; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of the criminal justice system in Nevada; and be it further

RESOLVED, That the study include:

1. Whether discretion is being exercised by law enforcement officers when making decisions as to whether to file criminal charges;
 2. The criteria used to determine whether to admit a defendant to bail and if so in what amounts;
 3. The factors relating to the assignment of counsel and access to counsel once counsel is appointed;
 4. An analysis of decisions which have been made by juries and judges in criminal cases to determine if they have been made without bias;
 5. Access by indigent persons to post-conviction remedies and other matters as they relate to parole;
 6. The methods used in the selection of jurors;
 7. A comparison of sentencing decisions relating to probation, incarceration and fines;
 8. Review of the processes used in plea negotiation and bind-over decisions; and
 9. Inquiry into the matter of economic and racial injustice in the administration of the criminal system;
- and be it further

RESOLVED, That the results of the study and any recommended legislation be reported to the 68th session of the Nevada Legislature.

ABSTRACT

CRIMINAL JUSTICE SYSTEM IN NEVADA (A.C.R. 76)

The 1993 Nevada Legislature adopted Assembly Concurrent Resolution No. 76 (File No. 179, *Statutes of Nevada 1993*, page 3123) which directed the Legislative Commission to conduct an interim study of the criminal justice system in Nevada.

The Legislative Commission appointed a subcommittee of eight legislators to complete the study. The subcommittee held four meetings in Las Vegas and one in Carson City, although all meetings were video conferenced between Carson City and Las Vegas. Testimony from prosecuting attorneys, public defenders, members of the judiciary, law enforcement entities, citizens, and various representatives of interested groups focused on recommendations to reform the criminal justice system.

The subcommittee adopted a total of 26 recommendations addressing issues in the following areas:

1. Bail reforms designed to streamline and equalize the system.
2. Cultural awareness training for peace officers.
3. Sentencing of habitual offenders.
4. Truth in sentencing.
5. Possession of firearms by juveniles.
6. Disposition of confiscated weapons.
7. Drug- and alcohol-related crimes.
8. Abuse and fraud concerning prescription drugs.

Detailed descriptions of these recommendations may be found in the subcommittee's final report, *Legislative Counsel Bureau Bulletin No. 95-6*.

SUMMARY OF RECOMMENDATIONS

CRIMINAL JUSTICE SYSTEM IN NEVADA
(A.C.R. 76)

The Legislative Commission's Subcommittee to Study the Criminal Justice System in Nevada recommends the following:

BAIL REFORM

1. Amend *Nevada Revised Statutes* (NRS) 178.4851 to statutorily establish a conditional release mechanism which is a nonsecurity release imposing restrictions on the activities and associations of the defendant. The defendant would be required to execute a release agreement and bail may be revoked if the agreement is breached. The statutory conditions would include:
 - a. Release of the defendant into the care of a qualified person or organization responsible for supervising the defendant and assuring appearance.
 - b. Reasonable regulations concerning the activities, movements, associations, and residences of the defendant, including the option of restriction to residence.
 - c. Release during working hours.
 - d. Any other reasonable restriction designed to assure the defendant's appearance.
2. Amend Chapter 178 of NRS to authorize the district, justice, and municipal courts to appoint a release assistance officer. The release assistance officer shall, unless impractical, interview each person detained and charged with an offense and verify the release criteria set forth in NRS 178.4853. The release officer may submit a written report to the presiding judge including an evaluation of the defendant or, if delegated release authority, make the release decision.
3. Amend Chapter 178 of NRS to provide a security release mechanism for defendants admitted to bail but unable to provide adequate security for a private bond. Include the following elements:

- a. The defendant must execute a release agreement. The burden of establishing that the defendant cannot obtain a private bond is upon the defendant.
 - b. The defendant must deposit with the court a sum of money equal to 10 percent of the security amount, but not less than \$25.
 - c. When the defendant has completed obligations under the release agreement, the court must return 50 percent of the 10 percent to the defendant. The court retains the remaining 50 percent, and the interest on the entire deposit, as security release costs.
 - d. Once the matter is final, the money retained by the court must be deposited in the county fund, and may only be used for pretrial services or drug and alcohol treatment programs.
 - e. Provide that failure to appear is punishable as contempt of court.
 - f. Failure to comply with the release agreement results in forfeiture of the entire security amount.
 - g. Provide a summary procedure for default judgment, with the security amount to be satisfied as a civil judgment. Failure to appear at a scheduled court appearance deems the person to have been served notice that the security agreement has been violated.
- 4. Enact legislation that establishes a uniform bail schedule that would be applicable in all counties. The legislation would be based on Clark County's bail schedule.
 - 5. Transmit a letter to the Chief Justice of Nevada's Supreme Court advising that the subcommittee supports the development of a uniform bail schedule and requesting the Court to form a committee representing interested and affected parties to judicially formulate a uniform bail schedule.

CULTURAL AWARENESS

- 6. Amend NRS 481.054, or add a new section to Chapter 481 of NRS that requires a minimum of 20 hours of cultural awareness training for all new cadets in training under the Peace Officers Standards and Training

(P.O.S.T.) Committee. Mandate a minimum of 4 hours of cultural awareness training for continuing education.

7. Include in the final report a statement of commendation for the P.O.S.T. Committee and the Las Vegas Metropolitan and Reno Police Departments for their efforts in training officers in the area of cultural awareness and utilizing community policing methods.
8. Include a statement in the final report urging local law enforcement agencies to:
 - a. Adopt a policy that adheres to the Civil Rights Acts of 1964 and 1991.
 - b. Adopt a platform or policy encouraging and utilizing community-oriented policing.
 - c. Establish a representative citizen council and/or ad hoc law enforcement group that would consist of educators, parents, and other community members. The group should meet regularly and inform the community about goals, programs, responsibilities, and roles of the law enforcement agencies and community members.
 - d. Establish guidelines to implement hiring practices that take into account a person's bias, respect, and impartial treatment of others.

SENTENCING OF HABITUAL OFFENDERS

9. Amend NRS 207.010 to create a "super" habitual offender category as follows:
 - a. The super habitual statute would be triggered by the third violent or sex-related felony. (The current statute requires any three felonies for 10 to 20 years or any four felonies for life with or without parole.)
 - b. The prosecuting agency must charge the defendant as a habitual criminal if the defendant's current charge is a violent or sex-related felony and he has two prior convictions for violent or sex-related felonies in this state, or similar convictions in other states that would be violent or sex-related crimes if committed in this state.

- c. If the defendant is convicted of the current charge of a third violent or sex-related felony, the judge must sentence to life with or without parole.
- d. A violent or sex-related felony is defined as any felony crime with a sentence exceeding 10 years, except drug possession, sale, or trafficking; gaming crimes; or racketeering.
- e. Each conviction must be based on a separate occurrence or incident to qualify for the super habitual statute. More than one conviction arising out of the same criminal conduct would only count as one conviction.
- f. The existing statute remains discretionary regarding the charging and sentencing of habitual criminals.

MANDATORY MINIMUM SENTENCING AND TRUTH IN SENTENCING

- 10. Adopt a resolution calling for a 1995 interim study to reform the criminal justice code. Include in the resolution the need to logically examine the code for antiquated crimes, duplicative crimes, severity of sentences compared with crimes, and sentence structure. Include an examination of truth in sentencing and the possibility of a classification scheme for crimes. The study should examine the elimination of the classification of gross misdemeanor.

POSSESSION OF FIREARMS BY MINORS

- 11. Amend NRS 202.300 by increasing the age limit that prohibits possession of a firearm by a minor from under the age of 14 years to under the age of 18 years. Create an exception for minors engaged in lawful hunting or marksmanship activities.
- 12. Amend NRS 202.300 by increasing the penalty for possession by a minor or aiding or permitting a minor to violate the law from a misdemeanor to a gross misdemeanor. Authorize the court to order a parent or person responsible for such a minor offender to participate in parenting education classes.

13. Amend NRS 202.300 by adding the following additional penalties against minors for illegal possession of firearms:
 - a. First Offense - Up to 100 hours of community service and revocation or delay of issuance of driver's license for up to 1 year. (All delays run from the date the offender would be eligible for a license.)
 - b. Second Offense - Between 100 and 250 hours of community service and revocation or delay of driver's license issuance for up to 2 years.
14. Amend NRS 202.310 by increasing the penalty for sale of a concealable firearm to a person under the age of 18 years from a misdemeanor to a felony.
15. Amend NRS 62.080 to require automatic certification as an adult for juveniles 14 years of age and older who are alleged to have committed a third felony crime (two prior adjudications or adjudications withheld), where at least one crime involved the use of a firearm.

DISPOSITION OF CONFISCATED WEAPONS

16. Amend NRS 202.340 to prohibit the resale or transfer of confiscated weapons by law enforcement agencies except to other law enforcement agencies.
17. Amend NRS 202.340 to clarify the duties of weapons' officers with respect to the sale, destruction, or retention of confiscated weapons. (Not only "dangerous" weapons, but any weapon.)

DRUG- AND ALCOHOL-RELATED CRIMES

18. Amend NRS 209.425 to require Nevada's Department of Prisons (DOP) to expand the alcohol treatment program ("305" Program) to any person convicted of possession or sale of drugs who is an abuser of drugs. The program must include a minimum of 90 days of treatment while in prison.
19. Transmit a letter to the Department of Prisons directing the department to include in its budget the necessary funding to expand the "305" Program to drug abusers.

20. Provide that if an offender is assessed to have a drug or alcohol abuse problem upon admittance to prison, he must enroll in and complete a treatment program, if available. If an offender refuses to participate in the program, that offender is prohibited from earning any sentence-reducing credits.
21. Require the Department of Prisons and Division of Parole and Probation, Nevada's Department of Motor Vehicles and Public Safety (DMV&PS), to establish and implement a system of tracking offenders who have participated in treatment programs. The system should include a cost-benefit analysis of treatment compared with incarceration. Require the results of the tracking system and analysis to be reported to the Chairman of the Assembly Committee on Judiciary and the Chairmen of the Senate Committees on Judiciary and Transportation on or before January 1 of every odd-numbered year.
22. Amend NRS 453.580 to include the use of deferred prosecution for certain offenders who are abusers of drugs and alcohol. The deferred prosecution would authorize the court to require the defendant to waive preliminary proceedings (grand jury, or information) and stipulate to a set of facts that are the basis for the charge. Such stipulation may be used in a subsequent prosecution if the person fails to satisfactorily complete the program. Provide that the court must require the defendant to appear before the court at least every 30 days for 12 months. The court may extend the program to a total of 18 months, if necessary. The defendant shall submit to drug testing and any other form of monitoring or treatment the court orders.
23. Amend Chapter 484 of NRS by requiring persons under the age of 18 years who are convicted of driving under the influence (DUI) of alcohol or a controlled substance to have their license revoked, or delayed if under the age of 16 years, for 6 months.
24. Amend NRS 202.020 to provide that a person under the age of 18 years who is convicted of unlawful purchase or possession of alcohol be subject to a mandatory 90-day driver's license suspension.

ABUSE AND FRAUD RELATED TO PRESCRIPTION DRUGS

25. Adopt a resolution encouraging the formation of a multidiscipline task force to examine the potential benefits and detriments of establishing a

computerized, automated system for monitoring prescription drug data. The system would require pharmacies with the computer capabilities (estimated by the State Board of Pharmacy to be 97 percent) to submit certain dispensing data to a central repository. The task force would be comprised of officials from Nevada's Investigation Division (NID) of the DMV&PS and the State Board of Pharmacy. The task force would create a process for the collection, analysis, and use of essential information on the prescribers, dispensers, and recipients of prescription drugs. The system would be used to identify and resolve any fraudulent or unlawful activities related to the dispensing of pharmaceuticals. The task force would be urged to implement the system and report to the Legislature any changes or additions to the law deemed necessary.

26. Enact legislation requiring Nevada's Investigation Division and the State Board of Pharmacy to implement an electronic system to track prescription drugs. Authorize the board to charge a fee on prescriptions for category I through V controlled substances. The fee may only be used to fund the monitoring program. Require the State Board of Pharmacy to report suspected violations to local law enforcement agencies and NID for investigation. The fee may be charged beginning July 1, 1995. The program would be implemented effective January 1, 1996.

BULLETIN 95-7

CONSERVATION AND DEVELOPMENT OF ENERGY RESOURCES

S.C.R. 35 - 1993 Session

Members

Senator Dina Titus, Chairman
Assemblywoman Vivian L. Freeman, Vice Chairman
Senator Mike McGinness
Senator Randolph J. Townsend
Assemblyman John M. Bonaventura
Assemblyman Marcia D. de Braga
Assemblyman James A. Gibbons

Principal Staff

Donald O. Williams, Chief Principal Research Analyst
(687-6825)

Senate Concurrent Resolution No. 35—Senators Titus and Glomb

FILE NUMBER 182

SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study to review past and present efforts to conserve and develop energy resources in Nevada and to formulate a policy on the use and sources of energy in this state.

WHEREAS, With the recent endorsement of the Earth Summit Treaty by President Clinton, this nation has bound itself to limit the increase in emissions of carbon dioxide into the atmosphere; and

WHEREAS, Recent studies of the melting of the polar ice caps in the Antarctic have reinforced the controversial theory that there is in fact a global warming of the atmosphere which may cause serious climatic changes to our world; and

WHEREAS, Because the State of Nevada currently imports all of its energy from other states and in so doing is consuming fossil fuel which is a limited resource, it is imperative that alternative ways to use renewable sources of energy such as solar, wind and geothermal energy be considered; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of Nevada's current and future needs for energy and formulate a policy on energy taking into consideration the conservation and development of our available natural resources, the costs involved and the impact of alternative energy policies on employment, economic growth and economic development in Nevada; and be it further

RESOLVED, That the study include:

1. An assessment of the present and future needs for energy in Nevada, including the role of energy in Nevada's economic growth, development, employment and competitive position relative to other states;
2. An evaluation of potential sources of energy in each county including solar, wind and geothermal energy, the estimated costs of generating electricity from these renewable forms of energy and the impact from the use of such forms of energy on Nevada's economy and on consumers of energy in this state;
3. Estimations of the amount of carbon dioxide expected to be emitted in this state in 1990, 1995, 2000, 2005 and 2010 from all sources of energy which burn fossil fuels, and Nevada's expected rank in total and per capita carbon dioxide emissions compared with other states;
4. An examination of current building codes and landscaping techniques which reduce the need for heating and cooling;
5. An evaluation of the California-Nevada Super Speed Transportation System and the progress the California-Nevada Super Speed Commission has made in its interstate effort to carry out this plan;
6. A review of existing state laws, regulations and local ordinances which affect the use or generation of energy;

7. The compilation of a list of informational materials relating to methods of preventing pollution in the environment with specific suggestions for local governments; and

8. An evaluation of the resources available in schools which relate to the conservation of energy and the time spent educating pupils on this subject; and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 68th session of the Nevada Legislature.

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ABSTRACT

CONSERVATION AND DEVELOPMENT OF ENERGY RESOURCES (S.C.R. 35)

The 67th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 35 (File No. 182, *Statutes of Nevada 1993*, pages 3126-3127) which directed the Legislative Commission to conduct an interim study of Nevada's current and future energy needs and to formulate a policy regarding the conservation and development of the energy resources in this state. The commission appointed a subcommittee of seven legislators to carry out the provisions of the resolution.

The subcommittee held six meetings, including work sessions, during the course of the study. Two of the meetings were in Las Vegas and the other four were in Carson City. These public hearings were conducted through simultaneous video conferences between meeting rooms at the Legislative Building in Carson City and Cashman Field Center in Las Vegas.

During the course of this interim study, the subcommittee obtained extensive expert and public testimony concerning Nevada's energy needs and policies. The subcommittee reviewed various model energy plans and policies which have been adopted by other states, and it studied information presented by national and regional organizations such as the National Conference of State Legislatures and the Western Interstate Energy Board. It received testimony and correspondence from concerned citizens, energy consultants and representatives of Nevada's utilities, energy-related industries and various interest groups. Federal, State and local officials contributed information and suggestions throughout the study.

At its final meeting and work session, the subcommittee adopted 47 recommendations, including 15 bill draft requests (BDRs), for consideration by the 1995 Legislature. The recommendations address the following major topics:

- State energy policy development and implementation;
- Development and use of renewable energy resources;
- Transportation, alternative fuels and air quality; and
- Energy conservation and efficiency.

The final report of the subcommittee contains an overview of the interim study and background information on the major issues. It also contains a discussion of each of the topics under which the subcommittee made its recommendations.

SUMMARY OF RECOMMENDATIONS

CONSERVATION AND DEVELOPMENT OF ENERGY RESOURCES (S.C.R. 35)

This summary presents the recommendations approved by the Legislative Commission's Subcommittee to Review Present Efforts to Conserve and Develop Energy Resources. The subcommittee recommends that the 68th Session of the Nevada Legislature:

STATE ENERGY POLICY DEVELOPMENT AND IMPLEMENTATION

1. Amend paragraph (e) of subsection 1 of *Nevada Revised Statutes* (NRS) 523.011, "Legislative finding; state policy," to read as follows:

Government and private enterprise need to accelerate research and development of alternative sources of energy *[and to]*, improve technology related to the research and development of existing sources of energy *[.] and maximize the use of indigenous resources to the extent economically feasible.*

2. Review and amend Chapter 523 of NRS, "Energy," to acknowledge the State Energy Office and its attendant responsibilities.
3. Provide, by appropriation, for funding the State Energy Office with \$65,000 from the State General Fund in each year of the next biennium.
4. Support public and private efforts to provide consumer energy education programs throughout Nevada.
5. Create, by statute, an ongoing statutory committee on energy of the Nevada Legislature. Provide the committee with broad powers to review the laws, regulations and State agencies relating to energy policy. Require the State Energy Office to make quarterly reports to the committee regarding energy planning activities, the implementation of energy policies and recommendations for legislation.

The statutory committee should review the following recommendations which were presented to the interim study subcommittee:

- a. Appropriating adequate funding for the State Energy Office and providing a stable source of funding for the office.
- b. Providing adequate funding to support consumer energy education programs throughout Nevada.
- c. Creating, by statute, a "State Renewable Energy Authority" which is authorized to issue revenue bonds for renewable energy projects.
- d. Directing the State Energy Office, in cooperation with the Public Service Commission of Nevada (PSCN), to undertake a study of the feasibility and costs of participation by the state's electric utilities in the development of renewable technologies and the interconnection of their transmission systems to further regional development of and access to renewable energy resources.
- e. Requiring the PSCN to develop optional "green" tariff provisions for those Nevada customers who, by choice, wish to support renewable resource projects through a specific tariff rate earmarked for those types of projects.
- f. Appointing a statewide task force to study means of reducing carbon dioxide.

DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES

- 6. Provide, by statute, the following definition relating to renewable energy resources:

"Renewable energy resources" are defined as resources capable of producing electricity from an energy source that is not consumed or combusted and is naturally regenerated, such as wind, solar, geothermal, and hydro. For this purpose, hydro may include pumped storage hydropower if the source of the power used to pump the water is from non-fossil, renewable resources.

7. Require, by statute, that Nevada's investor-owned electric utilities use a certain percentage or set-aside of renewable energy resources as follows:

That over the next 6 years [through the year 2000], 10 percent of new growth shall be provided from renewable resources until utility resource plans reach a level of 10 percent of overall capacity from renewable resources.
8. Amend the statutes to add systems and facilities which utilize "renewable energy resources" to the list of systems and facilities eligible for property tax exemptions.
9. Consider adopting a policy statement finding and declaring that the sustained orderly development of renewable energy resources for use as sources of energy for the state's electric utilities is needed to preserve and improve the environment, to provide resource diversity, and to mitigate the risks associated with the State's continued dependency on electricity generated from fossil fuels.
10. Urge, by resolution, all departments in the Executive Branch of State Government to work with the United States Department of Energy and other federal offices to coordinate efforts and pursue demonstration facility construction and develop a solar strategic plan for southern Nevada. In addition, the resolution should express the Legislature's support for the efforts to develop a "Solar Power Enterprise Zone" in Nevada, and it should note that the state will have the opportunity to lead the Nation in technologies for the solar industry. Furthermore, the resolution should include a statement that is time for the State to act and speed up production of this environmentally clean power resource (solar energy), as well as economically benefit from the conversion of the Nevada Test Site (NTS) to a solar energy research and development site.
11. Urge the Public Service Commission of Nevada to support modular, distributed use of renewable energy. Such use provides electrical energy for those customers at remote locations that would otherwise need costly line extensions or other less desirable generation options.
12. Amend NRS 704.741, "Plan to increase supply or decrease demands: Triennial submission required; contents prescribed by regulation." Amend paragraph (b) of subsection 2 of NRS 704.741 as follows:

Determine the best combination of *[sources of supply] resources* to meet *[or reduce]* the demands *with due consideration of economic and environmental impacts* *[or the best method to reduce them]*.

13. Encourage creative public/private partnerships to promote resource development and stability in renewable energy areas.

TRANSPORTATION, ALTERNATIVE FUELS AND AIR QUALITY

14. Urge the State Environmental Commission to make certain that all areas in Nevada meet the federal Environmental Protection Agency standards for carbon monoxide and ozone.
15. Direct, by resolution, the State Environmental Commission to expand Nevada's inspection and maintenance (I/M) program for motor vehicles to include additional areas of the state, particularly Carson City, Incline Village and areas adjacent to the Truckee Meadows area of Washoe County.
16. Consider the following proposals:
 - a. The Legislature and the Budget Division should support adequate funding for the State Motor Pool to construct and operate a fueling station for natural gas or other alternative fuels and a mini-fleet of Original Equipment Manufacturer (OEM) alternative fuel vehicles (AFVs). This fueling station and mini-fleet is to be located at the new State office building near Cashman Field Center in Las Vegas. In addition, the Legislature and the Budget Division should support funding the construction of additional fueling facilities for AFVs in Clark and Washoe Counties to serve the State Motor Pool, other State agencies and other public and private fleets; and
 - b. The State Environmental Commission should review and revise its regulations which require the conversion of State and local government fleets to alternative fuels. The commission should be urged to revise its regulations so as to accelerate the schedule for the acquisition of AFVs by State and local governments. Furthermore, the commission should consider the AFV requirements which have been adopted for public fleets in Arizona and New Mexico.

17. Consider supporting the following:
 - a. Development of a State alternative fuel vehicle implementation plan to aid transition, similar to the Clark County program;
 - b. Establishment, in the future, of a State-administered grant fund within the State Energy Office to assist communities in the construction of public-access fueling facilities for alternative fuels; and
 - c. Establishment, in the future, of a State-administered grant fund to assist fleet and individual vehicle owners to reduce the initial cost of conversion to or acquisition of AFVs.
18. Amend the statutes to reduce the State fuel tax on clean alternative fuels for motor vehicles to 20 cents per equivalent gallon.
19. Adopt an energy policy that is "fuel neutral" -- a policy which does not promote the use of one type of clean alternative fuel for motor vehicles over another. In addition, the Legislature should consider supporting efforts at establishing uniform State and local regulations regarding refueling facilities for alternative fuel vehicles.
20. Strengthen, in cooperation with local government planning agencies and regional transportation commissions, the institutional relationships between land use planning and transportation planning.
21. Urge, by resolution, the President and Congress to support federal efforts regarding:
 - a. The maglev, high-speed train projects which operate in excess of 180 miles per hour; and
 - b. Funding, through grants or otherwise, for national corridor development.
22. Approve, in conjunction with the Budget Division, future funding requests made by the California-Nevada Super Speed Ground Transportation Commission.

23. Consider directing the State Energy Office and the Division of Agriculture to study and report back to the 1997 Legislature on the problem concerning the transportation and sale of substandard motor fuels in Nevada. The report should include recommendations for improving interagency cooperation and communication relating to State enforcement actions.
24. Consider supporting, in conjunction with the Budget Division, the Division of Agriculture's 1995-1997 budget requests in the Gas Pollution budget for additional analyzing equipment for the new Las Vegas laboratory and additional inspectors to increase fuel sampling and analysis.
25. Urge the Public Service Commission of Nevada and the State Environmental Commission to coordinate State policies and support utility efforts to deal with federal policy agendas, such as Global Climate Change and Visibility Impairment in the Golden Circle of Parks.
26. Urge, by resolution, the President and Congress to support an improved Corporate Average Fuel Economy (CAFE) standard.
27. Consider the need for proposing legislation which would support State and local air quality management agency emissions reduction programs which include the purchase of old "gas guzzler" vehicles.
28. Require, by statute, that the purchase of new motor vehicles by the State and local governments must equal or exceed the average fleet fuel efficiency standard established by the Federal Government for that model year.
29. Urge State agencies to: use telecommuting, including initiation of a State telecommuting pilot project; develop State "telework centers" and additional video teleconference facilities; and utilize altered work schedules for State employees, including 9-day/80-hour (over 2 weeks) and 4-day/40-hour work weeks.
30. Urge the Nevada Department of Transportation to consider implementing high occupancy vehicle (HOV) lanes on appropriate sections of State highway prone to traffic congestion in order to reduce travel delays, energy consumption, and air pollutants.

31. Urge the Nevada Department of Transportation to consider developing and implementing a ridesharing (car-pooling) program for State employees who commute to the capital (Carson City) from the Truckee Meadows and the Minden/Gardnerville area. The program may include various employee incentives such as parking pricing and preferential parking.

ENERGY CONSERVATION AND EFFICIENCY

32. Urge all electric utilities in Nevada to adopt creative programs to promote energy efficient buildings. As one option, the utilities might consider implementing a program similar to Boulder City's sliding scale fees for electrical hookups. In Boulder City, the electrical hook-up fees for new construction are reduced based on use of conservation and efficiency design elements in the home.
33. Amend NRS 523.164, "Regulations for conservation of energy in buildings: Adoption by director; exemptions; applicability; public comment and hearing," to require the State Energy Office (SEO) to consider the most current edition of the Model Energy Code (MEC) and other national standards relating to building energy conservation and efficiency; and allow the SEO to provide for certain exemptions or modifications to accommodate the particular heating or cooling needs of each geographic region in the state. In addition, require the application of the State's minimum standards for building energy conservation in any area in which the local government has not adopted more stringent standards.
34. Urge the State Energy Office to adopt the 1995 Model Energy Code for residential construction [three stories and less] and the code version of the *American Society of Heating, Refrigerating, and Air-Conditioning Engineers/Illuminating Engineering Society Standard 90.1* (ASHRAE/IES) (Standard 90.1) for all other construction [with amendments], as well as the National Fenestration Rating Council (NFRC) performance rating requirements.

35. Provide, by statute, that the State Energy Office shall adopt a voluntary home energy rating system (HERS) for new construction and existing homes that is modeled after HERS programs which have been adopted in other states. In addition, amend Chapter 704 of NRS, "Regulation of Public Utilities Generally," to require major utility companies regulated by the Public Service Commission of Nevada to incorporate the HERS rating criteria in connection with energy efficient and demand side management programs for new construction.
36. Direct the Buildings and Grounds Division, Department of Administration, to "sign on as a partner" in the U.S. Environmental Protection Agency's Green Lights and Energy Star Buildings Programs -- to promote State leadership to local government and the private business sector.
37. Urge city and county managers and local elected officials to support their respective building departments and officials by providing adequate staffing to adequately enforce construction codes and standards. In addition, urge local building code officials to require compliance with "the letter of the code" to ensure adequate enforcement of building and energy codes. A better energy education process for both the building jurisdictions as well as the building industry, in general, should be implemented which would underscore how important attention to quality control is in these matters. The State Energy Office, the utility companies, local building officials and the builders should all cooperate in improving this education process.
38. Support, in conjunction with the State Energy Office, the following:
 - a. Linking the enhanced availability of energy efficient mortgages (EEMs) with the use of a home energy rating system;
 - b. Improved use of renewable resources as well as thermal factors such as daylighting, overhangs and shading, in structures;
 - c. Disseminating training and new technology information to compliance and construction personnel simultaneously;
 - d. Coordinating the efforts of the heating, ventilating and air conditioning contractors with those of the general building contractors, and improving communications between all the building trades;
 - e. Assessing, quantifiably, life-cycle costs on all construction;

- f. Providing maximum compliance flexibility throughout the building process to encourage innovation in housing and the assimilation of new technical approaches;
 - g. Stressing, through consumer education, the long-term benefits of buying energy efficient homes, including providing information on lower utility costs and improved lending policies; and
 - h. Allowing the utilities to become more actively involved in the building code inspection/certification process.
- 39. Require, by statute, the State Public Works Board to:
 - a. As part of the process for accepting bids for public works projects, have an independent analysis of energy conservation/efficiency methods and designs performed [either by a private energy consultant or by the appropriate utility, perhaps through a bidding process] on each building project;
 - b. After accepting bids for each public works project that is a building, determine what energy conservation rebates are available for the particular building project and apply for the available rebates; and
 - c. Each biennium, designate at least one building project an energy-efficient pilot program.
- 40. Provide, by statute, that State agencies which implement energy cost savings programs may use any rebates or money from energy savings to invest in other energy conservation and efficiency programs. When State agencies institute measures which result in energy cost savings, the amounts saved should not reduce the applicable budgets to lower levels if the money is used to invest in other energy savings programs.
- 41. Urge the State Public Works Board to:
 - a. Establish priorities for the public works project managers in a manner which would limit the removal of high efficiency, low energy consuming or environmentally improving related products from a building project budget which is estimated as over budget before the bids are received; and
 - b. Require new facilities to be designed in a manner which results in the least cost for the monthly operation of utilities.

42. Urge the State Energy Office to work with local building officials to establish a centralized "energy hotline" concept, where building officials, architects, engineers and builders could call to determine compliance on items in question.
43. Urge the State Energy Office, the State Public Works Board and local building officials to consider the use of solar orientation in all new construction.
44. Consider enacting legislation similar to California's statutes which provide that no deed conditions, covenants, restrictions, or similar binding agreements regarding real property shall prohibit the installation of solar energy or other renewable energy devices. In addition, consider enacting similar legislation to prohibit local government ordinances which ban homeowners and others from installing such devices.
45. Direct the State Energy Office to work with local building officials in establishing new installation requirements for heating, ventilating and air conditioning systems for homes and commercial buildings, to require:
 - a. Stricter compliance with manufacturer's specifications (through testing of the system);
 - b. Accessibility to equipment for the purpose of cleaning and repair;
 - c. Joining ducting sections with mastic rather than "duct tape" (which deteriorates and fails over time);
 - d. Ducted return systems (in place of using building cavities for that purpose);
 - e. Proper location and sizing of equipment (appropriate to specific building needs); and
 - f. Increased technician training in installation, maintenance and repair.
46. Approve funding to complete the lighting retrofit program and other energy conservation projects requested under capital improvement projects for the Legislative Building and the Sedway Office Building.

47. Amend Chapter 704 of NRS, "Regulation of Public Utilities Generally," to provide that:

All prudent and reasonable costs associated with utility sponsored measures to improve customer energy efficiency must be recovered from rates charged to utility customers. Such costs shall include but are not limited to expenses associated with energy efficiency programs, investments in energy efficiency programs and a reasonable return thereon, and all lost revenues which result from implementation of energy efficiency measures by an electric utility.

BULLETIN 95-8

**LAWS RELATING TO FINANCING OF INFRASTRUCTURE
WHICH ACCOMPANY DEVELOPMENT**

A.C.R. 38 - 1993 SESSION

Members

Assemblywoman Myrna T. Williams, Chairman
Senator Lori Lipman Brown
Senator Ann O'Connell
Assemblywoman Kathy Augustine
Assemblyman Douglas A. Bache

Advisory Committee Members

Donald J. Brown, Representative of Local Government
E. A. Collins, Representative of Commercial Developers
Mark Doppe, Representative of Residential Developers
Mary Henderson, Representative of Local Government
Guy S. Hobbs, Representative of Local Government
Marvin Leavitt, Representative of Local Government
Robert Lewis, Representative of Residential Developers
Nick Niarchos, Representative of Large Land Developers
Elizabeth Nozero, Representative of the Gaming Industry
Phillip C. Peckman, Representative of Commercial Developers
Irene Porter, Representative of Residential Developers
Madelyn Shipman, Representative of Local Government

Principal Staff

Paul T. Mouritsen, Senior Research Analyst
(687-6825)

Assembly Concurrent Resolution No. 38—Committee on
Elections and Procedures

FILE NUMBER 174

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the laws relating to the financing of infrastructure which accompany residential, commercial and industrial development in this state.

WHEREAS, Nevada is one of the fastest growing states in the nation; and
WHEREAS, The continued development of the residential, commercial, resort and industrial sectors of Nevada's economy is vitally important to the future of this state; and

WHEREAS, The cost of providing the infrastructure for this development is passed on to the consumer in the form of higher costs; and

WHEREAS, Providing adequate infrastructure to serve new development is of benefit to the whole community; and

WHEREAS, Laws governing the methods used and methods which may be used to provide and finance the necessary public facilities and public works need to be examined to ensure an equitable distribution of the costs of providing these public improvements; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint an interim study committee composed of three members from the Assembly and two members from the Senate to conduct a comprehensive study of the laws governing the methods used to finance the infrastructure for new residential, commercial and industrial development in this state; and be it further

RESOLVED, That the Legislative Commission shall designate a chairman from among the three members of the Assembly; and be it further

RESOLVED, That the study include:

1. An examination of the effect on new development of providing services for utilities, streets, parks and other infrastructure;
 2. An identification of all the methods and sources of financing authorized by the laws of this state and local ordinances, and the use or lack of use by local governments of these methods and sources of financing;
 3. An evaluation of the projected need for infrastructure necessary to sustain continued future development; and
 4. An identification and examination of revisions or expansions of current methods which may be used to finance infrastructure to accompany new residential, commercial and industrial development; and
 5. An identification and examination of any new methods which may be used to finance infrastructure for residential, commercial and industrial development; and
 6. The examination of all current and future financing methods, including, but not limited to, property tax, special taxes, sales tax, fees, bonds, exactions, special assessments, development charges, contributions, dedications, impact fees and any other methods used or which may be used by local governments, special districts or agencies to contribute to the financing of infrastructure;
- and be it further

RESOLVED, That the Governor is hereby directed to appoint 13 persons as members of an advisory committee to assist the interim study committee appointed by the Legislative Commission to study the financing of infrastructure for residential, commercial and industrial development; and be it further

RESOLVED, That the advisory committee consists of representatives from the following areas:

1. Five members involved in local government;
 2. Three members involved in residential housing development;
 3. Two members involved in gaming and resort development;
 4. Two members involved in commercial or industrial development; and
 5. One member involved in a large land development which will become a master planned community;
- and be it further

RESOLVED, That the Legislative Commission report the results of its study and any recommended legislation to the 68th session of the legislature.

ABSTRACT

LAWS RELATING TO FINANCING OF INFRASTRUCTURE WHICH ACCOMPANY DEVELOPMENT (A.C.R. 38)

The 67th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 38 (File No. 174, *Statutes of Nevada 1993*, pages 3117-3119), which directed the Legislative Commission to study methods for financing infrastructure which accompany residential, commercial and industrial development in Nevada. The Legislative Commission appointed five legislators to conduct the study. As directed by the resolution, the Governor appointed a 13-member advisory panel to assist the legislative subcommittee. The advisory panel consisted of representatives of local government and developers of residential, resort, commercial and industrial property and a representative of the gaming industry.

The legislative panel and the advisory committee held eight joint meetings in Las Vegas, with teleconference links to Carson City. In addition, subpanels, appointed to study particular aspects of the issue, met. At these meetings, testimony was received from representatives of local government, developers, public interest groups, and members of the public.

The subcommittee adopted recommendations relating to the following issues:

Impact Fees

The subcommittee recommended several amendments to Nevada's statutes regarding impact fees. These changes included authorizing local governments to use these fees to construct fire and police stations and streamlining the administrative requirements for the assessment of fees.

Pay-as-You-Go Financing

The subcommittee recommended that pay-as-you-go financing for school improvements authorized by voters be limited to a maximum of 20 years. It also recommended that proposals of this kind to finance capital improvements by counties be submitted to the General Obligation Bond Commission for approval.

Funds for Extraordinary Maintenance and Renovation

The subcommittee recommended that local governments be required to set aside funds from bonds issues to construct capital facilities to pay for

extraordinary repairs and renovation of those facilities in later years. It also recommended that local governments be authorized to set aside funds for this purpose from other revenues.

Local Improvement Districts

The subcommittee recommended that local governments be authorized to refund bonds issued to finance local improvement districts and to combine two or more of these districts for the purpose of issuing bonds.

Local Borrowing

The subcommittee recommended several changes in the laws relating to local borrowing. These include requiring that most general obligation bonds be sold at a competitive sale and requiring that uncommitted balances held by the state bond bank be returned to local governments rather than reverting to the state general fund.

Flood Control

The subcommittee recommended that all counties in Nevada be authorized to organize flood control districts on the same basis as Clark County.

SUMMARY OF RECOMMENDATIONS

LAWS RELATING TO FINANCING OF INFRASTRUCTURE WHICH ACCOMPANY DEVELOPMENT (A.C.R. 38)

1. Limit the duration of pay-as-you-go financing for school improvements (NRS 387.3285) to not more than 20 years.
2. Amend NRS 244A.785 to require voter approval to establish or change the boundaries of districts created for the support of public parks.
3. Place provisions regarding short-term financing (NRS 354.430 through 354.460) in Chapter 350 of NRS.
4. Require all future pay-as-you-go proposals by counties (NRS 354.59817) to be approved by the General Obligation Bond Commission.
5. Require local governments to place one-half of 1 percent of the cost of a capital project in an account for extraordinary maintenance and renovation. This account would be established at the time bonds are sold to finance a project. The money, including accumulated interest earnings, must be used to renovate, improve, or make extensive repairs to the project in later years. The money would not be available for routine maintenance.
6. Authorize local governments which receive revenues from property or sales taxes to establish a fund for extraordinary repair and renovation of public facilities. Provide that the money in this fund must be used only for major renovation or repair of existing facilities, not normal, recurring maintenance or repayment of bonds or other obligations.
7. Amend paragraph d of subsection 2 of NRS 350A.190 to provide that any uncommitted balance in the municipal bond bank will be returned to the local governments which issued the bonds from which the balance resulted, rather than reverting to the State General Fund.
8. Amend Chapter 543 of NRS to allow any county to create districts for the control of floods (NRS 543.170 through 543.760) on the same basis as counties with a population of over 400,000.

9. Require that most bonds issued by local governments be sold at a competitive sale.
10. Authorize refunding of outstanding local improvement district bonds.
11. Authorize local governments to combine local improvement districts for the purpose of issuing bonds to defray the costs of projects.
12. Amend the law regarding impact fees to:
 - a. Authorize the use of impact fees to pay for the construction of police and fire protection facilities;
 - b. Require reports regarding the progress of local governments in carrying out capital improvement plans to be filed every 3 years rather than annually;
 - c. Repeal NRS 278B.160, subsection 2, which exempts property owned by school districts from impact fees;
 - d. Amend provisions regarding the publication of notices to require that they be published at least once each week for 2 weeks rather than once each week for 4 weeks.

BULLETIN 95-9

DRUG AND ALCOHOL ABUSE AMONG CRIMINAL OFFENDERS

A.C.R. 71 - 1993 SESSION

Members

Assemblyman Bernie Anderson, Chairman
Senator Joseph M. Neal, Jr., Vice Chairman
Senator Matthew Q. Callister
Senator Mike McGinness
Assemblywoman Vonne S. Chowning
Assemblyman David E. Humke
Assemblyman Richard D. Perkins
Assemblyman Louis A. Toomin

Principal Staff

Denice L. Miller, Senior Research Analyst
(687-6825)

Assembly Concurrent Resolution No. 71—Committee on Judiciary

FILE NUMBER 177

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of drug and alcohol abuse among criminal offenders.

WHEREAS, The rate of incarceration per capita in Nevada consistently ranks among the highest in the nation; and

WHEREAS, The average offender population of the Nevada state prison system increased from 1,843 in fiscal year 1980-1981 to 4,753 in fiscal year 1991-1992, an increase of 212 percent; and

WHEREAS, The average cost to house a Nevada offender was \$14,672 and total expenditures for the Department of Prisons was approximately \$110,000,000 in fiscal year 1991-1992; and

WHEREAS, National studies show that 80 percent of males who are arrested and 75 percent of females who are arrested test positive for illegal drugs; and

WHEREAS, Over 50 percent of prison offenders nationwide were under the influence of drugs or alcohol, or both, at the time they committed the offense for which they were incarcerated; and

WHEREAS, Over 13 percent of convicted offenders nationwide said they committed their offense to obtain money for drugs; and

WHEREAS, As many as 60 percent of Nevada offenders are estimated to have drug or alcohol problems; and

WHEREAS, The incarceration of offenders with drug or alcohol addiction contributes significantly to the overcrowding of the Nevada prison system and, thus, the early release of violent offenders; and

WHEREAS, Incarceration in Nevada constitutes custodial care rather than rehabilitation; and

WHEREAS, A drug or alcohol abuser who does not receive treatment in prison is still an abuser upon release and therefore at greater risk of recidivism; and

WHEREAS, Many drug treatment options have been studied and carried out nationwide; and

WHEREAS, The benefit-cost ratio of drug treatment programs is estimated to be 11.54, which means that substance abuse treatment saves society \$11.54 for every dollar invested; and

WHEREAS, Many nonviolent offenders could be diverted from the prison system to a mandated treatment program, reducing costs of incarceration and increasing the offenders' chance of becoming rehabilitated and contributing members of society; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study of drug and alcohol abuse among criminal offenders in Nevada; and be it further

RESOLVED, That the study include an evaluation of possible treatment programs either in lieu of or concurrent with incarceration, and a review of state laws relating to drug- and alcohol-related offenses; and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 68th session of the Nevada Legislature.

⑩

ABSTRACT

DRUG AND ALCOHOL ABUSE AMONG CRIMINAL OFFENDERS (A.C.R. 71)

The 67th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 71 (File No. 177, *Statutes of Nevada 1993*, pages 3121-3122), which directed the Legislative Commission to conduct an interim study of drug and alcohol abuse among criminal offenders. The study was to include an evaluation of possible treatment programs that might be implemented either in lieu of or concurrent with incarceration and a review of state laws related to drug- and alcohol-related offenses.

The Legislative Commission appointed a subcommittee of eight legislators to examine the relationship between substance abuse and crime and to compile recommendations addressing the problem. Five public hearings were held, three in Las Vegas and two in Carson City. To explore areas of common concern, the subcommittee's third meeting was conducted jointly with the Legislative Commission's Subcommittee to Study the Criminal Justice System in Nevada (A.C.R. 76).

During the course of the study, members heard testimony from treatment providers, nationally-known experts in corrections and counseling, State and local criminal justice and social service agencies, and the public.

The subcommittee adopted 28 recommendations addressing the following topics:

- Substance abuse detection and reporting;
- Civil commitment and drug courts;
- In-prison treatment programs;
- Sentencing for drug and alcohol offenses;
- Treatment and counseling in local detention facilities and courts; and
- Juvenile drug and alcohol offenses.

Detailed descriptions of these recommendations and related testimony may be found in the subcommittee's final report.

SUMMARY OF RECOMMENDATIONS

DRUG AND ALCOHOL ABUSE AMONG CRIMINAL OFFENDERS (A.C.R. 71)

The Legislative Commission's Subcommittee to Study Drug and Alcohol Abuse Among Criminal Offenders (A.C.R. 71) recommends that the 68th Session of the Nevada Legislature take the following actions.

SUBSTANCE ABUSE DETECTION AND REPORTING

1. a. Amend Chapter 179A of the *Nevada Revised Statutes* (NRS), and other chapters as necessary, to:
 - (1) Include among the definitions of "record of criminal history" information gathered by an agency of criminal justice concerning the use of alcohol or controlled substances by persons arrested or found guilty of a felony or gross misdemeanor; and
 - (2) Include information concerning the use of alcohol or controlled substances by persons arrested or found guilty of a felony or gross misdemeanor submitted by agencies of criminal justice among that information that the Nevada Highway Patrol Division, which administers the Central Repository for Nevada Records of Criminal History, is required to collect, maintain, and arrange.
- b.
 - (1) Require an arresting officer to indicate on the arrest report his assessment of whether or not the offender was under the influence of controlled substances or alcohol at the time of commission of the crime for which he was arrested, if the officer witnessed the crime, or if the offender exhibits signs of being under the influence;
 - (2) Stipulate that the officer shall indicate on the report how the assessment was made (observation or urinalysis, for example); and
 - (3) Provide that the assessment is to be reported to the Central Repository for Nevada Records of Criminal History.

2. Amend Chapter 481 of the NRS to require the Peace Officer Standards and Training Committee to adopt regulations providing for training in the detection of use and abuse of alcohol or controlled substances.

CIVIL COMMITMENT AND DRUG COURTS

3. Amend NRS 458.300, which sets forth eligibility for civil commitment, and related provisions as necessary, to delete the following restrictions on eligibility:
 - a. Subsection 4 (certain previous felony and gross misdemeanor convictions, including trafficking); and
 - b. Subsection 7 (previous election and admittance to civil commitment).
4.
 - a. Amend Subsection 3 of NRS 458.320 to require, rather than allow, the court, in the case of a person who has satisfied all other conditions, to defer sentencing upon the person, impose conditions related to the treatment and probation, and place the person under the supervision of an approved facility for treatment.
 - b. Stipulate that the person shall pay for the cost of treatment to the extent of his financial resources. If the person has insufficient resources to pay the cost of treatment, provide that the court shall, to the extent possible, assign him to a program with sufficient state or federal funding to defray the costs of his treatment.
5. Amend NRS 453.3363, 453.3405, and related provisions as necessary, to allow the court to include among those persons against whom proceedings may be suspended:
 - a. Persons who have been previously convicted of drug and Driving Under the Influence (DUI) of Alcohol or Controlled Substance offenses; and
 - b. Persons charged with unlawful possession for sale (NRS 453.337 and NRS 453.338).
6.
 - a. Appropriate from the State General Fund the amount of \$90,000, of which \$10,000 must be distributed to the court administrator of each district court that establishes or has established a treatment program pursuant to NRS 453.580.

- b. Provide that if a district court, with a program established before January 1, 1994, receives an additional and separate appropriation of money from the State General Fund, then that district court is not eligible for funds under this recommendation.
- 7. Appropriate \$250,000 to the court administrator of the Eighth Judicial District for the expansion of its program of deferred prosecution established pursuant to NRS 453.580. Stipulate that the funds are to supplement and not replace funds currently utilized by the court for the program.
- 8.
 - a. Authorize counties to establish a program for deferred prosecution for persons charged with a first or second offense of NRS 484.379 (non-felony DUI). Such a program must:
 - (1) Be at least 1 year in duration;
 - (2) Include treatment for, and education, and counseling about substance abuse;
 - (3) Include regular court appearances, as determined by the court;
 - (4) Require a participant to pay the cost of treatment to the extent of his financial resources. If the person has insufficient resources to pay the cost of treatment, provide that the court shall, to the extent possible, assign him to a program with sufficient state or federal funding to defray the costs of his treatment; and
 - (5) Stipulate that proceedings shall resume against a participant who does not successfully complete the program, the terms and conditions of which shall be set by the court.
 - b. Appropriate from the State General Fund the amount of \$85,000, of which \$5,000 may be transferred to the county treasurer of each county that establishes such a program. Further provide that any money not distributed at the end of the biennium must be divided equally among all counties that have established such a program, except that no county shall receive more than one-quarter of the entire amount.
- 9. Require that, in a deferred prosecution pursuant to NRS 453.3363, NRS 453.580, or recommendation 8, the offender shall:
 - a. Agree to waive preliminary proceedings; and

- b. Agree to stipulated set of facts, which will be admissible in a court of law if the person fails satisfactorily to complete the program,

before the court suspends proceedings.

SENTENCING FOR DRUG AND ALCOHOL OFFENSES

- 10. Amend NRS 484.3792 and NRS 484.3794 to require the court to allow a person found guilty of a first violation of NRS 484.379 (DUI not involving substantial bodily harm) to undergo treatment as set forth in those provisions.
- 11. Eliminate the mandatory minimum sentence for unlawful use of a controlled substance (NRS 453.411). Provide that the crime is still deemed a felony for purposes of all other statutes.

SUBSTANCE ABUSE TREATMENT AND COUNSELING IN LOCAL DETENTION FACILITIES AND COURTS

- 12. a. Amend Chapters 369 and 458 of the NRS, and other chapters or provisions as necessary, to:
 - (1) Increase the excise taxes listed in NRS 369.330 and 369.333 by 10 percent; and
 - (2) Provide that the additional revenue generated by this recommendation be distributed to the Bureau of Alcohol and Drug Abuse (BADA).
- b. (1) Require the BADA to utilize 80 percent of the additional revenue generated by this recommendation to:
 - (a) Hire or contract the services of substance abuse counselors, who shall be assigned to courts and local detention facilities and who shall assess the need for treatment for persons detained in facilities, on parole or probation, or otherwise under a court's jurisdiction; and

- (b) Contract substance abuse treatment services for persons incarcerated in local detention facilities or released, either pending trial or on parole or probation, from local detention facilities; and
 - (2) Stipulate that the BADA shall allocate the services of counselors and treatment programs as necessary, to the extent of revenue available, with the goal of assisting as many courts and detention facilities as possible and making services available to as many substance abusers as possible; and
 - (3) Provide that the BADA shall use the revenue generated by this recommendation to supplement, not replace, funds currently utilized for this purpose. Further stipulate that allocation of services and treatment provided by this recommendation is contingent upon a court or local detention facility's maintenance of levels of similar service or treatment that were in existence as of July 1, 1994.
- c. Require the BADA to utilize 20 percent of the additional revenue generated by this recommendation to provide similar services, as outlined in Section b, to juvenile offenders under the jurisdiction of juvenile courts and detention facilities.

CHANGES TO THE "305" PROGRAM

13. Amend Chapters 209 and 213 of the NRS to make the following changes to the program for the treatment of abusers of alcohol and drugs established pursuant to NRS 209.425:
- a. Require, before assigning an offender to the program:
 - (1) The Department of Prisons (DOP) to determine, to the extent possible, the length of time remaining on an offender's sentence, taking into consideration sentence credits; and
 - (2) The Division of Parole and Probation to determine, to the extent possible, whether residential, employment, and other requirements for Phase II will be met.

- b. Provide that the DOP shall not assign an offender to the treatment program unless it is determined, to the extent possible, that both Phase I and Phase II may reasonably be completed by the offender, either in prison, if the offender's circumstances preclude residential confinement, or in prison and then residential confinement. Further provide that an offender may not be assigned to the treatment program unless he agrees to complete Phase II.
- c. Stipulate that an offender who meets the residential, employment, and other requirements, and who has sufficient time remaining on his sentence for completion of Phase II, shall be required to enroll in Phase II and complete his sentence and treatment in residential confinement.

JUVENILE DRUG AND ALCOHOL OFFENSES

- 14. Adopt a resolution, directed to all law enforcement agencies and juvenile courts in Nevada, encouraging police officers to detect and arrest juvenile drug and alcohol offenders and the judiciary to impose meaningful and consistent sanctions upon these offenders. Include in the resolution the subcommittee's conclusion that:
 - a. The majority of drug and alcohol abusers begin substance abuse at an early age;
 - b. Early intervention, before a prolonged period of abuse and incarceration, is more successful at combatting substance abuse and related crime than later intervention;
 - c. Early intervention is only possible if the problem is *identified* early;
 - d. Law enforcement shares the responsibility with schools and parents to identify substance abuse, since many abusers do not acknowledge their abuse until forced to by a crisis such as an arrest; and
 - e. Prompt and consistent sanctions at the first offense are most effective to "scare straight" juvenile offenders.
- 15. Provide that, for a person under 18 years of age, a first violation of NRS 484.379 (non-felony DUI) is punishable by a mandatory 6-month

driver's license revocation, in addition to any other penalties provided by law.

16. Provide that a DUI offense for a person under 18 years of age must be included on that person's adult driving record for 7 years after the date of the offense.
17. a. Require a person under 21 years of age who is found guilty of any DUI violation to undergo an evaluation to determine if he is an abuser of alcohol or drugs. Further provide that:
 - (1) The evaluation be conducted at an evaluation center, as that term is defined in NRS 484.3793, and that the center shall report the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required by the offender; and
 - (2) The offender be enrolled in a program for drug and alcohol abusers conducted by a treatment facility, as defined in NRS 484.3793.
- b. Provide that the court shall order the offender, or his parent or guardian if he is under the age of 18 years and not emancipated, to pay the costs of:
 - (1) The evaluation; and
 - (2) The treatment, if recommended.
- c. Stipulate that if the offender, or his parent or guardian, if applicable, does not have the financial resources to pay all of those costs, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.
18. Amend NRS 62.226 and NRS 202.020 to require that, in addition to any other penalties provided by law, the unlawful purchase, consumption, or possession of an alcoholic beverage by a minor 16 years of age or older is punishable by a mandatory 90-day driver's license revocation.
19. Amend NRS 62.226 and NRS 202.020 to require that, in addition to any other penalties provided by law, the unlawful purchase, consumption, or

possession of an alcoholic beverage by a child under 16 years of age is punishable by a mandatory 6-month delay in his eligibility for a driver's license.

MISCELLANEOUS RECOMMENDATIONS FOR LEGISLATION
CONCERNING DRUG AND ALCOHOL ABUSE
AMONG CRIMINAL OFFENDERS

20. Create the position of substance abuse program director within the DOP. Stipulate that the duties of the director include, but are not limited to:
 - a. Coordinating and overseeing the administration of all substance abuse programs operated or contracted by the DOP;
 - b. Supervising all department personnel assigned to the administration of substance abuse programs; and
 - c. Planning, initiating, and evaluating substance abuse programs.
21. Adopt a resolution, directed to the President and Congress of the United States Congress, opposing the legalization of drugs. Include in the resolution the subcommittee's conclusion that:
 - a. Use of the nation's two legal drugs, alcohol and tobacco, illustrates the effect that legalization would have upon use of drugs currently illegal;
 - b. Studies estimate that 10 times more Americans use alcohol and 5 times more use tobacco than use illicit drugs;
 - c. Legalization of drugs would thus increase their usage, as the experience of Italy and the Netherlands shows;
 - d. Drug use has been linked to many violent crimes, including domestic abuse, and the increased usage of drugs would thus increase the amount of crime committed while under their influence; and
 - e. Health care costs and economic productivity losses associated with drug addiction would increase dramatically.

22. a. Appropriate \$100,000 from the State General Fund to the BADA to conduct a study of the success of treatment programs for drug and alcohol abuse in Nevada. Stipulate that the study must include, at a minimum, information concerning whether substance abusers enrolled in treatment programs have:
- (1) Continued to abuse or remained free of alcohol or drug abuse;
 - (2) Completed educational or vocational programs;
 - (3) Obtained employment; or
 - (4) Been arrested or re-incarcerated.
- b. Further require that the study must differentiate, as much as feasible, between types and length of treatment received, and that the success rate of treated abusers must be compared, as much as feasible, to that of substance abusers receiving no treatment.
- c. Require the bureau to report the results of its findings to the 1997 Legislature. Stipulate that the report must include a plan to encourage the use, through education or preferred funding, of those programs found to be most successful.

RECOMMENDATIONS FOR SUBCOMMITTEE ACTION

23. Direct a letter from the subcommittee to the President of the United States and Nevada's Congressional Delegation expressing support for the following:
- a. Continuance of Federal Substance Abuse Block Grants and their expansion to include prison populations; and
 - b. Continuance of Federal funding for certain anti-drug programs, such as the Edward Byrne Memorial Anti-Drug Use Grant Fund, that may be slated for elimination.
24. Direct a letter from the subcommittee to the BADA encouraging the bureau to evaluate the desirability of increasing the percentage of its total funding devoted to substance abuse treatment programs at facilities that provide

such services to the indigent or persons placed there under civil protective custody pursuant to NRS 458.270.

25. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$1,200,000 for the establishment of a substance abuse camp for drug- and alcohol-abusing offenders and urging the 1995 Nevada Legislature to approve such a budget item.
26. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$110,000 for the position of substance abuse program director and urging the 1995 Nevada Legislature to approve such a budget item.
27. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget the amount of \$850,000 for the establishment of a preassessment and lifeskills center in Reno for substance-abusing parolees and probationers and urging the 1995 Nevada Legislature to approve such a budget item.
28. Direct a letter from the subcommittee to the Governor of Nevada and to the Legislative Commission encouraging the Governor to include in the 1995-1997 budget for the BADA the expenditure of \$150,000 for aftercare services and urging the 1995 Nevada Legislature to approve such a budget item.

BULLETIN 95-10

CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY

S.J.R. 7 - 1993 Session

Members

Assemblyman Lynn C. Hettrick, Chairman
Senator Lawrence E. Jacobsen
Senator William R. O'Donnell
Senator Dina Titus
Assemblywoman Vivian L. Freeman
Assemblywoman Gene Wines Segerblom

Principal Staff

Fred W. Welden, Chief Deputy Research Director
(687-6825)

Senate Joint Resolution No. 7—Committee on Natural Resources

FILE NUMBER 164

SENATE JOINT RESOLUTION—Directing the Legislative Commission to appoint a committee to continue the review of the Tahoe Regional Planning Compact.

WHEREAS, The Tahoe Regional Planning Compact provides for the maintenance of the scenic, recreational, educational, scientific, natural and public health values of the entire Lake Tahoe Basin; and

WHEREAS, The Tahoe Regional Planning Compact establishes the Tahoe Regional Planning Agency to adopt and enforce a regional plan and to provide opportunities for orderly growth and development consistent with the values of the Lake Tahoe Basin; and

WHEREAS, The Legislature of the State of Nevada is vitally concerned with achieving regional goals in conserving the natural resources of the entire Lake Tahoe Basin and with the programs and activities of the Tahoe Regional Planning Agency which affect these goals; and

WHEREAS, Subcommittees of the Legislative Commission have successfully conducted reviews of the programs and activities of the Tahoe Regional Planning Agency on previous occasions; and

WHEREAS, Assembly Joint Resolution No. 17 of the 66th Legislative Session directed the Legislative Commission to appoint a committee of seven members of the Nevada Legislature to review and oversee the functioning of the Tahoe Regional Planning Compact; and

WHEREAS, The review and oversight of the programs and activities of the Tahoe Regional Planning Agency continue to be necessary to ensure proper functioning of the agency; and

WHEREAS, It is vital to remain in communication with members of the Legislature of the State of California to continue to achieve the goals set forth in the Tahoe Regional Planning Compact; now, therefore, be it

RESOLVED BY THE SENATE AND THE ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Legislative Commission is directed to appoint a committee of six legislators composed of three senators and three assemblymen to continue the review of the Tahoe Regional Planning Compact and to oversee the Tahoe Regional Planning Agency; and be it further

RESOLVED, That the committee is directed to monitor the budget, program, activities, responsiveness and accountability of the Tahoe Regional Planning Agency; and be it further

RESOLVED, That the committee is directed to continue to communicate with interested members of the Legislature of the State of California to achieve the goals set forth in the Tahoe Regional Planning Compact; and be it further

RESOLVED, That the Secretary of the Senate transmit copies of this resolution to each member of the California delegation to the Tahoe Regional Planning Agency, the President Pro Tem of the Senate and the Speaker of the Assembly of the State of California; and be it further

RESOLVED, That this resolution becomes effective upon passage and approval.

ABSTRACT

CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY (S.J.R. 7)

The 1993 Nevada Legislature adopted Senate Joint Resolution No. 7 (File No. 164, *Statutes of Nevada 1993*) which directed the Legislative Commission to appoint a committee to continue the review of the Tahoe Regional Planning Compact and to oversee the Tahoe Regional Planning Agency (TRPA).

The six-member committee held four hearings in the Lake Tahoe Basin. Testimony was received from citizens of the Basin, representatives of the TRPA and interest groups active in the Basin, as well as staff from other state and federal agencies. Background information concerning issues of special concern, TRPA programs, and priorities for future action was specifically solicited.

In addition to performing its typical oversight functions, the committee adopted 22 recommendations. Major recommended actions include:

- Establishment and funding of a "partnership approach" to specific types of planning and implementation programs in the Basin;
- Urging the TRPA to emphasize the implementation of existing plans and "on-the-ground" projects which will enhance the environmental quality in the Basin; and
- Placing on the statewide ballot a \$20 million bond proposal to support erosion control and restoration projects.

Background information concerning TRPA activities, a legislative history of the bistate compact, an outline of major elements of the compact, a summary of public land purchase statistics, and explanations of each committee recommendation are contained in the final report.

SUMMARY OF RECOMMENDATIONS

CONTINUED REVIEW OF THE TAHOE REGIONAL PLANNING AGENCY (TRPA) (S.J.R. 7)

Following is a summary of the recommendations approved by the Legislative Commission's Committee to Continue the Review of the TRPA.

I. TRPA STRUCTURE AND FUNCTION

The following recommendations address the structure and function of the TRPA.

Amendment of the Bistate Compact

1. Urge, by resolution, the United States Congress to ratify amendments to the Bistate Compact which have been adopted by the States of Nevada and California and which provide the Nevada Senate and Assembly direct representation on the TRPA Governing Body.

Partnership Approach

2. A two-step procedure for implementing a "partnership approach" to specific types of activities in the Lake Tahoe Basin is proposed.
 - a. Transmit letters from the interim legislative committee to the TRPA, the Budget Director, the State Board of Examiners, and the Legislature's Interim Finance Committee (IFC) describing the value of the "partnership approach" and explaining that money appropriated by the Nevada Legislature to the TRPA is being withheld because California is not providing all of its 2/3 matching share.

Urge these entities to take the necessary actions to secure transfer of the withheld funds to the Special Projects Category within the Agency's budget to support implementation of the "partnership approach" generally as follows:

- i. The sum of \$75,750 for initiation and operation of the "partnership approach" as outlined in section B, and

- ii. The sum of \$40,000 to support a staff position responsible for working within the "partnership approach" to focus on air and water quality programs, including implementation of the capitol improvements plan and restoration of stream environment zones; and

Ask IFC to direct the TRPA to report to that body semiannually concerning progress in implementation of the "partnership approach" and expenditure of the funds having been released.

- b. Enact legislation containing the following substantive elements:

Whereas, the compilation and implementation of plans for environmental protection and development within the related environmental constraints have often been accompanied by controversy and conflict among the parties interested in the Lake Tahoe Basin; and

Whereas, a "partnership approach" would alleviate many of the controversies and conflicts by bringing the interested participants together to jointly prepare the plans and implementation programs; and

Whereas, potentially useful models for such a "partnership approach" include the:

Tahoe Transportation Coalition,
Truckee-North Tahoe Transportation Management Assoc.,
South Shore Transportation Management Association,
Tahoe-Truckee Regional Economic Coalition,
Forest Health Consensus Group,
Lake Tahoe Coalition for Proposition 180 (California proposal to issue bonds partially to support projects for environmental protection in the Lake Tahoe Basin), and
South Lake Tahoe redevelopment planning process; and

Whereas, elements of such a "partnership approach" would include:

- i. A voluntary, but official, structure through which the TRPA and interested participants work toward consensus in the compilation and implementation of plans,

- ii. TRPA's incorporation of participation in the "partnership approach" in its work program and budget for staffing, operations, contributions as participant based on contracts/agreements, and contractual support for necessary facilitators or mediators, and
- iii. Additional specific components such as: (a) designation, by the TRPA Governing Body, of activities which should utilize the "partnership approach"; (b) guidelines concerning the type and number of TRPA policy and technical staff which should be assigned to a partnership, as well as the staff authorities and responsibilities; and (c) guidelines for determining when a facilitator or mediator should be incorporated in the process; and

Whereas, the Tahoe Regional Planning Compact specifies that the states' contributions for support of the Agency are apportioned 2/3 from California and 1/3 from Nevada; and

Whereas, for Fiscal Year (FY) 1993-1994, the State of California has not provided all of its 2/3 share of the states' contribution to the TRPA budget and Nevada has, therefore, withheld a portion of its appropriated contribution in the amount of \$45,500, and it is anticipated that California will be unable to provide full funding in FY 1994-1995 and Nevada will withhold at least \$70,250; and

Whereas, it is anticipated that the reduced contributions from the State of California may be retained within that State's budgetary process through FY 1995-1996 and FY 1996-1997, thus decreasing the funds which would have been available to implement the "partnership approach"; and

Whereas, in previous years, the State of California has effectively contributed more than its official share of the bistate funding by channeling additional support through the Water Resources Control Board, the California Department of Transportation, and the California Tahoe Conservancy; and

Whereas, the "partnership approach" is of such value to the Basin as a whole, and the Nevada portion of the Basin especially, that initial implementation of the program should be funded as a special project by the State of Nevada;

Therefore, the Legislature hereby appropriates \$30,000 to the TRPA to be used as follows:

- i. One-third for operation of the "partnership approach" as previously outlined, and
- ii. Two-thirds to support a staff position responsible for working within the "partnership approach" to focus on air and water quality programs, including implementation of the capital improvements plan and restoration of stream environment zones; and

Therefore, the Legislature hereby appropriates \$90,000 to the IFC Contingency Fund to be used as specified in i. and ii. and directs IFC to release the money to the TRPA in semiannual installments based upon review of the Agency's semiannual reports and IFC's determination that the "partnership approach" is being implemented satisfactorily; and

Therefore, the Legislature hereby directs the TRPA to report to the IFC semiannually (before December 1 and June 1) concerning progress in implementation of the "partnership approach" and expenditure of the funds appropriated through this measure.

Regional Economic Coalition

3. Adopt a resolution which: (a) acknowledges the valuable efforts of the Regional Economic Coalition; (b) urges the TRPA to continue to participate actively in the Coalition; and (c) urges the Agency to assist in the effort to promote a healthy economy, improve quality of life, and integrate the goals of economic health and environmental enhancement in the Region. Incorporate elements from the Coalition's "Vision Statement" and "Mission Statement" in the preamble of the resolution.

Implementation of Projects

4. Urge, by resolution, the TRPA to continue and further expand its efforts to emphasize the implementation of existing plans and "on-the-ground" projects which will enhance the environmental quality in the Basin.

Finite Resources and Environmental Thresholds

5. Urge, by resolution, the TRPA:
 - a. To function as a facilitator to coordinate an analysis of the resources within the Lake Tahoe Basin which are potentially finite in character and the methods by which these resources are to be allocated; and
 - b. To continue to review the status of the environmental threshold carrying capacities for the Basin, the degree to which they are being attained and maintained at the present time, and the mechanisms by which it is anticipated that they will be attained and maintained in the future.
6. Urge, by resolution, the TRPA to place priorities on the environmental threshold carrying capacities as part of the next scheduled review of these thresholds in 1995-1996 (for instances in which this action is deemed to be practical and with the understanding that all of the thresholds are to be achieved).

"Streamlining" of Agency Operations and Procedures

7. Urge, by resolution, the TRPA:
 - a. To continue to streamline its operations and procedures through such mechanisms as utilization of "Memorandums of Understanding" with units of local government and other entities in the Lake Tahoe Region;
 - b. To continue its efforts to become more "user-friendly" and work more diligently in partnership with other entities to be proactive in providing increased public education with respect to the Agency's programs, activities, goals, and objectives; and
 - c. To encourage a cooperative, interactive atmosphere in an effort to foster flexibility in considering new projects for the area.
8. Transmit a letter from the interim legislative committee to the TRPA urging the Agency to coordinate activities closely with local governments in the Lake Tahoe Basin in order to increase conformity among the code and ordinance requirements and to provide for unique redevelopment opportunities within each community in the Basin.

Variance Procedure

9. Urge, by resolution, the TRPA to establish procedures for granting variances from the Agency's ordinances for certain types of projects under specified conditions.

Flexibility in Land Coverage Transfer Program

10. Transmit a letter from the interim legislative committee to the TRPA urging the Agency to further study the issue of land coverage limitations and mechanisms for increasing flexibility in the transfer of land coverage "rights."

II. STATE AND FEDERAL AGENCY ACTIONS AND PROGRAMS

Following are recommendations addressing the actions and programs of state and federal agencies which are active in the Lake Tahoe Basin.

Multiple Agencies

11. Adopt a resolution:
 - a. Expressing the Legislature's support for the mission of the Forest Health Consensus Group functioning within the Lake Tahoe Basin; and
 - b. Urging the U.S. Congress and appropriate federal and state agencies to provide financial assistance in the accomplishment of the objectives of the Consensus Group relative to management of the forest ecosystem and reduction of fire hazard.
12. Direct, by resolution, the relevant state agencies to cooperate with the TRPA and local governments in the Lake Tahoe Basin and to provide information within their fields of responsibility to assist in planning efforts within the Basin (i.e. Nevada's Department of Transportation, Division of Environmental Protection, Division of Forestry, Division of State Lands, and Division of Wildlife).

Department of Transportation

13. Amend *Nevada Revised Statutes* (NRS) 244.33514 and NRS 268.446 to provide that revenue generated through the optional room tax may be used for establishing, operating, and maintaining a public transit system.
14. Express, by resolution, support for the Nevada Department of Transportation's partnership and participation in the following projects within the Lake Tahoe area:
 - a. Implementation of the TransCal Field Operation Test;
 - b. The annual planning process associated with the Tahoe Basin Traffic Management Plan; and
 - c. Completion of the Tahoe Intercity Rail Study.
15. Transmit letters from the interim legislative committee to the Senate Committee on Finance and the Assembly Committee on Ways and Means urging the members of these standing committees to ensure that Nevada's Department of Transportation allocates additional funds for erosion control projects along U.S. Highway 50 from Spooner Summit to Stateline.
16. Express, by resolution, continued support for designation of the TRPA as a Metropolitan Planning Organization (MPO) under provisions of the Federal Intermodal Surface Transportation Efficiency Act of 1991.

Division of State Lands

17. Place on the statewide ballot a proposal to issue \$20 million in general obligation bonds to support grants to local governments and the Nevada Department of Transportation for erosion control projects and restoration of stream environment zones in the Lake Tahoe Basin (the State Land Registrar in the Division of State Lands being responsible for administration of the grant program). Provide that, if the ballot question is approved, the State Land Registrar is directed to report to the Interim Finance Committee semiannually concerning implementation of the program and expenditure of the funds.
18. Direct the Administrator of the Division of State Lands to make available for sale development rights (and any other rights for which the TRPA does not

require retirement) which are appurtenant to property purchased with "excess coverage mitigation fees" transferred to the Division by the TRPA.

Division of Environmental Protection

19. Enact legislation providing that, if a cooperative agreement to construct and operate an areawide storm sewer system in the casino core-loop road portion of Stateline, Nevada, is not completed by October 1, 1995, the board of county commissioners of Douglas County is directed to establish an assessment district subject to the provisions of Chapter 271 of NRS to accomplish this purpose.

U.S. Postal Service

20. Urge, by resolution, the U.S. Congress and the U.S. Postal Service to initiate and maintain door-to-door mail delivery or other similar programs designed simultaneously to enhance the efficiency of mail delivery and to assist in the effort to reduce traffic congestion and air pollution in the Lake Tahoe Basin.

Nevada Tahoe Regional Planning Agency (NTRPA)

21. Transmit letters from the interim legislative committee to the Senate Committee on Finance and the Assembly Committee on Ways and Means explaining that the Lake Tahoe Gaming Alliance has expressed concerns about program modifications since the Division of State Lands was assigned the responsibility of providing staff support for the Nevada Tahoe Regional Planning Agency. Indicate that the Alliance and representatives of the Division have agreed to work together in an effort to address these matters. However, the Alliance would appreciate the opportunity to bring its concerns before the standing committees if these discussions are not successful in alleviating the issues.

III. FUTURE ACTIVITIES OF INTERIM LEGISLATIVE COMMITTEE

22. Continue, by resolution, the existence (during the interim after the 1995 Legislative Session) of the interim legislative committee and broaden its scope of activities to include monitoring of the activities of Federal and state agencies having responsibilities within the Lake Tahoe Basin.

BULLETIN 95-11

LEGISLATIVE COMMITTEE ON PUBLIC LANDS

NRS 218.5363

Members

**Senator Dean A. Rhoads, Chairman
Senator Mark A. James, Vice Chairman
Senator Mike McGinness
Assemblyman John W. Marvel
Assemblyman P.M. Roy Neighbors
Assemblyman John B. (Jack) Regan
and
Karen W. Hayes, Clark County Commissioner**

Principal Staff

**Dana R. Bennett, Senior Research Analyst
(687-6825)**

NEVADA REVISED STATUTES

218.5363 Establishment; membership; chairman; vacancies.

1. There is hereby established a legislative committee on public lands consisting of three members of the senate, three members of the assembly and one elected officer representing the governing body of a local political subdivision, appointed by the legislative commission with appropriate regard for their experience with and knowledge of matters relating to public lands. The members who are state legislators must be appointed to provide representation from the various geographical regions of the state.

2. The members of the committee shall select a chairman from one house of the legislature and a vice chairman from the other. After the initial selection of a chairman and a vice chairman, each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the committee shall select a replacement for the remainder of the unexpired term.

3. Any member of the committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the convening of the next session of the legislature.

4. Vacancies on the committee must be filled in the same manner as original appointments.

(Added to NRS by 1979, 5; A 1983, 209; 1985, 589)

ABSTRACT

LEGISLATIVE COMMITTEE ON PUBLIC LANDS (NRS 218.5363)

Nevada's Legislative Committee on Public Lands is a permanent committee of the Nevada Legislature and is authorized by *Nevada Revised Statutes* 218.5363. Created in 1983, this body is responsible for reviewing and commenting on proposed and existing laws and regulations that affect Federally controlled lands in this state. The committee also provides a forum for the discussion of public lands issues with Federal, state, and local officials; representatives of pertinent organizations, and other interested individuals.

A report of the committee's activities during the 1993-1994 interim period has been prepared. This document reviews public lands legislation passed during the 1993 Legislative Session and summarizes the topics considered and acted upon by the committee during the interim. The Public Lands Committee held seven regular meetings throughout Nevada and traveled to Washington, D.C., to meet with Congressional and Federal agency officials involved in public lands policy matters.

The members voted to send numerous letters concerning pressing public lands issues, such as mining and grazing reform. Included were formal comment letters to the United States Departments of Agriculture and Interior concerning the proposed changes to livestock grazing regulations. In addition, the members approved the following:

- Committee Resolution 93-1, which concerns livestock grazing;
- Committee Resolution 93-2, which urges placement of the Great Basin Heritage Center in White Pine County, Nevada;
- Committee Resolution 93-3, which opposes the Reid Amendment to the Interior Appropriations Bill; and
- Committee Resolution 93-4, which urges the implementation of certain recommendations about rangeland health.

The committee also approved the submission of four bill draft requests for the 1995 Session. Finally, the members voted to strongly recommend that the 1995 Nevada Legislature approve certain measures (see recommendations).

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON PUBLIC LANDS (NRS 218.5363)

1. Express support for land exchanges involving the Bureau of Land Management and the Colorado River Commission that will result in more land for Laughlin.
2. Express support for the mining industry in this state and opposition to extensive and unreasonable reform of existing mining law.
3. Express support for the livestock industry in this state and opposition to extensive and unreasonable reform of existing rangeland management regulations.
4. Express support for the inclusion of economic considerations in the re-authorization of the Federal Endangered Species Act.
5. Approve the following measures:
 - a. BDR 19-427, which creates the Constitutional Defense Council;
 - b. BDR R-428, concurrent resolution, which claims state sovereignty over all powers not granted to the Federal Government in the *U.S. Constitution*;
 - c. BDR 17-945, which creates the permanent legislative committee on federal mandates; and
 - d. BDR 17-946, which creates the position of auditor of federal mandates and other encroachments on state sovereignty.
6. Approve Senate Joint Resolution No. 27 of the 1993 Session. This resolution proposes amending the ordinance to the *Nevada Constitution* to remove the public lands disclaimer clause.

BULLETIN 95-14

OVERTIME WORKED BY STATE EMPLOYEES

S.C.R. 55 - 1993 Session

Members

Senator William J. Raggio, Chairman
Senator Bob Coffin
Senator William R. O'Donnell
Assemblywoman Chris Giunchigliani
Assemblyman Dean A. Heller
Assemblyman Larry L. Spitler

Principal Staff

Larry L. Peri, Program Analyst
(687-6821)

Senate Concurrent Resolution No. 55—Committee on Finance

FILE NUMBER 167

SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of the overtime worked by state employees and the methods of complying with the Fair Labor Standards Act.

WHEREAS, The State of Nevada classifies its employees within the executive department as being either classified or unclassified, and the rights and benefits of a state employee are dependent upon his classification; and

WHEREAS, The federal Fair Labor Standards Act designates specific categories of employees for the purposes of the Act, including the payment of overtime to those employees; and

WHEREAS, A recent federal court case found that this state's method for the payment of overtime to certain state employees in accordance with state's system of classification was in violation of the Fair Labor Standards Act; and

WHEREAS, Overtime not only affects the quality of life of the state employees required to work the overtime by limiting the time they can spend with family and friends, but it costs this state millions of dollars each year; and

WHEREAS, Nevada must develop a system of classification of its personnel which would improve the efficiency of the government services to the residents of this state by effectively utilizing the manpower of the state employees while minimizing the amount of overtime that these employees must work; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study concerning the system of classification of state employees and the payment of overtime to those employees; and be it further

RESOLVED, That the study include, but not be limited to, an examination, review and evaluation of:

1. The system for the classification of state employees;
 2. The methods by which those state employees are being paid overtime;
 3. Alternative methods of classifying and paying overtime to state employees to determine the most efficient methods that could be utilized in this state; and
 4. The compliance of any proposed system of classification of state employees with the Fair Labor Standards Act;
- and be it further

RESOLVED, That the Legislative Commission report the results of the study and any recommended legislation to the 68th session of the Nevada Legislature.

ABSTRACT

OVERTIME WORKED BY STATE EMPLOYEES (S.C.R. 55)

The 67th Session of the Nevada Legislature adopted Senate Concurrent Resolution Number 55 (File Number 167, Statutes of Nevada, 1993) which directed the Legislative Commission to study overtime worked by state employees and the methods of complying with the Fair Labor Standards Act. The Legislative Commission appointed a committee of six legislators to conduct the study.

The committee held four meetings, all in Carson City and conducted its study through the public hearing process. Two of the four meetings were teleconferenced to Las Vegas which allowed members of the committee and state agency representatives in Las Vegas to participate in the meetings and provide testimony. The committee received considerable testimony and reviewed a great deal of information concerning overtime worked by state employees.

At its final work session, the committee adopted four recommendations and identified three findings. The committee recommended:

1. That the Department of Personnel conduct further study of officer-of-the-day compensation alternatives;
2. The adoption of statutory amendments that would prohibit payment of overtime to board and commission members;
3. That new positions recommended in the Executive Budget must demonstrate the cost effectiveness of new positions in lieu of compensating earned overtime; and,
4. That the Department of Administration request and collect overtime statistics from the University System and the Public Employees Retirement System on a quarterly basis.

Detailed descriptions of these recommendations and findings may be found in Legislative Counsel Bureau Bulletin 95-14.

SUMMARY OF RECOMMENDATIONS

OVERTIME WORKED BY STATE EMPLOYEES (S.C.R. 55)

The Legislative Commission's Committee on Overtime Worked by State Employees has developed the following recommendations and findings. The recommendations and findings are based upon: (1) testimony presented to the committee at its public hearings; (2) a review of written information and comments provided to the committee; and (3) the experience and knowledge of the members of the committee.

The committee recommends:

1. That the Department of Personnel conduct a thorough analysis of all state employee position classifications affected by officer-of-the-day or standby shift requirements and approach the 1995 Legislature with suggested compensation alternatives to address these requirements.
2. That existing statutes be amended to ensure that board and commission members are not entitled to compensation for overtime.
3. That new positions recommended in The 1995-97 Executive Budget in agencies that experience significant overtime accrual be thoroughly justified and demonstrate the cost effectiveness of adding new positions in lieu of compensating earned overtime.
4. That the Department of Administration request and collect, on a quarterly basis, statistics on overtime accrual from the University System (classified employees) and the Public Employees Retirement System.

FINDINGS

Additionally, the committee reports the following findings and observations:

1. That the Department of Administration's and the Department of Personnel's joint identification of issues of concern, suggested options and alternatives regarding current overtime provisions, as well as the Department of Personnel's proposal to seek approval from the

1995 Legislature for the authority to conduct a comprehensive study of the state's personnel system, is acknowledged and made part of this report.

2. That executive department agencies are encouraged to enter into agreements with organizations representative of state employees or with individual employees for the provision of compensatory vacation time instead of monetary payment for overtime.
3. That the committee has reviewed and discussed the application of the "short" duties test versus the "long" duties test utilized by the Department of Personnel in determining whether or not an employee is entitled to compensation for overtime. And, that the use of the "short" test by the Department of Personnel appears acceptable and that the use of the "long" test would not appreciably alter the determination process.

BULLETIN 95-15

**STRUCTURE AND FUNCTIONING OF THE
LEGISLATIVE COUNSEL BUREAU**

A.C.R. 67 - 1993 SESSION

Members

Assemblyman Bob Price, Chairman
Senator Leonard V. Nevin, Vice Chairman
Senator Randolph J. Townsend
Assemblywoman Vivian L. Freeman

Principal Staff

Lorne J. Malkiewich, Director
(687-6800)

Assembly Concurrent Resolution No. 67—Assemblymen Evans, Chowning, Neighbors, Augustine, Tiffany, Smith, Kenny, Petrak, Dini, Wendell Williams, Garner, Arberry, Marvel, Price and Freeman

FILE NUMBER 176

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to consider an interim study of the functioning of the Legislative Counsel Bureau.

WHEREAS, It has been 30 years since the Legislative Counsel Bureau was established in its current structure; and

WHEREAS, It has been 20 years since an organizational and operational review has been made of the Legislative Counsel Bureau; and

WHEREAS, The staff of the Legislative Counsel Bureau assists the Legislators in the performance of their official duties; and

WHEREAS, The staff provides an invaluable resource to the residents of this state by providing information regarding the activities of the Legislature; and

WHEREAS, The needs of the Legislators and the public have changed over the years and the structure and functioning of the Legislative Counsel Bureau should be reviewed to ensure its most efficient and effective operation; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission consider conducting an interim study of the structure and functioning of the Legislative Counsel Bureau and that the services of the National Conference of State Legislatures should be utilized in any such study; and be it further

RESOLVED, That the results of any such study and any recommended legislation be reported to the 68th session of the Nevada Legislature.

Ⓢ

ABSTRACT

STRUCTURE AND FUNCTIONING OF THE LEGISLATIVE COUNSEL BUREAU (A.C.R. 67)

The 67th Session of the Nevada Legislature adopted Assembly Concurrent Resolution No. 67 (File No. 176, *Statutes of Nevada 1993*, at pages 3120-3121), which directed the Legislative Commission to consider conducting an interim study of the structure and functioning of the Legislative Counsel Bureau. The Legislative Commission voted to conduct the study, with a particular emphasis on the Fiscal Analysis Division and the Legal Division, and appointed a subcommittee of five legislators to do so.

A total of four meetings were held by the subcommittee. All of the meetings were held in Carson City. The subcommittee adopted recommendations addressing issues in the following areas:

Fiscal Analysis Division

The subcommittee reviewed the staffing and workload of the Fiscal Analysis Division and determined that the size of the existing staff was not sufficient to handle the workload of the division. The subcommittee recommended expanding the staff by adding two Program Analysts. The subcommittee also encouraged increased review of fiscal notes and further streamlining of the budget process.

Legal Division

The subcommittee reviewed the Legal Division and came to the same conclusion: the division is understaffed. The subcommittee recommended the addition of two Deputies Legislative Counsel and three paralegals to assist with bill drafting and the other duties of the division. The subcommittee also recommended that the Legislature pursue various measures to reestablish the authority of the Legislative Commission to reject an administrative regulation that exceeds the delegated authority of the executive branch agency that adopts it.

Media Relations

The subcommittee elected to review the issue of relations with the print and broadcast media, focusing particularly on the methods of encouraging coverage of the Legislature. The subcommittee recommended the establishment of an

Advisory Committee on Public Access and Communications to serve as a liaison with the news media, a sounding board for the director, as well as a policy committee on such issues as media relations and coverage, the Legislative Film, cable coverage of the Legislature, teleconferencing and pre-session orientation for the members of the news media. The subcommittee also recommended allowing the Director of the Legislative Counsel Bureau to make public addresses or appearances relating to the business of the Legislature or to issue press releases without the approval of the Legislative Commission.

Las Vegas Office

The subcommittee also discussed the proposed Las Vegas office of the Legislative Counsel Bureau. The subcommittee approved the establishment of a three-person office, with an Administrative Services Officer, an Administrative Assistant and a Receptionist, administratively located within the office of the Director of the Legislative Counsel Bureau. The subcommittee urged that the opening of the Las Vegas office be heavily advertised in conjunction with the opening of the new state office building.

Legislative Rules and Procedures

The subcommittee also considered various modifications of legislative rules and procedures which might impact the structure and functioning of the Legislative Counsel Bureau by increasing the efficiency of the operation of the Legislature. The subcommittee recommended the drafting of a constitutional amendment to move the first day of session from the third Monday in January to the first Monday in March (of each odd-numbered year). The subcommittee also recommended that members of the standing committees with substantive jurisdiction over the subject of an interim study be appointed to the subcommittee which conducts the study. The subcommittee also recommended various changes to the rules governing legislative procedure, including a requirement that measures be introduced within 10 legislative days after delivery to a Legislator, a procedure for hearing complaints concerning the proposed constitutional requirement that legislative hearings be open and public, and a requirement that resolutions which constitute memorials or commendations be considered as the last item of business on Friday of each week.

Detailed discussion of these recommendations may be found in the subcommittee's final report.

SUMMARY OF RECOMMENDATIONS

STRUCTURE AND FUNCTIONING OF THE LEGISLATIVE COUNSEL BUREAU (A.C.R. 67)

The Legislative Commission's Subcommittee to Study the Structure and Functioning of the Legislative Counsel Bureau recommends the following:

1. Expand the staff of the Fiscal Analysis Division by adding two Program Analysts. This would reduce the number of budgets for which each professional employee of the division is responsible and relieve some of the stress caused by the workload of the division.
2. Notify all Legislators of the procedure for requesting a fiscal note through the presiding officer of the House or Committee. Also notify state agency heads that fiscal notes must not be intentionally underestimated or inflated (to encourage or discourage passage). The staff of the Fiscal Analysis Division will be reviewing suspect fiscal notes more carefully.
3. Support the efforts of the interim legislative subcommittee to study the Method of Establishing a Legislative Budget Office (S.C.R. 46) to streamline the budget process by having the Legislature focus more on programs than on line items.
4. Urge the chairmen and members of the Senate Committee on Finance and the Assembly Committee on Ways and Means to assist in controlling the amount of fiscal research requested by members of the committee. The increase in the staff of the Fiscal Analysis Division is not intended to allow an increase in workload, rather to achieve a minimum staffing level necessary to complete the business of the division in a timely manner without excessive overtime.
5. Support the passage of Senate Joint Resolution No. 23 of the Sixty-seventh session, which proposes a constitutional amendment to allow specifically for the review and rejection of administrative regulations by the Legislative Commission. This measure was approved last session and will again be before the Legislature in 1995.

6. Propose a constitutional amendment to allow specifically for the review and rejection of administrative regulations by the Legislative Commission (this measure could be enacted in 1995 and 1997 and placed on the ballot in 1998 if S.J.R. 23 fails).
7. Propose a bill draft request (BDR) which reenacts the legislative veto power for the Legislative Commission. The BDR should include statements of legislative intent which make the strongest case possible in the event of legal challenge.
8. Direct the Legislative Counsel to place an annotation in the Nevada Administrative Code (NAC) following each section of any regulation to which the Legislative Commission has objected indicating that it was filed over the objection of the commission.
9. Add two attorneys at the bill drafter level (Deputy Legislative Counsel) to address the increased workload of the Legal Division both during the session and the interim.
10. Add three paralegals to the Legal Division to assist the bill drafters and reviewers and to perform other duties commensurate with their ability and experience.
11. Increase the entry-level grade for attorneys from 40 to 42.
12. Establish an Advisory Committee on Public Access and Communications. This committee could serve several purposes: a liaison with the news media, a sounding board for the director, as well as a policy committee on such issues as media relations and coverage, the Legislative Film, cable coverage of the Legislature, teleconferencing and presession orientation for the members of the news media.
13. Amend Rule 14 of the Rules and Policies of the Legislative Counsel Bureau to allow the Director to make "public addresses or appearances relating to the business of the legislative counsel bureau or the legislative commission" or to issue press releases without the approval of the Legislative Commission.
14. Establish a presession orientation program for members of the media.

15. Encourage the coverage of the Nevada Legislature and its committees on public television. Do not produce a legislative broadcast: a production of the Legislature is propaganda, not news. Do not finance the coverage: this would raise questions as to the independence of the coverage. "Encourage" should include both urging coverage and accommodating coverage through enhanced technical support for the news media.
16. Heavily advertise the opening of the Las Vegas office of the LCB in connection with 2-week adjournment held during 1995 session. This will help to ensure that the public continues to use the services provided by the office even after the adjournment.
17. Establish a Las Vegas office of three persons, housed administratively within the Director's office. One person would be a professional level employee, with an administrative assistant and a secretary as clerical support.
18. Draft a proposed constitutional amendment to delay the start of each regular session of the Nevada Legislature until the first Monday in March.
19. Direct the Legislative Commission to appoint to the subcommittees formed to conduct interim studies members of the standing committees which have jurisdiction over the subject of the study, if possible.
20. Require that a Legislator (including the chairman of a committee that requests a bill draft) introduce a bill or joint resolution within 10 legislative days after delivery of the final version of the BDR to the Legislator. If a measure is not introduced within this period, it cannot be introduced without the approval of the standing committee which has jurisdiction over the subject of the measure.
21. Establish a basic procedure for making and hearing complaints concerning the constitutional requirement (assuming passage by the voters in November) that legislative hearings be open and public. The recommended procedure is as follows: a complaint must be made within 3 days and must be heard within another 3 days; the complainant and the affected Legislator would be allowed to present testimony and other evidence; complaints will be made to and heard by the Committee on Legislative Affairs and Operations in the Senate and the Committee on Elections and Procedures in the Assembly; if the complaint involves one of those committees, it will be heard by a committee representing the

leadership of the respective House (the Majority Leader, Minority Leader and President Pro Tempore in the Senate and the Speaker, Majority Leader and Minority Leader in the Assembly); and if a violation is found, the action taken in violation of the constitution must be rescinded.

22. Recommend that leadership for the next session consider limiting floor sessions early in session to an extent that would not interfere with the conduct of legislative business. This will allow more time for committees to meet to review the budget and proposed legislation.
23. Require that resolutions which constitute memorials or commendations be considered as the last item of business on Friday of each week.

BULLETIN 95-16

REVENUE AND TAX STRUCTURE IN NEVADA

S.C.R. 43 - 1993 SESSION

Members

Senator Dean A. Rhoads, Chairman

Senator Diana M. Glomb

Assemblywoman Chris Giunchigliani

Assemblyman Dean A. Heller

and

Marvin Leavitt, Local Government Advisory Committee

Carole A. Vilardo, Representative of General Public

Harry Weinberg, Expert in Economic Development

Principal Staff

Kevin D. Welsh, Deputy Fiscal Analyst

(687-6821)

Senate Concurrent Resolution No. 43—Senators Glomb,
Brown and Titus

FILE NUMBER 183

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to conduct an interim study on the revenue structure in Nevada.

WHEREAS, The population of the State of Nevada is increasing rapidly resulting in the proportionate growth of the diverse services provided by the State of Nevada to its residents; and

WHEREAS, The growth in the services provided by the State of Nevada often requires an increase in the expenditures of the state general fund; and

WHEREAS, The present revenue structure for this state and for its local governments lacks stability and has made the budgeting process difficult and in some circumstances fails to meet the demands of the rapidly increasing population of this state; and

WHEREAS, The present revenue structure in this state has limited flexibility and may be inadequate in addressing the changing needs of the residents of this state; and

WHEREAS, The creation of a flexible and adequate revenue structure for the state and local governments is necessary for the fiscal well-being of the State of Nevada; and

WHEREAS, An analysis of the existing revenue structure of the state and its local governments using principles of taxation would assist the legislature in establishing a tax structure for this state that is flexible and stable and provides adequate revenues for this state to meet the changing needs of its residents; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to appoint a committee to conduct an interim study of the revenue structure of this state and its local governments and make recommendations for legislation to improve that structure; and be it further

RESOLVED, That the committee appointed by the Legislative Commission to conduct the study consist of:

1. Two members of the senate who belong to different political parties;
2. Two members of the assembly who belong to different political parties;
3. One member of the local governmental advisory committee;
4. One member who is an expert in economic development; and
5. One member who is a representative of the general public;

and be it further

RESOLVED, That the members of the committee who are not legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day's attendance at a meeting of the committee; and be it further

RESOLVED, That the per diem allowances and travel expenses must be paid from the legislative fund; and be it further

RESOLVED, That the committee may appoint such subcommittees as it deems necessary to carry out the purposes of the study; and be it further

RESOLVED, That the committee shall use the following principles of taxation to analyze the revenue structure of the state and its local governments:

1. Equity: Each tax that is imposed by the state or authorized for imposition by a local government should provide equal liabilities for similarly situated taxpayers;
 2. Neutrality: Taxes should not negatively impact decisions regarding earning and spending;
 3. Adequacy: The basis for the taxes imposed by the state and local governments should be stable and predictable to ensure adequate revenue and accurate budgeting;
 4. Broad Based: All taxes authorized or imposed by the state legislature should have as few exemptions as practicable;
 5. Simplicity: The provisions governing the administration of each tax should be easy to comply with and understand;
 6. Compatibility: The taxes imposed by the state should be compatible with those levied by local governments, the Federal Government and other states;
 7. Predictability: The taxes which each person is required to pay should be definite and not arbitrary;
 8. Exemptions: All exemptions should be based on economic criteria and should apply for a specific time;
 9. Convenience: The manner of payment of taxes should be based on convenience to the taxpayer;
 10. Efficiency: All taxes should be collected in the most efficient manner possible which requires the least amount of paperwork for both the tax collector and the taxpayer; and
 11. Earmarking: The use of the proceeds from a particular tax should not be dedicated to a specific purpose unless there is a direct causal relationship between the activities of the persons upon whom the tax is imposed and the need for the revenue;
- and be it further

RESOLVED, That the committee shall review the effect of competition between the state and its local governments for the same sources of revenue and the effect that exemptions in existing taxes may have on the revenue structure; and be it further

RESOLVED, That the committee is directed to prepare one or more proposals for the revision of the revenue structure of this state and its local governments to make that structure more consistent with the principles of taxation set forth in this resolution, while maintaining the economic well-being of the residents and businesses of this state and providing an adequate and stable source of revenue for the support of the state and its local governments; and be it further

RESOLVED, That the Legislative Commission report the results of the study and recommended legislation to the 68th session of the Nevada Legislature.

ABSTRACT

REVENUE AND TAX STRUCTURE IN NEVADA (S.C.R. 43)

The 67th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 43 (File No. 183, *Statutes of Nevada*, page 3128). The resolution directs the Legislative Commission to conduct a study of the revenue and tax structure in Nevada.

To conduct the study, the Legislative Commission appointed a subcommittee consisting of two members of the Senate who belong to different political parties, one member of the local government advisory committee, one member who is an expert in economic development, and one member who is a representative of the general public. The subcommittee held five hearings and several (sub)subcommittee hearings in Carson City, Reno, Las Vegas, and Elko to hear testimony and receive information on Nevada's revenue and tax structure, and held a final work session in Carson City.

The subcommittee adopted 21 recommendations in the areas of tax administration, sales tax, real and personal property tax, tax initiatives, and miscellaneous taxes. These recommendations take the following forms: bill draft requests, letters of intent, requested position statements contained in the narrative, and requests for information and legal opinions to be forwarded to the 1995 Legislature.

Detailed descriptions of the recommendations and discussions of the subcommittee's deliberations can be found in the subcommittee's final report.

SUMMARY OF RECOMMENDATIONS

REVENUE AND TAX STRUCTURE IN NEVADA (S.C.R. 43)

1. The 1995 Session of the Nevada Legislature should consider legislation achieving assessment equity between manufactured homes and site built homes.
2. The 1995 Session of the Nevada Legislature should consider legislation providing that the sales tax be paid on items for rent or lease at the time of rental or lease and eliminating the option of payment at the time of original sale.
3. The 1995 Session of the Nevada Legislature should consider legislation providing for various changes regarding the collection of taxes. (Department of Taxation Omnibus Bill)
4. The 1995 Session of the Nevada Legislature should consider legislation establishing a subcommittee on the consolidation of the services provided by the state, counties, cities, and special districts at the convening of the 1995 Session to report to the 1997 Session.
5. The 1995 Session of the Nevada Legislature should consider legislation establishing a minimum threshold issue tax billings.
6. The 1995 Session of the Nevada Legislature should consider legislation repealing NRS 354.59811.
7. The 1995 Session of the Nevada Legislature should consider legislation authorizing the Commission on Economic Development to grant certain exemptions to new and expanding business.
8. The 1995 Session of the Nevada Legislature should consider legislation providing for a constitutional amendment allowing a "circuit breaker" for relief from property taxation to mitigate economic hardship on single family residents.
9. The 1995 Session of the Nevada Legislature should consider legislation adding "widowers" to NRS 361.080.

10. The 1995 Session of the Nevada Legislature should consider legislation directing the appropriation committees of the 1995 Session to require state agencies to use lock boxes unless such use is shown to be impractical.
11. The 1995 Session of the Nevada Legislature should consider legislation establishing a \$250,000 per year of sales tax liability threshold for the use of electronic funds transfers (EFT) and delegating the authority to review and revise a threshold to the Nevada State Tax Commission.
12. The 1995 Session of the Nevada Legislature should consider legislation establishing a bad debt credit against future sales and use tax.
13. The 1995 Session of the Nevada Legislature should consider legislation to eliminate the prepayment of the net proceeds of mines over a 5-year period.
14. The 1995 Session of the Nevada Legislature should consider legislation that would eliminate the prepayment of the insurance premium.
15. The 1995 Session of the Nevada Legislature should consider legislation removing the state bond redemption rate from the statutory tax rate cap.
16. The 1995 Session of the Nevada Legislature should consider legislation removing the school tax rate from the statutory tax rate cap.
17. The 1995 Session of the Nevada Legislature should consider legislation removing the indigent fund rate from the statutory tax rate cap.
18. The 1995 Session of the Nevada Legislature should consider legislation to increase the statutory cap from the current 3.64 rate to \$4 per \$100 of evaluation.
19. The 1995 Session of the Nevada Legislature should consider legislation to amend the standing rules to require that the accepted tax principals be considered whenever an increase in taxes or fees is proposed.
20. The 1995 Session of the Nevada Legislature should consider legislation that would require any proposed tax increase to be approved by two final floor votes of the legislature in each house within at least 15 days but not later than 30 days.

21. The 1995 Session of the Nevada Legislature should consider legislation providing for a constitutional change that would require any proposed tax increase to be approved by two final floor votes of the legislature in each house within at least 15 days but not later than 30 days.
22. The Fiscal Analysis Division provide revenue estimates that would be derived from the Sales and Use Tax of state domestic product included but not limited to services, food, health care and the possible reduction of the sales tax rate that could be realized by expanding the base for the 1995 Session of the Nevada Legislature based on the 1992 Census data when it becomes available.

BULLETIN 95-17

METHOD OF ESTABLISHING A LEGISLATIVE BUDGET OFFICE

S.C.R. 46 - 1993 SESSION

Members

Assemblywoman Jan Evans, Chairman
Senator Matthew Q. Callister
Senator Raymond D. Rawson
Senator Dean A. Rhoads
Assemblyman Morse Arberry, Jr.
Assemblyman John W. Marvel

Principal Staff

Mark W. Stevens, Assembly Fiscal Analyst
(687-6821)

Senate Concurrent Resolution No. 46—Committee on Taxation

FILE NUMBER 165

SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study concerning the most appropriate method of establishing a Legislative Budget Office.

WHEREAS, The Constitution of the State of Nevada provides that money may be drawn from the treasury only by appropriations made by the Legislature; and

WHEREAS, Budget approval is the process whereby the Legislature exercises its constitutional obligation to reflect the needs and wishes of the residents of this state in the allocation of its financial resources; and

WHEREAS, There is currently no opportunity for the Legislature to review the budget proposals of the Governor before the beginning of the legislative session; and

WHEREAS, A Legislative Budget Office is necessary to facilitate the process of budget approval; and

WHEREAS, There are several ways to establish and operate such an office; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to conduct an interim study concerning the method of establishing a Legislative Budget Office; and be it further

RESOLVED, That the study include:

1. An evaluation of the options which are available for establishing and operating a Legislative Budget Office;
2. A recommendation of the most appropriate option;
3. An evaluation of any necessary changes in state law; and
4. A proposed schedule for the establishment of the Legislative Budget Office;

and be it further

RESOLVED, That the results of the study and any recommended legislation be reported to the 68th session of the Nevada Legislature.

ABSTRACT

METHOD OF ESTABLISHING A LEGISLATIVE BUDGET OFFICE (S.C.R. 46)

The 67th Session of the Nevada Legislature adopted Senate Concurrent Resolution 46 which directed the Legislative Commission to study methods of establishing a legislative budget office. The Legislative Commission appointed six members to conduct the study.

At the subcommittee's six meetings, the members reviewed the budget process utilized by a number of western states and concentrated on the options available for improving Nevada's current budget process. The subcommittee made recommendations in five major areas.

1. Legislative Budget Office - A bill establishing a Legislative Budget Office should be drafted to allow this issue to be addressed by the 1995 Legislature.
2. Budget Process - Recommendations were made in the following areas:
 - A. Complete as much work as possible in advance of session - Recommendations include submission of the adjusted base budget, by agency, for legislative review by December 1, 1994.
 - B. Adhere to a strict timetable for agency budget hearings.
 - C. Utilize joint subcommittees (consisting of members of both money committees) to develop recommendations on most agency budgets.
3. Modification of the Current Budget Format - The committee recommended a number of improvements to the current budget format designed to make the document more useful to the money committees.
4. Agencies Targeted to Receive Greater Attention in the Development of Performance Indicators - Eleven agencies were identified to receive greater attention by the Budget Division in the development/revision of performance indicators for use by the 1995 Legislature.

5. Interim Review of the Base Budget - Legislative review is recommended to concentrate on major issues, performance indicators and maintenance/enhancement decision units with less emphasis on the base budget. Therefore the committee recommended that a program be established to review the base budget of selected agencies during the interim period between legislative sessions.

SUMMARY OF RECOMMENDATIONS

METHOD OF ESTABLISHING A LEGISLATIVE BUDGET OFFICE (S.C.R. 46)

This summary represents the major recommendations made by the committee studying methods of establishing a legislative budget office. These recommendations were based on information provided at the committee's six meetings by the Department of Administration, the Department of Information Services, the Fiscal Analysis Division, and the staff of the National Conference of State Legislatures. The committee reviewed the budget process utilized in a number of western states and concentrated on the options available for improvement of Nevada's current budget process.

The committee's recommendations are outlined below:

A) LEGISLATIVE BUDGET OFFICE

A bill establishing a legislative budget office should be drafted to allow this issue to be addressed by the 1995 Legislature.

The committee concluded that it was premature to recommend the establishment of a legislative budget office but indicated that this option should be left open and revisited once an analysis could be made on the impact of the committee's recommendations on modifying Nevada's current budget process. The committee determined that should implementation of a legislative budget be desired for use by the 1997 Legislature, action would be required during the 1995 Legislative Session due to the 8-12 month time frame required to develop the data processing system which would be necessary to construct a legislative budget.

B) BUDGET PROCESS

The committee made recommendations on improving Nevada's budget process in four areas:

1) Complete As Much Work As Possible in Advance of Session

- The Budget Division and the Fiscal Analysis Division should agree on the adjusted base budget for each agency in the Fall of 1994. The Budget Division should submit, by agency, the adjusted base budget for legislative review by December 1, 1994.
- The Senate Committee on Finance and the Assembly Committee on Ways and Means should meet jointly in advance of the 1995 Session to review the:
 - General Fund revenue forecast developed by the Economic Forum.
 - The 1995-97 adjusted base budget jointly agreed upon by the Budget Division and the Fiscal Analysis Division.
 - Summary information on the maintenance component of the 1995-97 biennial budget including the areas of Education, Human Resources, and Corrections.

2) Adhere to a Strict Timetable for Agency Budget Hearings

- Specific amounts of time should be allocated by the respective money committees to individual budgets in an effort to speed up the review process.
- Budget highlights, developed by staff, should be reformatted and provide less detail except in critical issue areas. Highlights should concentrate on major issues, maintenance/enhancement units and performance indicators.
- Routine non-budgetary issues of interest to individual legislators should be resolved between the legislator and the agency.

3) Utilize Joint Subcommittees to Develop Recommendations on Most Budgets

- A number of joint subcommittees consisting of members of the Senate Committee on Finance and the Assembly Committee on

Ways and Means should be established. Each joint subcommittee would be responsible for reviewing specific agency budgets in detail before developing closing recommendations for review by the Senate Committee on Finance and the Assembly Committee on Ways and Means.

- Full committees should review only major budgets of departments and divisions before a more in-depth review is conducted by one of several joint subcommittees. Minor agency budgets should be reviewed only in joint subcommittee.
- Based on the committee's recommendations joint subcommittees would develop closing recommendations on approximately 84 percent of all budget accounts representing approximately 94 percent of total General Fund Appropriations.

4) Other Budget Process Issues

- The Executive Branch should submit bill draft requests required to implement the Executive Budget by the end of the third week of session.
- Legislative leadership should consider modifying the existing schedule of floor sessions early in the 1995 Session to allow the money committees to work longer on some mornings.
- The money committees should not allocate committee time to resolve technical budgetary issues. Fiscal staff should address and make recommendations to resolve technical issues for items such as state-owned building rent or insurance expense when the budget is closed by the committee.
- To accommodate the increased workload during the legislative session and assist in the additional responsibilities outlined by the committee in advance of session, the Fiscal Analysis Division should be authorized two additional program analysts over staffing levels approved by the 1993 Legislature.

C) MODIFICATION OF THE CURRENT BUDGET FORMAT

The use of a new budget format to display the 1993-95 Executive Budget resulted in some confusion which generated a number of suggestions by money committee members during the 1993 Session on how the budget format could be improved. The committee reviewed the format used to display the Executive Budget for use by the 1993 Legislature and determined the basic format should not be dramatically changed. However, the committee recommended a number of improvements to the current budget format designed to make the document more useful to the money committees. These recommendations are outlined below:

- The number of revenue line items displayed in the Executive Budget should be increased from five to nine. Additional revenue line items include: Reversions, Balance Forward, Licenses/Fees, Other State and Other Non-State.
- Eliminate totals for maintenance/enhancement decision units which contain only one line item. This action would reduce the space utilized in the budget document without loss of detail.
- Include only the cost of new mandates and court orders in the M600 decision unit with existing costs to be placed in the base budget. A separate report should be provided to the Legislature by the Budget Division outlining the total cost of federal mandates and court orders.
- Include an itemized revenue and expenditure category summary for each budget account.
- Move budget narrative/performance indicator data from the back to the front of each budget account.
- The Budget Division should expand narrative descriptions contained in the Executive Budget.
- Approved the definitions for the allocation of funds to the adjusted base, maintenance and enhancement sections of the 1995-1997 Executive Budget. In addition, the committee recommended maintenance of facilities and replacement equipment be included within the enhancement portion of each agency's budget.

- Detail payroll information should continue to be provided for use by Fiscal Analysis Division staff on each position authorized by budget account.

D) AGENCIES TARGETED TO RECEIVE GREATER ATTENTION IN THE DEVELOPMENT OF PERFORMANCE INDICATORS

The committee recommended that the Budget Division concentrate on eleven agencies in the development/revision of performance indicators for inclusion in the 1995-97 biennial budget. These agencies are listed below:

- 1) Rehabilitation Division
- 2) Division of Mental Health/Mental Retardation
- 3) Welfare Division
- 4) Division of Child and Family Services
- 5) Health Division (Maternal Child Health and Special Children's Clinic only).
- 6) Department of Administration (Risk Management, Internal Audit and Motor Pool only).
- 7) Department of Information Services
- 8) Department of Taxation
- 9) Division of Wildlife
- 10) Department of Transportation
- 11) Division of Parole and Probation

While additional time will be allocated to the eleven selected agencies, the committee sent a letter to all state agencies which encouraged updating mission statements and performance indicators for inclusion in the 1995-97 biennial budget.

E) INTERIM REVIEW OF THE BASE BUDGET

Since legislative review is recommended to concentrate on major issues, performance indicators and maintenance/enhancement decision units, a bill draft is recommended which would establish a program to review the base budget of selected agencies during the interim period between legislative sessions.

- Agencies to be selected for an interim review of the base budget should be identified in a resolution passed before adjournment of the Legislative session. The Interim Finance Committee should be authorized to modify the list of agencies selected if the need arises.

- Legislative leadership should appoint subcommittee(s) to review the base budgets of selected agencies before adjournment of the legislative session. It is recommended that non-money committee members be eligible to serve on subcommittee(s) to review base budgets, however, a majority of subcommittee members should serve on the Interim Finance Committee.
- The base budget review should be defined as a fundamental budget review and the level of review may vary between agencies. The review could include, but would not be limited to, the need for the program, compliance with statutory goals, whether the program is achieving the mission of the agency, whether mandated services are provided efficiently and effectively, if the agency is organized to attain maximum efficiency and whether there is duplication of services or administration with any other agency.
- Reports on the base budget reviews conducted by a subcommittee should be submitted to the Interim Finance Committee for review in advance of the Legislative Session.

BULLETIN 95-18

LEGISLATIVE COMMITTEE ON HEALTH CARE

NRS 439B.200 through 439B.240

Members

Senator Raymond D. Rawson, Chairman
Assemblywoman Vivian L. Freeman, Vice Chairman
Senator Diana M. Glomb
Senator Raymond C. Shaffer
Assemblywoman Jan Evans
Assemblywoman Sandra J. Tiffany

Principal Staff

Kerry Carroll Davis, Senior Research Analyst
(687-6825)

NEVADA REVISED STATUTES

LEGISLATIVE COMMITTEE ON HEALTH CARE

439B.200 Creation; appointment of and restrictions on members; officers; terms of members; vacancies; annual reports.

1. There is hereby established a legislative committee on health care consisting of three members of the senate and three members of the assembly, appointed by the legislative commission. The members must be appointed with appropriate regard for their experience with and knowledge of matters relating to health care.

2. No member of the committee may:

- (a) Have a financial interest in a health facility in this state;
- (b) Be a member of a board of directors or trustees of a health facility in this state;
- (c) Hold a position with a health facility in this state in which the legislator exercises control over any policies established for the health facility; or
- (d) Receive a salary or other compensation from a health facility in this state.

3. The provisions of subsection 2 do not:

- (a) Prohibit a member of the committee from selling goods which are not unique to the provision of health care to a health facility if the member primarily sells such goods to persons who are not involved in the provision of health care.
- (b) Prohibit a member of the legislature from serving as a member of the committee if:

(1) The financial interest, membership on the board of directors or trustees, position held with the health facility or salary or other compensation received would not materially affect the independence of judgment of a reasonable person; and

(2) Serving on the committee would not materially affect any financial interest he has in a health facility in a manner greater than that accruing to any other person who has a similar interest.

4. The legislative commission shall select the chairman and vice chairman of the committee from among the members of the committee. Each such officer shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. The chairmanship of the committee must alternate each biennium between the houses of the legislature.

5. Any member of the committee who does not return to the legislature continues to serve until the next session of the legislature convenes.

6. Vacancies on the committee must be filled in the same manner as original appointments.

7. The committee shall report annually to the legislative commission concerning its activities and any recommendations.

(Added to NRS by 1987, 863; A 1989, 1841; 1991, 2333; 1993, 2590)

REVISER'S NOTE.

Ch. 620, Stats. 1993, the source of paragraph (b) of subsection 3 of this section, contains the following preamble and provisions not included in NRS:

"WHEREAS, The legislative committee on health care provides continuous oversight of matters relating to health care; and

WHEREAS, It is important to encourage participation on the legislative committee on health care of persons with the appropriate experience and knowledge of matters relating to health care; and

WHEREAS, The cost for medical care coverage for Medicaid-eligible patients is increasing at a rapid and unpredictable rate; and

WHEREAS, The number of Medicaid-eligible patients is also increasing at a rapid and unpredictable rate; and

WHEREAS, The need for health care reform is a national concern and the State of Nevada desires to be on the forefront of such reform; and

WHEREAS, The University of Nevada School of Medicine has 10 years of important and successful experience in a coordinated care program that currently serves 25 percent of the state's recipients of Aid to Families with Dependent Children; now, therefore,"

"1. The legislative committee on health care shall conduct a study to evaluate and develop a mandatory coordinated care medical system for all persons covered by the State of Nevada's Medicaid program. The study must include:

- (a) An evaluation of the systems available to provide medical care to recipients of Medicaid;
- (b) A review of the sources of available funding for a coordinated care system and the various methods of compensating providers of health care;

- (c) An evaluation of the methods of containing the costs of providing medical care to recipients of Medicaid;

- (d) The impact that a coordinated care medical system may have on the revenue received from the tax on hospitals imposed pursuant to

NRS 422.383 and an analysis of the methods that may be used to replace lost revenues, if any; and

(e) The committee's recommendations for establishing a mandatory coordinated care program by July 1, 1995, to serve persons participating in the state's Medicaid program.

2. The legislative committee on health care shall:

(a) Report its recommendations to the governor and the department of human resources on or before July 1, 1994; and

(b) Submit quarterly reports to the interim finance committee concerning the progress of its study, its recommendations for establishing a coordinated care program and the implementation of the demonstration project and coordinated care program established pursuant to subsection 3.

3. The department of human resources shall, with the consent of the interim finance committee:

(a) Seek all necessary approvals and waivers and establish and conduct a demonstration project pursuant to section 1115 of the Social Security Act, 42 U.S.C. § 1315, in compliance with those recommendations of the legislative committee on health care that are approved by the governor. The purposes of the demonstration project must be to:

(1) Reduce the rate of growth in the overall costs of medical care over the long term;

(2) Improve access to primary and preventative health care for the Medicaid population;

(3) Institute health education programs for the Medicaid population; and

(4) Mainstream the Medicaid population into a coordinated care program with a balance of public and private members;

(b) Establish a mandatory coordinated care program not later than July 1, 1995; and

(c) Enroll all recipients of Aid to Families with Dependent Children upon the commencement of the program, with phased-in enrollment of the Aged, Blind and Disabled populations by the end of the second year of the program.

4. The coordinated care program established pursuant to subsection 3 must include participation by the University of Nevada School of Medicine in the development and implementation of the program, as well as in the delivery of services. The department of human resources shall cooperate with the University of Nevada School of Medicine to assist in the provision of an adequate and diverse patient population on which the school can base educational programs, including programs that support the education of generalist physicians. The University of Nevada School of Medicine may establish a nonprofit organization to assist in the research necessary for the program, receive and accept gifts, grants and donations to support the program and assist in establishing educational services for patients.

5. The director of the department of human resources shall report to the interim finance committee and the legislative committee on health care quarterly concerning the demonstration project and the coordinated care program established pursuant to this section.

6. As used in this section, "Medicaid" means the program established pursuant to Title XIX of the Social Security Act (42 U.S.C. §§ 1396 et seq.) to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons."

WEST PUBLISHING CO.

Health and Environment ⇐ 3.

Officers and Public Employees ⇐ 30.3.

WESTLAW Topic Nos. 199, 283.

C.J.S. Health and Environment §§ 9, 10.

C.J.S. Officers and Public Employees § 29.

439B.210 Meetings; quorum; compensation.

1. The members of the committee shall meet throughout each year at the times and places specified by a call of the chairman or a majority of the committee. The director of the legislative counsel bureau or a person he has designated shall act as the nonvoting recording secretary. The committee shall prescribe regulations for its own management and government. Four members of the committee constitute a quorum, and a quorum may exercise all the powers conferred on the committee.

2. Except during a regular or special session of the legislature, members of the committee are entitled to receive the compensation provided for a majority of the members of the legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the committee or is otherwise engaged in the business of the committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207.

3. The salaries and expenses of the committee must be paid from the legislative fund.

(Added to NRS by 1987, 864; A 1987, 1629; 1989, 1221)

439B.220 Powers. The committee may:

1. Review and evaluate the quality and effectiveness of programs for the prevention of illness.
2. Review and compare the costs of medical care among communities in Nevada with similar communities in other states.
3. Analyze the overall system of medical care in the state to determine ways to coordinate the providing of services to all members of society, avoid the duplication of services and achieve the most efficient use of all available resources.
4. Examine the business of providing insurance, including the development of cooperation with health maintenance organizations and organizations which restrict the performance of medical services to certain physicians and hospitals, and procedures to contain the costs of these services.
5. Examine hospitals to:
 - (a) Increase cooperation among hospitals;
 - (b) Increase the use of regional medical centers; and
 - (c) Encourage hospitals to use medical procedures which do not require the patient to be admitted to the hospital and to use the resulting extra space in alternative ways.
6. Examine medical malpractice.
7. Examine the system of education to coordinate:
 - (a) Programs in health education, including those for the prevention of illness and those which teach the best use of available medical services; and
 - (b) The education of those who provide medical care.
8. Review competitive mechanisms to aid in the reduction of the costs of medical care.
9. Examine the problem of providing and paying for medical care for indigent and medically indigent persons, including medical care provided by physicians.
10. Examine the effectiveness of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services, and its effect on the subjects listed in subsections 1 to 9, inclusive.
11. Determine whether regulation by the state will be necessary in the future by examining hospitals for evidence of:
 - (a) Degradation or discontinuation of services previously offered, including without limitation, neonatal care, pulmonary services and pathology services; or
 - (b) A change in the policy of the hospital concerning contracts,as a result of any legislation enacted to accomplish the purpose of restraining the costs of health care while ensuring the quality of services.
12. Study the effect of the acuity of the care provided by a hospital upon the revenues of hospital and upon limitations upon that revenue.
13. Review the actions of the director in administering the provisions of this chapter and adopting regulations pursuant to those provisions. The director shall report to the committee concerning any regulations proposed or adopted pursuant to this chapter.
14. Conduct investigations and hold hearings in connection with its review and analysis.
15. Apply for any available grants and accept any gifts, grants or donations to aid the committee in carrying out its duties pursuant to this chapter.
16. Direct the legislative counsel bureau to assist in its research, investigations, review and analysis.
17. Recommend to the legislature as a result of its review any appropriate legislation.

(Added to NRS by 1987, 864)

439B.225 Committee to review certain regulations proposed or adopted by licensing boards; recommendations to legislature.

1. As used in this section, "licensing board" means any board empowered to adopt standards for licensing or for the renewal of licenses pursuant to chapter 449, 630, 631, 632, 633, 637B, 639, 640, 641, 641B, 652 or 654 of NRS.

2. The committee shall review each regulation that a licensing board proposes or adopts that relates to standards for licensing or to the renewal of a license issued to a person or facility regulated by the board, giving consideration to:

- (a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;
- (b) The effect of the regulation on the cost of health care in this state;
- (c) The effect of the regulation on the number of licensed persons and facilities available to provide services in this state; and
- (d) Any other related factor the committee deems appropriate.

3. After reviewing a proposed regulation, the committee shall notify the agency of the opinion of the committee regarding the advisability of adopting or revising the proposed regulation.

4. The committee shall recommend to the legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

(Added to NRS by 1991, 940)

439B.230 Investigations and hearings: Depositions; subpoenas.

1. In conducting the investigations and hearings of the committee:

(a) The secretary of the committee, or in his absence any member of the committee, may administer oaths.

(b) The secretary or chairman of the committee may cause the deposition of witnesses, residing either within or outside of the state, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The chairman of the committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the chairman of the committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the committee which is named in the subpoena, or has refused to answer questions propounded to him, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the committee, the court shall enter an order that the witness appear before the committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

(Added to NRS by 1987, 866; A 1987, 1630)

439B.240 Investigations and hearings: Fees and mileage for witnesses. Each witness who appears before the committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this state. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the secretary and chairman of the committee.

(Added to NRS by 1987, 866)

ABSTRACT

LEGISLATIVE COMMITTEE ON HEALTH CARE (NRS 439B.200 through 439B.240)

During the 1993-1995 interim, the Legislative Committee on Health Care (*Nevada Revised Statutes* 439B.200 through 439B.240) primarily focused on complying with the provisions of Senate Bill 559 (Chapter 620, *Statutes of Nevada* 1993, pages 2590-2592). The 1993 Nevada Legislature enacted S.B. 559 which required the Legislative Committee on Health Care to conduct a study to evaluate and develop a mandatory, coordinated care (or managed care) system for all Medicaid recipients. The measure specified that the study must examine available medical care systems, review funding sources and provider compensation methods, assess various cost containment approaches, and evaluate the impact and replacement of any lost hospital tax revenues. The bill also directed the committee to submit its recommendations regarding such a system to the Governor and the Department of Human Resources (DHR) by July 1, 1994. After fulfilling its statutory obligations related to S.B. 559, the committee also considered other state health care reform measures appropriate for Nevada.

The six-member committee held nine meetings between October 1993 and December 1994. During the first seven meetings, the committee examined various alternatives to establish a mandatory, managed care program for Nevada Medicaid recipients. Subsequently, the committee formulated and approved a package of recommendations outlining the general structure and characteristics of a Medicaid managed care program. These recommendations were developed in conjunction with a consultant, DHR and other state agencies, industry representatives, Medicaid recipients, and various interested groups and individuals. The full report entitled, "Recommendations for a Medicaid Managed Care System," is available in the Research Division of the Legislative Counsel Bureau.

At its final meeting, the committee adopted 26 recommendations covering a wide variety of issues. Some of these issues include: Medicaid; nursing; small employer insurance market reform; perinatal alcohol, tobacco, and other drug use; mandated benefits; malpractice subsidies; personal assistant services; and rural health. Detailed descriptions of these recommendations and the committee's deliberations may be found in *Legislative Counsel Bureau Bulletin No. 95-18*.

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON HEALTH CARE (NRS 439B.200 through 439B.240)

The first 27 recommendations were submitted to the Governor and the Department of Human Resources (DHR) in July 1994. Recommendation Nos. 28 through 53 were adopted at the committee's final meeting of the 1993-1994 interim in December 1994.

GENERAL STRUCTURE AND CHARACTERISTICS OF A MEDICAID MANAGED CARE SYSTEM

In compliance with Senate Bill 559 (Chapter 620, *Statutes of Nevada 1993*, pages 2590-2592), the following set of recommendations specifically relate to the development of a Medicaid managed care system. The committee approved these recommendations at its June 24, 1994, meeting. Since the recommendations represent directives to DHR, no bill drafts will be prepared regarding this material.

1. Apply to the United States Health Care Financing Administration (HCFA) for approval of a Section 1915(b) waiver to implement a mandatory Medicaid managed care system.

Furthermore, the committee recommended that DHR design the 1915(b) waiver application to consist of the following components:

Management Structure

2. Employ a management contractor firm(s) to assist the state Medicaid agency in managing the various health plans. The MANAGEMENT CONTRACTOR(S) will provide managed care expertise in various administrative function areas, including:
 - Actuarial assistance;
 - Capitation data;

- Technical assistance in the preparation of the waiver and the health maintenance organization (HMO) request for proposal;
- Assistance in the evaluation of HMO bids (in conjunction with the State);
- External quality assurance, including utilization review; and
- Analyses of medical trends for medical policy.

The State should establish a managed care unit under which the management contractor(s) would operate. Under the terms of such an arrangement, the management contractor(s) would accept no financial risk.

Subsequently, the State would contract directly with the HMOs providing services to the recipients. The financial risk would be passed to these service providers.

3. Assign the following management responsibilities to the STATE:

- Eligibility determination;
- Enrollment choice counseling;
- Preparation of the HMO request for proposal (in conjunction with the management contractor[s]);
- Evaluation of the HMO bids (in conjunction with the management contractor[s]);
- Grievance appeal process;
- Capitation rate setting (in conjunction with the actuary and the management contractor[s]); and
- Evaluation of medical policy.

4. Designate the following responsibilities to the HMOs:

- Provision or arrangement for all medical and dental services;

- Claims payment;
 - Collection of third-party liability;
 - Collection and transmittal of encounter data to the State;
 - Submittal of required financial, operational and utilization reports;
 - Utilization review and management;
 - High-risk medical case management;
 - Member health education, including prenatal education;
 - Establishment of a reinsurance program and administration of reinsurance claims;
 - Implementation of an internal quality review program in conformance with HCFA guidelines; and
 - Adherence to required state performance criteria (e.g., 80 percent or more of all eligible children receive Early Periodic Screening, Diagnosis and Treatment [EPSDT] services).
5. Perform cost-benefit analyses regarding various remaining program responsibilities to determine whether contractual assistance would be beneficial to the State. These responsibilities relate to:
- Enrollment and "autoassign" procedures;
 - Development of the system's data base;
 - Maintenance and analysis of encounter data;
 - Data validation; and
 - Health maintenance organization operational and financial reviews.

Service Delivery System

6. Continue to foster the growth of managed care opportunities in the rural areas and allow for participation of the rural communities.
7. Require that the service provider networks in the managed care program provide for the inclusion of the following entities:
 - Special Children's Clinics for diagnostic work only;
 - Federally Qualified Health Centers; and the
 - University of Nevada School of Medicine.
8. Provide recipients with two managed care options in southern Nevada and one managed care option in northern Nevada which includes multiple provider networks.
9. Suggest that all potential bidders consider developing a contractual relationship with the University Medical Center in Las Vegas.

Eligibility

10. Include the following Medicaid eligibility categories in the managed care program: (1) Aid to Dependent Children (ADC)-related groups; and (2) the Aged, Blind and Disabled (ABD) populations.
11. Following program implementation, continue to review managed care opportunities for special populations initially excluded from the program.

Enrollment

12. Begin enrollment of the ADC-related groups by July 1, 1995, and enrollment of the ABD populations by July 1, 1996. All persons who become eligible for either of these eligibility groups after the commencement of enrollment will automatically be enrolled into a managed care option. Enrollment should occur at the time of scheduled eligibility redetermination or, if none is scheduled, based on contact by a Medicaid staff person. These deadlines should be periodically reevaluated as the development and implementation of the program continues.

Benefit Package

13. Include all existing Medicaid covered services in the managed care program except:
 - Nursing facility stays over 45 days;
 - Adult day health care services;
 - Home and community-based waiver services;
 - Mental health services and other services for the severely mentally ill adult and the severely emotionally disturbed child;
 - Indian Health Services;
 - School-based health services;
 - Intermediate care facility services for the mentally retarded; and
 - Medical services for all foster children placed in out-of-state settings.

These services will continue to be provided on a fee-for-service basis. All recipients will receive the non-excluded services through the managed care program.

14. Following program implementation, continue to review managed care opportunities for services initially excluded from the program.
15. Encourage providers to offer additional preventative or cost-effective services to recipients if these services do not increase the cost to the State.

Criteria for HMO Bidding Process/Organizations

16. Accept bids on both a statewide and regional basis.
17. Limit the number of contracting organizations to maximize pricing advantages. Not all organizations that submit a bid within the actuarial range will be awarded a contract.

18. Award preference points to all bidders that are federally qualified by the program implementation date.
19. Award preference points to all bidders that incorporate a contractual relationship with the University Medical Center in Las Vegas in their proposal.
20. Award preference points to all bidders that provide additional preventative or cost-effective services to recipients if these services do not increase the cost to the State.

University of Nevada School of Medicine

21. Require Medicaid managed care service providers to offer an affiliation agreement with the University of Nevada School of Medicine.

HMO Solvency

22. As part of the bid review process, conduct an evaluation of the HMO's solvency. In conducting this evaluation, consider the adequacy of capital and surplus levels, reinsurance coverage, fidelity bond coverage, adequacy of the current incurred but not reported (IBNR) system in relationship to the anticipated Medicaid enrollment, and the overall potential impact on the organization's solvency status.

In the event a HMO terminates its affiliation with the Medicaid managed care program:

23. Specify in the HMO request for proposal and contracts that the State will not assume any financial responsibility for unfunded liability which exceeds the funds designated by the State for a HMO that no longer participates in the Medicaid managed care program.
24. Specify in the HMO request for proposal and contracts that the State divests itself of performing the duties of insurance.
25. Stipulate in the HMO request for proposal and contracts that the remaining HMOs must absorb the "orphaned" participants.

Other Related Issues

26. Create a subcommittee, consisting of Chairman Raymond D. Rawson, Assemblywoman Jan Evans, and Assemblywoman Sandra J. Tiffany, to continue to work with DHR in designing and implementing the program.
27. Require DHR to periodically report back to the full Legislative Committee on Health Care regarding the progress of the Medicaid managed care program, including the waiver process and subsequent development and implementation issues associated with the program.

WORK SESSION

The following set of recommendations were approved by the committee at its December 6, 1994, meeting. All recommendations, except statements in the committee's final report, will be prepared as bill drafts for the 1995 Legislature.

Medicaid Managed Care

28. Amend Chapter 620 (*Statutes of Nevada 1993*) to require DHR to begin enrollment of ADC-related Medicaid recipients in a managed care program by January 1, 1996, and begin enrollment of the ABD Medicaid populations no later than January 1, 1998.
29. Amend Chapter 695C of *Nevada Revised Statutes* (NRS) to define the terms and conditions related to HMOs participating in the Medicaid managed care program.
30. Adopt a resolution to urge DHR to stipulate in its contracts with all Medicaid managed care contractors that such contractors must utilize the National Practitioner Data Bank in credentialing all practitioners.
31. Include a statement in the report that the committee recognizes the value of involving people with disabilities in planning for the implementation of Medicaid managed care. As the State prepares to design a Medicaid managed care program for aged, blind, and disabled persons, DHR should allow these individuals the choice to receive services in a manner that fosters their independence.

Medicaid

32. Adopt a resolution to encourage the Welfare Administrator, in conjunction with the Commission on Substance Abuse Education, Prevention, Enforcement and Treatment and the Bureau of Alcohol and Drug Abuse (BADA), to develop a proposal to amend the Medicaid state plan to increase coverage of non-hospital-based substance abuse treatment services. The proposal should specify that state BADA funds be utilized as Medicaid matching funds. The amendment must be presented to the State Welfare Board for approval by October 1, 1996.
33. Require, by statute, that the Commission on Substance Abuse Education, Prevention, Enforcement and Treatment and BADA compare the cost-effectiveness of hospital-based, inpatient substance abuse treatment services and residential treatment facilities. The objective of the study must be to determine the effectiveness of increasing the utilization of non-hospital-based substance abuse treatment services on the cost and the outcome of such treatments. A report must be submitted to the 1997 Legislature and the Legislative Committee on Health Care.
34. Adopt a resolution to encourage the Welfare Administrator, in conjunction with the Commission on Substance Abuse Education, Prevention, Enforcement and Treatment and BADA, to seek all necessary federal waivers and approvals to allow Medicaid coverage of substance abuse residential treatment services in a non-hospital setting through the elimination of the institutions of mental disease (IMD) exclusion.
35. Redraft Assembly Bill 277 from the 1993 Legislative Session which requires the Welfare Administrator to institute a Medicaid presumptive eligibility process for pregnant women.

Health Care Reform

36. Amend NRS to increase the availability and affordability of health insurance for small employers through market reforms. These reforms include guaranteed issue and renewability, limitations on preexisting condition clauses, modified community rating, portability, specified contribution levels for employers and employees and a standard benefit package.

37. Amend NRS to create a state health care data commission to collect information on the cost, outcomes, and quality of health services. Among other responsibilities, the commission must determine the types of providers required to participate, develop a list of data elements to be collected from providers, and disseminate information to the public. The commission shall coordinate its efforts with other data collection activities conducted by DHR and other state agencies which collect health-related financial, service, utilization, and health care personnel data.
38. Include a statement in the committee's final report acknowledging the need for a state health care reform plan that addresses access and coverage, individual responsibility and choice, insurance reform, payment and cost control, quality of care, and tort reform.

Nursing

39. Amend Chapter 632 of NRS to include a definition of "delegation." Delegation is to be defined as:

Entrusting the performance of selected nursing duties to individuals qualified and competent to perform such duties. Delegable duties are those listed in standardized policy and procedures, leading to predictable outcomes in the observation and care of clients.
40. Amend NRS 632.030 to alter the representation of nurses serving on the State Board of Nursing to consist of five registered nurses and one licensed practical nurse. In addition, these board members must be appointed to represent various segments of the field of nursing, including administration, advance practice, community practice, education, and institutional practice. Furthermore, appointees must have lived and worked in Nevada for the past 2 years.
41. Amend NRS 632.075 to allow the State Board of Nursing to appoint advisory committees to consult with the board on any matters, including, but not limited to, continuing education.
42. Amend Chapter 632 of NRS to include a legislative declaration of intent regarding the regulatory power of the State Board of Nursing. The legislative declaration of intent will state that:

It is the policy of this state that, in order to safeguard the life, health, property, and public welfare of the people of this state and in order to protect the people of this state from the unauthorized, unqualified, and improper application of services by individuals in the practice of nursing, it is necessary that a proper regulatory authority be established. The declaration further states that it is the policy of this state to regulate the practice of nursing through the State Board of Nursing with the power to enforce the provisions of this article.

43. Amend NRS 632.130 and NRS 632.260 to increase the penalty for a registered nurse and a licensed practical nurse to practice or offering to practice without a license. The penalty shall be increased from a misdemeanor to a gross misdemeanor.

Maternal and Child Health

44. Include a statement in the committee's final report urging the Legislature to support the continuation of the Baby Your Baby project, with full implementation by the Health Division and Medicaid. Specifically, the Health Division should continue to provide toll-free telephone referral services and coordinate the recruitment of prenatal care providers for participants in rural and frontier areas. In addition, the Welfare Division should continue to receive public and private donations to fund multimedia outreach efforts to promote early entry into prenatal care. Transmit a letter of support to the Senate Committee on Finance, Assembly Committee on Ways and Means, Senate Committee on Human Resources and Facilities, and the Assembly Committee on Health and Human Services.
45. Amend Chapter 442 of NRS to require the Governor's Maternal and Child Health Advisory Board to create a subcommittee on perinatal alcohol, tobacco, and other drug use. In addition, amend Chapter 442 of NRS to establish a perinatal alcohol, tobacco, and other drug use prevention program within the Health Division. A position of program coordinator shall be created to carry out the objectives of the program.
46. Amend Chapters 689A, 689B, 695B, and 695C of NRS to mandate that all health insurers in the State include coverage of obstetric and prenatal care services.

47. Include a statement in the committee's final report endorsing continued legislative support for adequate funding of services for children with special health care needs, including the Special Children's Clinics and the Newborn Screening program. Transmit a letter of support to the Senate Committee on Finance, Assembly Committee on Ways and Means, Senate Committee on Human Resources and Facilities, and the Assembly Committee on Health and Human Services.

Health Work Force

48. Require, by statute, that DHR establish a program to provide for payment of insurance premiums for physicians and mid-level providers supplying obstetrical services in rural or underserved areas of the State.
49. Amend Chapter 439A of NRS to require that DHR conduct a study of the health manpower needs in the State, including primary care physicians, nurses, and allied health professionals as defined in the U.S. Public Health Service Act. The report must be submitted to the Legislative Committee on Health Care and the University of Nevada School of Medicine on July 1 of each even-numbered year.
50. Require, by statute, that school districts in counties whose population exceeds 35,000 establish programs to stimulate the development of allied health professionals as defined in the U.S. Public Health Service Act. The school districts must enter into necessary agreements with the University and Community College System of Nevada to accept college credit for relevant courses successfully completed by high school juniors and seniors.

Other Health-Related Issues

51. Amend NRS to add a definition of "personal assistant," authorize a person with a disability who is not residing in a licensed facility to utilize the services of a personal assistant, and exempt personal assistants from Chapter 632 of NRS.
52. Require, by statute, that the Welfare Administrator establish a system which provides for the direct payment to certain disabled Medicaid recipients for the purchase of in-home personal assistant services.

53. Amend Chapter 439B of NRS to establish a rural health advisory subcommittee within the Legislative Committee on Health Care. The subcommittee must be comprised of various individuals appointed by the chairman for a 2-year term. All members shall serve without compensation, per diem allowances, or travel expenses. The chairman shall appoint:
- a. Not more than two representatives of federally-funded rural health clinics;
 - b. Not more than two representatives of rural hospitals;
 - c. Not more than two representatives of public health service providers;
 - d. Not more than two representatives of rural nursing homes;
 - e. Not more than two representatives of rural physicians;
 - f. Not more than two representatives of rural home health providers;
 - g. Not more than two representatives of rural health care providers;
 - h. Not more than two representatives of rural hospital trustees;
 - i. Not more than two representatives of the Center for Education and Health Services Outreach, University of Nevada School of Medicine;
 - j. Not more than two representatives of consumers of rural health services; and
 - k. A member of the Legislative Committee on Health Care to serve as chair of the subcommittee.