



WORK SESSION DOCUMENT

Legislative Committee on Persons with Disabilities
(*Nevada Revised Statutes* 218.53791)

August 16, 2004

The following “Work Session Document” was prepared by staff of the Legislative Committee on Persons with Disabilities (*Nevada Revised Statutes* 218.53791). The document contains recommendations within the scope of the Committee’s duties that were presented in hearings or submitted in writing for the Committee’s consideration.

The possible actions listed in this document do not necessarily have the support or opposition of the Committee. Rather, these possible actions are compiled and organized so the members may review them to decide if they should be adopted, changed, rejected, or further considered. Individual or joint sponsors of recommendations may be referenced in parentheses. Please note that specific sponsors of the recommendations may not be provided if the proposals were raised and discussed by numerous individuals and entities during the course of the study. The Advisory Committee appointed by the Committee pursuant to NRS 218.53796 forwarded the recommendations on service animals.

Under *Nevada Revised Statutes* (NRS) 218.2429(3)(a), a legislative committee created by statute is limited to no more than ten legislative measures (bill draft requests and requests for the drafting of resolutions). Finally, NRS 218.53792 specifies that any recommended legislation proposed by the Committee must be approved by a majority of the members of the Assembly and a majority of the members of the Senate appointed to the Committee. The Legislative Commission shall then submit any recommendations for legislation to the 73rd Session of the Nevada Legislature.

For purposes of this Work Session Document, the recommendations have been grouped by general subject area and then by the type of Committee action requested. Please note that the recommendations are not preferentially ordered. Additionally, although possible actions may be identified within each recommendation, the Committee may choose to recommend any of the following actions: (1) draft legislation; (2) draft a resolution; (3) draft a letter; or (4) include a statement of support in the final report.

Finally, it should be noted that many of the recommendations may contain an unknown fiscal impact. Committee members should be advised that Legislative Counsel Bureau staff will coordinate with the interested parties to obtain detailed fiscal estimates, where appropriate, (for inclusion in the final report).

I. STRATEGIC PLAN FOR PEOPLE WITH DISABILITIES

Background Information for Recommendation Nos. 1 through 17 and 19

Tab A – Document from the Strategic Plan Accountability Committee titled “Nevada’s Strategic Plan for People with Disabilities, Recommendations to the Legislative Committee on Persons with Disabilities, July 2004”

WAITING LISTS UNDER OLMSTEAD

RECOMMENDATION NO. 1

Include a statement in the final report urging the Governor and the Legislature to support, throughout the budget process, sufficient state funding of community based services to make reasonable progress towards the elimination of waiting lists for persons with disabilities seeking services to support living in less restrictive environments and to avoid or delay unnecessary institutionalization, consistent with the Americans with Disabilities Act as interpreted and mandated by the U.S. Supreme Court’s decision in *Olmstead v. L.C.* In 2003, the Legislature adopted Senate Concurrent Resolution No. 10 endorsing the implementation of the State Strategic Plan and urging the Governor and state agencies to take the appropriate steps to ensure that persons with disabilities are able to live in the least restrictive environment. The Committee wishes to emphasize the continued urgency of the issues addressed in S.C.R. 10 and the importance of continuing to implement the State Strategic Plan in an expeditious manner.

(Proposed by Strategic Plan Accountability Committee)

PERSONAL ASSISTANCE SERVICES (PAS)

RECOMMENDATION NO. 2

Include a statement in the final report urging the Governor to support the budget proposal for the Office of Disability Services (ODS), related to Personal Assistance Services (PAS). Since Nevada's PAS program was founded in 1985 it has grown in size by 2,000 percent, to over \$2,000,000 per year. Because it was initially a small program, ODS was able to absorb the cost of managing it. However, the program now employs nearly 100 caregivers around the State and requires a significant staff commitment to manage and monitor the very personal and vital services it provides. Therefore, ODS will be seeking \$68,000 to fund 0.95 full time equivalent (FTE) as minimal staffing for the PAS program. This funding would be distributed over six existing management, program, and fiscal positions.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 3

Include a statement in the final report: (1) supporting the request of the State Medicaid Program and the recommendation of the Provider Rates Task Force, to increase the PAS rates from \$17 to \$18.50 per hour; and (2) urging the Governor to support a similar increase proposed by ODS related to provider rates for PAS services. In 2002, the Provider Rates Task Force recommended the rate for PAS services be increased to \$18.50 per hour. It is important that the State PAS program use the same rate. Currently, the State PAS program is providing 132,500 annual care hours at a rate of \$17 per hour. Thus, the estimated cost of this maintenance increase is \$198,750 per year. The Strategic Plan Accountability Committee is concerned that a portion of the rate increase may not be passed along to those individuals who actually provide the service.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 4

Include a statement in the final report urging the Governor to support the budget proposal by ODS related to reducing the waiting list for the PAS programs. In accordance with subsection 2 of NRS 426.729, the Department of Human Resources (DHR) is required to include funding in its budget request for any increase in the number of cases handled by the State PAS programs, provided those individuals on the waiting list meet certain criteria for severity of need. The PAS program waiting list currently has 23 individuals who meet the criteria. In light of the judicial mandate of the *Olmstead* decision, and the Strategic Plan's objective to reduce waiting lists for services that divert people from institutional care, the PAS programs should be included as a maintenance request in the budget. Using a calculation of 23 people x 1,300 annual hours of care x \$18.50 per hour, the estimated cost of this maintenance increase is \$553,150 per year.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 5

Include a statement in the final report urging the Governor to support the budget proposal by ODS relating to funding for the Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities. The provisions of NRS 426.731 call for the Advisory Committee to make recommendations to the State's three PAS programs. Funding for meetings has been provided through a federal systems change grant, but that grant will end in September 2004. The budget request will be for an enhancement appropriation to fund four meetings per year of the PAS Advisory Committee, at an annual cost of \$7,800.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 6

Include a statement in the final report supporting the Department of Human Resources' proposal to amend the NRS to allow personal care tasks to be delegated by spouses, parents of minor children, and legal guardians. Currently, tasks can only be delegated by people with disabilities themselves. This causes problems for Medicaid in offering self-directed services because, as the statutes are currently written, minor children and those who are dependent on others (spouses and guardians) for their decisions have no means under the law to self-direct their care.

(Proposed by Strategic Plan Accountability Committee)

TERMINAL CONDITIONS

RECOMMENDATION NO. 7

Include a statement in the final report urging the State Medicaid Program to seek funding to support contract services for making disability determinations for state purposes. Currently, the Welfare Division is dependent upon disability determinations made in conjunction with supplemental security income (SSI) eligibility determinations through the Department of Employment, Training and Rehabilitation (DETR). By providing funding for contract services to make disability determinations for state purposes, persons with terminal conditions and urgent medical conditions could receive expedited consideration and receive necessary services in a timely manner under criteria adopted by the State.

(Proposed by Strategic Plan Accountability Committee)

AUTISM

RECOMMENDATION NO. 8

***High Priority*—Include a statement in the final report supporting the State Medicaid Program's budget request to add behavioral services to the Mental Retardation/Related Conditions waiver. An additional 150 service slots (above regular caseload growth) will**

be proposed and many are expected to benefit children with Autism. The current estimate of the budget impact is \$2,000,000 per year in State General Funds.
(Proposed by Strategic Plan Accountability Committee)

Background Information for Recommendation No. 8

Tab B – Contains information regarding support to families and Intensive Behavior Intervention (IBI) for children with Autism Spectrum Disorders (ASD).

INDEPENDENT LIVING SERVICES

RECOMMENDATION NO. 9

High Priority—Include a statement in the final report supporting the budget request of the State Independent Living (SIL) Program to eliminate its four-year waiting list for home and vehicle modifications and other equipment. The one-time services provided by the SIL Program—such as ramps and wheelchair lifts—result in years of assistance to those in need. Approximately \$600,000 is needed annually over the next biennium (2005-2007) to eliminate the waiting list, with ongoing annual funding of approximately \$350,000.
(Proposed by Strategic Plan Accountability Committee)

Background Information for Recommendation No. 9

Tab C – Provides caseload data for the Independent Living Program for State Fiscal Year 2004, and caseload projections for the 2006-2007 Biennium.

MONEY FOLLOWS THE PERSON

RECOMMENDATION NO. 10

Include a statement in the final report supporting the State Medicaid Program's proposal to extend the waiver of patient liability, in certain cases, from 60 days to 180 days. In connection with the Money Follows the Person (MFP) grant, allowing waivers of patient liability for persons entering a nursing home or other institution, on a temporary basis, has been identified as an important means of avoiding unnecessary institutionalization. Enabling patients to retain sufficient funds to support their existing living arrangements during their temporary institutionalization, ensures that such persons can avoid the loss of their home and belongings during their temporary stay. Absent a waiver of patient liability, such persons may remain in an institution unnecessarily rather than take on the burden of establishing a new residence. Initial analyses indicate that extensions of waivers of patient liability will be either budget-neutral or have a minimal fiscal impact that can be absorbed within existing budgets.
(Proposed by Strategic Plan Accountability Committee)

POSITIVE BEHAVIORAL SUPPORTS

RECOMMENDATION NO. 11

High Priority—Include a statement in the final report urging the incorporation of positive behavioral supports (PBSs) into programs that serve individuals with behavioral issues including Child and Family Services, Mental Health and Developmental Services, Education, and Vocational Rehabilitation.

(Proposed by Strategic Plan Accountability Committee)

EARLY INTERVENTION SERVICES

RECOMMENDATION NO. 12

High Priority—Include a statement in the final report supporting the monitoring and future consideration of adopting the proposed federal definition of eligibility for Early Intervention Services to ensure that at-risk children are eligible for services and to bring Nevada in line with other states. The current proposal for a new federal definition would grant eligibility to a child that exhibits a minimum 35 percent delay in one area or 25 percent in any two areas. Currently, eligibility in Nevada requires a minimum 50 percent delay in one area or 25 percent in any two areas. Upon reauthorization of the Individuals with Disabilities in Education Act (IDEA) by the United States Congress, the Interagency Coordinating Council (ICC) in Nevada is urged to review and consider adoption of the federal definition in Nevada.

(Proposed by Strategic Plan Accountability Committee)

TRAUMATIC BRAIN INJURY (TBI)

RECOMMENDATION NO. 13

Include a statement in the final report urging the Governor to support the budget proposals by ODS relating to traumatic brain injury. Historically, ODS has not been funded to manage the State's post-acute Traumatic Brain Injury (TBI) rehabilitation program, although ODS' fiscal responsibility for the program is significant. Its program reviews are a key component in the continuing national accreditation of program facilities. The ODS is seeking 0.50 FTE as minimal staffing for the TBI program. This funding would be distributed over three management, program, and fiscal positions at an estimated annual cost of \$28,000.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 14

Include a statement in the final report supporting the State Medicaid Program's review and consideration of a request to amend its disability waiver to include residential

rehabilitation and behavioral adult day care for individuals with TBI. These measures are vital to Nevada's mandate under the *Olmstead* decision. Residential rehabilitation will open the door for individuals with severe behavioral issues to be moved from out of state, back to Nevada, and for others to remain in state. Behavioral adult day care will provide daytime support to families who are caring for family members with TBI; similar services are already provided to seniors and those with mental retardation under other Medicaid waivers. The fiscal impact of this proposal is currently being studied and may be significant. Nevertheless, the importance of providing these services is great and efforts to implement such services should be supported and pursued.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 15

Include a statement in the final report supporting an enhancement appropriation of \$804,000 for each year of the biennium in the DHR budget to fund an additional 63 unserved indigent individuals. Current funding for TBI services has been targeted to helping those individuals deemed "indigent," or lacking other resources to fund their rehabilitation. In all cases, these individuals have no other service option, outside the State's TBI program. State funding for this care has not been increased in over a decade. Because TBI rehabilitation is a one-time service that yields lifetime benefits, it is an investment that yields a net savings to society. Currently, it is projected that 63 individuals—who are defined as indigent and having significant rehabilitation potential—will need TBI services during each year of the biennium. It is further estimated that their rehabilitation will cost \$17,000 per person, on average. Current funding for the program is \$267,000 annually, leaving an annual deficit of \$804,000.

(Proposed by Strategic Plan Accountability Committee)

RECOMMENDATION NO. 16

Amend the NRS to permit members of the Advisory Committee on TBI to receive a per diem allowance and travel expenses as the budget of the Advisory Committee permits without limitations on the source of funding. Chapter 426A of the NRS calls for an Advisory Committee on TBI to meet and serve in an advisory capacity. This Advisory Committee has not met in several years to the detriment of TBI services.

(Proposed by Strategic Plan Accountability Committee)

2-1-1 TELEPHONE SYSTEM

RECOMMENDATION NO. 17

Draft legislation to allow the existing telecommunications relay surcharge monies, as authorized by NRS 426.295, to be used to fund a portion of the cost for 2-1-1 services. Since the 2-1-1 program has obtained funding for a statewide coordinator and development of a business plan, the 2-1-1 program will soon be able to propose a specific

implementation budget to the DHR. The DHR would then request the Public Utilities Commission of Nevada (PUCN) to approve an appropriate level of funding for 2-1-1 from the surcharge monies. The surcharge rate has been 8 cents per line, per month, charged to every phone line and wireless line in Nevada. Currently, the surcharge is used to fund social service programs including Relay Nevada, the Deaf Resource Centers, and the Telecommunications Equipment Distribution Program. The surcharge account has a substantial surplus balance of over \$1 million. As a result, the PUCN is considering reducing the surcharge rate to 3 cents. Each 1 cent of surcharge is estimated to produce \$240,000 in annual revenues.

(Proposed by Strategic Plan Accountability Committee)

Background Information for Recommendation No. 17

Tab D – Consists of background materials provided by Mary Liveratti, Deputy Director, Department of Human Resources, and Anne Cory, President and Chief Professional Officer, United Way of Northern Nevada and the Sierra

RECOMMENDATION NO. 18

Draft legislation requiring the Director of the Department of Human Resources to establish and maintain a statewide information and referral system to provide nonemergency information and referrals to the general public concerning health, welfare, human, and social services provided by public or private entities in the state. Further, the statewide system shall be accessible by dialing 2-1-1 on a telephone. In addition, the PUCN shall work with the DHR, as needed, in the development and implementation of the 2-1-1 system.

(Proposed by Senator Titus, February 4, 2004)

Background Information for Recommendation No. 18

Tab E – Copy of Senate Bill 239 from the 2003 Legislative Session.

TRANSITION FOR STUDENTS WITH DISABILITIES

RECOMMENDATION NO. 19

Include a statement in the final report directing the Nevada Department of Education (NDE), DETR, and DHR, to form a cross-agency independent advisory board that would also report to the Legislature and the Governor, to oversee the transition of high school students with disabilities to ensure positive post school outcomes. The advisory board should consist of representatives from DHR, DETR, NDE, school districts (including Clark, Washoe, and one rural school district), advocacy organizations (Parents

Encouraging Parents [PEP] and Nevada Disability Advocacy and Law Center), parents, students, former students, and service providers.

The advisory board should: (1) oversee the implementation of all transition-related objectives in the Strategic Plan for People with Disabilities; (2) have oversight responsibility for the following (and possibly other) measures by DETR; (3) provide accurate, statewide data regarding transition-age individuals using DETR services; (4) maintain up-to-date interagency agreements with community colleges, state universities, and local school districts, and ensure that those agreements are being implemented; and (5) examine and report on strategies needed to increase the number of transition-age individuals receiving DETR services.

The advisory board should also oversee and ensure that NDE and Nevada's school districts: (1) develop written transition plans for every Nevada student with a disability, at least two years prior to graduation; (2) provide accurate, statewide data regarding transition-age students and the status of their transition plans; (3) track and report data on post-graduation outcomes for transition students; (4) monitor the implementation of inter-local agreements between school districts and DETR; and (5) oversee the coordination of community systems of transition services, including post-secondary education and training institutions, community education programs, workforce investment programs, and community-based agency providers.

(Proposed by Strategic Plan Accountability Committee)

Background Information for Recommendation No. 19

Tab F – Information on current federal grant to the Nevada Department of Education for data collection related to students with disabilities.

TRANSITION FORUM SUBCOMMITTEE

Background Information for Recommendation Nos. 20 through 26

Tab G – Consists of Transition Services Recommendations from the Transition Forum Subcommittee of the Governor's Council on Rehabilitation and Employment of Persons with Disabilities, dated May 2003, as submitted to the Committee at its March 29, 2004, meeting.

RECOMMENDATION NO. 20

Include a statement in the final report recommending that the Bureau of Vocational Rehabilitation, in the Division of Rehabilitation at DETR, examine its current infrastructure and build stronger relationships with the NDE and school

district administrators through collaborative projects and written agreements, including: (1) continuing to provide statewide training on the skills needed in the local labor market; (2) using the Nevada Career Information System (NCIS) information to assist counselors with development of Individual Plans of Employment (IPE); (3) benefiting students by introducing them to career options and job shadowing; and (4) developing strategies to foster parental involvement for students over the age of 18.
(Proposed by Transition Forum Subcommittee)

RECOMMENDATION NO. 21

Include a statement in the final report recommending that the Bureau of Vocational Rehabilitation strengthen interagency agreements with institutions in the University and Community College System of Nevada (UCCSN) and encourage development of a pilot program in collaboration with the local colleges to provide high school students with career exploration, mentoring, and a job seeking skills class; and to initiate dialogue with UCCSN to explore, identify, and expand the use of classes offered at the institutions to help students with study skills, exposure to secondary education settings, and services available to transition age students with disabilities.
(Proposed by Transition Forum Subcommittee)

RECOMMENDATION NO. 22

Include a statement in the final report recommending that the Bureau of Vocational Rehabilitation examine alternative options to increase services to transition age individuals to decrease the current workload on the 2.5 counselors available statewide and encourage the: (1) development of an online “map of Vocational Rehabilitation process” for transition age individuals and their families; (2) identification of and increase in the alternative community based providers for vocational rehabilitation support services; (3) identification of and application for grants to increase services for the transition age population; (4) support of alternative funding options through Medicaid waivers to include transition services; (5) collaboration with the Workforce Investment Act grantees to expand services; (6) the shift of some counselor responsibilities to alternative staff to allow counselors to focus more on client needs; and (7) establishment of a multi-media transition center for consumers, parents, and service providers.
(Proposed by Transition Forum Subcommittee)

RECOMMENDATION NO. 23

Include a statement in the final report urging the Bureau of Vocational Rehabilitation to increase its outreach and marketing efforts to transition age individuals and their families.
(Proposed by Transition Forum Subcommittee)

RECOMMENDATION NO. 24

Include a statement in the final report encouraging DETR and NDE to provide in-service training to school counselors and teachers on vocational rehabilitation services.

(Proposed by Transition Forum Subcommittee)

RECOMMENDATION NO. 25

Include a statement in the final report recommending that NDE develop cooperative agreements with Employment Networks for students with ticket-to-work options.

(Proposed by Transition Forum Subcommittee)

RECOMMENDATION NO. 26

Draft legislation requiring the school districts and the Bureau of Vocational Rehabilitation to develop and implement agreements regarding transition issues. The agreements shall address: (1) specific needs based on demographics of the geographical area; (2) where and how service activities would occur; (3) clear and specific responsibilities for each entity; (4) sharing data collection between parties; and (5) timely renewal of agreements.

(Proposed by Transition Forum Subcommittee)

II. RECOMMENDATIONS RELATED TO STRATEGIC PLAN FOR PEOPLE WITH DISABILITIES

RECOMMENDATION NO. 27

Include a statement in the final report stressing the importance of local governments in the provision of housing and transportation which are critical to enabling persons with disabilities to live in a less restrictive environment and further urging the counties to review their priorities and policies regarding the provision of housing and transportation to residents to ensure that persons with disabilities are being given access to such services to enable them to avoid institutionalization or other restrictive environments.

(Proposed by Senator Titus and Assemblywoman Chowning, June 28, 2004)

RECOMMENDATION NO. 28

Include a statement in the final report supporting the continuation of respite care services within Personal Assistance Services for terminally ill and other persons. Currently, such services are being funded using tobacco funding and it is imperative that these services continue to be funded and provided.

(Proposed by Senator Titus, June 28, 2004)

RECOMMENDATION NO. 29

Include a statement in the final report directing DHR to review the feasibility of changing the eligibility criteria for Medicaid to allow all institutionalized consumers to live and receive services in the community. As a result of such a policy change, individuals who are currently county-matched Medicaid recipients would have the same access to state-funded community based services as other Medicaid recipients. Further, include a statement in the final report directing DHR to study the county/state match funding process and analyze the fiscal impact changing this process will have on the state, counties, and the Medicaid funding for long-term care. Based on discussions with the Division of Health Care Financing and Policy staff and county administrators, the Northern Nevada Center for Independent Living (NNCIL) has determined that the long- and short-term fiscal impacts on the state and counties need to be established in order to formulate viable recommendations. Therefore, it is recommended that any study include a rigorous examination of: (1) the fiscal elements involved in county/state match processes; (2) the financial impact changing this process will have on the state and counties; as well as (3) an identification of cost neutral options, if appropriate.

(Proposed by Paul Gowins, Executive Director, NNCIL)

Background Information for Recommendation No. 29

Tab H – Consists of an electronic mail message from Robert Desruisseaux, NNCIL, transmitting a letter from Paul Gowins, NNCIL, dated July 18, 2004.

RECOMMENDATION NO. 30

Include a statement in the final report urging the Governor and state agencies to exempt critical health, mental health, nutrition, and personal assistance services to children and adults with disabilities, and poor children and frail seniors, from budget cuts during economic downturns (Item No. 54 in the Strategic Plan for People with Disabilities).

(Proposed by Senator Titus, February 4, 2004)

III. RECOMMENDATIONS RELATED TO PERSONS WITH DISABILITIES

SIGNATURE STAMP FOR THE DISABLED

Recommendation No. 31

Draft legislation to allow for the use of signature stamps by persons with disabilities with a motor disability that prevents them from being able to sign their name – modeled on *Minnesota Statutes 645.44(14)*, which defines writing to include such signature stamps.

(Proposed by Jack Mayes, Executive Director, Nevada Disability Advocacy & Law Center, June 28, 2004)

Background Information for Recommendation No. 31

Tab I – Memorandum from Jack Mayes containing a recommendation to enact a comprehensive law that allows the use of a rubber stamp signature.

IDENTIFICATION CARDS FOR PERSONS WITH DISABILITIES

Recommendation No. 32

Amend Chapter 483 of NRS to provide that identification cards for persons with a disability that impairs the ability to walk, as authorized by NRS 483.865 and defined in NRS 482.3835, be subject to a renewal period of ten years similar to the renewal provisions for placards in NRS 482.384.

(Proposed by Senator Titus, June 28, 2004)

MEDICAID ELIGIBILITY

Recommendation No. 33

Draft legislation requiring the Director of the Department of Human Resources to enter into an agreement with the Federal Government to determine eligibility for Medicaid at the same time the Federal Government determines eligibility for the Supplemental Security Income Program.

(Proposed by Senator Titus, February 4, 2004)

Background Information for Recommendation No. 33

Tab J – Copy of Senate Bill 138 from the 2003 Legislative Session.

OPENING DOORS – FOR CHILDREN WITH DISABILITIES

Recommendation No. 34

Include a statement in the final report supporting development of the Opening Doors concept to further Nevada's Strategic Plan for People with Disabilities for children from birth to 21 years of age and their families. The Governor's Council on Developmental Disabilities and DHR are looking for federal grant opportunities to fund the Opening Doors pilot project as an independent partner and facilitator for state and community resources.

(Proposed by Janice Rice, Acting Director, Brain Power Community Learning Center, Inc., March 29, 2004)

Background Information for Recommendation No. 34

Tab K – Consists of a legislative proposal with suggested language for a letter of support and other information relating to the Opening Doors concept.

AMERICANS WITH DISABILITIES ACT (ADA)

Recommendation No. 35

Include a statement in the final report urging local jurisdictions to consider policies that would facilitate or accelerate compliance with American with Disabilities Act (ADA), including but not limited to, adopting ordinances that require proof of compliance with the ADA at the time of application for a business license or, if the building is not compliant, then requiring a plan for achieving compliance within a reasonable time. Further, include a statement in the final report advising the local jurisdictions that, during the next interim (2005-2006), the Legislative Committee on Persons with Disabilities may request the submittal of reports on the building departments' procedures and progress in achieving compliance with the ADA.

(Proposed by Robert Desruisseaux, NNCIL, February 4, 2004)

**IV. RECOMMENDATIONS FROM ADVISORY COMMITTEE
ON SERVICE ANIMALS**

Tab L – Consists of an introduction to Recommendation Nos. 36 to 48 and excerpts from the *Nevada Revised Statutes* related to service animals.

GENERAL RECOMMENDATIONS

RECOMMENDATION NO. 36

Include a statement in the final report urging the Nevada Equal Rights Commission to: (a) recognize the importance of access for service animal users and persons training service animals; (b) recognize the difficulties faced by such persons in resolving disputes with employers, landlords, and operators of places of public accommodation; (c) provide timely review and resolution of such complaints by the Commission; and (d) acknowledge the jurisdiction of the Commission as set forth in Chapter 233 of the NRS to accept, investigate, and resolve complaints of unlawful discriminatory practices in housing, employment, and public accommodations to the extent consistent with Nevada law. Further, the role of the Nevada Equal Rights Commission in enforcing service animal provisions should receive further consideration by the Committee during the next interim.

RECOMMENDATION NO. 37

Include a statement in the final report noting that the Committee has recommended strengthening and clarifying the state statutes providing access and protection for service animals and service animals in training, including amendments to facilitate access to the courts for civil redress of violations of state law providing access and protection for service animals and service animals in training. Further, include a statement in the final report recognizing the concerns of the Advisory Committee relating to further consideration and study of possible criminal penalties for the violation of the rights of persons with disabilities with service animals and, to the extent feasible, to persons training service animals. While the Advisory Committee notes that criminal penalties may be a way to provide more options for resolution of conflicts between persons with service animals or service animals in training and those who would deny them access or opportunities, there may be potential impacts on law enforcement and the judicial system.

RECOMMENDATION NO. 38

Adopt a resolution of the Legislature designating the last Wednesday in April as “Service Animal Recognition Day” in Nevada to heighten public awareness and provide opportunities for educating the public on the subject of service animals. Further, identify and designate an appropriate agency or organization to be responsible for organizing and commemorating the day on an annual basis.

RECOMMENDATION NO. 39

Adopt a resolution of the Legislature: (a) stating the need for increased public awareness of the importance of service animals and service animals in training to persons with disabilities and the rights of service animal users; (b) urging chambers of commerce, local governments, local government organizations, and law enforcement agencies, to provide training on the rights of persons with disabilities with service animals to access to public accommodations and public transportation and to nondiscrimination in employment; (c) educating the public and alerting local governments, local government organizations, and law enforcement agencies about the harm caused by fraudulently misrepresenting pets as service animals or service animals in training and from pet owners failing to control their animals, including leashing of dogs, in the presence of a service animal or service animal in training; (d) educating the public and reminding local governments, local government organizations, and law enforcement agencies about the criminal penalties and potential civil liability for interference with, harming or killing a service animal or service animal in training, or for allowing animals to interfere with, injure, or kill a service animal or service animal in training, and for fraudulent misrepresentation of pets as service animals or service animals in training; (e) stressing the importance of enforcing existing local ordinances related to animal control to local governments, local government organizations, and law enforcement agencies; and (f) advising local

governments and other organizations of the jurisdiction of the Nevada Equal Rights Commission over the resolution of complaints of unlawful discriminatory practices related to housing, employment, and public accommodations.

RECOMMENDATION NO. 40

Send a letter to the Reno-Tahoe International Airport advising it that the signage at the airport related to service animals refers only to “seeing eye dogs” and is out of date and impermissibly restrictive.

RECOMMENDATION NO. 41

Amend the NRS by repealing and amending provisions that inappropriately refer to persons as “the blind” or “the deaf” and amend NRS 613.330, 651.075, 704.145, and 706.366, to replace the references to “visual, aural, or physical disabilities” and “visual or aural disabilities” with “persons with disabilities.” Further, repeal provisions in the NRS that: (a) require the use of blaze orange leashes while insuring that repeal of references to blaze orange leashes shall not remove or lessen any rights of persons with disabilities; and (b) refer to schools for guide dogs, hearing dogs, and helping dogs, and to such schools being approved by DETR.

RECOMMENDATION NO. 42

Amend the NRS, consistent with the federal American with Disabilities Act (ADA), to: (a) to clarify that the operator of a public accommodation may ask if an animal is a service animal and what tasks the animal performs to assist the person with a disability (see subsection 2 of NRS 651.075); and (b) to allow the exclusion of service animals and service animals in training from public accommodations when: (i) the animal is out of control and the owner does not take effective action to control it; or (ii) the animal poses a direct threat to the health and safety of others.

RECOMMENDATION NO. 43

Amend the NRS to clarify that a landlord may require evidence from a person with a disability using a service animal, in conformance with the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq., which may include questions as to: (a) the person’s need for the service animal; and (b) the proper training of the service animal.

Recommendation No. 44

Amend the NRS to: (a) prohibit demanding a deposit from a person with a disability using a service animal as a condition of accessing public transportation; (b) prohibit demanding an additional fee or a deposit from a person training a service animal, as a condition of accessing public transportation; and (c) prohibit charging an additional fee or

a deposit to a person training a service animal, as a condition of access to a place of public accommodation.

Recommendation No. 45

Amend Chapter 426 of the NRS to make it a gross misdemeanor to fraudulently misrepresent an animal as a service animal or a service animal in training and provide for a greater penalty (Category E felony) for a second and subsequent offense.

Recommendation No. 46

Amend NRS 426.790, 426.810, and 426.820, as needed, to make the provisions and penalties consistent including: (a) the restitution requirements in NRS 426.810(3) shall also apply to persons found guilty of violating the provisions of NRS 426.790; (b) the civil liability provided by NRS 426.820 shall also apply to persons found guilty of violating the provisions of NRS 426.790; (c) the addition of “other animals” after “dog” in the prohibition in NRS 426.790 against interfering with, beating, or killing a service animal; and (d) the provision of criminal penalties in NRS 426.790 for a person who allows their dog (or other animal) to interfere with a service animal in training or who beats or kills a service animal in training.

Note: As defined in NRS 426.820, civil liability includes actual damages, punitive damages of at least \$750, and reasonable attorney’s fees, as determined by the court.

Recommendation No. 47

Amend the NRS to provide civil liability for: (a) persons who demand a deposit from a person with a disability using a service animal, as a condition of access to a place of public accommodation; (b) persons who demand a fee or deposit from a person with a disability using a service animal, or a person training a service animal, as a condition of accessing public transportation; (c) persons who unlawfully refuse to rent a dwelling to a person with a disability using a service animal; (d) persons charging an additional fee or a deposit to a person training a service animal, as a condition of access to a place of public accommodation; and (e) persons who unlawfully deny access to public transportation, to a person with a disability with a service animal or a person training a service animal, or who violate any other provision of NRS 704.145 and 706.366.

Recommendation No. 48

Amend the NRS to specifically prohibit places of public accommodation from segregating a person with a disability with a service animal within a place of public accommodation and further amend the NRS to provide civil liability for violation of this statute.